

IMPACTS OF PRIVATIZATION ON URBAN PLANNING:  
THE TURKISH CASE (ANKARA)

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## ABSTRACT

### IMPACTS OF PRIVATIZATION ON URBAN PLANNING: THE TURKISH CASE (ANKARA)

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Privatization debate in urban planning literature is accelerating as commodification of urban space increases by the “tension” between urban planning and privatization. The limited number of studies on the privatization of public lands and its impacts on urban planning processes as well as the theoretical framework in terms of rent, rights to property, and public interest issues has stimulated the aims of this thesis. All these provided a base for this thesis. This Thesis aims to clarify the relationship between capitalist production and public property, which has been created in urban space through privatization within a historical context. Critical evaluation is centered around the differences in implementation, related planning approaches and processes, the roles of the actors, and spatial impacts on the neighboring areas and the urban macroform in case of a *de jure-privatization* of a public land in the city of Ankara: Meat and Fish Products Firm (EBÜ A.Ş.) Akköprü Slaughterhouse Area. How and why market mechanisms functions and reacts is analyzed in this case study.

This Thesis argues that *de jure-privatization* and *de facto-privatization* conceptual differentiation might be meaningful for urban planning as the related processes and implementation function separately. Even though every “*de jure-privatization (privatization)*” experience has its own dynamics and is a unique case, the practice in Turkey differs from the world cases: Firstly, under the same legislation, Turkey exercised liquidation, donation, privatization, and socialization. Secondly, *de jure-*

*privatization* is public land privatization oriented. Thirdly, as a nodal intervention, privatization has direct impacts on urban planning and the planned growth of the cities.

Urbanization processes are not under the control of rational planning as these are completely left to market forces. In this *de jure-privatization* process, urban space is (re) produced by market-led planning approaches and public interest issue (in urban plans) is neglected. Market-led planning approaches became an act of controlling the means of power, ended the production functions of the state, and produced “spaces of consumption” while decreasing competitiveness of other spaces and treated public land as a “commodity”. Public space defined by the urban plan has become private space publicly used. As a result, public good characteristic of public space is lost. In other words, the demands of the market institution have priority for private interests and the rationality of the capitalist (re) produces urban space. The decision to continue production is left to the capitalist. Therefore, urban planning in the privatization process becomes an action to determine the real land value, to generate rent, and to transfer development potential and privileged development rights. This refers to a paradigm shift in urban planning.

These outcomes challenge the legitimacy of both planning and market institutions. This thesis stresses that if *de jure-privatization* is inevitable, purely market-critical comprehensive rational planning should not be left aside for the legitimacy of the market institution and urban planning. This must be because; market cannot also be legitimate and trustable without the emergence of urban planning. Market should also be for public interest otherwise it would shake its own legitimacy. Articulation of urban planning with privatization for public interest could be than spelled. In other words, privatization can be accepted as an ideology by urban planning in spatial terms, if public interest is the objective in all plan hierarchies. In the *de jure-privatization* process, there are uncertainties, dualisms, and problem areas in terms of administrative action, (re) production of urban space, economic issues, and public interest issues. Without the awareness of these, (re) production of urban space market-critically is irrational. Conclusively, the *de jure-privatization* related planning processes are defined in this thesis to strengthen urban planning as an institution and ideology.

**Keywords:** Privatization [*De jure-privatization/De facto-privatization*], Public Interest, Market-critical Approach, Market-led Approach, (Re) production of Urban Space.

## ÖZ

### ÖZELLEŞTİRMEİN KENTSEL PLANLAMAYA ETKİLERİ: TÜRKİYE ÖRNEĞİ (ANKARA)

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Kentsel planlama ve özelleştirme arasındaki “gerilimle” kentsel mekânın metalaştırılması arttıkça, kentsel planlama yazınındaki özelleştirme tartışması çoğalmaktadır. Kamu arazilerinin özelleştirilmesi ve bunun kentsel planlama süreçlerine etkileri ile, rant, mülkiyet ve kamu yararı konularındaki teorik çerçeve üzerine sınırlı sayıda çalışma, bu tezin amaçlarını şekillendirmiştir. Tüm bu olgular tezimize temel oluşturmuştur. Bu tez, kentsel mekanda tarihsel bir kapsamda özelleştirme ile yaratılan kapitalist üretim ile kamu mülkü arasındaki ilişkiyi açıklamayı amaçlamaktadır. Eleştirel değerlendirme, Ankara kentindeki bir *de jure-özelleştirme* örnek olayındaki uygulama farklılıkları, ilgili planlama yaklaşımları ve süreçleri, aktörlerin rolleri ile, çevre alanlar ve kent makroformundaki mekansal etkiler çevresine odaklanmıştır: Et ve Balık Ürünleri (EBÜ A.Ş.) Akköprü Mezbaha Alanı. Bu örnek olay çalışmasında piyasa mekanizmalarının nasıl işlediği ve davrandığı nedenleriyle analiz edilmiştir.

Bu tez, ilgili süreçlerin ve uygulamanın farklı olması nedeniyle, *de jure-özelleştirme* ve *de facto-özelleştirme* kavramsal ayrımının kentsel planlama için anlamlı olabileceğini tartışmaktadır. Her ne kadar her bir “*de jure-özelleştirme* (özelleştirme)” deneyimi kendi dinamiklerine sahip ve özgün örneklerse de, Türkiye’deki uygulama, dünya örneklerinden farklılaşmaktadır: İlk olgu, aynı mevzuat kapsamında Türkiye’nin tasfiye, hibe, özelleştirme ve sosyalizasyonu birlikte tatbik etmesidir. İkinci olarak, *de jure-özelleştirme* kamu arazisinin özelleştirilmesi yönelimlidir. Üçüncü olarak, noktasal bir

müdahale olarak, özelleştirmenin kentsel planlamaya ve kentlerin planlı büyümelerine doğrudan etkileri vardır.

Kentleşme süreçleri tamamen piyasa güçlerine bırakıldığı için rasyonel planlamanın denetimi altında değildir. Bu *de jure-özelleştirme* sürecinde, kent mekanı piyasa yönelimli planlama yaklaşımlarıyla (yeniden) üretilmekte ve kamu yararı kavramı (kent planlarında) ihmal edilmektedir. Piyasa yönelimli planlama yaklaşımları “güç” araçlarını kontrol etme eylemi halini almış, devletin üretim faaliyetlerini sonlandırmış, diğer mekanların rekabet edebilirliğini azaltırken “tüketim mekanları” yaratmış ve kamu arazisine “mal” muamelesi yapmıştır. Kentsel planlarla tanımlanan kamu mekanı toplum tarafından kullanılan özel mekanlar halini almıştır. Bunun sonucunda, kamu mekanının kamu malı karakteri kaybolmuştur. Diğer bir deyişle, piyasa kurumunun istemlerinin özel yararlar için önceliği vardır ve sermayedarın mantığı kent mekanı (yeniden) üretmektedir. Üretimin devamlılığı kararı sermayedara bırakılmıştır. Bu nedenle, özelleştirme sürecindeki kentsel planlama gerçek arazi değerini bulma, rant yaratma yanı sıra, gelişme potansiyeli ve ayrıcalıklı imar haklarının aktarımı eylemine dönüşmektedir. Bu olgu, kentsel planlamada bir paradigma değişimini kast etmektedir.

Bu oluşumlar, planlama ve piyasa kurumlarının her ikisinin de meşruiyetini tartışılır hale getirmektedir. Bu tez, eğer *de jure-özelleştirme* önlenemez ise, piyasa kurumu ve kentsel planlamanın meşruiyeti için saf piyasa eleştirel kapsamlı rasyonel planlamanın bir tarafa bırakılmaması gerektiğini vurgulamaktadır. Kentsel planlama var olmadan piyasa meşru ve güvenilir olmayacaktır. Piyasa ayrıca kamu yararı için olmalıdır aksi halde, kendi meşruiyetini sarsacaktır. Kentsel planlamanın özelleştirme ile kamu yararı için eklenmesi ancak bundan sonra telaffuz edilebilir. Diğer bir deyişle, eğer kamu yararı tüm plan hiyerarşisindeki nesnellik olursa, özelleştirme kentsel planlama tarafından mekansal bağlamda bir ideoloji olarak kabul edilebilecektir. *De jure-özelleştirme* sürecinde, idari eylem, kent mekanı (yeniden) üretimi, ekonomik konular ve kamu yararı konuları kapsamında belirsizlikler, ikilemler ve sorun alanları mevcuttur. Bunlar bilinmeden, piyasa eleştirel kentsel mekanı (yeniden) üretimi mantıksız olacaktır. Sonuç olarak, bu tezde *de jure-özelleştirme* ile ilgili planlama süreçleri, kentsel planlamayı bir kurum ve ideoloji olarak güçlendirmek için tanımlanmıştır.

**Anahtar Kelimeler:** Özelleştirme [*De jure-özelleştirme/De facto-özelleştirme*], Kamu Yararı, Piyasa Eleştirel Yaklaşım, Piyasa Yönelimli Yaklaşım, Kentsel Mekanın (Yeniden) Üretimi.

To  
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## TABLE OF CONTENTS

ABSTRACT .....	iv
ÖZ .....	vi
DEDICATION .....	viii
ACKNOWLEDGEMENTS .....	ix
TABLE OF CONTENTS .....	xii
LIST OF TABLES .....	xvii
LIST OF FIGURES .....	xix
LIST OF PICTURES .....	xxi
LIST OF ABBREVIATIONS AND ACRONYMS .....	xxii

### CHAPTER

<b>1. INTRODUCTION .....</b>	<b>1</b>
1.1. The Problem, the Statement, and the Question .....	6
1.2. Aims, Objectives, and Scope of the Study .....	14
1.3. Methodology and the Structure .....	15
<b>2. PRIVATIZATION- THE CONCEPT AND ITS ORIGINS .....</b>	<b>26</b>
2.1. Emergence of Privatization ( <i>De jure-privatization</i> ) .....	26
2.2. Privatization .....	29
2.2.1. Meaning (Restricted and Extended Meanings) .....	31
2.2.2. Ideas, Reasons, and Policies for Privatization .....	33
2.2.3. Aims, Objectives, and Methods of Privatization .....	34
2.2.4. Types, Activities, and Principles of Privatization .....	36
2.2.5. Privatization Results .....	38
2.3. The Objects of Privatization - Public Goods and Services .....	40
2.3.1. Public Goods and Services .....	40
2.3.2. Types of Public Goods and Services .....	42
2.3.3. Conditions of Public Good and Service Privatization .....	43

2.4.	Privatization and the Rights to Property .....	43
2.4.1.	Property Typologies: Private/Public .....	44
2.4.1.1.	Private Property .....	45
2.4.1.2.	Public Property (State, Common/Collective, and Public) .	46
2.4.2.	Private / Public Property Distinction .....	48
2.5.	Comparison of Turkish Experience with Foreign Experiences .....	50
<b>3.</b>	<b>THEORETICAL BASIS OF PRIVATIZATION .....</b>	<b>54</b>
3.1.	The Economic Theory of Privatization .....	54
3.2.	Sociological Theory of Privatization .....	61
3.3.	The Political Theory of Privatization.....	64
<b>4.</b>	<b>THE RELATIONSHIP BETWEEN PLANNING VERSUS PRIVATIZATION .....</b>	<b>67</b>
4.1.	(Re) Production of Urban Space .....	67
4.1.1.	The Relation between Privatization and Property Rights .....	69
4.1.2.	Privatization and Urban Space .....	75
4.2.	The Relationship between Planning and Privatization .....	77
4.2.1.	The Changing Role of the State .....	78
4.2.2.	A Paradigm Shift in Urban Planning .....	80
4.2.3.	Planning and Privatization .....	85
4.3.	Privatization versus Planning for Public Interest .....	88
<b>5.</b>	<b>A HISTORICAL OVERVIEW OF THE TURKISH <i>DE FACTO-PRIVATIZATION</i> AND <i>DE JURE-PRIVATIZATION</i> .....</b>	<b>99</b>
5.1.	Emergence of the Private Possession and Public Benefit (10-18 <sup>th</sup> c.) .....	99
5.2.	Emergence of Private Immovable Property and <i>De facto-privatization</i> (19 <sup>th</sup> c. - ) .....	102
5.3.	Early Republican <i>De facto-privatization</i> and Prototype-privatization Activities (1920- 24 January 1980) .....	105
5.3.1.	<i>De facto-privatization</i> (1920- ) .....	105
5.3.2.	Prototype-privatization .....	109
5.4.	<i>De jure-privatization</i> (24 January 1980- ) .....	111
5.4.1.	<i>De jure-Privatization</i> Legislation, Privatization Main Plan, and Successive Privatization Programs .....	112

5.4.2.	Bodies Responsible from <i>De jure-privatization</i> .....	115
5.4.3.	Staus of The Privatization Program - The Level of Privatization ..	117
<b>6.</b>	<b>PUBLIC ECONOMIC ENTERPRISE (PEE) LANDS IN THE TURKISH DE JURE-PRIVATIZATION PROCESS - ACTORS RESPONSIBLE FROM LAND TRANSFERS, THE LEVEL OF LAND TRANSFERS, AND APPRAISAL STUDIES ....</b>	<b>123</b>
6.1.	Public Lands, Transfer Methods, and the Related Mechanisms .....	123
6.1.1.	Public Lands (Public Immovable Goods) .....	124
6.1.2.	Transfer Methods and Mechanisms .....	126
6.2.	Objects of <i>De facto-privatization</i> - State Owned Lands .....	130
6.2.1.	The Administration Responsible from the Transfer of State Owned Lands - The Ministry of Finance The General Directorate of National Real Estate (the GDNRE) .....	131
6.3.	Objects of <i>De jure-privatization</i> - State's Private Lands (Public Economic Enterprise (PEE) Lands) .....	138
6.3.1.	Privatization of PEE Lands .....	139
6.3.2.	Value Appraisal Studies and the PEE Land Values .....	149
<b>7.</b>	<b>URBAN PLANNING IN THE DE JURE-PRIVATIZATION PROCESS .....</b>	<b>156</b>
7.1.	The Planning Studies before Privatization .....	157
7.1.1.	Planning Studies of the Privatization Administration .....	160
7.1.2.	Planning Studies of the Abolished General Directorate of Land Office .....	165
7.2.	Remarks on the Urban Planning Process of <i>De jure-privatization</i> .....	165
<b>8.</b>	<b>IMPACTS OF PEE LAND PRIVATIZATION ON URBANIZATION AND PLAN IMPLEMENTATION PROCESSES (IN ANKARA) .....</b>	<b>169</b>
8.1.	The Relationship between Private Interests and (Re) production of Urban Space .....	170
8.2.	GİMAT Development in terms of 1990 Ankara Master Plan and Successive Structural Plans .....	174
8.3.	GİMAT Planning Decisions and the Related Planning Processes .....	185
8.3.1.	Development Rights Before Privatization .....	185

8.3.2. Change in Development Rights and the Planning Process after Privatization .....	185
8.4. Evaluation of GİMAT Nodal Intervention to the Planned Development of Urban Space (in terms of Market-led and Market-Critical Approaches) ...	194
<b>9. CRITICAL EVALUATION OF URBAN PLANNING PROCESSES: MARKET-LED APPROACHES VERSUS PURELY MARKET-CRITICAL APPROACHES .....</b>	<b>205</b>
9.1. (Re) production of Urban Space in the <i>De jure-privatization</i> Process ....	206
9.2. Criticisms .....	216
9.3. Problem Areas and Dualisms of (Re) production of Urban Space .....	222
9.4. Concluding Remark .....	225
<b>REFERENCES .....</b>	<b>231</b>
<b>APPENDICES</b>	
A. GLOSSARY .....	256
B. (URBAN LAND) PRIVATIZATION PATTERN OF THE WORLD .....	280
C. THE REASONS AND IDEAS FOR PRIVATIZATION .....	302
D. AIMS OF PRIVATIZATION .....	304
E. PUBLIC GOODS .....	306
F. LAND POLICY .....	311
G. PUBLIC INTEREST .....	312
H. MAJOR ACTS OF <i>DE FACTO-PRIVATIZATION</i> .....	316
I. OBJECTIVES OF THE PRIVATIZATION PROGRAMS IN TURKEY.....	320
J. <i>DE JURE-PRIVATIZATION</i> LEGISLATION .....	322
K. MAJOR OUTCOMES OF PRIVATIZATION ACTIONS AND THE STATUS OF THE PRIVATIZATION PROGRAM (21.11.2006) .....	327
L. RIGHTS TO PROPERTY RELATIVE TO PUBLIC INSTITUTIONS BY 2006 .....	332
M. EXPROPRIATION .....	336
N. DISTRIBUTION OF REGISTERED IMMOVABLE TYPES IN BETWEEN 1950-2000 .....	339
O. LAND SALES ACCORDING TO ACT NO: 4070 BETWEEN 1995-2005 .....	341
P. INSTITUTIONS WITH GENERAL, SUPPLEMENTARY, SEPARATE OR SPECIAL BUDGETS TRANSFERRING PUBLIC IMMOVABLES IN URBAN AND RURAL AREAS, AND SAMPLES OF LAND INVASIONS BY 2001 .....	345
Q. PUBLIC LAND POLICIES .....	358
R. LANDS TRANSFERRED TO THE MASS HOUSING ADMINISTRATION .....	360

S.	PUBLIC MOVABLE AND IMMOVABLE PROPERTY TRANSFERS BY THE ACT NO: 4046- PRINCIPLES OF PRIVATIZATION AND THE LEGISLATIVE AMENDMENTS .....	361
T.	COMPARISON OF LAND VALUES AND SALE PRICES OF PEEs .....	372
U.	PLANNING STUDIES OF THE PA BETWEEN 2004-2006 .....	376
V.	DUTIES OF THE PA REAL ESTATE WORKS UNIT .....	379
Y.	RESEARCH AND PLANNING STUDIES MADE BY THE ABOLISHED GENERAL DIRECTORATE OF LAND OFFICE, BETWEEN 1995-2002 .....	381
Z.	PROBLEMS FACED BY THE PA DURING REAL ESTATE AND PLANNING WORKS .....	385
AA.	SPATIAL DISTRIBUTION OF PUBLIC LANDS IN ANKARA .....	388
BB.	ANKARA CBD PLANNING DECISIONS .....	391
CC.	DEVELOPMENT PLANS AND THE STATUS OF GİMAT .....	393
DD.	EBÜ A.Ş. AREA AND THE RELATED PLANS .....	394
EE.	DUALISMS OF (RE) PRODUCTION OF URBAN SPACE .....	399
FF.	PRIVATIZATION ACTIVITIES BY URBAN CHARACTERISTICS .....	409
GG.	LIST OF PERSONAL COMMUNICATIONS .....	411
VITA	.....	413



## LIST OF TABLES

### TABLES

Table 1	Privatized Enterprises as of September 14, 2005 .....	121
Table 2	Distribution of Treasury Property by Typology (2005) .....	132
Table 3	Distribution of Allocated Lands - Relative to Administrations .....	135
Table 4	Public Immovable Property Numbers and Areas in Several Provinces(2005) ..	135
Table 5	Privatization by Methods, between 1986-2001 .....	140
Table 6	Comparison of Land Values of PEE Lands .....	153
Table 7	ORÜS A.Ş. (Twenty) Establishments, Privatization Figures .....	153
Table 8	Privatization Activities in Urban Areas Relative to Location .....	164
Table 9	Planning Studies finalized by the abolished Land Office, between 1995-2002	167
Table 10	Comparison of Investments on Public and Private Properties in Ankara (2006) .....	175
Table 11	Commercial and Housing Immovable Sale Value Intervals in Certain Districts of Ankara (2006) .....	175
Table 12	First and Second Stage Area Uses .....	193
Table 13	Percent of Privatized Real Estate with Marketable Titles (Ownership with right to sell) for various types of real estate in Selected Transition Countries .....	281
Table 14	Privatization Proceeds .....	285
Table 15	The Biggest Privatisers .....	285
Table 16	A Comparison of Privatization Programs of Several Countries (2000) .....	300
Table 17	Public /Social Interest .....	313
Table 18	Concepts and Applications of the Public Interest.....	315
Table 19	Revenues by Years .....	330
Table 20	Distribution of Registered Immovable Types, between 1950-2000 .....	339
Table 21	Act No: 4070 Sale Results (2005) (January-December).....	342
Table 22	Total Distribution of Land Sales by Years According to Act No: 4070 .....	344
Table 23	Distribution of Public Immovable Property Allocated by the Ministry of Tourism in terms of Ownership (sq. m.) (2001) .....	346
Table 24	Immovable Property Transferred from the Treasury to the Land Office .....	353
Table 25	Immovable Property received through Expropriations, between 1971-2001...	353

Table 26	Treasury Lands subject to Invasion .....	356
Table 27	Lands Transferred to the Mass Housing Administration (TOKİ) in Ankara and Adana (From the public institutions in the Privatization Portfolio) by 19.07.2006 .....	360
Table 28	Privatization of EBÜ A.Ş. Slaughterhouses .....	373
Table 29	Sale Price and Land Value Comparison of Sümer Holding A.Ş. Enterprises ....	373
Table 30	ORÜS A.Ş. Establishment Land Prices (Municipality Market Price versus the price determined by the PA).....	374
Table 31	Land Privatization Summary of ORUS A.Ş. ....	375
Table 32	Research and Planning Studies made by the Abolished General Directorate of Land Office, between 1995-2002 .....	381
Table 33	Distribution of the Allocated Public Immovables in Ankara (2005) .....	390
Table 34	Summary of Development Plans and the Status of GİMAT .....	393
Table 35	Privatization Activities by Urban Characteristics .....	409

## LIST OF FIGURES

### FIGURES

Figure 1	Privatization Procedure .....	116
Figure 2	Privatization Methods .....	119
Figure 3	Privatization by Method .....	120
Figure 4	Privatization by Years .....	120
Figure 5.	Transformation of Land.....	124
Figure 6.	Transfer Mechanisms.....	129
Figure 7	Land Sales According to Act No. 4070 from 1985 onwards .....	135
Figure 8	Sale or Transfer through Establishment, Possession, and Participation Shares .....	141
Figure 9	Transfer with Substitute According to 4046/2i .....	142
Figure 10	Transfer without Substitute According to 4046/2i .....	142
Figure 11	Transfer of Right to Easement .....	143
Figure 12	Establishments Closed Down or Management is Transferred .....	143
Figure 13	Planning Diagram of Acts No: 3194 and No: 4046 .....	158
Figure 14	Land Evaluation, Research, Planning Studies and Plan Amendments made by the Abolished Land Office (04.01.1995 - 03.2002) and the PA (02.07.2004 - 31.07.2006) .....	157
Figure 15	Diagram of the PA's Urban Planning Practice (Since 02.07.2004) .....	159
Figure 16	Land Evaluation and Planning Studies of the Abolished Land Office (1995-2004) .....	166
Figure 17	GİMAT Location in Ankara .....	176
Figure 18	Several Large-scale Investment Projects .....	178
Figure 19	1998 CBD (Kazıkıçı Bostanları - İskitler) Development Plan .....	180
Figure 20	Dual Structure of Ankara CBD and Growth of the City Center .....	184
Figure 21	1/1.000 Scale Development Plan (1993) .....	187
Figure 22	1/1.000 Scale Development Implementation Plan (1997) .....	192
Figure 23	1/1.000 Scale Development Implementation Plan Revision (2005) .....	192
Figure 24	Europe's Share .....	284
Figure 25	Privatized Apartments and the Total Number of Apartments to be privatized, July 01, 2000 .....	292

Figure 26	Distribution of Lands in Latvia (January 1, 1999, as percent of total land) ...	293
Figure 27	Distribution of Lands in Latvia's Cities (January 1, 1999, as percent of total)	293
Figure 28	Land Categories (1996) .....	299
Figure 29	Number of Immovables Sold, between 1995-2005 .....	341
Figure 30	Area of Immovables Sold, between 1995-2005 .....	341
Figure 31	Value of Immovables Sold, between 1995-2005 .....	342
Figure 32	Allocations by Provinces in Tourism Areas and Centers .....	348
Figure 33	Allocations by Provinces outside Tourism Areas and Centers .....	348
Figure 34	Distribution of Office Sales by Sectors, between 1972-2001 .....	352
Figure 35	Immovable Property transferred from the Treasury by the Office, between 1994-October 2001 .....	354
Figure 36	Planning Diagram of the PA .....	367
Figure 37	Share of Public Immovables in Total Property of Ankara (2006) .....	388
Figure 38	Ratio of Public Immovables to Total District Area of Ankara (2006) .....	388
Figure 39	Allocated Public Property Area in Ankara (2006) .....	389
Figure 40	The Number of Public Property Allocation in Ankara (2006) .....	389
Figure 41	Ankara CBD (Northern Section) Planning and Development Competition (1993) .....	391
Figure 42	1998 CBD (Kazıkiçi Bostanları- İskitler) Planning Decisions .....	391
Figure 43	1/5.000 Scale Master Plan of Kazıkiçi Bostanları .....	392
Figure 44	1/500 Scale Urban Design Project (1996) .....	395
Figure 45	1/5.000 Scale Master Plan (1997) .....	395
Figure 46	1/5.000 Scale Master Plan (2004) .....	396
Figure 47	The Ground Floor Plan .....	398
Figure 48	Commercial Center Area Use .....	398

## LIST OF PICTURES

### PICTURES

Picture 1	First and Second Stages (2006) .....	191
Picture 2	Kanyon Shopping Mall, Istanbul .....	191
Picture 3	EBK Ankara Headquarters and Factory Area, 28.10.1996 .....	394
Picture 4	EBK Ankara Headquarters and Slaughterhouse, 28.10.1996 .....	394
Picture 5	Second Stage of ANKAmall - Southeastern Perspective .....	397
Picture 6	Southwestern Perspective .....	397

## LIST OF ABBREVIATIONS AND ACRONYMS

- ABŞB : Greater Municipality of Ankara [Ankara Büyük Şehir Belediyesi]
- ACC : Ankara Chamber of Commerce [Ankara Ticaret Odası [ATO]]
- AID : Agency for International Development [Uluslararası Kalkınma Ajansı]
- AMNPB: Ankara Metropolitan Master Plan Bureau /Metropolitan Planning Office  
[Ankara Metropoliten Nazım Plan Bürosu]
- AOÇ : Atatürk State Farm [Atatürk Orman Çiftliği]
- BOM : Build-Operate-Manage
- BOO : Build-Own- Operate
- BOT : Build-Operate-Transfer
- BTO : Build-Transfer-Operate
- CBD : Central Business District [Merkezi İş Alanı [MİA]]
- CIS : Commonwealth of Independent States (Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Ukraine, Tajikistan, Turkmenistan, Uzbekistan)
- CPCNP : Council on Protection of Cultural and Natural Possessions  
[Kültür ve Tabiat Varlıklarını Koruma Kurulu]
- condo. : condominium
- dec. : decares
- Dept. : Department
- e.g.* : *exempli gratia* [L, for example]
- etc.* : *et cetera* [L]
- EBÜ A.Ş.: Et ve Balık Ürünleri A.Ş.
- EC : European Commission (of EU) [Avrupa Birliği Komisyonu]
- ECE : Economic Commission for Europe (of UN) [Avrupa Ekonomik Komisyonu]
- EEA : European Economic Association [Avrupa Ekonomi İdaresi]
- EIT : Economies in Transition
- EMU : European Monetary Union [Avrupa Para Birliği]
- ESM : European Single Market [Avrupa Ortak Pazarı]
- EU : European Union (EU) [Avrupa Birliği]
- FAO : Food and Agriculture Organization (of UN)
- FY or fy: fiscal year

Gen.D. : General Directorate  
GDP : Gross Domestic Product  
GFCF : Gross Fixed Capital Formation  
GDNRE : General Directorate of National Real Estate [Milli Emlak Genel Müdürlüğü]  
GNI : Gross National Income  
GNP : Gross National Product  
ha. : Hectares  
hmax : height maximum  
IFC : International Finance Cooperation [Uluslararası Finans Kurumu]  
IMF : International Monetary Fund [Uluslararası Para Fonu]  
*i.e.* : *id est [L, that is]*  
İETT : Istanbul Electricity and Tramway and Tunnel Establishments  
[Istanbul Elektrik Tramvay ve Tünel İşletmeleri Genel Müdürlüğü]  
İGDAŞ : Istanbul Leather Industry [Istanbul Deri Sanayi A.Ş.]  
İSDEMİR: İskenderun Ironsteel [İskenderun Demirçelik]  
ISE : Istanbul Stock Exchange [Istanbul Menkul Kıymetler Borsası]  
KHK : Statutory Instrument / Decision by the Law Degree  
[Decrees with the Force of Law [Kanun Hükmünde Kararname]]  
KİGEM : Centre for Developing Public Enterprises  
[Kamu İşletmelerini Geliştirme Merkezi]  
LUI : Land-use Intensity  
MAI : Multilateral Agreement on Investment Guarantee  
[Çok Taraflı Yatırım Garantisi Anlaşması]  
METU : Middle East Technical University  
MHA : Republic of Turkey, Prime Ministry, The Mass Housing Administration  
[(TOKİ) Toplu Konut İdaresi Başkanlığı]  
MENR : Ministry of Energy and Natural Resources  
[Enerji ve Tabii Kaynaklar Bakanlığı]  
MDR : Ministry of Development and Resettlement [İmar ve İskan Bakanlığı]  
MPS : Minimum property standards  
MPWS : Ministry of Public Works and Settlement [Bayındırlık ve İskan Bakanlığı]  
NGO : Non-governmental Organization  
ODO : (British Ministry of Foreign Affairs) Overseas Development Office.  
OECD : Organization for Economic Co-operation and Development  
ORÜS : Forest Products Industry Firm [Orman Ürünleri Sanayi A.Ş.]  
OSB : Organized Industrial Zone [Organize Sanayi Bölgesi]

The PA : Republic of Turkey, Prime Ministry, (Precedency of)  
The Privatization Administration [Özelleştirme İdaresi Başkanlığı]

PEEs : Public Economic Enterprises [Kamu İktisadi Kuruluşları]

PHC : Privatization High Council [Özelleştirme Yüksek Kurulu]

REPI : Real Estate Privatization Index

PPP : Public Private Partnerships [Kamu Özel Sektör Ortaklığı]

POAŞ : Petrol Ofisi A.Ş.

