

QUALIFICATION OF THE PERFORMANCE WARRANTY BY 'WITHOUT GUARANTEE' AND ITS RAMIFICATIONS IN THE CONTEXT OF TIME CHARTERS¹

Dr. Öğr. Üyesi Ceren CERİT DİNDAR²

Abstract: Since speed and bunker consumption of the chartered ship are elements that directly affect the costs (hire + bunker expenses) which the charterer is responsible under a time charter, almost all time charters contain descriptions as to these. If the chartered ship performs less speed or consumes more bunkers than described in the charter, bringing a claim for the deficient performance of the ship and claiming damages for the loss he suffered can be an option for the charterer. However, in order that such a claim succeeds, it must first be established that the parameters given in the charter as to speed and bunker consumption of the ship have a status of warranty. The main objective of this article is to analyse matters that might affect the warranty status of these parameters. In this sense, the article determines the impact of the words "without guarantee" (WOG) and "all details about without guarantee" (ADAWOG) on the descriptions given in the charter as to speed and bunker consumption of the ship and analyze different interpretations regarding the meaning of these qualifications. Since the English law is predominant in the field of charterparties, the analysis will be made in this paper from an English Law perspective.

Keywords: Time Charterparties, Performance Warranties, Speed and Bunker Consumption of the Ship, Deficient Performance of the Ship, 'Without Guarantee'.

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