

Preface for 2018 Edition

As I did in the *Preface for 2017 Edition* I would, once again, like to express my deep gratitude to my colleagues and readers for the interest they have shown in my book.

Because of this interest, my publisher asked me to prepare a new and revised version in less than one year after the 2017 edition was published.

For this new edition I have examined the relevant constitutional and statutory amendments promulgated since the publication of the previous edition and made my best efforts to arrange and make necessary changes in the text. However, we lawyers know that keeping up-to-date with new laws and amendments is not always an easy task. This is especially true with Turkey where new pieces of legislation are introduced quite frequently. I hope I did not make any significant omissions in this endeavour.

As it was the case with the previous edition some new entries are added to Glossaries.

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RONA AYBAY
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Foreword

MARK VILLIGER¹

The present book contains “An Introduction to Law”. I am most honoured that my friend and mentor, Professor Dr. R. Aybay, has offered me the opportunity to prepare a foreword to this most interesting and stimulating work.

As its title suggests, this book deals with the basics of law, though it also contains many elements drawn from legal theory and philosophy. The book commences with a fundamental chapter on law and other rules of social conduct, including an important section (certainly from the point of view of this writer, a human rights Judge) on the relations between moral and legal rules, including characteristics which distinguish legal rules from other norms of behaviour. This section closes with some points for discussion which are not only didactically useful but also prompt further reflection.

A subsequent section concerns the application of legal rules. Here, the author explains, *inter alia*, syllogisms (which is the daily work of a practising lawyer), burdens of proof (and how they can be shifted) and methods of legal interpretation. Quite rightly, the book refers to Articles 31 and 32 of the 1969 Vienna Convention on the Law of Treaties, which contain – as one of the only legally binding texts – a list of methods and means of interpretation. There follows a substantial Chapter on the various branches of law. Here, the reader will appreciate how rich the science of law is in all its diversity.

¹ Prof. Dr. iur. Judge at the European Court of Human Rights in Strasbourg. The views expressed in this foreword reflect solely those of the author.

Who will this book be important for? I see many different groups of readers who should be interested. The book is, of course, highly relevant and useful for newcomers to the law. Here they will read and learn about the important principles of law. But it will also be valuable for experienced lawyers who every so often wish to return to the basics, the sources as it were, and to measure their concepts of the law with these basic considerations. Given the vast field of law, it is fascinating – and indeed reassuring – to see that certain basic principles apply to all fields of law. In addition, I believe that this book will provide stimulating reading for laypersons who wish to see what “law is all about”.

Let me complement these words with two considerations that I have found to be important in my own career as a lawyer.

The first concerns the exercise of interpreting legal norms, i.e. establishing their meaning and scope. In certain national jurisdictions – e.g., under previous Prussian law – it was thought that the judge could automatically apply legal provisions to a particular fact and draw predictable conclusions. Today it is commonly accepted that interpretation is a more complex process, resembling to some extent an art rather than a science. When elucidating a text, a whole collection of factors will play a role, even subconsciously, for instance, the interpreter’s personal and professional background. Yet interpretation lies at the beginning of any and every discussion of a legal text. Every time the interpreter undertakes interpretation, he or she should be aware of the importance of the task, and be clear as to the number of elements to be considered when elucidating the meaning of a legal text.

The second point concerns the relevance of breaches of law. These are obviously negative – they will rightly lead to criminal sanctions, to compensatory damages, and to other punitive and disciplinary measures. It is when confronted with such breaches that a lawyer may wonder how “strong” the legal structure actually is, and be dismayed at how easily it lends itself to abuse, and how quickly a legal order may be infringed. But a constructive, even optimistic, perspective is possible nonetheless. Every breach of the law confirms what the law actually is that was not complied with. Every time a breach is found, this vindicates and even strengthens the legal rule behind it.

I wish this wonderful text the success which it duly and truly deserves!