SEA : Single European Act [Tek Senet]

SOEs : State Owned Enterprises [Devlet İşletmeleri]

SPO : State Planning Organization [Devlet Planlama Teşkilatı]

SPZ : Squatter Prevention Zone [Gecekondu Önleme Bölgesi]

SSK : Social Security Institution [Sosyal Sigortalar Kurumu]

Sq.m.s : Square meters (m<sup>2</sup>)

TCDD : Republic of Turkey State Railways [Türkiye Cumhuriyeti Devlet Demiryolları]

TC : Transition Countries

TCK : Republic of Turkey State Highways [Türkiye Cumhuriyeti Devlet Karayolları]

TCMB : Central Bank of the Republic of Turkey [Türkiye Cumhuriyeti Merkez Bankası]

TDİ : Turkish Navigation Enterprises [Türkiye Denizcilik İşletmeleri]

TEKEL : Tobacco, Tobacco Products, Salt and Alcohol Enterprises Incorporation  
[Tütün, Tütün Mamülleri, Tuz ve Alkol İşletmeleri Anonim Şirketi]

TMMOB : Union of Turkish Engineers and Architects  
[Türk Mühendis ve Mimar Odaları Birliği]

TNCs : Trans-National Corporations

TOBAŞ : Housing Development- Metropolitan Municipality Construction Real Estate  
Architecture and Project Joint Stock Company  
[Toplu Konut-Büyükşehir Belediyesi İnşaat Emlak Mimarlık ve Proje A.Ş.]

Turk Telekom : Turkish Telecommunications Inc. [Türk Telekomünikasyon A.Ş.]

TÜPRAŞ: Turkish Petroleum Refineries Corporation  
[Türkiye Petrol Rafinerileri Anonim Şirketi]

UN : United Nations [Birleşmiş Milletler]

UK : United Kingdom [Birleşik Krallık]

USA : United States of America [Amerika Birleşik Devletleri]

U.S. Dollar : United States Dollar

WB : World Bank [Dünya Bankası (DB)]

WTO : World Trade Organization [Dünya Ticaret Örgütü (DTÖ)]

WW : World War

Şm : Million U.S. Dollars



## CHAPTER 1

### INTRODUCTION

Public and private lands are the major immovable property system ingredients. In this system, a historically specific transfer from public to private rights to property<sup>1</sup>, and vice versa has emerged. These transfers created by the capital in the market system have led to the (re) production of urban space<sup>2</sup>. Thus, it is argued that planning is to define, to regulate and to legitimize this system, the development rights, the ways to transfer system ingredients, and the relations in between. “Market-led” privatization policy and “market-critical<sup>3</sup>” urban planning are contradictory activities<sup>4</sup>. However, both are related to market mechanisms and the property system.

Since 1960s, market-led manners have been replacing market-critical approaches in an accelerating manner. The rise of market-led manners leads the way to market-led urban planning approaches and increases (private and) public land<sup>5</sup> transfers. Besides land transfers; the issues such as closing down of public enterprises producing goods and services and the transfer of their lands to the private sector through privatization have led to wider discussions in the academic circles in city planning<sup>6</sup>. This study focuses on the privatization of public lands (immovable property) in Turkey that has emerged historically on two different domains<sup>7</sup>: “*de facto-privatization* [Özelleşme<sup>8</sup>]” and “*de jure-privatization* [Özelleştirme]”.

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<sup>1</sup> See: Günay (1995 (a)) and (1995 (b):63-71) for the conceptual difference between property and right to property.

<sup>2</sup> See: Gökçe (2004/2) for the discussion of how rights to property structure urban space.

<sup>3</sup> Özcan Altaban is the first academician that differentiates and defines “market-critical” and “market-led” planning approaches. See: Altaban (1990).

<sup>4</sup> See: Ersoy (1995:68-72) and (1997:20-26).

<sup>5</sup> In this study, the term public property or public immovable refers to public land.

<sup>6</sup> The amount of public lands transferred; the transfer methods and processes, the results in terms of planned development of the cities and development of the urban real estate markets are the issues on which the urban planning circles focused.

<sup>7</sup> The difference between *de jure-privatization* and *de facto-privatization* approaches has not been spelled before. Several studies classify public land transfer activities as before and after 1980. However, they mix the activities made within the content of the Privatization Act and those activities of public land transfers carried on by the central authority having different legislative basis like the Acts No: 775, No: 4076, No: 2981, No: 2634 and else. As these terms are not clearly

If public lands are transferred to private natural or legal persons or appropriated illegally, in different time, locale and through legal or illegal methods with various reasons, than these activities are called *de facto-privatization*<sup>9</sup>. *De facto-privatization* is a historical phenomenon. In every state, it is strongly used. In the case of Turkey, it has been used since the Ottoman Empire. A special legislative framework is applied during the privatization of Public Economic Enterprises (PEEs)<sup>10</sup> and State-Owned Enterprises (SOEs)<sup>11</sup> by the rise of neo-liberal policies<sup>12</sup>. This method, not only by central government, but also implemented by local authorities, is termed as *de jure-privatization*<sup>13</sup> (Privatization). The subject of this thesis, *de jure-privatization* has been the major means of Globalization and Regional Integrations<sup>14</sup> wide spreading at the same time all around the world. It is a government intervention in the interest of the private sector. The content of the method has only differed and the relationship<sup>15</sup> between urban planning and privatization has changed as the role of the state in the transfer of public lands in both urban and rural areas has accelerated after 1990s. Both of these domains of privatization are best visible in the case of Turkey.

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defined before, such studies led to fallacy of information and *de facto-privatization* can be accepted as *de jure-privatization*.

<sup>8</sup> The transfer of land rent ownership [toprak rantının el değıştirmesi] to private sector.

<sup>9</sup> This is generally exercised in the form of state's land policies with a legislative framework or illegal ways of land appropriation (like squatters, favelas, etc.) to compensate any illegal social and economic concern (originating from service and marginal sectors). In *de facto-privatization*, the type of public land defines the method of and the responsible institutions from the transfer. Therefore; there are various legislation defining the conditions of rights to property and expropriating or nationalizing a property.

<sup>10</sup> See: Keyman (1997); Aydoğanlı (1995:132); Eke and Özdemir Sönmez (2003); Baytan (1999:10-11); Karluk (1994); Ariođlu (1994). These are the establishments producing and/or providing privilege goods and services at both local and national levels. They sell their monopole products in the market for social interest and take over the social costs. In Turkey, Public Enterprises are two types; "Public Economic Enterprise [(PEE) Kamu İktisadi Teşebbüsü (KİT)]" and "State Economic Enterprises [(SEE) İktisadi Devlet Teşebbüsü (İDT)]". Capital of the PEE is owned by the state. Between 1950 and 1960, the transfer of these enterprises to the private sector was spelled in Turkey. It was argued that in the establishment of these enterprises was ultimately to transfer them to private sector. Even though private sector developed in many sectors, the expansion of state in the economy through these enterprises has continued till mid 1990s.

<sup>11</sup> State Owned Enterprise (SOE) is a public economic enterprise established to function on commercial basis in an economic area and owned fully by the state (first definition is in abolished Decision by the Law Decree (Statutory Instrument (KHK)) No: 233 Article 2).

<sup>12</sup> These policies of late 1970s and early 1980s resulted from the financial crisis emerging from bad management of both local and central authorities, and inefficiency in the management and non-productivity of the production functions of the public undertakings.

<sup>13</sup> Planning institution lost prosperity, because of the weakened state interventionism, increased public debts in amount, and the financial crisis deepened after 1960s as the state changed its public finance politics. Developed countries led the way that gets in and out of this crisis through privatization (Eđilmez, 1998:25), as opposed to nationalization or municipalization of property or responsibility. (Wikipedia, <http://en.wikipedia.org/wiki/Privatization> (accessed May 05, 2007)).

<sup>14</sup> Regional integrations have economic or politic basis. Regional integrations were structured after the First World War (Töre, 2000). The only difference between globalization and regional integration is that the first has led to widespreading of cultural and political hegemony, while the second refers to integration between countries uniting for a unique and a common benefit.

<sup>15</sup> See: Ersoy (1995:68-72).

This thesis aims at clarifying how the historical relationship between *de facto*- and *de jure-privatization* is structured and what the impacts on public lands and urban planning are. These will show the characteristic differences of the Turkish case from the world *de jure-privatization* experiences. This difference is given in terms of ideology and implementation of privatization.

At first, the initial difference of the Turkish case is the public share in the economy. The public enterprises in Turkey were established after 1923 by the new Republic. These have helped establishment and/or development of many small-sized cities<sup>16</sup>, economic life of which is depending upon. An opposite development perspective was pursued in the state policies and programs after 1980s: Governments launched a *de jure-privatization* policy via economic restructuring programs<sup>17</sup> or National Development Programs<sup>18</sup> in order to decrease the share of public production in the economy. However, from 1980 until today, in contrast in developed countries, the share of public production in the economy has increased. In spite of some privatization activity, state ownership was still dominant in mainly developed countries in the 1990s and 2000s<sup>19</sup>. For example, in the year 2000, the state's share (public production) in Turkey was 23.9 percent whereas in Spain 40 percent, Switzerland 49 percent, Germany and France 53 percent, and Italy 39 percent<sup>20</sup>. In parallel to these figures, the share of public lands in Turkey is comparatively lower and diminished after 2000s. (See: Chapter 5 and 6).

The second difference is related to the meaning of privatization. In Turkish case, privatization is the transfer of use, possession, and management or ownership rights (block/partial sale) of a public good or service to increase economic efficiency with or without a substitute directly to the private sector or again to the public sector. The condition of production is not obligatory or binding for the private sector. On the other hand, in foreign experiences, *de jure-privatization* is the total or partial management transfer of an enterprise (a SOE or a PEE) and/or ownership or its possessions or a public

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<sup>16</sup> Urban areas are structured or developed through PEEs. However, as the city developed, they become areas in the transition zones of the cities, blocking every kind of urban growth tendencies and implementation of plan zoning principles demanded for urbanization. These establishments can be a large-scale capital concentration with private side sectors or can have sectoral basis like tourism, agriculture, etc. For example, Ayancık-ORÜS, Nazilli - Sümerbank, Yenice - ORÜS, İskenderun - İSDEMİR, Bursa -Sümerbank Merinos.

<sup>17</sup> Directed by International Monetary Fund (IMF).

<sup>18</sup> Prepared according to European Union (EU) Turkey's Accession Partnership Documents. In addition, after 2005, Mid-term Plan (2006-2008) and IX. Development Plan (of the SPO).

<sup>19</sup> "Classical liberalism is often represented as a purely privatizing ideology,... Strengthening the public character of the state is continuity in liberal thought from its classical to contemporary phases" (Starr, 1988:8).

<sup>20</sup> See: Gedikli (2004:75), Table 6.

service<sup>21</sup> to the private sector with a substitute. Despite the differences in content, both experiences are based on some Privatization Legislation. The exercises also cover public goods (movable and immovable) produced or owned; services produced and provided by, and assets, shares, transactions.

The third difference is in the aims and objectives of governments in the *de jure-privatization* process. The objective all around the world is to reform PEEs (with economic expectations and their management functions) in order to mobilize capital, to enforce market discipline in the provision of public services and goods, and to secure efficient allocation and use of resources. The enterprise continues its production functions<sup>22</sup> after privatization, and in some rare cases, it is closed down for cash sales<sup>23</sup>. By privatization, only the management or the ownership of the enterprise is transferred. In other words, not the property, but the rights to property are transferred to the capitalist<sup>24</sup>. High public shares, stated above seem to be closely related to this basic difference in policies.

In Turkish case, the objective is to transfer rights to property on land. Land is transferred just like the firm management transfer. Even in case of transfer of ownership of land, privatization legislation does not define the necessary clauses for these transfers (for either direct partial transfers or block privatization). While rights to property are transferred, the property is also transferred. For this reason, privatization appeared as an urban land policy of the central government. However, the major debate seemed to concentrate on the economic outcomes<sup>25</sup> of the privatization policies. Most of the related studies are focused on neither the urban public property and its transfer nor its relation with urban planning. As rarely exercised, there is not much demand for urban planning or information on planning studies.

It must be noted that if the administration privatizes a public good, it can no longer be used for production with public interest objectives or its use for public interest is hard

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<sup>21</sup> Privatization of public services is the transfer of management and the provision rights to the private sector for lower costs and exercised mainly at the local authority level.

<sup>22</sup> Continuity of production functions is a common condition for profitable enterprises or sectoral investments and is a decision of the public authority.

<sup>23</sup> "In cash sales, companies are either sold as a whole to the highest bidder, or else shares are placed in the market through public offering" (Boyko, Shleifer and Vishiny, 1997:70).

<sup>24</sup> In foreign privatization practice, ownership is not transferred in Build-operate-transfer (BOT) or Built Operate Manage (BOM) methods. Ownership of state farms in rural areas or government housing in urban areas are not transferred. (See: **Appendix B**).

<sup>25</sup> Such as service provision, production increase, economical growth, and better functioning of the markets, etc..

to control. Transferring public enterprises and their possessions led in most cases to an end in production functions that is a decision of the capitalist. Public lands can be used with speculative purposes. Even the productive and profitable monopolistic enterprises are privatized. Despite this, low revenues are achieved and financial crisis continued.

*De jure-privatization* in Turkey has also gave way to both “Privatization” and “Liquidation”<sup>26</sup> [Tasfiye] approaches at the same time through partial (immovable, movable properties) or block (firm, enterprise or asset sales) privatization methods. Liquidation process in *de jure privatization*, special for Turkey, is called privatization and refers only to possession sales. When production functions are ended and the movable/or immovable properties (parts<sup>27</sup>) of a facility are sold separately, liquidation<sup>28</sup> occurs. It is easier to liquidate the components, mainly urban public lands, which are generating capital resources much easier. A high amount of transfer of public property to central or local authorities is also made in this process. Transfers to public authorities mean “socialization” as such transfers make economic contributions to local developments (by the transfer without a substitute method).<sup>29</sup>

Similar to foreign privatization cases, the Privatization Administration (the PA) (Presidency of Privatization Administration) organizes the *de jure-privatization* process based on the Privatization Act No. 4046<sup>30</sup> (amended by the Acts No. 4232<sup>31</sup> and 5398<sup>32</sup>). The political consent designed the Turkish Privatization Act for and reflected the policy objective to transfer public resources by the transfer of PEEs/SOEs. The transfer is made through one or a combination of methods defined by the Act. The fourth difference is on the legislative content and the method of transfer of rights to property. Privatization legislation in Turkey is parallel to the new right policy of achieving minimized state and the least intervention of the state into the economy. However, the

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<sup>26</sup> Before an establishment (firm or facility) completes its economic life, Privatization Act allows the investor to close down and/or to transfer the facility or the land it is located on.

<sup>27</sup> Machinery, furniture and fixtures, buildings, lands, parcels and etc..

<sup>28</sup> Liquidation is implemented into cases where block sale is hard to implement due to scale of production, the emergency of the revenue demand or the objective of the private sector (Hülya Günaydın, the PA (Sept. 07, 2001, personal communication). For teh author, this method leading to a loss of state revenue accelerates the liquidation of the central authority in the end.

<sup>29</sup> This has been blocked by the Act No. 5398 from the year 2005 onwards.

<sup>30</sup> Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law No: 4046.

<sup>31</sup> Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law and Amending Several Articles of the Development Act No: 4232.

<sup>32</sup> Act on Amending the Act Concerning Arrangements for the Implementation of Privatization and the Certain Laws and Decrees with the Force of Law and Amending of Several Acts No: 5398.

same legislation covers partial and block privatization. In many countries, these are treated as separate processes subject to different legislation.

The fifth difference stems from the object of *de jure-privatization*. The premier object in the Turkish case; directed by either privatization or liquidation approaches, is the “private property of the state<sup>33</sup>” (state’s private property). These public immovable goods are those possessed or registered (owned) in the name of the establishments or used, but owned by another institution or a natural person<sup>34</sup>. The lands where the facility or plant is located; lands left vacant for future investments; lands or parcels owned, but located somewhere different than the production area, and lands owned by some other public institution, but used by the enterprise in the Privatization Program, are privatized<sup>35</sup>. Between 1986-2001,<sup>36</sup> 711 activities of the PA out of 920 cover land transfers, in the form of partial privatization as direct land transfers and block privatization. The transfer of public land ownership that was the central administrative policy of *de facto-privatization* became a common thought in the *de jure-privatization* process: For both public and private sectors, every public land is transferable.

### 1.1. The Problem, the Statement, and the Question

#### The Problem

Historically, and mainly over the last decade, *de jure-privatization* became an act against urban planning, urbanization of the comprehensively planned cities, and transformed urban space. This means that urban space is (re) produced without the control of urban planning and the state creates a tension between urban planning and privatization. In particular, the actors in the *de jure-privatization* process strongly experienced and supported this through market-led planning approaches, the spatial outcome of, which are more apparent. For this reason, the focus has changed from the slogans of economic upgrading, economic sustainability, and increasing social welfare or activating provision of goods and services and their use for public interest while spreading wealth to the society. In reality, the focus at the moment is to have economic gains through capital investment and to achieve the value of the urban public land through the transfer of development rights, development potentials, and the transfer of

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<sup>33</sup> Privatized urban state owned lands have four major characteristics: Property as a natural resource, property as a product, property as a surplus, and property as a monopoly.

<sup>34</sup> Lands in rural areas; lands, parcels, and dwellings in urban areas; coastal zones, and tourism centers.

<sup>35</sup> According to Leventoğlu (1996), when the PEE privatization practice was unsuccessful, their lands were put into the portfolio for sale.

<sup>36</sup> By 15.10.2001.

ownership. This refers to the creation of rent for certain groups, intervention against public interest, and increasing unemployment and social inequality through property transfers. As such consequences are observed; there appeared an accelerating change of opinion and criticisms about the objective and the meaning of this approach.

The theory of privatization<sup>37</sup> seems to be unable to explicate basic reasons (means<sup>38</sup>) of *de jure-privatization* in terms of (re) production of urban space. Not much emphasis has been put on this side of the matter as only privatization economic results on the firm (or the establishment) level and the social and political image (has relative importance as announced by the state) have been dealt with. Despite its remarkable impacts, there is no comprehensive study over the concept of *de jure-privatization* within the content of spatial theories. Urban planning theories have dealt with *de facto-privatization* exercised illegally.

The lack of interest to the impacts of *de jure-privatization* in (re) production of urban space process depends on several reasons: Related actors have come to deal only with the design, not the aims, objectives, reasons or even the process<sup>39</sup>. The academic circles and administrative bodies have not given necessary attention to neither the definition nor the transfer methods of (urban) public lands<sup>40</sup>: Current studies on spatial issues and rent opportunities in *de jure-privatization* cover only partial special case studies leading to fallacy of the accident<sup>41</sup>. The question of privatization is more or less ignored in the debates on the theory of space. Therefore, the role of *de jure-privatization* in terms of (re) production of urban space should be analyzed from the city planning point of view<sup>42</sup>. The rising criticisms; the lack of discussions and studies on public lands; the differing objectives of privatization as well as those impacts of these

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<sup>37</sup> The theory of privatization covers mainly economical, political and sociological theories which are related to production, provision and transfer of public goods and services. The theory deals with reasons such as welfare, production efficiency and effectiveness, trade unions, share distribution, reduction of government overload, wage rates, utility; (Sociological and political theories) efficiency and impact; question of integration and de-regulation, and natural monopolies and competition. Theory of Law and Theory of Labor also deals with privatization, but are not in the study scope.

<sup>38</sup> Means of Privatization: The relationship between planning and privatization and the relationship between property and privatization.

<sup>39</sup> In economics, for example, theories of individual behavior and the behavior of the firm are developed and these reduce the process into manageable equations or discuss the property rights issue.

<sup>40</sup> They may be satisfied from such practices; these may happen so fast that they cannot control or they may be withdrawn from the decision-making process.

<sup>41</sup> "*a dicto simpliciter ad dictum secundum quid*". According to Keskinok (1998:94), the partial determinations in special areas are even viewed as general.

<sup>42</sup> As the legitimacy of the market is a matter of space and (re) production of space relations that is neglected by urban planning; there is a need to discuss the legitimacy, rationality of power, and hegemonic relationship of the market and the planning institutions.

nodal interventions into urban space, provided critical basis for this Thesis study. Besides the *de jure-privatization* to analyze the differences of the Turkish case is necessary to understand the level of impacts. Privatization can be generalized in terms of inputs even though they show their peculiar conditions, aims, and methods. As stated in the previous section, the difference of the Turkish case is readable through various inputs: the characteristics of the objects of transfer, their location in the cities and/or the transfer methods and mechanisms or their results in terms of urban costs and risks.

*De jure-privatization* in Turkey, strengthening and supporting market-led planning approaches, became an act of controlling the means of power. This can be explained through several notions: During the (re) production of urban space, because of the private interests versus public interest, spaces for public interest are not created. Development plans are made sensitive to private interests. As a result, the privatization process structures partial, unbounded decisions on urban parts where development plans are in violation with the existing urban pattern and plans, principles, and programs. This means that urban development is usually through fragile development (at the parcel scale and by stages). The common rational planning approach has been the development of the city as a whole<sup>43</sup> and the evaluation of urban parts appropriate to planning hierarchies. Producing unhealthy urban parts as such led to a “distortion of the hierarchical structure of the overall (local scale) planning activity” by the central government (or the local authority) and a loss in the dynamism in urban plans and the legitimacy of urban planning.

It should be pointed out that development of PEE lands has never been subject to Development Legislation or the previous planning legislation since their first date of establishment. However, before PEE finishes its development process, the enterprise can be taken into the privatization program by the Privatization Act. For this reason, during the privatization preparation process, the PA faces a wide range of problems resulting from unfinished expropriation<sup>44</sup>, ownership, unsolved unification and

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<sup>43</sup> According to Polat (2006), the city managers and bureaucrats have no more a planning thought to save the city as a whole. This results from the lack of time and market possibilities in terms of the capacity to make these plans, but not from the given planning methodology itself.

<sup>44</sup> Several enterprises have been constructed before their expropriation studies are finalized.



subdivision problems<sup>45</sup>. The PA, in order to privatize, had to solve these development problems<sup>46</sup> and develop the land according to Development Act.

As stated before, other than some strategic enterprises, public lands are the objects of transfer for the capital in every stage of the Turkish *de jure-privatization* experience. These led to a decrease in the scale and amount of public lands, which can be utilized in the plan implementation process. Due to this decrease, public lands appeared to be scarce and monopole goods<sup>47</sup> in urban areas to attainment of the plan objectives whereas the privatized public lands have become artificial private properties and merit goods<sup>48</sup>. The transfer of public lands has also led to a bottleneck in the availability of provision of other public goods and services<sup>49</sup> as the *de jure-privatization* process decreased the areas allocated to public production. Real estate markets demand public lands because of their low market values<sup>50</sup> and amounts as they play an important role as a financial asset (Aydoğanlı, 1995:128). PEE lands<sup>51</sup> are the last large public land stock, generally left vacant, in urban real estate markets that can enable urban development and high revenues for the entrepreneurs. Therefore, the very problem is in the process in which the space is (re) produced through market-led planning approaches before or after privatization and forwarded to the urban real estate market where the transfer of development rights and ownership creates remarkable rent opportunities.

*The de jure-privatization* process strengthens the speculative aims about the public immovable property through the allocation of land uses which maximize urban rents. In other words, the right to achieve, to create or to have the real share from rent is transferred in a process where “profit making production spaces” transforms into “spaces of rent production”. Privatization causes rent concentration in the hands of

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<sup>45</sup> Some of the problems had to be transferred to the private sector as solving these require a long time period, and this can also be the reason of low values of public lands in the real estate market.

<sup>46</sup> In most cases, it is determined that the capitalist had solved these problems after privatization in a very short time.

<sup>47</sup> The use of public lands is during the process of and for the production of goods and services. Public lands have a non-rival public good character.

<sup>48</sup> Merit goods: These goods provide interest directly to those consuming them. They can be priced and are marketable.

<sup>49</sup> Urbanization process brings together the increase in demand for various types of goods and services. The demand for public goods and services accelerated, but public resources declined and in mainly developing countries, local and central authorities were insufficient to provide these.

<sup>50</sup> This breaks the rules of microeconomics stating that price is not the determining factor of demand for public goods. As long as it is a public property, its market value is lower. Public lands also have degraded area character.

<sup>51</sup> It is the real estate which is the public immovable property (not the property on land as a building, trees, and else) of a PEE or a SOE. These immovables are termed in this thesis as “PEE lands”.

certain actors. As the right to property of a public immovable brings gains, it becomes a real source of income that can minimize investment costs and risks for the capitalist<sup>52</sup>. To guarantee long-term stability, to protect savings from inflation, to create new income and to prevent itself from the flows created by economic crisis, investments flow into the real estate (lands, parcels, buildings) sector. Location selection is also for rent maximization. This is why; the movement of capital in Turkey<sup>53</sup> is towards public lands.<sup>54</sup>

The capitalist invests in public lands in the valuable zones (in the central business districts or in the transition zones<sup>55</sup>) of the cities through privatization. On the other hand, investing in public lands leads to an increase in urban costs<sup>56</sup> and risks (i.e. Dubai towers project proposal on a public land in Istanbul). Due to the increase and as public has no share from the new gains created through the urbanization process, public loss is inevitable. When public lands are in the market, natural monopoly is on behalf of the private sector. Once transferred, reproducing or taking the property back or control of its transformation in terms of public interest is impossible. The capitalist has the right to structure and shape the public good privatized as ownership is transferred.

Till the exercise of market-led planning approaches in the *de jure-privatization* process, the planner having a comprehensive planning approach has defined public lands in all planning hierarchies as if; they are untouchable and have no development potential. This is because, through the time of public ownership, neither the transfer to the urban real estate market nor revenue gain is expected<sup>57</sup>. That is why; when the transfer is in question, the development is according to market demand (besides urban demand). It is also figured out by the author that administrations responsible from the transfer of PEE lands are not active in the *de jure-privatization* process. The related actors of planning, land management and urbanization are also withdrawn from the plan-making process during and after *de jure-privatization*. The Privatization Act bypasses the competence

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<sup>52</sup> In capitalist countries, in terms of circulation of capital, the capitalist invests into public production functions at the initial phase, and later into commodities (lands, buildings, etc.) in order to decrease costs and risks.

<sup>53</sup> See: Yırtıcı (2006).

<sup>54</sup> See: Harvey (1999) for the discussion of this issue.

<sup>55</sup> Transition Zone: A change or lack of structure between high-density commercial zones of the city center and the residential areas (two regions) of an urban area. Carrying the characteristics of both transition zones provide a separation between two zones with incompatible land uses. Such a transition zone often allows a mix of small professional offices, business services and residential uses. Used properly, transition zones can provide a transition between higher and lower intensity land uses.

<sup>56</sup> Especially infrastructure costs.

<sup>57</sup> See: Ling-Hin (1996) for the non-tradeable character of land in socialist economies before their transition into a market economy.

of the actors<sup>58</sup> responsible from planning and land transfers<sup>59</sup>. The other social actors that are to be influenced from such planning and transfer activities<sup>60</sup> are also excluded.

The search in Turkish urban planning practice during the privatization process has also showed that as well as the right to own a natural monopoly and privileged development rights<sup>61</sup>; development potential is transferred by the transfer of land ownership rights through development plans or plan modifications. Development plans or plan modifications are prepared either by:

- The Privatization Administration before privatization (as an administrative practice) (Act No: 4046 Article 41) or
- The capitalist or the local authority after the completion of privatization (or the transfer of ownership (as ex post facto planning<sup>62</sup>)) (Development Legislation or Municipality Legislation).

To clarify this issue, Development Act No: 3194 has given the Administration the planning competence<sup>63</sup> as a method to find out the actual market value<sup>64</sup>. In practice, the PA creates and transfers resource opportunities of local authorities or public institutions and stops their future growth. The Administration halts the decision-making competence of the local authorities and makes planning studies in the local scale with or without their consent. By this, the PA transfers potential development rights of a land to the entrepreneur through plans or plan modifications. In addition, the PA has missed the chance to determine rent potential and to make decisions (land use decision, building densities, and development rights).

After privatization, the priority is given to the demands of the market by the local authorities. When the production condition is over or after ownership is transferred, even if the land is planned by the PA before privatization (the PA takes consecutive

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<sup>58</sup> Chamber of Architects, Chamber of City Planners, and Chamber of Mapping Engineers (personal communication). Except rare cases, the PA excludes Chambers of Profession in the planning process. These authorities and other social actors are withdrawn from the related processes not to oppose any decision of the PA or the Privatization High Council (PHC).

<sup>59</sup> The PA organizes land transfer activities by the privatization legislation even though the Ministry of Finance the General Directorate of National Real Estate (the GDNRE) has the duty to transfer public institution lands, including PEEs/SOEs lands.

<sup>60</sup> See: TMMOB (1997). This situation is a political preference bringing in competence chaos and strengthens the absolute power of the PA as a central authority.

<sup>61</sup> The Act No: 4105 (Official Gazette dated 24.04.1995) amended Act No: 4046 with this purpose.

<sup>62</sup> The investor may ask for plan modifications before privatization.

<sup>63</sup> Act No: 3194 Article 9 is on plan approval and Articles 15 and 16 on subdivision and unification.

<sup>64</sup> "Actual Market Value [Rayiç Bedel]" is the value determined by the real estate market (Current Value or Saleable Price). This is different than real value (the sale value of the investor) or sale value.

demands for land use before privatization), the capitalist prefers to benefit from the transfer by asking new development rights from the local authority. Here, the plan is made after privatization by the capitalist in collaboration with the local authority. In these cases, the capitalist creates and achieves the actual market value after privatization by again plan modifications. Despite the content of the legislation, the Administration was also unable to implement the necessary planning studies and analysis for long (See: Chapter 7). This is made by the capitalist after privatization. In both cases, the local authorities seem not to protect public interest. For instance, necessary impact analysis of the privatization of public land is missing.

In these privatization practices, the land ownership and the methods of transfer of a public property are also left to market mechanisms. Only the way the activity type is open to negotiation<sup>65</sup>. This principle neglects rational comprehensive planning approaches. For this reason, the market-critical approaches also accelerated criticisms<sup>66</sup> and there appeared various discussions, appeals, and annulled court decisions on land transfers and the value appraisal methods. To stress it once again, this Thesis also shows that the transfer of a public land is made without achieving the actual market value<sup>67</sup> or real value<sup>68</sup>. Even though there are several administrative arrangements to achieve this, but is unable to develop these lands<sup>69</sup> or transfer these even from the real value: To achieve the real value of the land the PA makes planning studies.

To summarize, from urban planning point of view, we are interested in the impacts of public land privatization. The regulatory and directive role of urban planning and the state in (re) production of urban space is rejected by the proponents of privatization. They criticize comprehensive and market-critical urban planning principles and programs. They argue that they prevent effective and efficient functioning of urban

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<sup>65</sup> For example, land transfers in ORÜS Vezirköprü, Düzce, Bafra, Ayancık, Antalya and Devrek establishments according to Decision of the PHC No: 96/4 and Paşabahçe Beykoz Factory in Istanbul. (This area has a tourism development potential.)

<sup>66</sup> Due to these criticisms and as the revenue objective of the PA could not be met in the level expected; from 2003 onwards the PA stopped to sell lands that have received offer below their determined value or value interval.

<sup>67</sup> The PA is obliged by law to develop the land and transfer it from the real value, but not from the actual market value. However, the transfers are not even from real or actual market values. (See: Chapter 6).

<sup>68</sup> Real Value [Gerçek Değer] is the investor's/the administration's sale value.

<sup>69</sup> Land value is neglected by the PA when compared to the total price of the establishment (See: Chapter 7). The Administration believes that this corresponds to a very small amount. (Haluk Bilgin, the PA Real Estate Works Unit (July 31, 2006, personal communication)). According to the proponents of privatization, the establishment, the management or the Joint Stock Company ownership is privatized over the real value (Hülya Günaydın, the PA (Sept. 07, 2001, personal communication) and Türkiye'de Özelleştirme (27.08.2001)).

markets and the general market system. Market-critical planning approaches and actors aiming to protect public interest are out of the related processes. In this framework, the problem is not related to the planning institution, but the planning processes and the reactions to market-led approaches.

### **The Statement**

In the previous section, it is showed that privatization policies and their implementations have changed public production and public property patterns. Today the ground for implementing comprehensive urban planning seems impossible. Only partial developments by projects are supported. Urban planning has lost its market-critical character as a result of privatization policies, transferring ownership and development rights to the capitalists, and creating new privileged development rights through partial plan modifications. For us, this contradicts with the notions of public interest. Therefore, *de jure-privatization* seems not to create social welfare. In addition, a meaningful result can hardly be achieved in terms of the hierarchical structure of urban planning. Transfers of urban public lands have diminishing returns to the society in pure market conditions resulting from the absence of market-critical approaches. Thus in so far the privatization is taken as an ideological statement, there seems no chance for the (re) production of urban space for public interest. Urban planning approaches and processes should be analyzed and the evaluation of the impacts of changing development rights of the privatized area must be given in order to find out how to articulate urban planning and the market in terms of public interest.

### **The Question**

This statement raises the question of; what are the opportunities created for the city by the privatization of a public land (PEE land) located in a central business district (CBD) transition zone through development plans (or plan modifications)? In other words, what is the advantage of urban planning in terms of public interest by the (re) production of urban space through *de jure-privatization*? When will urban planning intervene in the privatization process and how will the planner evaluate public land stock as a public good? The answer will be the basic reasons of the privatization process in terms of urban planning to show how a regulatory act articulated with the market mechanisms can be designed as an opportunity for the city? Several other minor questions,<sup>70</sup> believed to contribute to the study, are also evaluated.

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<sup>70</sup> What is *de jure-privatization*? Who are the decision making actors in this process and their roles? How a decision to privatize is given? What are the urban planning approaches and processes? What are the reasons for and mechanisms of intervention of the planning institution?

## 1.2. Aims, Objectives, and Scope of The Study

The general framework of this study concentrates on rent generating *de jure-privatization* activities and urban planning. The aim of this thesis is made to make contribution to the spatial theory of privatization. The aim is to evaluate the role of *de jure-privatization* in the (re) production of urban space in the Turkish case. For us, there is a critical relationship<sup>71</sup> between urban planning<sup>72</sup> and privatization. And, urban space becomes more structured by market-led approaches aiming to legitimize the spaces of consumption. This study aims at showing that market-led urban planning in the *de jure-privatization* process is structured by the logic of the capital.

As stated before, our initial focus is on the relationship between *de facto-* and *de jure-privatization* on the basis of the relationship between spatial and economic irrationalities<sup>73</sup> exercised in the Turkish case. The scope is broadened by the analysis of reasons, characteristics, and differences of public land transfers, the related planning processes, and impacts and opportunities such activities have generated for the cities, within the past and present interactive process of liquidation. By this method, restructuring the activity pattern and the legitimacy of urban planning seems possible. The analysis is made with reference to the critical evaluation of conceptual and theoretical issues, and the problem area in practice. Within this perspective, the Thesis points out the differences of privatization approaches and shows the grounds for the emergence of urban public land transfers after 1980s under *de jure-privatization*. Our successive focus is on the state's intervention mechanisms to public land transfers. The transfer of the property rights (rights to property)<sup>74</sup> and the transfer of potential development rights will show how urban planning is in a structural change parallel to the change of the property system. In this framework, the objective is to analyze; why the responsible administration from public land privatization neglects public interest or the actual market value of the land before or after privatization.

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What are the impacts of privatization in terms of urbanization and urban hierarchical structure of overall planning activity? How the planning institution has treated the issue of public interest within market-led privatization? To broaden the issue, the study searches for answers of several other questions: How land value is defined, and by whom, and how land use decision and development rights are determined? Did this transfer of privatized area create any value in its surrounding area and speed up its transformation process? Could the transformation be able to create what the local authority wanted for that zone? If the area was privately owned and not privatized, how could it develop?

<sup>71</sup> The result (design, in terms of actors and legislation) and the process (planning).

<sup>72</sup> Characteristics of privatization should be evaluated within the scope of urban planning in terms of the planning processes, as it is a different intervention mechanism of the market institution.

<sup>73</sup> See: Tomaskovic-Devey and Miller (1984:46-68) for market irrationalities in market-led policies.

<sup>74</sup> See: Günay (1995(a)) for the definitions on the concept.

Economic side of privatization as well as public movable property or management agreement<sup>75</sup> transfers fall outside the content of the study like public services<sup>76</sup> issue. The definition of different institutional arrangements<sup>77</sup> for providing goods and services, and the consumer, the arranger or the provider (as one of the three participants) does not also form the content. However, their role will be evaluated. In addition to these, factors defined by Savas<sup>78</sup> (1987:95-107) in evaluating arrangements, other than the criteria of efficiency and performance, are not within the study content. Although stated, public land transfers to public institutions in the *de jure-privatization* process are uncovered in this study as these are the activities leading to social development (socialization). Besides *de facto-privatization*<sup>79</sup> activities, block privatization is not in the scope even though each block privatization case may cover higher amounts of public land transfers.<sup>80</sup> Major *de facto-privatization* activities; transfer of public land ownership resulting from illegal practices or other legislative norms, are stated, but not detailed.<sup>81</sup>

### 1.3. Methodology and the Structure

The methodology of the study is developed to broaden the differences of *de facto-* and *de jure-privatization*. This study is based on the analysis of conceptual and theoretical framework; historical evaluation of *de facto-* and *de jure- privatization* (with reference to differences in practice); the principle actors in privatization; the privatization-related urban planning activities, processes, and the roles of the decision-makers. Conceptual framework of the Thesis covers three main sets of concept that we have elaborated in the previous sections: *de facto-privatization* and *de jure-privatization* with reference to public and private property; privatization and liquidation with reference to socialization, and private interest versus public interest issues with reference to (re) production of urban space.

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<sup>75</sup> Build-own-operate (BOO), Build-operate-transfer (BOT), Build-operate-manage (BOM), Build-transfer-operate (BTO) contracts and other private management arrangements.

<sup>76</sup> See: Görer (2000) and Social Sciences Institute, Ankara University and Public Services International Research Unit (2006) (Available in internet, PSIRU, <http://www.psiru.org/publicationsindex.asp> (accessed May 05, 2007)).

<sup>77</sup> Like service-good specificity, availability of producers, scale, relating benefits and costs, responsiveness to consumers and to government, and the size of the government (Savas, 1987).

<sup>78</sup> Emanuel S. Savas (1987) is the first person to show the differences between developed and developing country privatization exercises.

<sup>79</sup> Transfer activities carried on by those institutions with special budget like municipalities, provincial local authorities, village legal persons, wakfs, and institutions with general budget are not in the interest of the study, but stated in general terms.

<sup>80</sup> For example, Turkish Telecommunication Inc. (Turk Telekom) block-privatization to Offer Group (14.11.2005) covers more public immovable property transfers than direct sales of the PA.

<sup>81</sup> i.e. Acts No: 4070, 4706, 4182, and 4707.

In the beginning, the definition of (*de jure-*) privatization is given and its origins are discussed. The peculiarities of the Turkish case with respect to the world practice are put forward and with a reference in the appendices section (**Appendix B**). The analysis is made through a literature and internet search. Concepts like public property, state property, and state's private property as well as PEE lands are also discussed. Following the conceptual explanations, in the theoretical part of the study; theory of privatization is evaluated to build up a general framework and to set its differences from the spatial theory of privatization. The relationship between planning and privatization in terms of public interest is studied in a separate section. Here, besides this relationship, property issue is the major subject of interest. Theoretical and practical differentiation of urban planning since 1980s is studied to understand the impacts of privatization on urban planning approaches and planning processes.

After defining the conceptual differences, studying the historical evaluation of *de facto-privatization* and *de jure-privatization* is made to understand their role in terms of the (re) production of urban space. In this respect, in the Ottoman property system, legislation and the transfer of rights to property as well as prototype-privatization activities are taken as the illustrative cases in the emergence of radical separation between private and public property and the differences between these domains. Departing from the Turkish Privatization Act, programs, and plans; impacts on the economy, administrative responsibility, policy objectives, activity typologies and where available, revenue achieved are mentioned in terms of responsible actors. During the evaluation of the *de jure-privatization* process, current status of privatization is given for a general perspective. In the study of the relationship and differences, we used internet and literature survey, and several personal communications with government officers<sup>82</sup>, professionals<sup>83</sup> (specialized in planning and land registry), and the Chamber of Mapping Engineers.

The objects of *de facto-* and *de jure-privatization* are analyzed at the next phase in order to show the tension that (re) produces urban space and to figure out how public interest issues are correlated in planning processes. We focused on public lands and state owned lands, responsible administrations<sup>84</sup>, their transfer methods and mechanisms, and the level of transfers. Research studies are detailed to show the market demand and institutional tendency for public lands. The study first concentrated

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<sup>82</sup> For *de facto-privatization* the Ministry of Finance officers and for *de jure-privatization* the Ministry of Finance and the Privatization Administration officers.

<sup>83</sup> Haldun Özen (1999) and Eray Büyükvelioğlu (July-August 2006) (personal communication).

<sup>84</sup> The GDNRE and Title Deed and Land Registry Offices.



on the Ministry of Finance the General Directorate of National Real Estate (GDNRE) and its related Departments<sup>85</sup>. This is the administration responsible from the transfer of state owned lands (and liquidation of PEEs) in *de facto-privatizations*. The General Directorate provided general information on its role, duties, and responsibilities, the public land stock, and the related legislation. The administration did not provide information<sup>86</sup> (by 07.12.2001) about the total public land stock transferred in both *de facto-* (except the general information on Ankara) and *de jure-privatization*. Reasons are declared by the GDNRE as the lack of information, dynamic figures, and the incomplete inventory study<sup>87</sup>. The General Directorate has only provided information by 18.07.2006 on public lands for Turkey and Ankara (As the inventory study has ended). The data does not allow us to have an understanding how public lands has transformed or the level of transfers in both the Privatization Act implementations and *de facto-privatization*. In other words, this data does not still allow us to have an understanding of how public lands have transformed or the total amount of lands transferred.

The survey on monthly statistics of the General Directorate showed that the general tendency of transfer is not changing yearlong until the year 2004 when foreigners enjoyed the right to own immovable property in Turkey. The same tendency is visible in those transfers made by the PA. Every information or data achieved from the GDNRE (including the web site) is in this study as they provide a brief perspective on state-lands and are unpublicized elsewhere. However, it should be kept in mind that this data is changing every day<sup>88</sup>. Raw data of total public lands, the amount transferred to the private sector, and the methods and reasons of transfer, are questioned in the GDNRE and the abolished General Directorate of Land Office<sup>89</sup> are showed here or the data

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<sup>85</sup> During the personal communication with Necla Güven (21.11.2001), Ahmet Ermiş (07.12.2001), and Fahrettin Mehter (30.07.2002) provided information on public lands, land typologies, transfer methods, the relation of the General Directorate to the PA, and the activities of the GDNRE.

<sup>86</sup> The Ministry of Finance did not respond to the official information request of the author (as of 21.11.2001) covering the questions of; public land stock (distribution by provinces in Turkey and Ankara), property transfer methods, the revenue achieved by each method, the amount of public land transfers in Ankara, the responsibilities and the activities of the GDNRE, the land distribution by main, annexed, and affiliated public institutions, and the level of expropriation made by the GDRNE (location and amounts).

<sup>87</sup> An automation project -inventory study- has been started in 1995 by the GDNRE.

<sup>88</sup> The numbers are changing due to a court decision, an invasion, a sale, a plan implementation or else.

<sup>89</sup> Cemalettin Aldemir, Former Head of the Department of Sales and Allocation (the Abolished Prime Ministry the Undersecretariat of Housing the General Directorate of Land Office (Sept. 06, 2001 and Feb. 2002, personal communication). Land transfer activities of the abolished Office, the public land typologies in their stock, amount of land stock, and privatization methods (transfer with substitute, sale by tender or establishing the rights to easement with a substitute) were the subjects of the author's questions. Sectors demanding land transfers (housing, tourism, industry, health and education, public institutions) and several major examples of transfers are also received from the abolished Land Office. As a land dealer institution, the Land Office

received from these institutions are interpreted. In short, to estimate the market demand to understand the transfer mechanisms and to determine the level of transfers, *de facto-privatization* is studied. With the same objective, property transfer activities of some other property managing public institutions like abolished Land Office are given in the appendices section of this study. For us, these activities represent a general perspective for *de facto-privatization*, and for the similarities both privatization domains cover.

Deeper interest is on PEE lands: Land characteristics, the level of land transfers, and the transfer methods and mechanisms are studied within the framework of the responsible administration and the related legislation. The administrative objectives, policies as well as the activities of the PA are analyzed at the first step in order to show what the central administration responsible from *de jure-privatization* has made different than the administration responsible from the liquidation of PEEs. The analysis is detailed in terms of PEE land quantities and methods and mechanisms of their transfers<sup>90</sup> in the *de jure-privatization* process. In addition to this, the transfers are defined and interpreted in terms of “quantity by method (by 1986- 2001)” (in thematic maps<sup>91</sup>) to show the national distribution of PEE land transfers. The information on *de jure-privatization* land transfers is composed of press bulletins, World Bank (WB) information net, personal communications with the Ministry of Finance and the PA officers, the administrative documents and web pages. Data on transfer methods defined in the press bulletins of the PA is accepted as true and unique. The Administration claims that direct transfer of lands and parcels are not in their perspective even though the privatization lists show the opposite. Personal communications are set with Counselors of the Minister responsible from the PA (in the year 2001) and its related sections such as Research Planning and Coordination Council, Law Section, and the Real Estate Activities Group (2001/2006).

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activities show a perspective of *de facto* public land transfers. The Land Office provided large statistical data on the transfers made up to the year 2001, but did not provide the amount of available land stock at hand. The Land Office also did not have any data of the total amount of public lands transferred to private sector from the date of its establishment. Total stock of land and their location is declared as “secret” to prevent its misuse in the real estate market or against the Office. The figures refer to the date they are received. The amount of land sold (15.10.2001), land taken from the GDNRE and achieved after expropriation by the year 2000 are showed in the Appendices section. To define the sectoral transfer of public lands made by the Land Office since 1972 till the year 2001; 2500 data have been classified manually into sectors (purpose of use), and is reflected on a thematic map to show the concentration and qualification of immovable transfers by provinces.

<sup>90</sup> Detailed information is non-existing within the Administration.

<sup>91</sup> The data is up to the year 2001, as after this time administrative changes has appeared. The data up to 2001 are important, as the present urban space is believed to be structured by these transfers.

Available data is given or interpreted in the related sections. In addition, real numbers, amounts (m<sup>2</sup>), and revenue gained from the transfers are defined globally or through manual calculations. (The PA has blocked and unpublicized some information available from the year 2002 onwards). For this reason, summary of the data on the amount and characteristics of land transfers of the PA is given in Chapter 6. This is also because of several facts like the absence of a reliable land inventory or frequent changes in PEE land status<sup>92</sup>. Exact figures of public lands that were transferred<sup>93</sup> and their value (except direct land transfers listed in the administrative bulletins) are hard to estimate. However, the total value of activities covers the value of all types of public immovables except direct sales. This is because; the public immovable property transferred or apparent in the block privatization portfolio is rarely separated as lands and buildings.

Rational perspectives as well as land appraisal (valuation) studies are showed successively to clarify the relationship in between planning, property, and privatization. It must be noted that we cannot, and in fact should not; study privatization agenda of land use rights without examining the appraisal of the PEE land values and privatization values. Miss-valued public lands are given. Literature, press and internet search is supported by the personal communication with KİGEM<sup>94</sup> and Chamber of Mapping Engineers in order to find out the transfer and registration procedures and the land valuation (appraisal) methods and studies of the PA<sup>95</sup>. One of the Title Deed Offices in Ankara is also studied. The outcomes are compared with the current procedures and appraisal studies of *de facto-privatization*. A personal communication is set with a real estate appraisal company<sup>96</sup> that has the knowledge of privatization activities and real estate actual market values in Turkey and in Ankara is made within this content. This is to give the objectives of the land appraisal activities of the PA and the composition of the interests of the capitalist before privatization. To summarize, the reader will

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<sup>92</sup> For example, every PEE has its own land stock and most often, when the PEE is in the portfolio, it becomes aware of its total possessions. The first stage - finalizing expropriation - gives general information on the land stock of that PEE.

<sup>93</sup> As the country cadastre is unfinished, there is no reliable data about the two and three-dimensional registry. The manual registration system is updated. Ministry of Public Works and Settlement (MPWS) the General Directorate of Title Deed and Cadastre has also TAKBIS (Information System on Title-Deed and Cadastre) Project.

<sup>94</sup> Center for Developing Public Enterprises [Kamu İşletmelerini Geliştirme Merkezi (KİGEM)], 07.09.2001, May-June 2006, and 09.02.2007 (personal communication).

<sup>95</sup> Yenimahalle Second Regional Branch of Land Registry Administration. Yusuf Yalçın (January and August 2002) (personal communication). It is found out that even though they are the agencies responsible from PEE liquidation and value appraisal, they only register the land in the name of the buyer and are not active in the land appraisal process according to Act No: 4046.

<sup>96</sup> Ebru Öz, Eda Öz, and Edward Sherlock, LÂL Gayrimenkul Değerleme Müş. Ltd. Şti. (Jun. 25, 2006 and Jul. 18, 2006, personal communication). The company has provided information on land values of different land uses in several zones of the city of Ankara.

understand that the state is again unaware<sup>97</sup> of its land stock before privatization, the amount of land transferred in the *de jure-privatization* process, and the value appraisal studies are misleading.

Planning studies made in and after *de jure-privatization* is the major concern of this thesis. Successively, we have focused on urban planning studies. Our problematic is constructed on the questions such as how and by whom urban space is (re) produced by *de jure-privatization* process and through which objectives and practices. Here, the reader may check the urban planning legislative framework: The planning responsibility and the summary of planning activities of responsible administrations and the activities of the capitalist after the act of privatization. In other words, revenue transfers by the creation and/or the transfer of privileged development rights is analyzed to test the sub-statement claiming that *de jure-privatization* is a different process in Turkey with a different content in legal and administrative terms. Development plans and modifications are studied in terms of their role in the minimization of risks and costs of capital.

For analyzing this issue, privatization cases leading to development plans or plan modifications are analyzed. This analysis is made through communications with professionals, government officers, parliamentary members, consultants or academicians, and the Chamber of City Planners and the Chamber of Architects between 2000-2007<sup>98</sup>. The activities are grouped according to the decision making actors who make the plan before and after privatization. The Ministry of Finance, the Ministry of Public Works and Settlement (MPWS), and the Mass Housing Administration (MHA [TOKİ]) are also examined to determine urban planning typologies as well as their relationship with the market and the PA. Several land owning agencies (İMKB, Bursa Merinos Sümer Holding A.Ş. (Sümerbank) Factory) and municipalities (Bursa Greater Municipality and Yenimahalle municipality) are also studied to put forward their experience and the differences in exercise. The evaluation is made on their role and influence relative to the factors defined within the planning process and in terms of public interest.

The analysis of *de jure-privatization* planning studies before privatization is made with reference to the planning studies of the PA (02.07.2004- 31.07.2006) and the abolished

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<sup>97</sup> The Chamber of City Planners has stated this issue in the year 1996. See: Leventoğlu (1996).

<sup>98</sup> Personal communication with Cemalletin Aldemir, Ömer Ardalı, Remzi Sönmez, Özcan Altaban, Çağatay Keskinok, Raci Bademli, Yücel Özlem, Meltem Kılıç, Ahmet Erdoğan, Hülya Günaydın, Esin Mihçi, Hasan Ören, İlter Ertuğrul, Ali Kılıç, and Yusuf Yalçın (2000-2007).

Land Office<sup>99</sup> (04.01.1995-15.12.2004). Why the PA and the abolished Land Office had to make planning tasks before transfer<sup>100</sup>, the planning process, the principles, the methods of planning, and the problems faced during plan preparation process are analyzed. It is figured out that the administration is disturbed from making a nodal intervention to urban areas and those problems created by the municipalities to the PA before and after privatization. The PA provided general information on its privatization<sup>101</sup> activities. The Administration has showed available documentation on its planning and valuation studies<sup>102</sup> during a personal communication in the year 2006. The status of the public lands in urban settlements is available in the PA after the year 2004.

The PA has no information at hand (before 02.07.2004) about the planning studies of the abolished Office<sup>103</sup>. The data on planning studies from 07.2001- 07.2004 is officially missing as the Land Office is closed down (15.12.2004). Therefore, this thesis covers the list of all available planning studies of the PA even the Administration is unaware. The problems faced during these studies<sup>104</sup> are also given in the Appendices. It must be noted that, although stated, this Thesis is not an analysis of the planning studies of the PA or its privatization exercises. Thus, this study did not cover those transfers requiring no plan modifications or the cases where the investor keeps the establishment functions after the transfer. This is because; they generate no value or support to market-led planning approaches.

There is also no data present in the PA about the planning studies made by the PEE administrations in the privatization portfolio. In addition to this, there is no certain public information about the tenders made by the PA for development plans. In order to

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<sup>99</sup> Meltem Kılıç, the abolished General Directorate of Land Office (February-March 2002, personal communication). The officer provided detailed information of several *de jure-privatization* planning studies (like SEKA Taşucu, Sümer Holding A.Ş. - İzmir Konak Factory Area, Sümer Holding A.Ş. 16023 island 1 parcel) and the list of all planning studies (19 cases) made according to the Protocol (04.01.1995) with the PA up to March 2002.

<sup>100</sup> According to Yücel Özlem (the former head of the abolished Land Office), the PA makes planning studies to increase the value of the excess land stock. (General Director. (Abolished) Prime Ministry Deputy of Housing, General Directorate of Land Office (Feb. 2002, personal communication)).

<sup>101</sup> Personal communication with Hülya Günaydın and İlhan Baytan, Counsellors of the Minister, the PA (Sept. 07, 2001).

<sup>102</sup> Until the end of the year 2004, the abolished Land Office was preparing the plans on behalf of the PA. All duties of the abolished Land Office were transferred to Mass Housing Administration in the year 2004. However, a search on the Administration by July 2006 showed that the Administration made no planning studies for the PA and received only its public land stock.

<sup>103</sup> During personal communication with Haluk Bilgin (July 31, 2006), he asked from the author the list of available planning studies made by the abolished Land Office as they have no document at hand.

<sup>104</sup> Ömer Ardalı (Sept. 07, 2001) and Haluk Bilgin (July 31, 2006) (personal communication).

understand the planning studies carried out by the private sector in the *de jure-privatization* process, one of the sector representatives is questioned<sup>105</sup>.

Land use characteristic is another ingredient of this process. By the analysis of land transfers and planning studies, in terms of models, methods, and urban location, four different PEE land characteristics subject to transfer are defined by the author (all of which is transferred with the “sale method”): Economic activity areas<sup>106</sup>, marginal areas (areas where market interest concentrates), vacant areas (areas with no economic activity), and areas having urban development potentials.

In order to verify the statement of this Thesis, among those observed; the case of privatization of a public land in an economic activity area, where development plans are ex post facto prepared by the capitalist<sup>107</sup> after *de jure-privatization* is chosen. This typology is evaluated by a case-study: A well-known and a typical case of changing development rights after privatization is well illustrated by the transfer of state’s private property owned by Meat and Fish Products Firm<sup>108</sup> to Yeni GİMAT A.Ş. in the city of Ankara, Akköprü zone.<sup>109</sup> Ankara is the city where public land concentration in the city center and the transition zones, and public land transfer ratios are the highest. In this case, 100 percent of the public share of state’s private land<sup>110</sup> is transferred: An urban public parcel transfer process possessed and/or used by a PEE (not by a SOE<sup>111</sup>). In this case study, hereinafter termed as “GİMAT”, both general economic processes and the decision makers are evaluated.

It is clearly seen that how privileged development rights are created for or by the capitalist after *de jure-privatization* to minimize investment costs and risks and the aim of the capitalist is to achieve land ownership. It must be noted that this area has

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<sup>105</sup> City planner Eray Büyükvelioğlu who has taken part in several planning studies of the PEEs in the Portfolio (July-August 2006, personal communication). Only general information on activities and planning processes could be achieved from this communication, as no detailed information can again be given about the secret planning studies of the Administration.

<sup>106</sup> For Altaban (1990:84), these are termed as “Buoyant Areas” in the British experience.

<sup>107</sup> Here, the capitalist has changed the development rights several times after the privatization through development plans or plan modifications by the consent of the local authorities according to Development Act No: 3194.

<sup>108</sup> TGeneral Directorate Head Quarters and Slaughterhouse Area / Akköprü -Ankara. EBÜ [Et ve Balık Ürünleri] A.Ş. was the General Directorate of Meat and Fish Institution [EBK Genel Müdürlüğü] before it is commercialized.

<sup>109</sup> This area has developed in violation with the development legislation before privatization.

<sup>110</sup> This may also refer to share compensates of at least 40 percent of the PEE or SOE ownership. It must be noted that, in practice, in terms of urban public land ownership; partial ownership and/or a share majority are scarcely exercised.

<sup>111</sup> A land owned by a SOE is a public land. These lands are generally in rural areas and out of urban planning boundaries, therefore, they are uncovered by this Thesis.

developed in violation with the development legislation before taken into the privatization portfolio. To explain this, the relation of plans to the urban macroform and the environs, and the overall planning activities as well as planning processes before and after privatization are analyzed.

For explaining how urban space is (re) produced in terms of public interest, the environmental impacts of this location selection of the capitalist are evaluated. This is made in terms of the impacts on the planned development of the city and the urban space structuring; and on the neighboring CBD area (Kazıkıçı Bostanları (KİB) CBD (MİA)). To evaluate the spiral effect of the investment and the development of the area; land use pattern and urban development in the surrounding area and the major planning studies (CBD 1993 Competition<sup>112</sup> and CBD 2005 Project Proposals (TOBAŞ<sup>113</sup> Project and ACC Project<sup>114</sup>) are critically evaluated. The comparative analyze is on the transfer of development rights in both areas having the same urban characteristics based on urbanization ingredients (such as total area, land uses, land suitable for development, and land value before and after the transfer of property). Besides these, Ankara Master Plan Bureau reports, 1993 CBD Competition Reports, and other related literature were interpreted. Planned development of the Ankara city center and the emergence of urban macroform since 1970s are given, with a special reference to the development period of 1980-1990 (the period before the emergence of GİMAT) and the privatization practice in the year 1997.

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<sup>112</sup> Sedvan Teber, Planner, Bilkent University (Nov. 14, 2005, personal communication). 1993 CBD competition project and the following planning studies and their planning and development principles, the development process of MIA and GİMAT areas, and the impact of GİMAT investment are the issues discussed.

<sup>113</sup> Ferhat Ertürk, Housing Development-Metropolitan Municipality Construction Real Estate Architecture and Project Joint Stock Company (TOBAŞ) General Director (Nov. 30, 2005, personal communication). The area of proposed CBD TOBAŞ Project, UTM Project, public share in this project, the partners of the project, building coefficient, the role of TOBAŞ, financial methods, land uses proposed, and the relations with previous studies and the studies made up to date are the issues questioned. The General Director stated that they have a vision for commercial development in the area. Several functions in Kızılay will be moved to this area. They did not take care of the previous competitions or development plans. The Greater Municipality had given them unofficially the duty to study. After working on the concept and the property pattern, TOBAŞ has prepared the project proposal for the CBD.

<sup>114</sup> Metin Aygün, Architect (Nov. 08, 2005 and Mar. 13, 2006, personal communication). The architect of the ACC CBD Project has introduced a project covering the demands of the cooperative composed of seven sector representatives. According to Aygün, proposed CBD Project of ACC will integrate small scale industrialists around the historical center of Ulus to the rest of the world. The historical center will be saved from the pressure of construction and the project will create mixed uses of commerce and housing. It is on the area that is announced as an urban transformation area by the Greater Municipality of Ankara. The project is submitted in a feasibility study format and is unrealized. The architect also provided development implementation plan (2003) of the 1993 CBD Competition Project.

Furthermore, the study on the planning history of the GİMAT area is not aimed at in the case study. In other words, in the case study the main concern is centering on the questions such as how public and private benefits and interests and the problems and the opportunities created for urban planning and the city are articulated with one another in privatization. Therefore, the urban planning approaches of the public administration and the reaction by market-critical urban planning are discussed. Later, debate on this case is made with reference to the results in terms of rent, property, and public interest issues, and mainly, in terms of spatial means and relations. In short, the discussion is on the basis of the relationship between market-critical and market-led planning approaches.

During the data collection of the case study, a reversal method is used due to the bureaucratic barriers set by the PA<sup>115</sup>. The decision makers in the planning process, that is, local authorities<sup>116</sup> and the investor<sup>117</sup> are filtered. In addition to the study of the files of Yenimahalle Municipality, a site survey is carried out. The investor and the local authority have provided sufficient information for the first stage development whereas this is limited for the second stage. This is nothing more than the violation of the rule of publicity of the development plans. The latest development plan and master plan of the area is not provided by the related actors. These plans are taken from the planner of the GİMAT area only in the year 2007. Area use data and perspective drawings given by the investor are also used. In addition to these verbal discussions and aerial research analysis, master and development plans, and their modifications as well as development principles are interpreted.

Questions on the investment, the planning processes, and the impacts of this area are forwarded to local authorities. Local authority officers pointed out the negative impact of the GİMAT investment even though the investment location selection was correct. The officers stressed the advantage created to the investment by the development plan modification, but have defined public interest only as tax gain of the municipality. The processes of privatization and planning, location selection of the investment, the method of determination of the investment type, the revenue gained, building typology, land use types, project partnership, investment financing methods, planning and

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<sup>115</sup> The Administration did not provide case study documents, as the administration defined its (planning) activities (even if the abolished Land Office makes it) as “secret” although undefined in the related legislation.

<sup>116</sup> Personal communication with Ahmet Öner Köse, Yenimahalle Municipality (Nov. 10, 2005 and Nov. 18, 2005) and Yavuz Soncul, Altındağ Municipality (Nov. 29, 2005).

<sup>117</sup> Ahmet Erdoğan, Yeni Gimat A.Ş., Accountant Member (Nov. 29, 2001, Jan. 01, 2006, and May 01, 2006, personal communication).



development principles and processes, and environmental impacts are the issues forwarded to the investor. The investor stressed that the investment was for social interest and at the regional scale would have positive impacts on this part of the city in terms of environmental quality. Investment feasibility reports that have been prepared by the investor are also evaluated. In these reports, it is figured out that the analysts had given the current situation of the area and compared to neighboring zones, but provided insufficient information about future environmental impacts of the investment except the possible revenue that can be achieved by the investor.

All these are interpreted and a series of criticisms are noted from the privatization process in Turkey with reference to the changing role of the state in the globalization process as the conclusion. Here, the complementary and contradictory character of both the market and the planning institutions are discussed. Criticisms on urban planning resulting from privatization of urban public lands competing with purely market-critical planning approaches follow the discussion.

Finally, we should emphasize that the decision-makers on urban issues should be aware of the meaning and the critical differences of the concepts involved in negotiating, understanding, and regulating urban space for public interest. For this reason, the next section of our analysis concentrates on the comprehensive analysis of the meaning of the *de jure-privatization* concept and its origins as well as the objects of privatization and property typologies.

## CHAPTER 2

### PRIVATIZATION - THE CONCEPT AND ITS ORIGINS

This chapter focuses on the analysis of the content and the origins of (*de jure*-) privatization. In this respect, the public goods and services are analyzed in terms of the changing scope of the transfer of public lands. The public property and private property distinction is given in a separate section for a better understanding of how and why this transfer from public to private emerges. Finally, the comparative analysis of the Turkish case and the world practice is made in the last section.

#### 2.1. Emergence of Privatization (*De jure-privatization*)

After the First World War (WW I) and Great Depression of 1929, there were attempts towards riding out the economic crisis of the nations and restoring order. There appeared views to control the economy (Özmen, 1987:1): The state, as the official representative of the capitalist society, has to intervene and direct production to overcome this crisis (Çulhadaroğlu, 1997). Regulation of the economy has to be made by the state and through its enterprises within a legislative framework and support<sup>118</sup>. Therefore, the state took over of failing industries or invested in companies and expanded the scope of its control in the economy (Parker, 1998:10). It is this time, social state understanding<sup>119</sup> was applied by governments and the Public Economic Enterprises (PEEs) were established. State interventionism<sup>120</sup> is introduced as the control of public authorities over the means of production and management.

Even though the state control over the economy accelerated in time, internal and external debts are forced with heavy economic, social, and political burdens. Accelerating debts destroyed the balance of the financial sector and the competitive

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<sup>118</sup> Keynesian welfare state covers state management and regulated capitalism.

<sup>119</sup> The directing, encouraging, preventive role of the state is the character.

<sup>120</sup> According to Keskinok (1988:77), the re-constitution of the material basis of production and the establishment of accumulation of capital increased state interventionism within the national territory.

environment. Economic policies and programs for development, anti-inflationary policies, anti-stagnation policies, and rationalization are also interrupted. As a result, the nation-state, as the major force, had a failure<sup>121</sup> and had both negative and positive influence on the economy and the society. Such causes and consequences of market failures redefined the role of state interventionism. According to Rotberg (2003),

Nation-states fail because they are convulsed by internal violence and can no longer deliver positive political goods to their inhabitants. Their governments lose legitimacy, and the very nature of the particular nation-state itself becomes illegitimate in the eyes and in the hearts of a growing plurality of its citizens. The rise and fall of nation-states is not new, but in a modern era when national states constitute the building blocks of legitimate world order the violent disintegration and palpable weakness of selected African, Asian, Oceanic, and Latin American states threaten the very foundation of that system (p.1).

Besides state failure, market failure and governance failure have emerged. This process has also affected the (re) production of urban space and the physical and socio-cultural environment in urban areas as well as urban planning approaches. By the 1970s, the economic crises deepened. The crisis of the state became apparent by the 1974 oil crisis. To overcome the structural problems and the bankruptcy of globalization, new right policies proposed lesser state share through decreasing its intervention to the economy. In other words, the state expansion in the economy was in a level that both public and private sides demanded breaking up market monopoly of the state. For Önder (1994:37), the fiscal crisis of the public sector developed together with the crisis of the capitalist system. Besides financial outcomes, both crises ended up with inefficient health, spatial provision (planning, housing, infrastructure, etc.), and education and legal investments. As state crisis enlarged through globalization and crowding-out affect is sensed; capital sources of the private sector<sup>122</sup> are required for stagnancy and rationalization of restructuring programs<sup>123</sup> (Öncü, 1999). During the depression after 1979, (*de jure-*) privatization<sup>124</sup> is introduced as a policy of public

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<sup>121</sup> See also: Milliken and Krause (2002); Datta-Chaudhuri (1990), Le Grand and Robinson (1984), and Stiglitz (1989).

<sup>122</sup> Private sector is formed of legal and/or natural persons, informal and domestic activities, voluntary associations, cooperatives, and private non-profit corporations.

<sup>123</sup> Governments applied this ideological attitude to adapt the state to newly changing relations and to overcome the bottlenecks in the process of capital accumulation in local, national, and international levels (TMMOB, 1997:1). Governments brought public programs leading to disengagement of the government from specific kinds of responsibilities.

<sup>124</sup> See: Webster's New Collegiate Dictionary (1954:936). "The term was used in 1936 in a chronicle published in *The Economist*" (Wikipedia, <http://www.reference.com/browse/wiki/privatization> (accessed December 12, 2006)). "The next use of the word in Peter F. Drucker's book named *"The Age of Discontinuity"* (New York: Harper & Row, 1969). The term "reprivatization" is used in this book. Robert W. Poole Jr. has shortened the word as

investments by the neo-liberalist thinking<sup>125</sup> to activate private capital sources and to decrease economic effectiveness of the state (Güzel (2000:5); Megginson and Nerter (2001)), and as the tool<sup>126</sup> for the capitalist system to restructure itself. (See also: Fainstein and Fainstein (1985); Aydođanlı (1995)).

Therefore, as a state policy, privatization gained importance by the rise of conservative (right-wing) governments in the United Kingdom (UK)<sup>127</sup>, the United States of America<sup>128</sup> (USA), and France. This neo-liberal perspective gained wide support especially in Italy, Spain, Japan, and all around the world touching every system and sector for revenue gains. It is only by second half of 1980s and early 1990s, eastern and middle European countries (Czech Republic, Poland, Eastern Germany); Asian countries (Turkey, Bangladesh, Malaysia, Sri Lanka), and North and Latin American countries (Chile, Argentina, Brazil, and Mexico) faced with privatization policies<sup>129</sup>. Privatization is generally the transfer of management functions of PEEs<sup>130</sup> and/or SOEs or urban infrastructure or service provision of public (local) authorities through large-scale projects<sup>131</sup>.

The characteristic of privatization has changed by 1990s and again by 2000s. PEEs became the dominant objects of transfer as they observe great production, investment, and management costs. These costs are a burden on the states and deepened their fiscal crisis. Around 1990s, sale, transfer or allocation of possessions (movable and immovable) of PEEs or SOEs (invading the profitable and monopoly sectors) had given

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“privatization” and used in his work named “Reason Foundation” in 1976 (Santa Monica, Calif.)” (Savas, 1987). Privatization (alternately denationalization or disinvestment) is the transfer of ownership from the public sector (government) to the private sector (business). The term also has been used to describe an unrelated, non-governmental interaction involving the buyout, by the majority owner, of all shares of a holding company's stock- privatizing a publicly traded stock.” (Wikipedia, <http://www.reference.com/browse/wiki/Privatization> (accessed June 05, 2007)). Alternatives to privatization are municipalization, sub-contracting, and partial ownership.

<sup>125</sup> Privatization emerged “from the countermovement against the government and represents the most serious conservative effort of our time to formulate a positive alternative (Starr, 1988:1). It is termed by Özcan (1997:52) as post-modern.

<sup>126</sup> It must be known that privatization is not the only tool of stagnancy and rationalization for restructuring of the economy (Baytan, 1999:3). Regulation for the protection of competition and the consumer; create sectoral regulatory system and mechanisms for finance and legal tools are the other tools.

<sup>127</sup> See: Seven (1999:13).

<sup>128</sup> See: Answers.com, <http://www.answers.com/topic/privatization> (accessed January 16, 2007) for USA practice.

<sup>129</sup> See: Ling-Hin (1996); Karluk(1994); Frydman and Rapaczynski (1993), and Castillo (2004).

<sup>130</sup> In every sector, state production of goods and services were exercised first without a limitation. Later, for the restructuring of the imperialist capital, globalization focused on the PEEs, and the transfer of their production capacity, management or ownership as it is easier to market their possessions.

<sup>131</sup> With Treasury guarantee and by the guidance of specialized international credit corporations or TNCs.

the priority in mainly developing countries. This has several reasons<sup>132</sup>: In international and domestic markets, these goods and services can easily be merchandised and commercialized. Secondly, circulation of capital has entered the circuit of capital committed to productive or commodity forms in these countries. Thirdly, structural reforms are implemented more strongly by the advice of global institutions.

By 2000s, in the developing world, the monopole PEEs and (urban) public immovable properties became the major concern of privatization policies. At the same time, developed countries either slowed down or stopped this practice. In Turkey, the privatization policies covered the transfer of urban and rural public lands leading to the acceleration in (re) production of consumption spaces<sup>133</sup> or privatization of strategic monopole public enterprises. As a result, two contradictory processes have emerged:<sup>134</sup> Privatization (Privatization of profits) and Socialization<sup>135</sup> (Socialization of costs) creating a tension between market-led and purely market-critical approaches<sup>136</sup>. If privatization means the transfer without compensation, than it is for public and must not be in the context of privatization. One should evaluate this as socialization. If a price is asked and the transfer is only to the private sector, than it is a private provision and refers to privatization of production. Privatization, introduced as an administrative necessity, became an open and a direct class policy (Savran, 1997:39). It gained a universal character and advertised as a precondition<sup>137</sup> of better economic systems. Privatization has been implemented without taking into account of its impacts on public authority, society or urban space. After defining why and how the issue has emerged, at this point, we will have a closer look at the privatization concept.

## 2.2. Privatization

Privatization is the economic process of change with social, spatial and administrative ends. This change is structured by a special legislative framework and directed by the central government, and is related to various disciplines (economy, administration,

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<sup>132</sup> See: Chossudovsky (1998); Ersoy (1995); Fainstein (1999); Harvey (1998); Kepenek (1995 (a) and (b)); Keskinok (1988); Taylor-Goody (1999); Tomaskovic-Devey and Miller (1984), and Szelenyi (1984).

<sup>133</sup> See: Ling-Hin (1996).

<sup>134</sup> See: Keskinok (1988).

<sup>135</sup> According to Savas (1987), socialization means continuous development of a cumulative progress. The process of increasing collective and interdependent character of consumption and production processes, extending the burden of costs over all layers of the society, and undermining the linkage between individual benefits and costs, on the basis of need.

<sup>136</sup> These processes have been exercised at the same time.

<sup>137</sup> See: TOBB (1993:2).

management, and else). Some other disciplines may affect its activities or can be affected (such as planning, politics, sociology, etc.). No unique definition of privatization is possible and is true for the approach it originates. Because of this and as the fundamentals of the economy, the purpose served by privatization or the implementing agency may differ. Public authorities have to make their legislative or administrative arrangements<sup>138</sup> relative to their own conditions, timing, and purpose. Privatization is a dynamic concept. For Savas (1987) privatization refers to a change from an arrangement with high government involvement to one with less. It is an arrangement where the private sector plays a more dominant role. These arrangements cover a wide range of different activities, all of which imply a transfer of the rights of provision of goods and services<sup>139</sup> and the transfer of public finance of goods and services. Privatization also covers deregulation<sup>140</sup> (legal and institutional freedom) and privatization of production means of those institutions.

As privatization originates from economic reasons, many involved in the privatization processes miss its links to the property issue and urban planning. Discussions concentrate on financial, economical, and political means and results, and its impacts on national, regional, and local economy. Despite this fact, various privatization discussions end up with the object of privatization issue or the results that their transfer creates. The issue that has been introduced as a mere solution to state's crisis<sup>141</sup> has been posed in the planning discipline around 1980s. No certain and common definition is made in urban planning since then because of the accelerating power of market-led planning approaches or missing interest. It must be kept in mind that a clear borderline between the economic and legal aspects of privatization is hard to define, but between spatial and legal aspects, it is easier<sup>142</sup>.

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<sup>138</sup> See: Savas (1987:62-88) for arrangements. These can be employed through multiple, hybrid, and partial arrangements in terms of service.

<sup>139</sup> Privatization: A Global Approach (University Essex, <http://privatewww.essex.ac.uk>, (accessed October 08, 2001)).

<sup>140</sup> "Deregulation and privatization became the messianic recipes that would resolve the inadequacies of underdevelopment and its fiscal hurdles. Supposedly, these policies would bring democracy and efficiency to the economies adopting them. Deregulation and privatization became the policies that supranational institutions exerted as part of their economic restructuring programs to be applied around the world" (Castillo, 2004:1).

<sup>141</sup> Chicago School and Milton Friedman. "The Chicago School is a Positivist School, applying scientific techniques to the collection and deductive analysis of data to explain different types of individual and social phenomena. It has focused on human behaviour as determined by social structures and physical environmental factors,... seeking evidence whether urbanisation (Wirth:1938) and increasing social mobility have been the causes of the contemporary social problems." (Wikipedia, [http://en.wikipedia.org/wiki/Chicago\\_school\\_\(sociology\)](http://en.wikipedia.org/wiki/Chicago_school_(sociology))) (accessed Jan. 10, 2007). See also: Keskinok (1997:6).

<sup>142</sup> For privatization to be carried on successfully there must be a basic necessary legal order:

- Omitting monopoly,

### 2.2.1. Meaning (Restricted and Extended Meanings)

“Restricted” and “extended” meanings of the privatization concept is to be explained in order to analyze the relationship of privatization with urban planning and public lands.

#### Restricted Meaning

Restricted meaning of privatization is generally made in terms of economic factors: Privatization is the transfer of rights to public property<sup>143</sup>, and the transfer of the control and management of public commercial production units and economic factors to the private sector. One may define this as the substitution of private goods and services for public goods and services. In short, it is the transfer of property and/or management of PEEs (Duran, 1994:77-78). In terms of property, Güzel (2000:5) defines privatization as an absolute rotation of property. Those methods demanding or not requiring property transfers structure it. In parallel, for some (Özmen (1987:7); Özyay (1986)) privatization is selling PEEs in compensation to their value: This refers to the transfer of profit, loss, property and/or right to property. In terms of rent in urban areas, the transfer of public lands<sup>144</sup> also means (partial) privatization.

#### Extended Meaning

Privatization is a shift in economic power and a loss of operational control over factors of production and product markets. The state’s power and the state’s direct operational controls over enterprises are related to set the economic context within which industries operate. The common extended meaning of privatization is again in economic terms: It is the partial or block (full) transfer of economic factors (every type of public good and service) and arrangements from public to private sector (Önder (1994:17); Savas (1987); Sönmez (2004:71, 77), and TMMOB (1997:2)). The reduction of state economic activities or their total abolition<sup>145</sup> is also termed as privatization. In short, it is the transfer of public assets or public resources (goods and services) measured in terms of a substitute to the private sector. For Keskinok (1988:75), privatization is:

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- Making firms unification, separation and bankruptcy easier,
  - Omitting administrative barriers to investment,
  - Simplification and increasing effectiveness of the tax system,
  - Minimizing export and import specifications,
  - Accelerating possible solutions to every kind of disagreement,
  - Guaranteeing investments.

<sup>143</sup> Property refers to private property of the state and/or property under its dominance.

<sup>144</sup> Real estate: Agricultural land, apartments, land under houses or under commercial/ buildings that have a cost, value, and a price.

<sup>145</sup> See: Aydoğanlı (1995:109).

- The process of transferring responsibilities for production, management and distribution of the collective means of consumption to the private sector, and
- The adaptation of some of these goods and services to capital requirements and true-cost pricing (introduction of profitability criterion into administrative practice) - privatization of costs.

Baytan (1999:5) notes privatization as an economical issue.<sup>146</sup> He defines the concept without differentiating it from economical factors<sup>147</sup>: It is a tool of economic policies where differences emerge only from its implementations. For us, privatization means a different thing relative to the locus of production or the forms of consumption. For example, transportation is not a public good, but a public form of consumption. A shift from public goods to private goods mean “privatization of consumption” and the shift in the locus of the production of services from public to private (Starr, 1988:6), which is “privatization of production”. For the proponents of privatization, besides strengthening free market economy, privatization means increasing economic productivity, widening stock exchange, supporting foreign investment, modern technology, better administration, decreasing state’s demand for external finance, creating additional funds to the state (Güzel, 2000:4-5), and preventing public monopolies.

Privatization can also be defined as the sum of activities towards limiting or withdrawing the public sector in the national economy and the management sector due to a wide range of reasons (Güzel (2000:5); Morgil (1994); Baytan (1994:4); Duran (1994:78), and Eğılmez (1998:25)). Within this understanding, these explanations suggest that the term privatization refers to:

- a. any shift of activities or functions from the state to the private sector,
- b. any shift of the production of goods and services from public to private or
- c. any transfer of rights to property from public to private sector.

All these explanations given in this section of the Thesis is to show that the discussions are made in terms of the relationship between rights to property and capital and the relationship between labour and capital. These explanations miss the economic factor of public lands in terms of (re) production of urban space and its relationship with capital and labour.

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<sup>146</sup> Privatization is an act of change required for the economy, having important social, physical, legal and administrative outcomes and is exercised in a democratic and legal environment for accelerating the welfare of the society (Baytan, 1999:6).

<sup>147</sup> Broad classes of resources corresponding to economic factors are Land (natural resources), Labour (personal resource), and Capital (cultural tools and institutions) (Esmer, 1997:149).



### 2.2.2. Ideas, Reasons, and Policies for Privatization

It is important for this Thesis to explain ideas, reasons, and policies for privatization to analyze why public lands became the object of transfer. It is also necessary to understand why above explanations miss the spatial aspects. Privatization covers economical, financial, social, and political as well as labour related reasons and ideas (Appendix C) defined mainly within the legislative framework, and policies. The concept has political and public reaction whereas pragmatic, ideological, commercial, and populist pressures (Savas, 2000:2). Ideas and reasons of privatization have been structured generally by the proponents of privatization<sup>148</sup> focusing on the necessity of PEE transaction and/or property transfers to overcome the financial crisis of the state. The objectives of the state and its enterprises are often multiple, sometimes conflicting, and always-changeable (Parker, 1998:31), like the private sector enterprises. The same is valid for the purpose of privatization: According to Starr, shifts from publicly to privately produced goods and services may result not only from a deliberate government action, but also from choices of individuals or firms that a government is unwilling or unable to satisfy or control.

In many countries, private demand for education, health care, or retirement income has outstripped public provision...This is demand-driven privatization. When privatization is a demand-driven process, it does not require an absolute reduction in publicly produced services. Stagnation or slow growth in the public sector may be the cause. In some socialist societies, the growth of an “underground” economy represents a form of privatization that is not a planned development... In other words, as a process, privatization encompasses more institutional changes than those brought about by self-conscious privatization policies. It seems useful, then, to distinguish instances of privatization according to whether they are predominantly policy - or demand- driven (Starr, 1988:5-6).

The complexity of the process of privatization stems partly from the fact that there are different reactions to privatization policies. For example, privatization is accepted as important for financial and economic efficiency, but there is a crucial political opposition against the privatization of some public enterprises or services as well. There is an endless debate about distinguishing between sectors and services that are essential for the public interest and those, which should be hived off to the private sector (Sönmez, 2004:78).

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<sup>148</sup> See: Wikipedia, <http://www.reference.com/browse/wiki/Privatization> (accessed November 22, 2006) for the proponents of privatization and the views against. It must be noted that privatization-supporting ideas have structured the process of privatization.

Besides the economic performance ingredient, the lifetime of that establishment, reducing union power<sup>149</sup> and the emergence of private investments in a sector are the other major determining factors for the decision to privatize. Allocations of resources, the inefficiency due to older technologies, and over capacity in traditional industries are the other reasons. According to the proponents of privatization, in less developed countries like Turkey, negative outcomes of state expansion, leading to the grounds for privatization can be termed as (See: Keskinok (1988:81)):

1. Economic inefficiency in the production activities of the public sector,
2. Ineffectiveness in the provision of services, and
3. Rapid bureaucratic expansion.

At this stage, it is more appropriate to clarify the definition by defining aims, objectives, and methods besides those efforts limiting or supporting privatization.

### **2.2.3. Aims, Objectives, and Methods of Privatization**

Various economic, financial, and socio-political aims are defined in the privatization literature. Out of these, achieving sustainable functionality (efficiency and production) of the public enterprises in a free market economy is the common spelled aim. The state is demanded to structure the process of breaking its expansion in the economy (in different levels) as observed in various countries. In addition, the complete withdrawal of the state from management of production of goods and services (Baytan, 1999:6); reorganization of the market mechanism, and transferring public movable and immovable property and rights to property are the other aims of privatization.

#### **Appendix D.**

Private actors active in the privatization process may have the desire to create and/or to achieve rent and to have the ownership of public goods and services. According to Starr (1988:1), privatization activities originating from the central authority side aim:

- Returning services to their original location in the private sphere,
- Creating new kinds of market relations and promised results comparable or superior to conventional public programs, and
- Opposing to state intervention and expenditure.

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<sup>149</sup> Privatization in UK and West Germany was intended to reduce union power (Bös, 1986:61).

In this process, some against privatization (Keskinok (1995); Eđilmez (1998)) claim that privatization destroys the state. Seven (1999:i) adds that privatization is an essential, but an insufficient element for structural economic reforms in the economy and the society. This view is undesired by the proponents of privatization who claim that state should be inactive in the market and transfer its establishments through privatization (TOBB, 1993) for reacting competitive environment. Starr (1988), Savas (1987), and others (Baytan (1996), TÜSİAD (1992), Butler (1992)) stated the opposite and stressed its necessity for the economy<sup>150</sup>: It is the policy to support state's practice, which means the regulative character of the state will be strengthened by privatization. The proponents of privatization also declare the spreading of property and capital to the public as the aim of privatization. On the contrary, for Eđilmez (1998:29) there is no relation between property and technical efficiency. She further adds that there is also no relation as such in terms of diffusion of property and capital to the society.

In this Thesis, we are interested with the impacts of privatization to urban planning. From this point of view, this thesis asserts that one of the aims of privatization is the transfer of public lands. The proponents of privatization have never spelled direct transfer of public lands as the major aim of privatization, in contrast to practice. To broaden this issue, aims and objectives of privatization are discussed in this section. In the privatization process, urban plans are made to valuation of the public land and to easy the transfer of public immovable with privileged development rights. Objectives of privatization may change due to the characteristic of the good or the service, their quality and quantity, and value or form of the immovable or movable good.

The basic objective is to increase competition through increasing efficiency and productivity in the industrial sector and exclude state as it is unable to give rapid decision and lacks capability to adapt (Morgil, 1994). Özmen (1987:12-13) defines the objective of privatization as optimum rationality in the use of limited resources. The author states that this is not the objective in urban land privatization. As a proponent of privatization, defines 10 objectives of privatization all of which has no relationship with public lands: Lowering government costs through cutting spending, depoliticizing decisions, better service quality, better management, better labor relations, wide share ownership, restoring profitability, replacing capital, and introducing competition and choice (Pirie as cited in Butler, 1992).

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<sup>150</sup> Some kinds of privatization are necessary support to the public realm (Starr, 1988:8).

Major privatization methods (See: Chapter 5) are contracting-out method [ihale yöntemi], deregulation [yasal kurumsal serbestleşme], asset sale method [varlık satış yöntemi], management contract method [yönetim devri yöntemi], management transfer [işletme hakkı devri], leasing method [finansal kiralama yöntemi], franchising method [imtiyaz devri yöntemi], and pricing method [fiyatlama yöntemi]. The methods of privatization can also be grouped into three<sup>151</sup>:

- Share Issue Privatization ((SIP) - Selling shares on the stock market),
- Asset Sale Privatization (selling the entire firm (block) or part of it to a strategic investor, usually by auction or using Treuhand<sup>152</sup> model), and
- Voucher Privatization (shares of ownership are distributed to all citizens, usually for free or at a very low price).

These methods are not used in public land privatization except the (asset) sale method.

#### 2.2.4. Types, Activities, and Principles of Privatization

Privatization typology has two-way: “block (total)” or “partial”. Both of these can be practiced any sort of activity and method. Partial privatization is worth noting as the transfer of public lands is generally through this type. From perspective of economics, Falay (1990:5) classifies basic privatization activities into four:

- a. Privatization of financing of goods and services produced by the public sector,
- b. Privatization of goods and services production financed by the public sector,
- c. Block or partial transfer of property or management of public enterprises to the private sector (denationalization), and
- d. Withdrawal of the public monopolies from the production of goods and services (liberalization).

According to Starr (1988:7), in partial privatization cases, the government may continue to finance, but not to operate services, or it may continue to own, but not to manage assets. For the author, the government may own, but not manage or use the immovable. Privatization may, than dilute government control and accountability without eliminating them. Privatization in this sense diminishes the operational sphere of government action (either not the fiscal or functional). Whether this sort of partial privatization achieves any reduction in government spending or deficits is an empirical question. Every activity typology has a principle.

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<sup>151</sup> See: Wikipedia, <http://en.wikipedia.org/wiki/Privatization> (accessed January 12, 2007).

<sup>152</sup> Ibid.

None of the public authorities, believing to the superiority of law, can make privatization without fulfilling several basic principles (Özmen, 1987:24-25):

1. General principles:
  - a. Privatization should be a common social thought. The privatization practice should have the support of the political bodies (Çoban, 1999:115)<sup>153</sup>.
  - b. Privatization should be over real, actual value of that establishment or resource (Tax and speculative value can be the starting point of evaluation).
  - c. Pre-privatization studies and programs must be made fully and correctly<sup>154</sup>.
2. For the monopole establishments, continuity principle after privatization should be defined.
3. While privatizing basic goods and services, necessary protective precautions of appropriateness and adoptability to the country's current conditions must be taken.
4. Demand for privatization must be determined.
5. Every good and service cannot be privatized.
6. The scale and limits of privatization must be determined relative to the ingredients of the activity.

There are two main principles of privatization in terms of transfer of property:

1. Orthodox thinking: Transferring property of PEEs or public (municipalities, local institutions (NGOs are not included)) to private natural or legal persons<sup>155</sup> (Özmen, 1987:7-11).
2. Transfer of property is unnecessary for some perspectives. Management should be transferred:
  - a. In some countries, it is proposed that investment is a duty of the PEEs and management is a private sector responsibility.
  - b. In some countries, PEEs produce the products demanded and the decision of transfer is given later by the results of management.

It can be concluded that the restricted meaning of privatization varies by activity typology. This is also relative to the ingredients of the issue such as conditions of the

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<sup>153</sup> Otherwise, it will result as great social booms and energy, source or property loss.

<sup>154</sup> This principle gains importance when the public incentive accepts the action. Privatization process has longer life expectancy. The success of this action is related to the quality of governmental policies. Privatization must be relative to that country's economic equilibrium.

<sup>155</sup> Private person: Person that is not a public person.

- Not having a public post, not supported by public or have public dominance,
- Natural and legal persons with special priorities in local or central administrations,
- Definition of private individuals or institutions depends on the objective of privatization.

country, nature of public enterprises or financial status and power of the sectors. However, privatization refers to the notion that a public authority is selling its own wealth no matter what the aim, objective or principle is. Therefore, the results of privatization should be discussed at this stage.

### 2.2.5. Privatization Results

Privatization may end as a private firm or a hybrid enterprise with varying degrees of influence (Baytan, 1999:5). It may also end as a consumption space having impacts to the urban area or urbanization. When the impacts of this approach were felt in the economy, on the individual, the urban space, and the society, the focus has turned to its results. Then the related actors either tried to intervene into the process of transfer for public interest or tried to get the highest advantage of it. The state mechanism denied their presence or contribution of those acting with public interest concerns.

The conformations of privatization can be augmented: Besides the payment of external debts, the inefficient PEE establishments were financed from the national budget at the initial phases of this experience. Privatization revenues were used to compensate costs and debts of the PEE, including labour costs.<sup>156</sup> However, in practice, public debts have not diminished<sup>157</sup>. This created a vicious circle in public finance and unregistered economy strengthened. Privatization also led to a progressive resolution of regulatory and legal uncertainty over future policy as well as to social and financial chaos. Several consequences<sup>158</sup> of privatization, which can be the problems for democracy politics,<sup>159</sup> are:

- Accelerating public-private distinction.
- Emergence of individualization of property and fragmented property.
- Loss of direct strategic control and decreased limits of regulation.

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<sup>156</sup> In parallel to privatization exercise, taxes are increased and public expenditures are lessened as a government program.

<sup>157</sup> See: Yiğit (1998:22-23).

<sup>158</sup> "At a drastic level, the restriction of publicly produced services in volume, availability, or quality may lead to a shift by consumers toward privately produced and purchased substitutes (called "privatization by attrition" when a government lets public services to run down). Second, privatization may take the explicit form of transfers of public assets to private ownership, through sale or lease of public land, infrastructure, and enterprises. Third, instead of directly producing some service, the government may finance private services, for example, through contracting-out or vouchers. Finally, privatization may result from the deregulation of entry into activities previously treated as public monopolies. ... These forms of privatization vary in the extent to which they move ownership, finance, and accountability out of the public sector" (Starr, 1988:6).

<sup>159</sup> According to Hall and Goudriaan (1999), in terms of privatization of public services, there is also the imposition of commercial secrecy on the operation of public services.

To discuss the end-results more briefly, problematique of privatization (Privatization rationale) defined by Keskinok (1988:76), reconsidering the role of private sector (in providing local government services) and changing role of the state, can be cited:

1. Problems faced by the public sector (budgetary, labor relations problem),
2. Slow rates of economic growth,
3. Negative outcomes of public sector expansion,
4. Redefinition of state's role in the light of private sector's role,
5. Development of unregistered economy and marginal sector,
6. Development of the urban and rural real-estate markets, and
7. Budgetary imbalances and labor relations problem.

Keskinok also notes that in less developed countries, privatization impacts are sensed stronger and overcoming these results became harder.

Privatization has also spatial outcomes: The public authority shaping the city, the CBD, and the private capital have left its place by privatization to an economic structure. Powerful firms and institutions direct this structure in the national or urban level, the boundaries of which have exceeded the boundaries of the nation state, creating at the same time urban contradiction (Gökçe, 2005:75).

Privatization can be in the form of an aid in social and economic terms: State aids are implemented as wages, prices of goods and services, employment opportunities, expropriation<sup>160</sup>, and decisions like investment and land allocation. The transfer of PEE immovable properties, as these are scarce administrative goods, becomes a direct state aid for the real estate markets<sup>161</sup>. If the sale is made according to the determined market price, the act of selling cannot be accepted as an aid. If the privatization revenue is lower than the determined price and/or privatization is through partial sales, than it is a state-aid. In most cases, their exchange value is lower than their post-privatization price<sup>162</sup> (See: Chapter 6). The author also defines it as the hidden invasion of public lands. Privatization of monopole public goods and services or a PEE can be a state aid to a sector. If an establishment is closed down and the land is transferred or

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<sup>160</sup> Expropriation achieves the form of state aid, if the price paid in compensation is higher than the market determined prices (Kural, 2000). If the price paid in compensation is lower, than the state cheats the self. A land expropriated for a PEE can be transferred to the private sector by privatization. In this case, expropriation becomes a state aid.

<sup>161</sup> Transferring the property through privatization to the citizens or foreigners may mean different things. There is the danger of transferring economic privileges or strategic sectors fully or partially to foreigners.

<sup>162</sup> In this case, the market failure is experienced.

land use is changed, then the problem of efficiency becomes irrelevant<sup>163</sup>. This Thesis shows that, in some cases, zoning principles and development rights are changed before or after privatization to create rent and revenue. This action to increase the price of the immovable through plan modifications is a form of state aid to a section of the private sector distorting the competitive environment.

To sum up, privatization has impacts on the society, economic development of a country, and the physical formation of urban areas depending on the nature of the idea and reason to privatize. It can also be stated that the problematique of privatization is so deep for anyone to overcome its negative results and views against it can only criticize the current situation. As types or principles of privatization are various; to understand privatization, the activity typologies, the outcomes, and the process better, one has to be aware of the characteristics of goods and services privatized.

### **2.3. The Objects of Privatization - Public Goods and Services**

This section is the search for the question; Which public goods are privatized? The objects of privatization, which are in the property of the public, differ by activity type or country's own conditions like the aims and objectives of privatization. The content of privatization activities may vary from the transfer of a PEE to a few public movable commodities. For Aydoğanlı (1995:109), such a definition may comprise land, buildings, and all other resources capable of being valued (not only state economic enterprises). In other words, every type of public goods and services can be privatized. At the initial stage, the difference between public goods and services should be defined.

#### **2.3.1. Public Goods and Services**

Goods and services gain their public and private characteristic by the relationship between the rights to property and the interests of the owner<sup>164</sup>. These characteristics have a changing status in the process of production (Keskinok, 1988:79-80). Central government and local authorities while providing goods and services demand movable and immovable tools and commodities (as production factors or the factors of consumption). All these tools and commodities are called as "public goods [kamusal mallar]". **Appendix E.** Public property is over these goods and is allocated to direct use

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<sup>163</sup> Efficiency is related to ownership rights and performance. Productivity and profitability of that establishment is dependant on the condition of continuity of production.

<sup>164</sup> Public goods and services should be evaluated according to the level of affordability of the people.



of the authority or required to provide services. Therefore, any public authority should own public goods. As stated before, a public property can be privately possessed, but should be used during the provision of a public service. Public goods are the goods that public bodies are responsible to produce for its citizens, where community's marginal interest is equal to marginal cost. In other words, public goods are to meet the demand of the public and the public pays no compensation. The good must be allocated to common use (for collective consumption) or a public service with a special legislation. Market mechanisms may not allow their production by the private sector, as they may not be divisible, given a price, and competitive<sup>165</sup> (Köksal, 1999).

There is a conceptual misunderstanding in the Turkish public good concept: Public good or service defined by the Administrative Law<sup>166</sup> [İdare Hukuku] is different from public good defined by the Law of Public Services (Public Law [Kamu Hukuku]).<sup>167</sup> According to Turkish legislation:

- Public goods<sup>168</sup> (property) (Public good of the public legal persons / *domaine public*), and
- Private (public) Property<sup>169</sup> (Private property of the public legal persons / *domaine privé*),

compose public goods. Public shares or possessions of PEEs, SOEs, participations of the state or shares of the Treasury, general and supplementary budget institutions (including revolving funds of these institutions), commercial sections or participations of municipalities and governorates, and units of PEEs providing goods and services are subject to privatization. In short, both public goods and private (public) goods are privatized. Public service<sup>170</sup> can be defined through different approaches (Köksal, 1999):

- Any service can be accepted as a public service relative to its characteristic and subject.

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<sup>165</sup> Görer (2000:2) proved that the objects of transfer (goods and services) have special characteristics with high competition potential.

<sup>166</sup> Administrative Law defines the framework of production of goods and services to meet social needs by the public bodies. Administrative goods are the immovables defined in the Civil Law.

<sup>167</sup> According to the Public Law, public good is the good or service produced by public bodies in order to realize a public service. In democratic systems, the service is for the public. Citizens transfer the right to decide over to the related authorities. An ideal public service realization can be through citizen participation in both national and local levels (Köksal, 1999).

<sup>168</sup> They are allocated for public interest. They are subject to public law [kamu hukuku] and administrative jurisdiction [idari yargı] (Gözler, 2006: 253).

<sup>169</sup> They are not allocated for public interest. They are subject to private law [özel hukuk] and juridical jurisdiction [adli yargı] (Gözler, 2006: 253).

<sup>170</sup> "According to Duran (1982), public services mean:

- a. Specific activities of the government in the field of collective needs of society, and
- b. Institutions engaged in these activities" (Keskinok, 1988:77).

- Every economic activity may become a public service, but the enforcement or abrogation of this character hinges on the free will of political authorities depending on place and time.
- Whatever the forms of provision of goods and services, all government activities, which are socially necessary, are accepted as public service<sup>171</sup>.

Public service should be equal for all and for social interest. It is in the social nature of the public service that it may become a monopoly<sup>172</sup> (Keskinok, 1988:77) or may lead to inequality. Privatization of services is made in general at the municipality level. The proponents of privatization have also declared privatization as the solution to efficiency and effectiveness in the provision of public services. According to Keskinok (1988:82), market failure criterion<sup>173</sup> is a defining characteristic of public service privatization. Criticisms of privatization accelerated as public services are privatized and capitalists seek profit maximization in every kind of commercial service activity. Privatization activities are accused to decrease the level of public service provision besides the quality and quantity of production. Another criticism is that social services are defined relative to the ideology or demands of the citizens, and cannot be given up. This analysis shows that all public goods and services can be transferred. The level of privatization is defined by the demand in the market and the objectives and /or the revenue demand of the authority that privatizes it. At this point, it is necessary to have a deeper research for the types of public goods and services privatized.

### 2.3.2. Types of Public Goods and Services

The distinction of goods and services are:

- Private goods,
- Collective goods (public goods and services),
- Tool goods and services<sup>174</sup>, and
- Common pool goods and services<sup>175</sup>.

<sup>171</sup> The case of privatization of social services is different from the privatization of public goods issue.

<sup>172</sup> If the services consumed by the public for a long time are privatized and there is no public participation, the way these services produced, and consumed cannot be directed (Ertuğrul, 1999). This stresses its monopolistic character in the sector.

<sup>173</sup> "In liberal economies the concept "public service" is defined in terms of state provision of "socially necessary" goods and services because of the market failure. However, proponents of privatization ... seem to be far away from explaining why and how the socially necessary goods and services ... come to be viewed by means of criteria such as effectiveness, efficiency, and profitability" (Keskinok, 1988:75). (See also: Datta-Chaudhuri (1990); Stiglitz (1989)).

<sup>174</sup> These goods and services are produced through private market. They require collective action and need regulation, as they are monopolies.

Privatization focuses mainly on collective goods and services<sup>176</sup>, but may cover the others.

### 2.3.3. Conditions of Public Good and Service Privatization

There are several prerequisites of privatization of public goods and services<sup>177</sup>. Economic and political conditions encourage or discourage the supply and the demand of marketable immovables and the attractiveness of alternative opportunities for long-term asset investments (Stanfield, 2001:15). The answer to the questions who decides on the object of privatization and the methods as well as the transfer conditions change relative to time and to the aim. The initial step of privatizing a public property is the decision of either privatizing this property or not. If privatization is inevitable, then which property must be privatized is the second issue the decision-maker has to formulate (Mersinligil, 1999).

Privatization is not a panacea; it is not the solution to every economic and administrative problem... privatization is not an overnight process or a magic touch; it will be a lengthy process. Furthermore, a decision that something can be privatized does not mean that it should be privatized (Seven, 1999:i).

According to Köksal (1999), if the consumer has no alternative, goods or services must not be privatized. Most of the privatization programs emphasize sale of the profitable enterprises and closing down or minimizing their commodities such as immovable property stock. We have already stated that the object of transfer may vary. However, this does not change the reality that goods owned and services provided by the public in common are transferred. In order to understand how public goods are privatized, the relationship with the rights to property of the public (other than the right to own) and privatization are given in the following section.

### 2.4. Privatization and the Rights to Property

Property relations and rights to property structure privatization practices. Rights of the citizens can be transferred without their consent. Privatization is not only to the

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<sup>175</sup> Such goods and services cannot be assured through private market since collective and cooperative action is needed for their production.

<sup>176</sup> See: Konukman (2005:477-483) for the relationship between public goods and privatization.

<sup>177</sup> According to Keskinok (1988:80), major conditions necessary for the privatization of public services are; the specificity of services or measurability of outcome, competition among the producers, freedom for entry, the consumer's ability to link the benefits to the costs he/she incurs in utilizing the services, and equity and fairness in the provision of these goods and services.

exclusion of one from the ownership of the real property<sup>178</sup>, but also the ownership of public goods and service production, and even in rare cases, from accessibility. For example, the privatized immovable can be designed for the use of the common public, but the real property owner may exclude others from accessing it or can be privately owned. Therefore, it is not wrong to state that privatization is the method to gain control over the rights to property. However, mechanisms for controlling and directing property relations are generally missing in practice. This is why, as stated before; uncontrolled and free transfer of public property and rights to property through privatization evoke criticisms. Public authorities should investigate and reformulate property definitions and relations to decrease criticisms. Keskinok (1995:215) stresses this issue by expressing the need for a new accommodation right besides endless ownership rights. Privatization may also appear in an environment where property is undefined or the definition of which is left to market conditions. In reality for us, the transfer of rights to property or any limitation on them should be for public interest:

Use of these rights to property for public interest is a duty given to the one who has the right to own within the social state understanding and at the same time, this duty has a binding character for the public administration and the law. Limitations on property rights can be only for public interest, social justice and/or maximum use of land and parcels (Kılıç, 1993:41).

Transfer of property rights is dealt within the basic land management legislation that covers legal rights all around the world<sup>179</sup>: Ownership, security of ownership, registration of real property, mortgages, ownership transfer, adjudication of land rights and resolution of disputes, restrictions, etc.. Not all, but some of these issues are dealt within the privatization process by the responsible organ or stated in the related legislation depending on the level of the development and consciousness level of the privatizers. In addition, necessary measures for all forms of rights to property are not taken into account in the related legislation.

#### **2.4.1. Property Typologies: Private/Public**

The definition of property and forms of property are given in this section to analyze the aims and the nature of privatization. This is also necessary to understand how these

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<sup>178</sup> Real property (estate) is conceptually equal to the term immovable property and commonly, is found in the English literature.

<sup>179</sup> UN ECE, Committee on Human Settlements. HBP/WP.7/2001/2. August 27, 2001.

rights on an immovable can be limited for public interest. Property<sup>180</sup> is a creature of law and derives from the state as Bentham claimed (Frydman, 1994:170). For Challaye (1969), it is an economic<sup>181</sup> and political reality and a legal status. Property is defined as a right and its relations as a (live<sup>182</sup>) “thing”<sup>183</sup>: It is a thing used freely or is the right to own wealth. One can consume, hide, exchange, destroy or give the thing owned to anyone else<sup>184</sup>.

According to Günay (1995), the property is subject to ownership [sahiplik], use [kullanım], and management [işletim] or possession [zilliyetlik] rights. He further claims that property relations are defined as the domination of property subjects (owners and possessors) on the property objects (things and goods) through a set of rights under the control of the state. In other words, the “right to property<sup>185</sup>” is an absolute concept<sup>186</sup> between the property and the owner of that right (Kılıç, 1993:40). In terms of public immovable good, land registry legitimizes this. In this thesis, the term “property” refers to the rights to property, if undifferentiated. From this point onwards, we can extend the analysis of private and public property.

#### 2.4.1.1. Private Property

Private property is a form of divided domination of private natural and legal persons over the production forces. It is the basic right and freedom in societies where constitutional order is applied and the relations between citizens and general laws

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<sup>180</sup> Property is, as Harvey (1998:32) has defined for the body;

- An unfinished project,
- Enduring and changing in ways that reflect both an internal transformative dynamics and external processes,
- It is not a closed and sealed entity, but a relational “thing” that is created, bounded, and sustained,
- Ultimately dissolved in a spatio-temporal flow of multiple processes - a relational - dialectical view, and
- Not irreducible.

<sup>181</sup> Property as an economic category is not only a legal or conceptual problem, but also a problem of domination over the means of production.

<sup>182</sup> Lifetime of an immovable for its owner is until it is sold or taken away.

<sup>183</sup> According to Günay (1995:65), property is a right. In Turkish language, the “right to property [mülkiyet]” and “property (subject to that right) [mülk]” are differentiated. On the other hand, both terms converge in practice and in the related legislation.

<sup>184</sup> Günay (1995:70) states that property rights are human rights.

<sup>185</sup> For Günay (1995), production systems do not display similar consequences in all societies. For 2500 years, property is defined as a right to use (usus), to have benefit (profit) from (fructus), and to consume until the end (abusus). Property discussion, therefore, focused on the right to either possess a thing or have benefit from the revenues of that thing (Günay, 1995:65). “Property rights can similarly be defined as a recognized interest in land or property vested in an individual or group and can apply separately to land or development on it. ....Rights to land and property exist within a regime of rights in general” (Payne, 1997:3).

<sup>186</sup> The immovable gains an absolute character through expropriation or sequestration.

define the state (Karadeniz, 1975:47). This also refers to any distribution of shareholding in which more than 50 percent of the voting power and control over the decision process is held by the private sector (Avishur, 2000:5-6). In terms of right to property, private ownership<sup>187</sup> is more efficient in providing private goods in competitive markets. The same is invalid for public ownership. The borders of private property (definition and rights) can be limited by public interest that must be defined by a special legislation. These restrictions on private ownership rights are placed by the states (including the use rights and transfer rights held by the owners) through the privatization process and can be listed as classes of owners, limitations on acceptable use, and transaction costs (Stanfield, 2001:6).

Capitalist private property appears in a society where everything is an exchange good and can be sold out through the capitalist classes' interests defined relative to surplus production and capital accumulation (Savran, 1997:41). Capitalist private ownership also refers to private ownership on a mean of production<sup>188</sup>. It can only be rendered when private ownership in means of production is ended. Any property different from private property is public.

#### **2.4.1.2. Public Property (State, Common/Collective, and Public)**

According to Çulhadaroğlu (1997), in terms of rights to property; public property (non-private property<sup>189</sup>) term covers state (owned) property [devlet mülkiyeti], public property (property that belongs to public [kamusal mülkiyet]), and common / collective (social) property [toplumsal / müşterek (sosyal) mülkiyet]. All property typologies other than state property are a half-breed between private property and public property (Savran, 1997:47). Therefore, as they are the source of misconfusion, they are generally termed as public property. Public property has immovable (land, parcels, buildings, etc.) and movable (assets, commodities, etc.) character. The typology of forms of property is detailed below:

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<sup>187</sup> “The concept of private ownership is embodied in English common law, but is expressed in its purist form in the French Civil Code of 1804, ...The Code defines ownership as the right to absolutely free enjoyment and disposal of objects, provided that they are not in any way contrary to the laws or regulations. Private ownership may be in perpetuity (freehold) or for a specified period (leasehold)” (Payne, 1997:4).

<sup>188</sup> This typology of forms of property is criticized for its three dominant characteristics: Colonization, alliance, and irrationality.

<sup>189</sup> “Non-private” is the extended meaning and “public” is the restricted meaning.

### **State Property**

State owns the good or the service. State property does not mean socialism. State property under socialism is the power of employees and workers, and so the state. It is the first stepping-stone of common property and pre-condition of socialism (Savran, 1997:40-47). State property is the basis of common property, if a society is regulated and administered by the state. In the capitalist world, state property is the property that can be and must be transferred to the private sector for the continuity of the capital. In other words, state property is managed and owned through the logic of capitalism: Urban space should be (re) produced for the capital. PEEs and their movables and immovables possessed and owned are state's private property [devlet özel mülkü]. The subject of the thesis, state's private immovable property is an administrative good. The transfer of private property of the state is in the nature of privatization.

### **Common/Collective (Social) Property**

Common/Collective (social) property means decisions for this property are defined through the interests of the whole society, so producers could have domination over the means of production. It gives all individuals the right to decide over societal production. Common property is a condition to have interest of the society with free will and non-trusteeship from the means of production belonging to the state. This refers to the mobilization and use of means of production for the benefit of the society as a whole rather than calling for any alternative form of ownership. For Savran (1997) productive forces could only be directed through division of labour, cooperation, and central decision-making, vertical and horizontal relationships, and invisible ties between economic institutions, etc.. This typology has four prerequisites as compared to state property: Central planning, workers democracy, self-governance, and overflow of the division of labour. Public good is owned by the public sector and when owned becomes social property (pp. 51-52).

### **Public Property**

Public property is the property that should be used for public interest and regulative measures should be designed for its control. Private property<sup>190</sup> of public things and

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<sup>190</sup> "Public ownership may be reserved for areas of strategic importance or communal benefit, or as a reserve right in case of future benefit... The concept of public land ownership was, in part, a reaction to the perceived limitations of private ownership in enabling all sections of society to achieve access to land. In some cases, this took the form of reverting to pre-colonial concepts of communal rather than individual ownership, while in others it was the outcome of socialist ideology" (Payne, 1997:5).

goods are used for public or social interest indirectly. Public property can be created in several ways; buying, granting, expropriation<sup>191</sup>, nationalization, or dismantling the public service character of the public property<sup>192</sup> (Savran, 1997:24). (See: Chapter 6).

The continuity of the typology of forms of property is the basic prerequisite for the reproduction of the means of production or transferring it. Günay (1995) adds that space evolves with production relations. Public or common property of the means of production cannot be considered as an alternative to state property or a more developed form of state property. Whereas the use of means of production must be for common benefit and through all societal dimensions. The state is for the society in international relations and through agencies rules binding the overall internally are made and controlled. Public sector is formed of these agencies administered as part of the state and organizations or established, owned by it or in partnership (state enterprises, independent public authorities). To extend the analysis of the aims and the nature of privatization, the following section covers the distinction between public and private property.

#### **2.4.2. Private /Public Property Distinction**

In the ideological world, contesting parties and interests are defined as public and private. Private<sup>193</sup> and public properties are the basic property typologies and have a dialectical relation in between. Boundaries, except those defined by legislation, are uncertain. This difference between public and private led to some apparent conflicts in defining what lies beyond state's boundaries (Starr, 1988:2). According to Starr (1998), the public-private distinction sharpened by the rise of the liberal state:

Many things seem to be public and private at the same time in varying degrees or in different ways... The frustration arises because public and private are paired to describe a number of related oppositions. At the core of many uses are the two ideas that public is to private as open is to closed (a public place), and that public is to private as the whole is to part (public interest) (pp.1-2).

On the one hand, private interests reach (at the) into conduct of the state and its agencies; on the other, the state reaches across the public-private boundary to regulate private contracts and the conduct of private corporations and other associations... A further source of frustration with the public-private distinction is that the terms do not

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<sup>191</sup> This is the basic tool of the public to regulate and control private immovable property.

<sup>192</sup> Removal of public service provision from the public immovable.

<sup>193</sup> Private (Individual) immovable property, Squatter ownership, and Shared immovable property.



have consistent meanings from one institutional sphere to another (p.4)  
or from one country to another.

Starr further claims that public (the state) and private (the individual), in liberal thought, have become polarities:

Strengthening the public character of the state is continuity in liberal thought from its classical to contemporary phases. Moreover, as Stephen Holmes argues,....Some kinds of privatization are not the enemy of the public realm but its necessary support. In liberal democratic thought, public and private are central terms in the language of claims, (p.3) against the state in two ways:

a. The concept of public government implies an elaborate rule limiting the exercise of the state power. Those who wield power are held to be publicly accountable for their performance. The citizens have a right to expect their government to be for public in terms of its ends and processes.

b. When the members of a liberal society think of their homes, businesses, and myriad other forms of association as lying in a private sphere, they are claiming limits to the power of the democratic state. However, the limits are not absolute. Private property rights are non-insuperable barriers to public control or regulation. When transfer from public to private is exercised, the state intervention must meet more tests of the public interest (pp.3-4).

Public means common or/and social, but unnecessarily governmental. Today, they have become so closely linked that in some contexts they are interchangeable. This is also because; representatives of governments behave as if these properties are their own. They neglect the idea that they are privatizing the property that belongs to the public. A public space in public property defined by law can be used by private interests or may transform into a private space and private property by a privatization law.

Transfer from public to private property is through two major steps: Privatization covers the conversion of a state agency into an autonomous public authority at the preliminary stage. This is called “commercialization”. The following transfer from a state agency to a private agency is privatization<sup>194</sup>. This is also the exercise of Turkey. The following section covers the comparison of Turkish experience with foreign experiences to show the how the objects, activities of privatization, and property relationships to privatization differ.

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<sup>194</sup> The firm gains a private entity status and only the ownership of the firm changes.

## 2.5. Comparison of Turkish Experience with Foreign Experiences

The comprehensive analysis of the privatization concept will be ended by the comparison of the use of this term in Turkish and foreign privatization experiences. Concentrating mainly on the immovable property privatization, where there is a data available; challenge and opportunities of various privatization exercises all around the world are evaluated. (See: **Appendix B**) The privatization concept differentiates in countries relative to geography, aims and objectives, actors involved, legislation, the transfer of rights to property, the object and methods of transfer, and the process resulting in each a different priority regarding possible goals. A country develops own *de jure-privatization* methods according to its political, social, economical, and administrative circumstances. The only common understanding in all is that market forces structure the privatization process. In addition to this, changes in political and economic risks created by privatization had effects on local stock (land) markets, urbanization, and excess returns in emerging economies.

In Turkish case, privatization is the transfer of public property to public with or without compensation or the transfer of public property to the private sector. Parallel to the restructuring attempts observed in the West, the state introduced and implemented privatization in the economical area with the same objectives in mid-1980s. (See: Chapter 6). The privatization of urban infrastructure by the local governments is widely applied at the initial stages. The reasons and aims of the privatization policies are declared officially and legislatively as in foreign cases. According to Turkish Privatization Act, the transfers are for effective resource allocation and use. It is also to adjust justice in income distribution<sup>195</sup>:

- a. Creating new sources of revenue by directing local, national or foreign savings towards financial or capital markets through privatization activities,
- b. Preventing the negative pressure on the financial market resulting from the public demand on funds (The Privatization Administration, 1999:2), and
- c. Increase of effectiveness and growth.

It is interesting to note that the aims and objectives declared by the central government have no principles for the privatization of public immovable goods.

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<sup>195</sup> See: Duran (1994) for opposing views.

Foreign countries exercise privatization with self-experience and develop their appropriate solutions. Privatization is made not completely in terms of short-term expedience to balance state budgets but also as a method of achieving one-off increases in productivity in foreign experiences. Privatization has been oriented to the management ownership transfer of public undertakings with revenue and efficiency objectives. It is implemented in terms of its potential as a dynamic for obtaining long-term, sustained economic improvements with urban consequences. The activities have more economic concerns<sup>196</sup> and the continuity of production is generally achieved at the end. For instance in EU, privatization is introduced as a policy to increase power of competition<sup>197</sup> and the practice covers the transfer of enterprise, firm or facility management for revenue. Privatization is not the aim, but a tool to achieve this aim.

When the ownership transfer and land values of public immovable property in different countries within the privatization process are evaluated, it is found out that public immovable property transfer in urban areas or the urban periphery and successive plan modifications are not made except British, Mexican, and Chinese (Shanghai)<sup>198</sup> cases. Due to the condition of production, public enterprises, their possessions, and production functions are preserved by legislation. Moreover, if there is an immovable property transfer; then this is subject to a separate legislation. Land use functions are unchanged in general and rent opportunities are rarely created. The objects of transfer are state-owned houses in urban areas or state-farms in rural areas.

Privatization in Turkey, as experienced all around the world, is supported officially to meet public debts, to activate the market, and to generate income for those PEEs in the Privatization Program. However, in the short-run, as the increase of efficiency and effectiveness of PEEs and expected revenues could not be achieved; the sale or transfers of ownership of “public immovable goods” at any cost are made. In contrast to the world experience, the major objective became the transfer of the right to property on land. This means that the transfer of rights to property brings together the transfer of public property. For the author, although officially stated, privatization of establishments for continuity of production has never been the major objective in Turkish practice. Here, the aim is to have direct revenue from these sale and indirect

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<sup>196</sup> Studies of privatization at the national level or some comparative studies concentrating on profitability or productivity are insufficient to answer the complex questions of privatization on industrial competitiveness, state intervention, effects on industrial structures, social welfare and cohesion, and economic power for the future of the country economies.

<sup>197</sup> The firm’s power of competition will accelerate by the increase in the number of items produced.

<sup>198</sup> See: Ling-Hin (1996).

gains from real estate and corporate taxes. There has never been a special legislation on privatization of public immovable good and there is no restriction of transfer in the current privatization legislation.

Public immovables can be the object of privatization in China, Mexico, Romania, Russia and several former Soviet Union countries<sup>199</sup> like Latvia, Republic of Moldova, Georgia, and Lithuania<sup>200</sup>. In these countries, there is homogenous immovable property system and large amounts of public immovable goods. In these countries, the immovable public property subject to privatization changes<sup>201</sup> and has different processes and procedures<sup>202</sup>. Moreover, in several countries, the transfer of ownership is legally prohibited. The procedures “for creating “marketised real estate” are still being discussed and implemented in the CIS<sup>203</sup> countries, there is a need for producing useable and comparable indicators” (Stanfield, 2001:17). Former Soviet Union countries, China, and Romania experienced privatization of urban housing and rural state farms. Privatization of urban public immovable goods (lands, buildings) has been made long ago in USA, Britain, France, and Mexico, but not much reference can be found. There are similarities in privatization experiences in Turkey with that of Eastern European candidate countries. The outcome of both experiences was not only creation of private property regime and cash as the Eastern European member<sup>204</sup> states or candidate countries declare, but also strengthening of private property regime as England has exercised.

Chapter 2 aimed to advance research into the concept of privatization and its origins. The objects of privatization - public goods - as well as the rights to property and

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<sup>199</sup> Azerbaijan, Belarus, Georgia, Lithuania, Moldova, Latvia. “As such, its impact is particularly relevant for emerging stock markets, whose legal systems are less developed... Privatization is exercised at a time of difficult economic conditions and privatization hits entrenched political constituencies” (Perotti and van Oijen, 1999:3). Mainly in the transition economies of Eastern Europe and the former Soviet Union, leasehold interests in land are not negotiable. People do not show interest to these lands, “except when such leases burden the land whose owner sells it to another person” (Stanfield, 2001:5).

<sup>200</sup> Valstybės turto fonde, <http://www.vtf.lt/lt.php> (accessed January 16, 2007).

<sup>201</sup> Agricultural land, pasture lands, apartments in multi-unit structures, urban lands under housing units, land under and around industrial/commercial entities, vacant lands, forests, coasts, tourism facilities. The privatization literature has developed Real Estate Privatization Index (REPI) that represents the simple average of percent-privatized objects.

<sup>202</sup> After WW II, privately owned houses became the property of the state and for these immovables, special restitution programs and specific procedures were applied to re-establish their private ownership through privatization.

<sup>203</sup> Commonwealth of Independent States (CIS): Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Republic of Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

<sup>204</sup> For example in Bulgaria; restitution of land and urban property, cash privatization, and mass privatization (WT/TPR/G/121, para 25).

property typologies - private and public property - are analyzed within the conceptual framework. It is found out that the privatization concept had no worldwide circulation in the economy or politics until the late 1970s and early 1980s, and planning by mid 1980s. It became an approach implemented and directed by market forces through the state. Privatization does not mean the transfer from public to community, but to private sector. Privatization experience may cover a wide range of public goods (movable and/or immovable) and services. What is privatized already belongs to public. Here, we also focused on the transfer of rights to public property experienced in different countries with a comparison to the Turkish case. It is certain that the meaning, aims, and objectives of privatization differ by country relative to time. The Turkish exercise is different from foreign exercises. Public immovable property privatization is rarely observed in foreign cases and continuity of production functions has priority. Even if public immovable is privatized, the related legislation is different and ownership is not transferred. To broaden the content, theoretical discussions and the relations of the ingredients of the process are examined in the next chapter.

## CHAPTER 3

### THEORETICAL BASIS OF PRIVATIZATION

The theoretical framework<sup>205</sup> of privatization<sup>206</sup> is composed of economical, sociological, and political theories. This chapter is on the theoretical basis of privatization. In other words, it is about the “ends of the privatization” on firm (or establishment) basis and deals with the property rights, but not on basic reasons (means) of privatization. The economic theory of privatization is given to show the influence of this approach on the (macro) economy. The sociological theory of privatization is on the discussion of the impacts of privatization on the society, whereas the political theory of privatization is about the decision making public authority and its objectives.

#### 3.1. The Economic Theory of Privatization

Public economics cover two areas that is production of goods and services provided by central government and local authorities and their new investments, and the investments of PEEs and their production. The economic theory deals with the basic characteristics of goods, and mainly of services, and their alternative arrangements. The economic theory of privatization aimed to explain the prevalence of different models of privatization all through out the world in terms of rationality of the market (or efficiency), competition, and equity<sup>207</sup>. However, it lacks a critical approach to the production of public goods (mainly immovable) and services and their transfers or impacts to urban economy.

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<sup>205</sup> Theory of privatization deals with:

- Reasons such as welfare, production efficiency and effectiveness, trade unions, share distribution, reduction of government overload, wage rates, utility.
- (Sociological and political theories) efficiency and impact issues,
- Question of integration and de-regulation, and
- Natural monopolies and competition.

<sup>206</sup> See: Bös (1991) and (1988) for the theoretical perspectives on privatization.

<sup>207</sup> See: Vickers and Yarrow (1988); Rees (1994:44-56), and Andiç (1990:35-48) for economical aspects of privatization.

Privatization has its basis in the allocation of resources while decreasing economic effectiveness of the state<sup>208</sup> (Güzel, 2000:5). Since 1980s, intellectual thinking<sup>209</sup> already structured by the public choice and agent-principal theories in the economics literature, favored privatization. The neo-classical economics literature emphasized the role of a competitive market in raising productive efficiency<sup>210</sup> of the firm/enterprise. Efficiency is believed to be achieved by privatization. The term equity gained importance later in time<sup>211</sup>. In addition to this, privatization may actually result in less government spending and regulation may even unexpectedly increase them (Starr, 1988:5). In some countries, this change of thought has its grounds in the process of transition to a market economy.<sup>212</sup>

In transition countries<sup>213</sup>, characterized with collective property of production means, market economy is the major objective. This is why, liberal economy has priority and socialist thinking is neglected. It is argued that market economy leads to the optimum use of scarce resources and individual property, and directing and forcing power over individuals depending on rent resulting from competition. These countries implemented privatization in order to establish a market economy. However, even in a market economy, privatization should be carefully handled. Otherwise, privatization in critical sectors and scarce goods and services may lead the country to colonization<sup>214</sup>. In oligopolistic and monopolistic conditions, market economy loses its effectiveness. That is why; privatization of scarce goods is not preferred even in market economy privatizations. It must be noted that this is not valid for many less developed countries.

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<sup>208</sup> Inefficiency caused by older technologies and over capacity in the traditional industries (iron, steel, textile, ship construction, etc.).

<sup>209</sup> Many economies deviated from the Musgarian view and the natural monopoly paradigm has been destroyed (Bös, 1998:49).

<sup>210</sup> According to Parker (1998:38), the relationship between privatization and efficiency is more complex than often perceived. Efficiency of resource use depends on existence of rules, regulations, and competition.

<sup>211</sup> In the market system, in order to exercise privatization, first rules of competition are set and then market principles are reflected to the legislative framework (Öz (2000); Vickers and Yarrow (1988)).

<sup>212</sup> For Stanfield (2001:4-5), without serious effort at privatization of ownership rights to land, other efforts at moving toward a market oriented economy will have little effect.

<sup>213</sup> For OECD, countries undergoing the process of transition to a market economy under the UNFCCC are; Belarus, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Russian Federation, Slovak Republic, Slovenia, Ukraine (OECD, [http://www.oecd.org/document/53/0,2340,en\\_2649\\_34359\\_2346101\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/53/0,2340,en_2649_34359_2346101_1_1_1_1,00.html) (accessed January 05, 2007). For the European Economic Association (EEA), Economies in Transition (EIT) are; Afghanistan, Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Latvia, Lithuania, Macedonia, The Former Yugoslav Republic of Moldova, Poland, Romania, Russia, Slovakia, Slovenia, Turkmenistan, Ukraine, Yugoslavia. European Economic Association [http://www.eeassoc.org/transition\\_countries\\_list.asp](http://www.eeassoc.org/transition_countries_list.asp) (accessed March 17, 2007).

<sup>214</sup> What does public good and service mean, if most of the services and goods are already scarce?

Land is a scarce resource. Its management should be subject to public surveillance or control in the interest of the nation (Aydoğanlı, 1995:1). For this reason, privatization of land should be under control for public interest.

Öncü (1999) thinks that public provisions must be competitive<sup>215</sup> in the market and decision-making bodies should create new development areas and regulate the private sector.<sup>216</sup> For the decision-making bodies, allocating efficiency<sup>217</sup> depending on the competitive environment in which the enterprises operate is more important than ownership of public lands in the urban real estate market. There are also cases, where state may have no chance in competing due to the lack of competing forces or financial resources. For example, state cannot compete in the real estate market unless ownership is transferred to public and/or the land use pattern is changed. Through the process, state competes with the self and the private sector at the same time. This implies that privatization increases competition (Savas, 1987). This is partially valid as many enterprises or the property stocks are transferred to the private sector and state lost some of its competitive character. In addition to this, the public possessions transferred to the private sector are the current monopolies.

Besides allocation of resources, competition, efficiency, and equity issues, the economic theory identifies the state's principal decision variables and shows the political tradeoffs faced by the government when carrying out privatization (Avishur, 2000:1). The theory ends with the disintegration of public utilities vertically or horizontally, with possible privatization and market entry in those parts whose market position is contestable (Bös, 1998:49). According to Avishur (2000:1-4), the economic theory establishes the analytical framework for determining the impact of privatization on the value of a privatized enterprise, on aggregate social welfare<sup>218</sup>, and on the

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<sup>215</sup> Savas (1987:96) defines competition, a basic ingredient of the theory, as one of the fundamental determinants of the efficiency and effectiveness of any arrangement.

<sup>216</sup> a. Infrastructure investments should return to the public in 10-20 years of time.

b. Managers should act in a competitive environment.

c. Public should also be competitive in the market.

d. Property should be in the hands of the public and private property must be controlled.

e. Public services should be achieved through tenders (Cross subventions should continue, but these have to be regulated).

f. Realities of the sector must be kept in mind. Every condition has its own solutions.

<sup>217</sup> See: Parker (1998:33).

<sup>218</sup> According to Savas (2000), if economic decisions are left to the market, social welfare can be maximized in the long-term.



relevant interest groups<sup>219</sup>. Therefore, the behavior of the state has to be analyzed in the context of alternative objective functions again as Avishur has noted, such as<sup>220</sup>:

- Maximization of taxpayer welfare (the no-agency case),
- Maximization of aggregate social welfare (the normative model), and
- Maximization of political supports (the positive model) (the major behavior of a state) (2000:4-5).

He further tests the hypothesis on privatization introducing a pareto-dominating mode of operation and ending up with a result that “a vote-maximising government sets the optimal value of its decision variables, depending on the characteristics of the political market” (Avishur, 2000:1). For him, this is based on four economically sensible principal assumptions: The property rights model<sup>221</sup>, diminishing returns to price lifting, self-sustainability, and a non-cooperative political equilibrium. This means that increasing private sector holdings in the aggregate enterprise would raise its value. In addition, increase in the value of privatized industry is proportional to the marginal rate of cost decline resulting from a one-percent increase in the proportion of privatization. Some underpricing of the privatized firm is determined exogenously. “It is presumed, however, that the issue price will be positively related to the post-privatization value of the firm’s stock” (pp.19-20).

In developing countries, underpricing is widely observed on all forms of objects of transfer. Determining the price of public product or property is very hard. Before the sale, independent-auditing firms should determine the exact prices (Kural, 2000). As the value of those enterprises in the Privatization Programs decline due to global crisis or on purpose, privatization value may be determined lower than its actual value: i.e. Russian Crisis.

Finally, we may refer to two approaches of the theory raised by Starr (1988:8):

- The radical view of privatization as a reassignment of property rights (Economic Model 1), and
- the more moderate, conventional view of privatization as an instrument for fine-tuning a three-sector economy (Privatization as a relocation of economic functions - Economic Model 2).

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<sup>219</sup> Taxpayers, consumers, employees, government officials, and private investors.

<sup>220</sup> A union’s objective of behavior is a combination of all.

<sup>221</sup> The theory of property rights explains differences in organizational behavior solely based on the individual incentives created by the structure of property rights (Starr, 1988:9).

### **Economic Model 1: Privatization as a Reassignment of Property Rights**

Private ownership and the competitive markets are separate issues. The critical debate among the economists is on the question that which objects of affection are more relatively preferred. Either privatization or liberalization<sup>222</sup> differs relative to the value of the object of transfer. A considerable share of the literature on public enterprises and regulation has concentrated on the question of the most efficient and profitable mode of operation.

The usual argument in the privatization literature is that the incentives for agents to pursue the goals of the principals are superior in private capital markets than in the state sector because of the profit motive (Bös, 1991; Boycko, Shleifer, and Vishny, 1996) (Parker, 1998:31).

Avishur (2000:2) cites recent studies and states that state enterprises are less profitable and less efficient than private corporations are. The theoretical ground is the property rights model. On the contrary, according to Aksoy (1990), a productive or an efficient sector in every condition is unrealistic. The author thinks that these notions are changeable relative to time and public enterprises can be profitable.

Conversely, those who see competition as the critical spur to efficiency are more skeptical about the benefits of privatizing monopolies and often put more emphasis on other policies, such as deregulation. ...Property ownership is the fulcrum of political economy. Curiously, the two unlikely bedfellows sharing this appreciation of ownership are Marxian and Chicago economics, which draw from it opposite but equally strong conclusions about the overriding importance of getting ownership into the right sector. From the Chicago tradition come two closely related clusters of work: The theory of property rights and the theory of public choice. Both attempt to enlarge the conventional economic paradigm by treating the classical firm and modern package of property rights as only one various possible institutional forms. In this enlarged model, public institutions merely represent an alternative property rights configuration, which, on theoretical grounds, the Chicago School predicts regularly will perform less efficiently than private enterprise (Starr, 1988:9).

Starr (1988) notes that efficient performance depends on private ownership (even in natural monopoly cases). The other issue, efficiency is related to several factors within production functions. According to Parker (1998) in Public Choice Theory, public sector activities are managed less efficiently. This is because state officials pursue their own, non-social welfare maximizing objectives (e.g. Niskanen, 1971, Mitchell, 1988; Donahue,

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<sup>222</sup> Liberalization means a reduction of government control. It refers to the opening up of an industry to competitive pressures. It is possible to liberalize without privatizing that is, to introduce competition into public sector without transferring ownership (Starr, 1988:7). It is even possible to nationalize and to liberalize at the same time.

1989). “Also, state industries are associated with conflicting and poorly articulated operating goals leading to disruptive political intervention in management, capture by rent-seeking groups<sup>223</sup> and financial failure” (pp.30-31).

In agent-principal theory, the issue is related to the critique of state-ownership. For Parker (1998: 30-31), ownership and control are associated with agent-principal relationships arising out of the nature of property rights. Within this perspective, like enterprise efficiency, state ownership is treated to be inferior to private ownership. This agent-principal literature is in combination with the public choice theory, which “leads to a theory that state ownership is inferior to private ownership, especially where there is a competitive capital market” (p.32). Rather than being an advance of science over intuition, the appeal of the public choice school is to those who are intuitively certain that whatever government does the private sector can do better<sup>224</sup>.

Rowley and Yarrow (1981) notes the possibility of bankruptcy in the private sector, not apparent in the public sector. In the private sector, a more efficient production by inducing a greater supply of managerial effort is encouraged. The process leads the pressure for the transfer of property<sup>225</sup>. Neither public choice theory nor agent-principal theory has concentrated on the rights to public immovable property. In addition to this, as they are interested to the firm economics, they missed to discuss the issue in terms of efficiency of transfer of the public property, urban economics or the success of the private sector. They also only dealt with the value of the object of privatization. There are four elements of value appraisal: Price effect<sup>226</sup>, productivity effect<sup>227</sup>, wage effect<sup>228</sup>, and rent effect<sup>229</sup>. According to the property rights model, the productivity effect is expected to be positive and the rent effect will be negative for the public side.

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<sup>223</sup> As the government is unable to set necessary measures to control rent potential for all actors and interest groups, the interest groups accelerate their economic uncontrollable dependency and political influence.

<sup>224</sup> Competing ownership structures have several effects. “This issue is addressed in the literature on public choice, and particularly in studies that present and/or test positive models of regulation (See for example, Stigler 1971, Peltzman 1976, and Becker 1983)” (Avishur, 2000:3).

<sup>225</sup> “Since this rules out specialization in their ownership, it inhibits the capitalization of future consequences into current transfer prices and reduces owners’ incentives to monitor managerial behavior” (De Allesi, 1980:27-28).

<sup>226</sup> There may be a positive or a negative component for any given change in price. The sign value cannot be unambiguously determined unless additional considerations are introduced.

<sup>227</sup> The effect of improvement in productivity deriving from a more efficient use of resources on the value of the aggregate firm proves that there is no change in the average wage rate. (If the property rights model is correct, is the sign of the productivity effect positive?)

<sup>228</sup> An increase in the wage rate would reduce the firm’s profits, hence the value of the firm, and vice versa.

<sup>229</sup> An increase in rent potential will support the demand for privatizing that good. “In Rent Theory, right to property on land is accepted to be a different power. The power of having the

The potential twofold effect on costs is; first, it may affect efficiency in production and secondly, it may affect the price of inputs-primarily wages and thirdly, it may affect the post-privatization price. Besides the prices (and costs) of goods and services in the privatization process; changing the property rights and the mode of operation in an industry through privatization or any method as such, affect the value of the privatized firm or the property after privatization. The effect on the value of the property after privatization has never been dealt before (Avishur, 2000:4-7).

Consequences of a marginal increase in the post-privatization price depend on the value of the price elasticity of demand. Raising price adversely affects consumers; the sign of its effect on taxpayers and private investors cannot be determined unambiguously without involving arguments from the positive economic theory. It is irrational for a government attempting to maximize political support to choose a price that distorts all relevant interest groups. The government would choose a point where a marginal increase in price hurts consumers, but benefits private investors and taxpayers (Avishur, 2000:14-17). In this process, employees have significantly greater political influence than tax payers and private investors and they extract all of the rent from the firm (Avishur, 2000:33-34). There are also cases; the post-privatization value may only affect the taxpayers.

It is clear that the government sets prices consistent with its policy goals for the property under state ownership. The government may also possess effective means of price control under private ownership. In this case, privatization is expected to improve production efficiency and reduce the component of workers' rent in wages. Under private ownership, property rights are properly assigned. Thus, in turn, for Avishur (2000), this leads to a reduction in the agency costs resulting from separation of ownership and control over the decision-making process, relative to public ownership.

The aggregate value of the firm in the market can be modeled as a function of the mode of operation and the property as a function of land use<sup>230</sup> and the transfer method. In many privatization activities, the value of the immovable public property is neglected at the stage of firm value appraisal. (See: Chapter 6) There are even cases where price of land is undefined during this appraisal stage. It must be noted that transfer of land must be based on actual and potential values and prices. Private sector

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right to property gives the right to determine the land price and the rent produced on land" (Greater Municipality of Ankara, 1993:23).

<sup>230</sup> It is impossible to differentiate the land value from the land use function.

aims to receive the use value created because of privatization. However, it must be known that this sale value is directly related to the price before privatization in general. Harvey (1998:33) stresses the importance of the use value when private interests are making their decision<sup>231</sup>. Profit maximization is the objective of privatization of urban public lands. If profit maximization is aimed, then it is dependant on the amount of land left for non-profit purposes (Kılıç, 1993:25) or the type and method of land use and ownership typology. Here, the question for the author is that the state does its duty to control the land amount that will balance the market.

### **Economic Model 2: Privatization as a Relocation of Economic Functions**

If the market cannot achieve optimal performance (market failure), some form of public ownership or regulation is justified. Markets need not be perfectly competitive to perform efficiently, but contestable and requirements for contestability are easily met. Privatization is introduced as a relocation of economic functions. When markets fail, government's performance will be worse. For Starr (1988), privatization then, "becomes a way to move activity from a less efficient to a more efficient form - a tool of economic adjustment rather than radical reconstruction" (p.12). He further notes that this model has a defect: It is concerned with efficiency and has little to say about the effects of organizational design on other values. He cites George Yarrow's observations: Some activities have been turned over to the public sector precisely to be protected from such pressure.

There are different lines of thought in the economic theory: Besides the (positive) Economic Theory, Bös (1998) structured two other models as Regulatory Model<sup>232</sup> (Privatization versus regulation) and Trade Union (TU) Model (Privatization and Trade Unions). These theories does not line in the content of this thesis.

### **3.2. Sociological Theory of Privatization**

Sociological theory of privatization accepts privatization as a community empowerment. State, social welfare, and property rights and relations are the dominant discussion areas of this theory. Property rights are redefined through privatization as this approach changed all current administrative and societal relations. The basic statement of this theory is that privatization should be in a level that can be acceptable by all the sectors

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<sup>231</sup> "The accumulation of men and the accumulation of capital cannot be separated. The variable capital circulates with use value rather than exchange value" (Harvey, 1998:33).

<sup>232</sup> Only state can set measures to prevent inequalities and can regulate.

and actors of the society. Furthermore, the theory concentrates on the withdrawal of the state and social welfare issues.

Privatization can also signify another kind of withdrawal from the whole to the part: An appropriation by an individual or a particular group of some formerly available to the entire public or community. Like the withdrawal of involvement, privatization in the sense of private appropriation has obvious implications for the distribution of welfare. From these meanings, it is but a short step to the sense of privatization as a withdrawal from the state, not of individual involvements, but of assets, functions, indeed entire institutions. Public policy is concerned with privatization at this level. But the two forms, the privatization of individual involvements and the privatization of social functions and assets, are certainly related, at least by ideological kinship. A confidence that pursuit of private gain serves the larger social order leads to approval for both self-interested behavior and private enterprise. But in the longer perspective, their constitution and separation represent complementary processes (Starr, 1988:3).

Social welfare debate can be extended: Privatization has an impact on the welfare of the relevant interest groups. There is a positive relationship between the effect of privatization on productivity and on aggregate social welfare (sum of all utilities - Community benefit) Privatization can also be treated as a method to increase social welfare in the economic development process<sup>233</sup>. On this line of thought, many (Avishur (2000); Parker (1998)) claims that increase in aggregate social welfare are related to increased production efficiency and reduced production costs resulting from privatization. The effect of privatization on social welfare depends on the change in prices and the size of restructuring costs. Moreover, since this effect is invariably positive, privatization of the entire public enterprise is socially desirable. In addition to this, block privatization is the optimal solution for a government that maximizes the conditional aggregate of social welfare concerning either a price-cost ratio with self-sustainability hold or the post-privatization price maintaining self-sustainability, but is not directly related to production costs (Avishur, 2000:25-26) or value of public land.

The other major discussion of the theory, like the Economic Theory, is on the impact of privatization on taxpayers' welfare. The analysis of the impact of privatization on taxpayers' welfare is based on the assumption that privatization proceeds are used to reduce taxes. Taxpayers are regarded as the initial owners of a firm/property being

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<sup>233</sup> The total welfare of effects of privatization can be assessed through the impact on non-capital and labour inputs.

transferred, at a price, to a different group of owner(s)<sup>234</sup>. Parker (1998:39) notes that the impact of privatization on economic welfare is uncertain for its turns on the nature of the privatization, the existence and form of continued state regulation, and the impact on various groups<sup>235</sup>. For the author, as the impact on the welfare is high for certain groups, they support privatization. According to Starr (1988:39), the impact on consumers' welfare is related to the change in price equivalents. However, it is not depending upon the achievement of property ownership. The welfare issue is based on the question of why public lands are privatized from prices not equivalent to real estate market prices? Another discussion is the view of privatization is in terms of community empowerment. Community empowerment "stands in sharp contrast to the conception of privatization as an extension of property rights" (p.13). With regard to the impact of privatization of public property in the urban area on social welfare, in a regime where there is no planning approach demanding public control over public property, social welfare is sacrificed to economical development (Eğilmez, 1998:32) and to private interests.

The theory of property rights sees privatization as a reassignment of claims to the control and use of assets, but it misses the special claims of the public sphere in a democratic society - claims for greater disclosure of information, which should improve the social capacity to make choices, and for rights of participation and discussion, which permit the discovery and formation of preferences that are more consistent with long-term societal interests. As a general movement of institutional design, privatization undermines the foundation of claims for public purpose and public services (Starr, 1988:18).

The sociological theory of privatization asserts that privatization is made to lessen the state's power and ownership in production functions. It also deals mainly with the rights of the capitalist in terms of community empowerment. According to Hall and Goudriaan (1999:3) and Savas (1987:89), privatization is not only the withdrawal of the state, but is also the weakening of the local democracy and local authorities and institutions. The societal institutions like trade unions, NGOs or Chambers of profession weakens in this process. Their ability to respond to planning studies within the process also declines. Sociological impacts of these nodal interventions on urban spaces are also ignored in these theories. This analysis can be furthered on the administrative and societal dimensions of state's power and objectives studied within the political theory of privation.

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<sup>234</sup> The assumption of zero-corporate tax rate and the existence of taxpayers may not be contradictory because of this definition.

<sup>235</sup> Privatization in social security, health, and education sectors may even result in the exclusion of people in poverty from getting such services (Yiğit, 1998:23-24).

### 3.3. The Political Theory of Privatization

For Starr (1988:14), the political theory of privatization holds that privatization is desirable for its political effect in deflecting and reducing demands over state. This approach is also invented to overcome budget deficits or governmental overload<sup>236</sup>. In terms of administrative theory, privatization is the privatization of public authorities. Privatization must be understood as a fundamental reordering of claims in a society. In other words, political practice may conflict with the economic theory of privatization. Privatization, besides its effects on the economy, has also effects on political consciousness and practice. Starr also states that the normative judgments concern the desirability of weakening the political foundations of public provision. Privatization is made through a political decision (Baytan, 1999:5). However, both privatization acts and programs are political decisions lacking technical inputs.

This Theory indicates that the terms public and private are formed from the whole structure of rules and expectations and are composed of proper conduct and limits of the state. Privatization refers to the direct intervention of central government to the local authority competence area and urban economies. On the other side, according to Aydoğanlı (1995), “the policies formulated at the national level are difficult to implement and fail to reflect the specific needs and goals of local areas” (p.139). However this does not mean that needs and goals of the local areas must be neglected.

Privatization is an ideal test for political commitment to market-oriented reforms, as it severely tests the determination of policy makers to resist the political backlash after the sale is completed. ...Although privatization in itself may help to strengthen the political forces in favor of market-oriented reforms (Perotti and van Oijen, 1999:5-6).

Democracies demand the pace of economic transformation to match that of the political transformation<sup>237</sup>.

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<sup>236</sup> “Democracies are suffering from an “overload” pressure, responsible for excessive spending and poor economic performance. In that framework, privatization represents one of several policies encouraging a counterrevolution of declining expectations. In a similar vein, Stuart Butler of the Heritage Foundation has argued that privatization can cure budget deficits by breaking up the kind of public spending coalitions described by public choice theory. Privatizing government enterprises and public services, in this view, will redirect aspirations into market and encourage a more entrepreneurial consciousness” (Starr, 1988:14).

<sup>237</sup> “Political stability is dependent upon economic stability... Demonstrated success in the privatization process is necessary to persuade voters that the reforms are worthwhile and that the better future promised them is, if not immediate within view. This gives rise to what I call the “window of opportunity syndrome”- that is, the reforming governments feel a tremendous pressure to move rapidly as possible to privatize firms lets a dissatisfied populace close the



Privatization is generally initiated by the government in power, while the interest group approach ignores instances in which economic policy is initiated by the political sector upon recognition of potential for gaining additional political support. The government's objective function is defined over the impact of privatization on the wealth of the relevant interest group. ...Becker (1983,1985) argues that political equilibrium depends on the relative efficiency of each interest group in producing political pressure and in controlling free riding (Avishur, 2000:26-28).

For Aydoğanlı (1995) the forms of state intervention, the context of both planning and property (land) policies change parallel to ideological and political changes in the country. Through privatization, pressures on elected officials<sup>238</sup> accelerate (Sönmez, 2004:17). The public sector capacity and talented control level affects the decision-making mechanism in the privatization process.

The property rights approach predicts politically imposed inefficiency on the basis of public ownership alone, but the variety of public sectors and state-owned enterprises in the world suggests instead that performance may be contingent on political culture, the structure of the state, and public policy toward enterprises. ...The mode of public sector control depends also on the structure of political administrative relationships (Starr, 1988:17).

The political tradeoffs faced by the government during the privatization process are represented by four variables: The issue of price, the proportion of privatization, post-privatization price and wage rate (Avishur, 2000:14-15). For the author, these issues are similar to four elements of value appraisal raised by the Theory of Economics. The political theory has several other elements (Starr, 1988:14):

- The privatization of enterprises is a privatization of employment relations,
- The advocates of privatization hope for the privatization of beneficiaries' claims (privatization as a wholesale shift),
- The privatization of public assets and enterprises is the privatization of wealth.

The political theory of privatization, like the theory of economics and sociological theories, contains predictions and normative judgments. Normative theories justify

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window too early" (Butler, 1992). Stressing privatization and privatization against the common have shown that reforms are not worthwhile and their future is unclear.

<sup>238</sup> "Privatization or regulatory authorities of governments cannot be left to political leadership, because elected politicians cannot provide stability in policies. Political governments can be altered by democratic elections and successor political governments can abolish the privatization or market-friendly regulation of previous government, so political authorities are not trustworthy for global investors and capitalists" (Sönmez, 2004:99).

privatization as a direction for social welfare. Theories of public policy also draw their inspiration from several visions of a good society, but not of a healthy urban development or the property system control.

Privatization, ...hould be of interest to national policy makers to assist them in evaluating the extent of land ownership privatization in different regions of their countries and to compare their experiences at land privatization with those in other countries ...This right to transfer the holding and use of land to another holder is a central component of the bundle of rights granted by the state to land owners in privatization programs (Stanfield, 2001:1).

This right is for controlling urban development and property system. In this chapter, privatization is treated as an economic, societal, and political issue. Within this framework, this chapter attempts to give a general theoretical framework of this concept. Therefore, ends of privatization on firm basis are analyzed. It is found out that privatization is a shift in economic power of a policy movement and a production function, as has been stressed by the recent economic theories. The economic theory of privatization concentrates on economic revenue, efficiency, and competition. Transfer of ownership issue is unimportant when compared to these issues for decision-making bodies. The theory also deals with the means of privatization such as welfare, share distribution, reduction of government overload, and monopolies. It establishes the analytical framework for determining the impact of privatization on the value of a privatized firm, on aggregate social welfare, and on the relevant interest groups. Impacts on urban economies are not questioned.

On the other side, sociological and political theories also deal with efficiency, as well as societal and administrative impacts. These theories of privatization are insufficient to specify the relation of privatization to the state, the society, decision-makers, and the other ingredients or actors of (re) production of urban space. Therefore, in this Thesis, means of *de jure-privatization* - the relationship between urban planning and privatization and the relationship between property and privatization - has to be critically discussed in terms of (re) production of urban space. Thus, the following chapter covers the relationship of privatization to the spatial theory with reference to state, privatization, urban planning, and public interest issues.

## CHAPTER 4

### THE RELATIONSHIP BETWEEN PLANNING VERSUS PRIVATIZATION

The privatization process is analyzed in this chapter within the framework of urban planning that is to say, the content of urban planning of privatization is evaluated. This chapter makes the generalization of privatization with reference to spatial ingredients. Any discussion of the (re) production of urban space based on property rights and privatization, as well as those partial emphasis or claims, are given. At first, the analysis of public and private property in terms of their implications of rent generating activities and of (re) production of urban space is covered. Secondly, the relationship between urban planning and privatization are discussed with reference to the role of the state and different planning approaches. This is made to show how this relationship and urban planning approaches and processes differ before and after privatization. The final section evaluates the contradictory issues of privatization for private interests and urban planning for public interest. In each section, informative knowledge is followed by theoretical discussions on the related concepts. In order to put forward the means of privatization, this first section focuses on the analysis of (re) production of urban space.

#### 4.1. (Re) Production of Urban Space<sup>239</sup>

For the author, the privatization theory has not dealt with this issue and its role in terms of (re) production of urban space<sup>240</sup>. The spatial means of the privatization<sup>241</sup> process are unknown. This is because short-term impacts of privatization on the society and the economic results demanded a special and urgent concentration of thought. In addition, these means can only be understood at the end of the privatization process.

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<sup>239</sup> The structuring, restructuring, producing, reproducing, and transforming of urban space through the conscious efforts of the state are meant here, even though there can be unconscious actions of the agents. See: Keskinok (1997) and (1993) for a detailed discussion of the (re) production of urban space with reference to the state.

<sup>240</sup> According to Günay (1995), planning and architecture theories have not dealt with the concept of property and its transfer mechanisms.

<sup>241</sup> Public immovable property is the mean of privatization. Planning is applied within the property system where property transfer is a mean.

For Keskinok (1997:ix), (re) production of urban space “is realized through multifarious relations and complex interactions between structures and the agents<sup>242</sup>. The effects of overall state activities actualize themselves on space through various ways. And this activity is structurally limited by the economic structure”. Non-spatial state policies in the capitalist economy indirectly affect the ways through which the agents solve their spatial problems. He states that (urban) space is (re) produced, (re) structured, and transformed through complex relations of determination<sup>243</sup> by;

- the global economic processes,
- the private sector’s investment decisions and public sector’s decisions about the allocation of resources within the urban space, and
- continuous interaction of all of these (pp.1-2).

Keskinok further notes that the state intervenes<sup>244</sup> and attempts to regulate (re) production of urban space “by utilizing directly-spatial means, such as urban planning, state provision of urban services, land policy, legal framework, etc. .... these forms themselves may become obstacles to the dynamic processes of capital accumulation” (p.ix). Urban space is also produced, reproduced or transformed by the conscious acts such as privatization policies. It must be noted that (re) production of urban space is not the direct objective behind numerous *de jure-privatization* practices of the state. Stanfield (2001:5) also states that there are two hypotheses about the linkages between private ownership and investments in the productive uses of the land privatized. These are the incentives for investment and opportunities for productive investments.

At this point, it is necessary to analyze the relationship between privatization and property rights. Capitalist production depends on the contradiction between societal (public) character of production and private ownership of means of production (Keskinok, 1995:208). This is because, for Keskinok (1997:53), it is a realization and a source of surplus value creation. In this line of thought, Harvey (1999:7) claimed that

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<sup>242</sup> Urban space is “a product of a dialectical relationship between the space-as-a locus of affairs and the focus of agents” (Keskinok, 1997:1).

<sup>243</sup> “Despite the conscious activities, mediation and interventions of the agents, the process of (re) production of urban space is to a certain extent open to contingencies. Urban space is (re) produced through complex relations of determination. Thus, any study on urban spatial patterns and state intervention into spatial development cannot be conceived by utilizing a mono-causal and uni-directional mode of reasoning... the process of creating, reproducing and using space is full of contradictions and tensions between... Landed interest and capital interests. The state’s activity on space and its intervention into urban spatial (re) production is structurally limited by economic levels” (Keskinok, 1998:99).

<sup>244</sup> Some state intervention can be necessary for development and technological competition. The use and production of technology can be through PEEs. They have research and implementation projects and this lets institutions to be competitive in the market. See: Lall (1990) and (2004); Archibugia and Pietrobellib (2002).

the commodity is an embodiment of both use value and exchange value. This is the underlying principle for this practice and (re) production of space. In the urban development practice of less developed countries, property value increase is viewed as a right of ownership.

#### **4.1.1. The Relationship between Privatization and Property Rights**

To understand how urban space is (re) produced; property rights and rent relations are created by the act of privatization must be dealt. Theoretical studies on the privatization of (urban) public immovable property and the spatial means created by its transfer are not numerous when compared to theoretical discussions of privatization. Out of a limited number of studies on privatization, Ling-Hin (1996), Aydoğanlı (1995), Stanfield (2001), and Castillo (2004) are worth mentioning as they investigate the relationship between privatization and property rights. All these studies have the intention to draw the attention to the crucial role of the transfer of property rights in urban development<sup>245</sup> and the disadvantages of their privatization with reference to urban planning.

It is certain that economic conditions structure the environment of political struggles on the definition, ownership, possession, and use of an immovable property. These conditions, other than the character of property, are not the legal rights that define the use typology and functions on that property (Keleş et al (1999:25); Plotkin (1987:393-394)). Any privatization activity should take care of the property rights typology over the public good or service.

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<sup>245</sup> “The loss of public or freeholds and sales of developed or undeveloped public land also raise the possibility of uncoordinated urban development as contradictory to the needs and prospects of the town. This may have damaging longer-term economic and environmental effects” (Aydoğanlı, 1995:136). Involvement of both central and local authorities may not even prevent this.

The limitations on the right to property rise from the problem of rent<sup>246</sup> (Keleş et al, 1999:32). In the urban areas, absorption of the surplus in the form of rent by the agents is centered on real estate activity. This naturally brought the idea that the right of ownership means the right to create and have rent. As a result, during the process, property owning producers or classes may conflict over space<sup>247</sup> to achieve the value created and aforementioned domination. This is a process fundamentally powered by the quest for exchange values. “But there are other circulation processes necessary to the proper functioning of the general circulation and accumulation of capital... the circulation of variable capital” (Harvey, 1998:33). On the same line, for Tomaskovic-Devey and Miller (1984:64), investments are based on short-term private exchange value, not on national use value. To understand the discussion better, property rights<sup>248</sup> must be discussed with a deeper perspective.

Theory of property rights holds that the form of ownership is the predominant explanation for the varying performance of different organizations. The theory in one line takes the market as the standard for judging value and finds public institutions deficient because they fail to measure up to that standard (Starr, 1988). The Property Rights School fails to recognize any fundamental change when ownership and management of that private enterprise are separated. However, the crucial deterrents to inefficient management are missing in the public sector. There is no check on the dissipation of the value by the management of the Public Economic Enterprises. Both the theory of property rights and the public choice<sup>249</sup> perspective indict public ownership and management. The exponents of these views have developed their

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<sup>246</sup> Rent in the classical economy is the price of land as a factor of production. It is the shareowners take without any attempt in the production process. According to Ricardo, land fertility is the source of rent (Differential rent). According to Marx (1979), property relations are the sources of rent: a. Differential rent [toprağı işleme tekeli, farklılık], b. Absolute rent [topraktaki mülkiyet tekeli-mutlak], and c. Monopoly rent (resulting from the power of buying and from the consumer needs). Differential rent is generated by the location of that property in the city. Distance of the property to the centre is the defining factor. “Absolute rent” is structured independent from the location through different individuals’ and institutions’ perspective, decisions, and actions. “Monopoly” rent is formed by its location and the source is the scarcity. The fourth typology is the “redistributive rent” (added by Walker). See: Harvey (1998:73) and (1974:239-255); Ive (1975).

<sup>247</sup> See: Keskinok (1997:63) for the conflict over space.

<sup>248</sup> Property rights specify the social, spatial, and economic relations that people must observe with each other in their use of scarce resources. These rights include the benefit of the owners allowing to enjoy or harm others. These are the rights to asset, to change it in form, substance or location, and to transfer all or some of these rights is restricted and protected by the state.

<sup>249</sup> See: Sönmez (2004:22-35) for the Public Choice Theory discussion. The Theory is criticized for putting too much emphasis on privatization. “Public choice theory has contributions to make with regards to both the nature and justification of these goals (slimming state, privatization and restructuring government) and the possible political strategies for achieving them” (Sönmez, 2004:32). See also Arın (1997:41-106) for the discussion of state and welfare in terms of public choice.

position through studies of the public management of land, forests, water, and other natural resources and comparative analyses of public and private enterprises<sup>250</sup>. Public ownership, in this view, leads to “the tragedy of the commons”.

Acting out of rational self-interest, individuals abuse and ultimately destroy. The commons but take good care of their own private property. Thus, publicly managed grazing land and forests purportedly suffer from worse management than privately owned land and forests<sup>251</sup>. ...Consequently, privatizing the public domain would better ensure its conservation and efficient use ...The “tragedy of the commons” argument confuses resources in common ownership with resources in public ownership; it fails to give any credit to the democratic process or to professional management in raising the time horizons of voters, politicians, and bureaucrats to a level higher than that prevailing in the marketplace. Many observers have noted the propensity of American managers for concentrating on short-term profits; the property rights school, by contrast, bravely asserts that private firms have sufficient incentive to preserve (Starr, 1988:10-11).

Together, the property rights and public choice schools show only that, if you start by assuming a purely individualistic model of human behavior and treat politics as if it were a pale imitation of the market, democracy will, indeed, make no sense” (Starr, 1988:12). Public Choice School supported privatization: According to this line of thought, privatization “is seen as a very important means for both slimming the state and increasing the competitive influence of market forces within government” (Sönmez, 2004:32) having rationality. The claim is clear: Privatization is made to achieve democracy. However, in practice, it could not be achieved as public faces private monopolies. For Yiğit (1998:22), all around the world the source of authorities’ pressure is for capital monopoly. “Privatization of public utilities caused the monopolization of private capital in many sectors” (Sönmez, 2004:44). That is also, why privatization as an ideological structure denies planning<sup>252</sup>. Monopoly can also be achieved by the transfer of property rights and by achieving the rent created on land. There are different discussions on the relation of privatization and rent:

- In addition to the act of privatization, administrative intervention and regulatory actions may create urban rent.
- Privatization creates monopolistic urban rent for the decision makers’ benefit or the investors’ own sake,

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<sup>250</sup> The property rights view of natural resource management exemplifies application of the theory.

<sup>251</sup> There are cases in Turkey proving the better preservation and care of public property when transferred to local authorities or the private sector.

<sup>252</sup> Keskinok (1995:206) emphasizes the importance of urban rent in terms of two perspectives: Accelerating rent may lead to loss of value of the labor or pervert planning processes.

- Privatization is a method to achieve rent, and
- The rent ingredient accelerates urban problems, urban risks and costs.

Rent is related to the capitalist accumulation and to production of surplus, and localized solidity of this accumulation. There is a dialectical relation between the capitalist surplus production and rent as there is between public property and private property. According to Keskinok (1995:205), rent can also be explained as the economic form of land ownership in capitalist production style and is related to specific confiscations. Rent must be returned to public for the provision of urban services or to create urban land stock for future investment in order to achieve urban development. Guaranteeing urban rents is only possible through the transfer of right to own a property to the capitalist. This is implemented in the privatization process. As Harvey (1979:73) stated, the private ownership of land is the basis of rent as a form of surplus value.

Urban rent is an issue of the capital and so, the public administration and regulation. Keskinok (1995:211) claims that, local and central governments' regulatory actions are an important input for the formation of urban rents, whereas the regulatory action of planning aims to balance and control this. A basic principle of the modern planning discipline is that the public authorities should have the maximum amount of land to control rent. That is why; public land stock is important in the urbanization process (Kılıç, 1993:52). The situation changed as the public authority have less control of the privatization process and transferred high amounts of public land in this process. As these authorities take part increasingly in more rent generating activities, and no precautions are taken; it is difficult to prevent the formation of "differential rent" and "monopoly rent" in urban areas with the existing regulatory mechanisms. Even though the amount of land and the number of transfers increase in urban areas, monopolistic rent may still appear due to the location or land use of the property privatized.

Harvey (1979) cites Marx's thought on absolute rent: Due to immovable and irreproducible character of property, land achieves a monopolistic character, so owners have the absolute rent. He further states that "the interest of capital in general to keep absolute and monopoly rents strictly within bounds." (p.361) Through privatization, the owners achieve monopolistic rent. This is why; continuity of the privatization process can be necessary for the market. The development rights allocated before or after privatization can also create monopolistic rent. For Keskinok (1995:210), the lack of challenging forces in real estate market due to this monopolistic structure directly affects business activity and efficiency in other markets. It can also be stated that



because of privatization, rent distribution has changed in urban areas. (Urban rent is 60-75 percent of the national income<sup>253</sup>) As the way to unjust gains is open, transformation has accelerated and led urban development plans to become an acquisition tool (Kılıç, 1993:45) of the capitalists' rent expectations.

Establishing necessary precautions to prevent rent and inventing and implementing mechanisms to set a balance between control mechanisms and its effects is necessary for urban planning. Keskinok (1995) states that alternatives to lessen the damages of the rent problem to the planning order are searched by the planning approaches. He further claims that in market economy conditions, there is no magical formula to rescue planning activities or every kind of state intervention<sup>254</sup> for regulation from being the means of urban rent formation. Keskinok adds that "state intervention is not the only source that produces rent ...and ...this state intervention is under structural characteristics and the limitations of the capitalist economy's limitations" (p.212). Urban problems resulting mainly from urban rent cannot be solved simply by land policies. (Appendix F and see: Aydoğanlı (1995)).

In the privatization process, the real transfer of costs and resources are not reflected to the market in the way the market allocates scarce resources. That is why; because of the rents, public land is at the target of the capitalist. In order to increase land and property price, to achieve rent, and to produce capital, a change in the development rights is again demanded. If a land use change is made against the development plan, than the "transfer from public to private ownership is only reflected in changes in the function, which moves from welfare to profit" (Bös, 1998:63). Change of development rights or land uses in a privatized area means independent nodal interventions<sup>255</sup> to urban space, closing down public production, and less cost and risk for the capital to investment. Privatization is an example to the "increasing tendency to invest capital in low-risk short-term ventures rather than in the creation of new productive capacity" (Tomaskovic-Devey and Miller, 1984:60) and long-term stability.

Public immovable property as the last sources with lower market values became the object of transfers of both *de facto*- and *de jure-privatization* processes. This transfer is

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<sup>253</sup> Beşiktepe (1997) states that income revenues with a non-production base have 45-55 percent share from the national income.

<sup>254</sup> "State may own all land and also allocate right of access, use, development and transfer" (Payne, 1997:5).

<sup>255</sup> For example, Portakal Çiçeği Valley Redevelopment Project and Dikmen Valley Urban Rehabilitation Project are exercised in Ankara after 1990.

made in the market conditions without taking care of the actual value, market inefficiency, and existing plan and development conditions. In other words, for us, the aim is to motivate the investments on urban public lands with speculative emphasis, which will increase the efficiency of the market and use public sources until the end<sup>256</sup>. Public property in urban centers, transition zones, and in the fringe areas has always been the object of speculation for rent purposes in the urbanization process, as most of them are vacant or have large amounts of potential development areas<sup>257</sup>. For this reason, the privatization activities have the objective of seeking rent and so (every type of) public property will become more and more subject to transfer. Besides the speculation on property, speculation on sectors is also exercised (Keskinok, 1995:210), including the real estate sector (Keskinok, 1997:69).

If the relationship between property and privatization is evaluated in terms of the aims and objectives of privatization, several questions emerge such as to whom (natural or legal persons) the PEEs (assets, moveable, and immovable properties) will be transferred, why and how the public immovable will be transferred, and who will decide on which immovable to privatize. No standard procedure and implementation can be found. There also appeared, in time, different lines of thought of privatization methodology. In practice, there is no certain answer to these questions. Nationals or foreign natural or legal persons may achieve public property of goods and services. Foreigners' right to access property is abandoned or limited (especially in direct sales) in various foreign exercises. (Foreigners are only given the right to possess and use.) However, there are cases like Turkey, where foreigners can have land through ownership transfer and can possess or use it indirectly, even in better conditions than domestic investors. In several cases, foreigners may even block community access to the privatized public immovable (implemented in those cases where the transfer is through transfer of management rights, allocation for a certain period or renting).

The natural and legal persons, the PEE will be transferred, are interested by the scope of privatization as well as the activity area (dimensions and location) and its quality and quantity of production. When the possibility of the governments to structure the private interests focusing on privatization are analyzed, it is figured out that the ones getting that PEE (establishment, firm or immovables) have coincidentally given the decision of taking or they consciously demand it and have pressure on the bureaucracy for

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<sup>256</sup> This aim of privatization is also stated in World Bank (WB)'s Urban Policies and Economic Development Report (1991).

<sup>257</sup> Even huge indoor areas can be demolished: i.e. Sümer Holding A.Ş. Adana factory area.

privatizing that can be explained within the instrumentalist approach. In some cases, land use on the public immovable is neglected as it can be changed after the transfer. This shows that property ownership transfer is the determining ingredient of the privatization process. In other words, property ownership concentrates on rights and rewards; public ownership dilutes them, and private ownership achieves these as well as the domination over the means of production.

At this point, the evaluation of how rent is created in and after the privatization process is necessary. Public authority, before privatization, makes real estate appraisal and decides on the method of transfer of the property rights. If it is believed that planning will increase the transfer price, than the authority makes planning studies. After privatization, if the land development rights are changed by plan modifications, it is certain that privatized property was not transferred from market values and all the speculative value increases goes to the investor (land owning capitalist)<sup>258</sup>.

In the following section, we will concentrate on the notion that privatization means the transfer of public property rights to the capitalist at whatever the cost is and urban rent is the major objective of practice. The question is here, why and how privatization (re) produces urban space. To broaden the discussion, we will elaborate our understanding on the relationship between privatization and urban space.

#### 4.1.2. Privatization and Urban Space

Urban space has been undergoing major changes<sup>259</sup> since the last three decades with the global economy some of the impacts of which on localities can be diminishing whereas some empowering. This also refers to a change in control and regulation of urban (public) space by the new logic of capitalism.<sup>260</sup> Globalization<sup>261</sup> has created<sup>262</sup> or

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<sup>258</sup> Other than the character of property or the purpose of transfer, rent can be created for private interests through infrastructure investments.

<sup>259</sup> Throughout history, property and space referred to similar notions. Both of these are the consequences of the transfer of ownership or domination which planning is related to. A different property structure has emerged by capitalism leading to a special space understanding (Günay, 1995).

<sup>260</sup> See: Gedikli (2004:10).

<sup>261</sup> Globalization has also led to a marginalization of planning. This was necessary for the market mechanism as all planning activities are under the limitation of the law of unequal development of capitalism (Keskinok (1995:208); Ülkenli (1999:80)). By the help of advanced technology, global capitalism changed linear time and Euclidean space with multiple and relational time-space in an emerging network society (Gedikli, 2004:50-51).

<sup>262</sup> "The drive for capital accumulation has helped create cities as diverse as Los Angeles, Atlanta and Boston, and transformed ancient cities like Athens, Rome, Paris, and London" (Gedikli, 2004:11).

changed urban spatial patterns<sup>263</sup> and urban planning. The competition among cities accelerated, urban space is commodified, and possibilities for redistribution are restricted. Capital mobility and speculation has also increased. “On the other hand, it has strengthened interactions among cities independent of their national governments” (Fainstein, 1999). Urban areas have experienced dramatic shifts in their vertical and horizontal relations, since all these political-economical processes are materialized on territories (Gedikli, 2004:9). In this new era of capital accumulation, privatization is introduced as a method of movement of capital and as a non-spatial state policy. Today, although introduced as such, privatization has direct impacts to urban space. Privatization of urban public space<sup>264</sup> has also increased and the local authorities started to make less investment to urban space (mainly in North America).<sup>265</sup>

Public space has become a common good in an accelerating manner, which everybody theoretically has access. Nevertheless, for Lehrer (1998), the right to free access to public space is often neglected in the reality of the daily practice. There is no public space that can include everybody (p.202-206). As hegemonic forces control public space, some individuals are excluded from it and this has marginalized them from the society. In contrast to Simuel’s Dictum, she further claims that the border between private and public is less readable. On the contrary, in the modern state, public, and private roles are more clearly distinguished (Weber as cited in Starr (1988)). “As public administration and finance were separated from the household and personal wealth of the ruler, the modern state became, in effect more public; the person and family of the ruler, more private” (Starr, 1988:8), and so the public and private space. In 1960s and 1970s, architecture aimed to soften this division between private and public space (Winjgaarden, 1998:12), but after 1990s, architecture became both the tool of destruction and reformulation of public space. Under the impact of urban restructuring,<sup>266</sup> public space is privatized in new forms.

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<sup>263</sup> See: Yırtıcı (2005:158-166) for the relationship between globalizing economy and spatial patterns.

<sup>264</sup> According to Lehrer (1998), public space has three forms: Physical public space, Social public space, and Symbolic public space. “Physical public space is defined through the type of ownership and is articulated in the built and “natural” environment ...Social public space is created through practices ...taking place not only in locations owned by the public but also in locations that belong to individuals or corporations” (p.203). It has the potential to transform and redefine ownership and can give new meanings to urban space. Symbolic public space (as Lefebvre (1991) calls “espace vecu”) is created by practices as well as collective memory of the individuals. It is both real and imagined - a space of remembrance and of imagination.

<sup>265</sup> This action is supported by traditional and new forms of control mechanisms of a physical-technological and regulatory nature (Lehrer, 1998:202).

<sup>266</sup> See: Keskinok (1998:91-102).

The neo-liberal approaches have transformed urban space into spaces for consumption. In other words, public and private immovable properties and their accelerating transfers and transformation turned urban space into a commodity. This is in parallel to what Keskinok (1997:60) have claimed for capitalist relations of production; (re) production of the capitalist relations of consumption cannot be structured without production of suitable spatial forms and patterns.

The consumption of urban land or any alteration of development conditions constructed due to actual necessities for business centers in the cities is the unavoidable result of this speculative development due to the growth in the real estate business rationality. Besides the allocation for business centers<sup>267</sup>, allocation of PEEs immovables in or close to the central business districts for business purposes through privatization has strengthened this character. This tendency of growth may be even irrational for the Capitalist Program itself. (See: Keskinok (1995); Gürsel (1992)).

UIA 2005<sup>268</sup> conference was a stepping-stone in terms of the discussion of the (re) production of (urban consumption) space: Urban space is produced as a commodity by the modern architecture. In this Conference, Peter Eisenman (USA, architect) has pointed that the architects of the 20<sup>th</sup> century aimed to achieve social transformation by their designs, but failed to take into account social demands and habits, and environmental impacts, while (re) producing urban space. That is why; he/she could not achieve the aforementioned objective and created a consumption-oriented society through high-rise and modular building designs. The architect must step back, think, and create a new system for public interest, sensitive to the environment; was his advice. Yırtıcı (2005) follows a similar line of thought. For him, function, public interest, community service, space quality, and human dimensions have been sacrificed by this new conception of space that is the space for consumption.

As long as the global economy plays a determinant role in urban areas: Privatization, marginalization, and criminalization of certain population groups will lead to a continuous transformation and (re) production of urban space with above stated conception of space. Planning is the main tool of regulation that can affect privatization results. Therefore, the relation between planning and privatization should be showed by

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<sup>267</sup> Business centers planned in Istanbul are greater than the sum of commercial center of all over Europe (Gürsel, 1990).

<sup>268</sup> Cities: Grand Bazaar of ArchitectureS. 30 June-09 July 2006.

the evaluation of the changing role of the state, the paradigm shift of urban planning, and the relationship between privatization and planning.

#### **4.2. The Relationship between Planning and Privatization**

By the privatization policies, there appeared different lines of thought: Planning may negate or accept privatization. As the consequences of the tension between different planning approaches are observed, the views stressing that urban planning must accept the privatization policy up to a limit, have been reinforced. To analyze the relationship between planning and privatization, it is necessary to deal first with the question of how globalization process has affected the welfare state. This is also believed to show that regulative measures and responsibility of the institutions have changed. It must be known that market actions demand a framework supported by the state and this process has led to a shift in the content of urban planning. The second section deals with the question of how urban planning reacted within the privatization process. The third and the last question of this section is how public interest and private interest notions are articulated within the privatization process.

##### **4.2.1. The Changing Role of the State**

The major defining factor of the relationship between planning and privatization is the role of the state. The capitalist state shapes private economic choices,<sup>269</sup> relations, and rent through tax regulations, subventions, and credit guarantees, and the physical space through planning (in the urbanization process) in the long-term for private interests. The state is immanent in the economy, society and planning, “but the degree of penetration varies, and the public-private system of classification is used to express these variations” (Starr, 1988:4). Ersoy (1978:5) cites Marx’ and Engels’ idea stating that the state has always been an organ which functions for the benefit of the ruling classes. In the 20<sup>th</sup> century, the nation-state became the major force, but had both negative and positive outcomes on the economy and the society. Smith, Solinger, and Topik (1999) claim that the issues of globalization and the role of the state are at the forefront of contemporary debates. The role of the state<sup>270</sup> has changed<sup>271</sup> by the rise of

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<sup>269</sup> The function of the state is to protect private property and it is a “factor in the functioning of the system of property relations which it guarantees” (Ersoy, 1978:6).

<sup>270</sup> See: Ersoy (1978) for the change in the form of the state.

<sup>271</sup> See: Kepenek (1995 (a)) and (1995 (b)).

globalization<sup>272</sup>. Tomaskovic-Devey and Miller (1984:49) define it as a deep ideological movement and identify this ideology as “the recapitalization<sup>273</sup> of capitalism”.

The objective of these market-oriented flows is the free movement of goods, services, and capital. According to Harvey (1998:28-29), by the mid 1980s, privatization “helped to create a heady atmosphere of entrepreneurial optimism around the theme of the liberation of markets from state control ....It helped make it seem as if we were entering upon a new era.”<sup>274</sup> The orientation is “from any kind of populist or socialist agenda towards what is euphemistically called “creating a good business climate””<sup>275</sup> (p.32). The main features of economic globalization are perceived to be the growing power of transnational corporations<sup>276</sup> and financial institutions in organizing production and exchange, and the declining regulatory capacities of nation-states. What exercised is “the rise of the neo-liberal thought; the movements of globalization, privatization and liberalization of markets as universal practices; the assertions of the ending of interventionist state models; the debasement of majoritarian politics and traditional bureaucracy, and the rise of governance models<sup>277</sup> and public management movements” (Sönmez, 2004:203). On the public side, new public management (NPM)<sup>278</sup> reforms are implemented. Today, state can control economic variables in a limited manner, so the pressure of the transfer of public space accelerates.

Privatization has appeared as a form of state intervention as its role is changed and to overcome the negative outcomes and to regulate it, again state intervention is demanded. The state attempts to regulate the (re) production of urban space by utilizing directly-spatial means, such as urban planning (Keskinok, 1997:ix). As the impacts of privatization on the urban economy and urban space are sensed, the state

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<sup>272</sup> It refers to the national boundary exceeding circulation of capital. Globalization has focused on the historical and geographical dynamic of capital accumulation (Harvey, 1998:30). See: Gedikli (2004:14) for the main features of globalization.

<sup>273</sup> ““Recapitalization” means then, a social-political change away from a large social sector and an active government influencing the micro-processes of enterprises” (Tomaskovic-Devey and Miller, 1984:50).

<sup>274</sup> According to Soysal (1998:6), many of the European social democrat parties, to overcome the crisis of globalization, invented a new ideology called the “third way”, although it has no difference from the “first way”-capitalism, which has been practiced in England, France and Germany mainly after the Second World War. Globalization of capital in the 1990s is the second time the new colonization understanding emerged as in the second half of the 19<sup>th</sup> century.

<sup>275</sup> i.e. Controlling the aspirations and powers of organized labour.

<sup>276</sup> “An important feature that is often missed in the current rush to globalization in the world economy is the way in which globalizing corporations have begun to devote more money, resources, and management time to anticipating and countering the opposition they face in local and global communities” (Sklair, 1999).

<sup>277</sup> The role of the state within the framework of good governance can be found in the World Bank (WB)’s World Development Report 1997: The State in a Changing World (1997).

<sup>278</sup> See: Sönmez (2004); Gedikli (2004:15).

suppressed the transfer of public goods and services<sup>279</sup>. The privatization experience enlarged and the state became no more than a neutral regulative organ. Taylor-Goody (1999) states that using the findings from up-to-date attitude, surveys in Europe East and West, the USA and Australia show that, contrary to the claims of experts and policy-makers, the welfare state is still highly popular amongst citizens. States still matter despite the vigor of international capital flows and the omnipresence of the global market. How states matter depends upon their differing roles in the global economy and geopolitical system, and ability to control and direct private interests. In this section, the role of the state in the (re) production of urban space is analyzed. What the content of urban planning before the emergence of privatization is and how the preferences and decisions have changed afterwards will be given from this point onwards.

#### 4.2.2. A Paradigm Shift in Urban Planning

According to Günay (1995), state's role can be minimized, but should always exist in this process. Urban planning must be present, however in practice, it may be applied by either conscious or unconscious actions of the agents. However, as the general opinion about the state changed, this led to a change of the mode of (re) production of urban space. Urban planning approaches have also transformed in this interactive decision-making processes. A question raises; Can the relationship<sup>280</sup> of privatization be set in between rational comprehensive planning and communicative strategic spatial planning (corporatist planning)? Planning is believed to be the only tool that can control and balance property relations<sup>281</sup> and of intervention to urban space, not to be against for, but restructuring its institutional position. It is based on rationality<sup>282</sup> and conscious intervention of the public authorities.

Planning is also related to the network of economic relations which defines its framework of intervention and any change in these affects its working area. The state intervenes to ensure the necessary conditions for accumulation and legitimization for rationalization of both spaces of production and consumption on behalf of the society as a whole through planning. "Urban planning, being a part of the general field of planning, was legitimized as state intervention, guided by a comprehensive, rational

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<sup>279</sup> All utopias of the 20<sup>th</sup> century either proposed non-existence of private property or collectivization in the hands of public or private (Günay, 1995:68).

<sup>280</sup> This relationship is evaluated in terms of market economies.

<sup>281</sup> Planning, as a part of political philosophy, deals with property relations and gains its legitimacy from property relations (Günay, 1995:64).

<sup>282</sup> See: Yılmaz (1999); Gedikli (2004). Rationality has two forms: Planning rationality and market rationality.



model of problem solving<sup>283</sup> and decision-making” (Blotevogel (1999, 125); Tekeli (2002) and Balducci (2001) as cited in Gedikli (2004:17). The method and understanding of planning can also change relative to country or time. In countries with mixed economies, socialist and liberal planning techniques are assembled (Yılmaz, 1999:90).

Presence of urban planning exercise in the privatization process is natural. To broaden this issue, at this point, we can elaborate the paradigm shift of urban planning referring to the difference of market-critical and market-led urban planning approaches. Hudson (1979:387-398) states that the planning theory concentration was on synoptic planning (rational comprehensive planning), incremental planning, transactive planning, advocacy planning, and radical planning up to early 1980s. The major market-critical approach, comprehensive planning<sup>284</sup> has been mainly applied through a hierarchical organization of governmental institutions (Gedikli, 2004:52). The comprehensive plans are holistic and have long ranges. In addition, to implement these plans, urban planning has to have a perspective limiting, abandoning or freezing. The planner makes a comprehensive research and determines long-range expectations of the city, the related actors, the urban macroform, and the principles of development. At the micro level, sustainable and livable infrastructure and public services are aimed at to balance urban costs and risks. The public immovable is the best tool for achieving this aim. Urban planning on the macro scale is to sustain social welfare. In parallel, if public lands are ceated and transferred to private property within market principles, than social welfare is achieved at.

State planning, a form of comprehensive planning, furthers capitalist interests while disadvantaging working-class interests<sup>285</sup>. For Fainstein and Fainstein (1985:492), state planning “under capitalism have also been critically affected by the development path of the state and by its ensuring institutional capacity”. This planning typology inevitably serves some set of capitalist interests and on the contrary, is often opposed by business leaders (p.488). Furthermore, comprehensive planning is criticized not to be applied properly due to various reasons such as market conditions and political and social reasons. It is also criticized (by Alan Altshuler) as being neither practically feasible nor

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<sup>283</sup> “Planning as a rational and methodological activity is considered to use objective knowledge and solve problems” (Gedikli, 2004:21).

<sup>284</sup> “Disjointed incrementalism of Charles Lindblom” and “advocacy planning” versus this planning approach of rational comprehensive planning (Gedikli, 2004:33).

<sup>285</sup> This structured inequality in space and stressed class differences. According to Starr (1989:19), privatization is an instrument of class politics and a means of reordering class relations and redefining it.

politically viable and that the comprehensive planner has no basis for legitimacy as a professional, except their knowledge and measure of public interest (Innes, 1996).

It is found out that national development plans were abandoned and macro plans lost priority with the declining force of implementing agencies. Speculative construction, reconstruction<sup>286</sup>, renewal, and rehabilitation movements accelerated in the cities while leaving the control of development of public and private lands to the market forces through and while decreasing the applicability of comprehensive and regulative planning<sup>287</sup>. As a result, governments could not seek to develop long-term policies aiming at enhancing land market stability in the short-run by the transfer of public immovables. This means that the state could not carry out its own duties. This created a bottleneck in dynamic processes of capital accumulation and urban planning is treated as the cause. That is why; urban planning had the crisis (between 1970s and 1980s as Altaban (1990:77) has defined).

The theory turned to other ways of theorizing about planning: Innes (1996) classifies the paradigm shift as; system theory, building the middle-range bridge, advocacy planning, and mixed scanning. For her, comprehensive planning remained in planners' lexicon and practice, but without the benefit of the compelling arguments, Altshuler had called for in the mid-1960. She further believes that the components are available to build theoretical and practical foundations for a meaningful and influential version of comprehensive planning due to the emergence of consensus building as a method of deliberation.

Gedikli (2004) interprets the insufficiencies of the mainstream planning through two approaches: "First, the crisis of the spatial planning can be interpreted as part of a wider crisis of modernism's claim to rationality" (p.18). Secondly, planning is in between the concern for economic competitiveness and the concern for maintenance of place identities (p.19). Yılmaz (1999:92-93) classifies the theoretical discussions on these insufficiencies: One line of thought searches this in the differentiation of the theory and practice, and the other search this in the planning process itself and the reactions of this institution in this process. Bureaucracy and especially (regulative) comprehensive planning is viewed as the barriers to investment and development (Keskinok, 1995:209) by the capitalist market.

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<sup>286</sup> According to Aydoğanlı (1995:139), dense zones have appeared in central areas in the actual macroform for the acquisition of higher rent.

<sup>287</sup> "Rent gains unavoidably accelerate land speculation and direct an important amount of capital to land. In such a situation, comprehensive planning can not be applied" (Keskinok, 1995:206).

This change in the planning approaches after 1980s, as stated before, resulted from the new logic of capital accumulation and the crisis of the Fordist regime of accumulation (Gedikli, 2004:11). Market criteria gained dominance in urban planning and control mechanisms<sup>288</sup>. World capital flows transformed the physical urban space leading to a transformation of the content of urban planning and greater involvement of the capitalist in the planning process. Urban planning is unable to respond to the globalization process. This created a paradigm shift from the instrumental rationality<sup>289</sup> to the communicative rationality (p.20). Yılmaz (1999:101) notes that rationality has shifted towards “bounded rationality”. These thoughts on the paradigm shift are important for us to note as they show the impacts of the market on urban planning, and so the emergence of market-led planning approaches.

Gedikli (2004) states that (as a result of this shift) new roles of the public authorities have demanded more flexible planning tools: Strategic spatial planning “is supposed to be an instrument of creating conditions for investors, while also seeking to attain the community interests...whether strategic planning is a tool mostly to serve to the global forces rather than community interests<sup>290</sup>” (pp.15-16). Communicative planning that is the strategic spatial planning through communicative rationality has been implemented. Collaborative planning, participatory planning, deliberative planning, and consensus building are the other planning approaches Gedikli classifies. Yılmaz (1999:94-100) differentiates planning approaches as rationality/comprehensive planning (including indicative planning), incrementalism approach (related to stability planning), strategic planning, critical planning, decentralized planning and community planning (based on participation and dynamism), and advocacy planning.

According to Altaban (1990), the restructuring processes having dramatic impacts on several localities and accelerating inequalities to extreme dimensions led to different planning styles<sup>291</sup> for different issues (by the change of the localities concept)

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<sup>288</sup> “Then, can we expect planning to be an institution for the whole community within a free market mechanism? The answer to this question can be that planning should be disregarded within the capitalist process. Whenever utopias were not produced, the design again should exist in the same mechanism and the design, which was not approved by the mechanism, will be ignored by the system itself. As Keleş puts forward: .... legitimization did not have a single, absolute and international measure. The concept differs according to time and place. Consensus that means the agreement of majority has a close relationship with legitimization” (Ülkenli, 1999:84).

<sup>289</sup> See: Tomaskovic-Devey and Miller (1984:46-68); Gedikli (2004:18-19,31).

<sup>290</sup> Strategic planning is criticized for this reason.

<sup>291</sup> For Altaban (1990:81), there is diversity in the planning styles as different authorities were producing their policies from their own experience. The discussions concentrate on the urban planning systems and professional planners’ decision-making practice. See also: Aydoğanlı (1995:133).

generating problems. He further notes the new planning approaches<sup>292</sup> after 1980s as “market-led” and several debates in urban planning. In other words, Altaban differentiates planning style typologies as “market-critical” (regulative planning, popular planning, and public investment planning) and “market-led” (trend planning, leverage planning, and private management planning) relative to their attitude towards market processes and the character of urban problems taking base from the British practice<sup>293</sup>. The differentiation of market-critical and market-led planning concepts are referred in this Thesis as they represent the difference between rational comprehensive urban planning approach from others and the planning ideology of the privatization process better.

Although there are differences of planning approaches, in this new era, in England for example, planning controls are weakened, “enterprise zones” and “simplified planning zones” are created, and “urban development corporations” have been established<sup>294</sup>. The market-led planning approaches applied aim is to maximize land use intensity and land values. Land use planning resulted in the local scale as a policy-making and management structure while pressure groups are polarized (Altaban, 1990:78-80). The same understanding is applied during privatization related planning processes of today. In addition, in practice, through the privatization process, planning is used to achieve the objectives of the capitalist.

There are major lines of theoretical discussions: The first one denies the existence of market-critical planning and the related actors in the privatization process (liberal approach having Anglo-Saxon roots). The other claims that market needs a level of planning to survive. According to the first line of thought, in the privatization process,

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<sup>292</sup> Ülkenli (1999) believes that “planners are now beyond their traditional land use interests. “Three main changes have occurred in recent years that increase the need for coordinative planning; (a) the scope and issues that planners are required to address has widened, (b) the direct powers of planners and local governments generally have been weakened, (c) the relationship between public and private agencies have changed. The general idea is the need for a new approach with a new type of planner” (p. 81). Dutch Planning Agency has declared a similar notion: “a more or less distribution of labour and population could no longer be the aim of state intervention in the field of physical planning. Investments should be located where the economic return was the highest” (Wijngaarden, 1998:12). However, this view is also discussed and opposed.

<sup>293</sup> Market-critical approaches aim to abandon inequalities and the imbalance created by the market. These approaches demand planning or regulatory arrangements. It is applied in a system dependant on the plan. Regulative planning is decisive in character and put rather hard limitations on land use. On the contrary, market-led approaches support the market and aim to correct its failures.

<sup>294</sup> Altaban (1990:81) notes that planning systems had brought up both the struggle of ideological polarities bringing in uncertainty and instability to plan implementations and a common understanding platform and cooperation at the local scale.

behind the privatization approach is the assumption of excluding regulative market-critical planning and the planner, as well as the decision-making local administration itself. This is related to the power of the private sector. This power prevents any approach that has right grounds for intervention<sup>295</sup>: As private interest conflict and private benefit has questioned or abandoned rational urban planning approaches in the decision-making process, urban planning could not find grounds for application. Therefore, it is true to say as Colenutt (1998:9) has stated; local authorities were both disempowered and yet even more eager to sit at the table with the powerful private sector and government interests.

Capitalism need urban planning to survive and is not fully excluded from privatization processes. For Tomaskovic-Devey and Miller (1984) and Yılmaz (1999), the urban planning could be tolerated through business rationality. According to Fainstein and Fainstein (1985:486), "Capitalism may need planning, but theory does not specify the level of that need"<sup>296</sup>. Which interests state planning serves and to what extent planning is necessary for the reproduction of capitalist social relations and urban space are the issues discussed.

Marxists have generally argued that the organization and logic of advanced capitalist societies causes state planning<sup>297</sup> primarily to benefit big business and the upper classes (Offe, 1975; Panitch, 1977; Harvey, 1978). ... these analysts have contended that state planning activities serve capitalist interests not only because of the political power of the corporate elite but because of the structural position of the state. Because the private sector cannot profitably create and provide the conditions for capital accumulation... These functions necessitate a state with at least some degree of autonomy from the economically dominant class, and with some substantial capacity to plan for that class as a whole. Whatever capitalists believe, they and capitalism need some level of state planning to survive (p.485).

#### 4.2.3. Planning and Privatization

Privatization, like urban planning, is an intervention to the market by the state. That is why; urban planning has to deal with the hypothesis that privatization policy is directly related to the market institution. In this part, we assert that privatization method,

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<sup>295</sup> See: Yılmaz (1999:91).

<sup>296</sup> Keskinok (1997:63-64, 83); Altaban (1990:78), and Aydoğanlı (1995:135) state the same.

<sup>297</sup> State planning has three general forms: 1. Direct state production and /or investment through government-run industries and financial institutions, 2. Planning involves state guidance and constraint, without direct control over resources, 3. State bureaucracy in close relation with private sector (Private owners of resources define objectives in the mutual interest of capital and the state) (Fainstein and Fainstein, 1985:487).

implemented to overcome market failures, leads to a government failure and the crisis of urban planning creating higher urban costs and risks. Privatization policies force urban planning towards restructuring in favor of private interests, that is planning is oriented towards the interests<sup>298</sup> of the private enterprises while neglecting public interest. As Keskinok (1998) states, the behaviors of the actors during the (re) production of urban space are shaped through their conscious effectiveness and intervention besides contingency. He identifies four forms of actions of private interests where their goals are wealth or value maximization:

- Privatization for only to achieve the immovable,
- Privatization for the establishment (for the production of goods and services)
- The immovable is vacant and has to be regained to the city, and
- Privatization for increasing social and cultural facility standards of that city (p.92).

During the 1980's and 1990's, in some African, Asian, and Latin American metropolitan cities, urban services were privatized in this new capital accumulation process. Behind this approach lies the assumption of excluding planning, to create a crisis in metropolitan services and incorporating this into a whole politics (Ülkenli, 1999:79). Private management planning approach (corporate strategic planning<sup>299</sup> or private sector strategic planning) is the only planning approach that is introduced and supported by privatization. This is created through chaotic social action, infrastructure and property order problems. Incrementalism approach is also in the perspective. Whatever the understanding is, planning is both a public and an urban service, but becomes a private service after privatization.<sup>300</sup> This Thesis claims that the same is valid for the (re) production of urban space.

In addition, the overall planning hierarchy<sup>301</sup> is broken during the privatization related planning processes. In these processes, the way privatization is applied is put into practice as an unforeseen and sudden intervention to the growth of human settlements.

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<sup>298</sup> The right of possession or use characterizes either benefit or interest over a thing or a space.

<sup>299</sup> Corporatist planning has become the mechanism through which the state mediates between capital and labour or completely rejects labour.

<sup>300</sup> Deregulation policy is defined first through WB Reports. Regulatory actions and limitations should be decreased and subventions should be omitted "Capitalist Program's main target is to move the capital allocated for the urban land for speculative purposes and improve the market production, and to use the public resources till the last drop" (Keskinok, 1995:209).

<sup>301</sup> The search for unity in a wholeness dependant of self-organizing character brings the hierarchical planning. The aim here, as Tekeli (2002) has stated, is to control the developments in the geographical space as a whole.

The related actors of the rational comprehensive planning are unwanted during the privatization process as it has a regulative characteristic and targets public interest.

In privatization, the PA requires only the participation of local authorities during related planning studies. This is to block local authorities to sue the approved plans of the central authority. However, the central authority may limit the local authority consent before privatization. Investors, with their ability to negotiate, succeed in the land market. Property owners cooperate with and direct the local authorities after privatization. Administrative organ in each case either central or local is now only the coordinator - less controlling more regulating role (Günay, 1995:69).

Privatization is a risk of uncontrollable politicization for planning as it has the “risk of increasing inequalities and worsening standards of living with no compensating, restructuring or strengthening of the economy” (Tomaskovic-Devey and Miller, 1984:54). It is an intervention to plan preparation and implementation processes and planned development of urban areas<sup>302</sup>. The spatio-behavioural situation in the privatization process can be classified as follows:

- Existence of plan decisions before and unchanged after privatization,
- Existence of plan decisions before and changed after privatization,
- Plan decisions changed after privatization are changed again in time,
- Non-existence of plan decisions before and a development plan is made (not as a restriction, but for legitimization) after privatization, and
- Non-existence of a plan decision before or after privatization.

Accept the first and the last ones; these various forms and timing of planning have led to the same consequences stated before in the production of urban space: Achieving rent and creation of consumption spaces and the space is treated as a commodity. Urban space is now an output of the tension between supply and demand side activities resulting from the contradiction between stability and dynamism.

As long as you have property, you have the right to participate to the decision making process (Günay, 1995:69). Market-critical defensive planning and participatory planning

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<sup>302</sup> The act of privatization has several dimensions with effects to urbanization process and the urban pattern:

- Financial dimension results from the intension to create resources, and
- The ideological perspective covers the public support to neo-liberal economy politics and the spreading of wealth and capital to the community or a section of the community.

had only the property owners as the participating actors. Privatization leads the candidate capitalist to own the property, in most cases to participate to the decision making process in urban planning processes, and to decide on the development rights before or after transfer. This strengthened inequality and stressed class differences. On the contrary, corporatist planning excluded all the others except the property owner and the local authority. After the Docklands project (London, UK), nation states and city governments across Europe were creating urban development corporations and public/private sector development partnership (PPPs, mainly after 2000s). (See: Altaban (1990:81)). Many of them were excluding local residents and workers as well as NGOs from any real influence over planning and development, with strategic planning founded upon economic imperatives rather than the needs or the wishes of local communities. (See: Firidin (2004/2:49)). This non-correspondence between planning decisions, local demands, and privatization decisions and its results (re) produces urban space.

The critical question lies in the contradiction of the ideas: Firstly, urban planning must intervene either to overcome or to balance the inequalities and imbalances created by the market after privatization. Secondly, urban planning must intervene to prevent the emergence of inequalities or imbalances and direct the market forces and the related processes before privatization. In this part, we argue that private interests rather corporate or individual, besides the role of the state has also affected the planning approaches and the (re) production of urban space. In the last part of this chapter, to understand how privatization and planning are articulated with each other, to analyze the relationship better, and to evaluate the above question, privatization and planning related discussions are discussed within the framework of public interest. “Is planning in and after the privatization process for public interest and whose interest is created and secured by partial development plans or plan modifications?”

#### **4.3. Privatization versus Planning for Public Interest**

By the neo-liberal de-regulation policy where private interests are given priority through privatization; the definition of the state, urban space, and the role of public and government in improving, describing, and protecting public interest has changed. The traditional idea of public interest is today under severe attack (Moroni, 2004:151). This section, besides the evaluation of above contradiction, tries to find out how public interest is defined in this era and is positioned in between market-critical and market-led planning approaches by the intervention of privatization. The argument is showed in three stages: The initial evaluation will start from the definition of interest and benefit



concepts. Second, the way in which the term public interest has been regarded in the planning literature and third, the questions of how public interest is treated in the privatization process and could common consensus be maintained in terms of public interest by any privatization action is elaborated.

Interest is directed by the decisions resulting from needs (Savran, 1997:41). Direct and indirect provision of human needs is through goods and services. “Benefit” is an act of advantage on these. An action for the benefit of somebody or an institution may have both negative and positive results (Keleş, 1993) and this is also called as interest. Interest should be equal and for all where the results have qualitative (non-measurable) or quantitative (measurable as Bademli (1999) notes) social and physical costs and risks. Organ of Law defines the concept of public interest and every administrative action has this objective (Akillioğlu, 1991:8)<sup>303</sup>. The concept of public interest, which varies according to different social institutions is widely used, spoken, and interpreted. To understand the difference, the close and wide meanings and the related discussions of public interest<sup>304</sup> can be evaluated.

The word ‘interest’ is used in two different senses (Pitkin, 1967). The first, ...is concerned with having an interest in something. It relates to a concern with or attention to something. Thus, we might have an interest in historic buildings or 20<sup>th</sup> century music. The concept in this mode of use is entirely subjective. The second sense in which it is used is particularly relevant to consideration of ‘public interest’ and it implies ‘having something at stake’ (Pitkin, 1967) and is associated with welfare, gain or advantage” (Chambell and Marshall, 2002:165).

Public refers to public agency, and so “public interest” signifies the intervention of the state (Ülkenli, 1999:18), where “social interest” is the summation of all individual interests in a society. Keleş (1993) also explains wide public as the society and close public as public institutions. He also stresses the parallelism of both terms. (See: Keleş (1993:114)). Ünal, Duyguluer, and Bolat (1998:59-60) differentiate “public interest [kamu çıkarı]” and “public benefit (social benefit) [kamu yararı]”. Recognition of public utility is “the decision for public benefit [kamu yararı kararı]” and they define social welfare as “social benefit [Sosyal fayda/toplum yararı/toplumsal fayda]” (Ünal, Duyguluer, and Bolat, 1998:111). (See: **Appendix G**). Akillioğlu (1991:7) stresses those neglecting the dichotomy in between and accepting both as a reflection of common

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<sup>303</sup> This tool is widely used in less developed countries as state dominance does not have a legal framework and social auto control is missing.

<sup>304</sup> According to Ülkenli (1999), “eternal debate on the meaning of “public interest” has persisted” since the emergence of the private - public dualism. And, the “...debate intensified significantly with the rise of capitalism” (p.iii).

interest of the society other than the interest of the state defined by Ülkenli (1999). According to a different perspective, close meaning of public interest is public interest whereas wide meaning is social benefit. Social interest is something mundane, logical, and understandable. In addition, the need for a definition for social interest declined by the rise of state in non-democratic systems. For Bademli (1999), public interest and social benefit (normative) are defined and undefined complementary concepts and parallel in practice. Social benefit covers all, even the unborn, and is immeasurable. Close meaning (a legal and a technical meaning) is used in the definition of limiting property rights and is a measure in any intervention to the essence of such rights<sup>305</sup> (Keleş, 1993:97). Keleş et al (1999:37) further claim that social interest reflects common interest within a country and corresponds to the needs of the individuals and actions approved by all, which make life conditions easier and for the welfare of the community. It aims to protect, organize and develop the public order and has a function to establish social justice (Keleş (1993:99); Keleş et al (1999:37)). On the other hand, public interest is the representation of interests of the ruling classes or the hegemonic powers (Benefits of the ones that have dominance). (Today, the same is stated for private interests and state interest.) Within this understanding, Starr (1988:2) states that public interest is the interest of the whole people as opposed to that of a part, whether a class or an individual.

Public interest is a reason to limit basic rights and a measure to define how administrative law can be applied. This strengthens the power of the state. Public interest is a tool to obtain political domination through sacrificing state (Akıllıoğlu, 1991:4). According to Keleş (1998: 98-99), public interest is a public law measure that defines the limits of property rights. For Akıllıoğlu (1991), law for the sake of public interest can only limit the rights to property. Its use cannot be against social interest.<sup>306</sup> Social interest is a measure, which shows the reasons, the competence forming the content of rights; private property can be used for. Public interest and social interest is neither parallel nor equal. Wide meaning (political, ideological) refers to the political and social principles from which Constitutions take basis<sup>307</sup>. This is social benefit (Keleş (1993:99); Doğanay (1974), and Bademli (1999)) and reflects the benefit of the community. Some others neglected the dichotomy in between and accepted both as a reflection of common interests.

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<sup>305</sup> i.e. 1961 Constitution, Article 38.

<sup>306</sup> i.e. 1961 Constitution Article 36, 1982 Constitution Article 35.

<sup>307</sup> The wide meaning can also have a content and quality to cover every kind of social value (Akıllıoğlu, 1991:7).

Public interest is a principle that functions as a referee between different individual interests (Keleş, 1993). It is also a non-clear concept<sup>308</sup> (Akıllıoğlu (1991:3); Bademli (1999)). Its form results from this multi-dimensional character, so the meanings collapse. This contradictory dualism rises, as “legal framework has not defined a static definition of public interest” (Gedikli, 1998:82-83) up to date<sup>309</sup>. The concept then achieves a flexible, a common, and a useable characteristic<sup>310</sup>.

What constitutes the public interest has always been contentious but its value as a legitimizing concept has increasingly been called into question in the recent past for the reason that it cannot be given operational meaning either by those who make policy or by those who evaluate it (Campbell and Marshall, 2002).

The rigid acceptance of public interest phenomenon as a concrete and static fact exhausts both planning and judicial processes and authorities. The acceptance of the concept as invisible also affects public confidence in the planning institution with its all components (Ülkenli, 1999:92).

Every action of the state, if the reverse is not proved, is for public interest with social interest objectives (Akıllıoğlu, 1991:3-8). There is a relationship between administrative practices and the interest of the public/society (citizens)<sup>311</sup>. Administrative practices save public goods and change the methods of public service provision whereas public owns these goods. The reverse is also valid: Public interest is used to correct state action. In practice, the contradictory actions of the state generally result from the bureaucrat’s public interest or benefit. The relation between public interest and social interest is similar to the discussion of republic and democracy where the first covers the second, but existence of one does not require the other: In every case, the question is; how the interest of that person, institution or the state is or can be directed for the benefit of that society. Another question rises; how state or public can be accepted as a reflection of common interests, if public interest is a tool used for one sector or state is the represent of a private body?

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<sup>308</sup> It “was not until the Enlightenment that the idea of satisfying individual subjective interests came to be an important objective of political action (Flathman, 1966). The idea of ‘interest’ in the realm of politics has, however, in the period since the 18<sup>th</sup> century been seen in a variety of different ways. Following Pitkin (1967) we identify three contrasted interpretations exemplified in: first, Burke’s concept of virtual representation; second, Madisonian conceptions of liberalism in the United States; and, third, the utilitarian tradition as it developed in Britain” (Campbell and Marshall, 2002:166).

<sup>309</sup> The differentiation of the meaning between public interest and social interest is missing in the current Turkish legislation. However, the lack of definition is overcome within the legal framework.

<sup>310</sup> The Court of State decisions are in this line. See: Ülkenli (1999).

<sup>311</sup> Case application letter to Ankara sixth Administrative Court (for the case E.1995/795) by TEKSİF as a reply to the answer of the sued Administration dated 01.10.1996.

Public interest typologies<sup>312</sup> defined by the author are given below in order to understand the attitude of the privatization activities and to determine their real objectives:

1. Universal interest<sup>313</sup>,
2. Social (collective/common) interest<sup>314</sup>,
3. Multiple public interest,
4. Public interest<sup>315</sup>,
  - Limited public interest (of the society),
  - Prior Public Interest (in between administrative practices)<sup>316</sup>,
  - Administrative interest (Institutional public interest (State/institutional benefit -[Devlet / kurum yararı])<sup>317</sup>,
  - Governor's (Administrator's) self benefit (Representative's interest (Interest of the administrators))<sup>318</sup>,
  - Bureaucrats' interest (self-benefit or technical interest<sup>319</sup>),
  - Group interest<sup>320</sup> (of public and private institutions at the same time)

Historically, the only standard common to different planning forms has been the public interest (Mazza (1990:48) as cited in Moroni, 2004:151). However, it may also have negative or positive and have external effects to urbanization. Despite those claiming that, it is "non-existent". Moroni (2004) claims that it is not possible for planners to do without some notion of the public interest:

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<sup>312</sup> The first three concepts are covered by social benefit.

<sup>313</sup> Added by the author after a personal communication with Zeki Ülkenli in 1999, referring to the Court of State decisions claiming that it is above social interest. For example; environmental issues. Public interest is covered by social interest and both, by this third interest typology.

<sup>314</sup> According to the holistic approach, it covers the limitations to basic rights, duties and distribution of justice, and equality to the society. It is the reflection of the summation of expectations, needs, and demands of the society.

<sup>315</sup> As the meaning has shifted, the NGOs have accelerated efforts to protect public interest in an accelerating manner.

<sup>316</sup> [Üstün kamu yararı] This has emerged as competition in administrative actions gained importance.

<sup>317</sup> Technical benefit for social interest.

<sup>318</sup> Sectional or partial individualistic understanding covering the actions, decisions and benefits (political benefit or self-benefit) of the individual managers, ruling classes or the hegemonic powers.

<sup>319</sup> Reflection of the interest of the officers through administrative actions against the society or for the society.

<sup>320</sup> The group is composed of private and public sector representatives (officials, administrators, firm owners or managers, etc.) like municipalities, public institutions, and private companies for the realization of public projects or PPPs. This action covers administrative interest, officer's self-benefit and private interests, all controlled by each other.

The statement 'the public interest does not exist' can be interpreted at least in three ways:

1. the public interest does not exist *as a fact* (The interests of the various individuals and groups in our societies are today too varied to possess any significant area in common.)
2. the public interest does not exist *as an extra-individual (holistic) value* (the public interest does not exist as a supra-individual or extra-individual value because we have to reject any value of this kind.)
3. the public interest does not exist *as an always overriding substantive value*. (the public interest does not exist as a substantive value since we are unable to defend any substantive value as being preferable to any other.) (pp.152-157).

He furthermore puts forward three theses:

1. Not all versions of the hypothesis that the public interest does not exist are acceptable.
2. Only one particular concept of pluralism is of central relevance.
3. It is possible to construct a 'liberal' conception of the public interest that is also relevant for the theory and practice of planning (p.160).

On one side, there is social interest towards equal distribution of benefit within all layers of the society, and on the other side, state uses tools like privatization to strengthen private interests against social interest. This is legitimized with the claim that privatization is for social benefit. The concept of public interest is replaced by the concept of competition, which is supported by privatization. Characteristic of the process is dependent on the privatization decision type - whether privatization is an "all or nothing type" of decision<sup>321</sup> (Avishur, 2000:3). It can be stated that public interest is the qualitative notion of this decision. In other words, according to the content of each privatization case, public interest is defined and differentiated. (In terms of differing conditions of implementation in time.) Therefore, instead of a certain definition, for every occasion a different definition or an interpretation can be made. If privatization policies fail due to any reason, private interests may not be achieved. Therefore, it should continue. On the contrary, there may be privatization actions necessary for public interest. In such cases, if privatization cannot be made, public loss is possible. However, this does not mean that every privatization activity of the state is for public interest.

Cases in which, the public property is transferred, and the objective is to own that, than private interests are satisfied. For Perotti and van Oijen (1999), the acceleration

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<sup>321</sup> There are "qualitative" (Pirie (1988)) and "quantitative" (Avishur (2000)) answers in a description of the methods of implementation.

of property ownership due to private interest leads to market deepening, which is also the aim of privatization.

Richard Sennett suggests that since the eighteenth century modern society has seen a decline of public culture and sociability, a deadening of public life and public space, and a privatization of emotion. Such arguments shade into a second meaning of privatization: a shift of individual involvements from the whole to the part<sup>322</sup> - that is, from public action to private concerns ...Privatization is from civic concern to the pursuit of self-interest (Starr, 1988:3).

Planning<sup>323</sup> restricts private interests in land and property. The freedom of sustainability of private property and private interests stresses the crisis of the society and the economy (Beşiktepe, 1997). That is why; according to Keleş et al (1999:38), both public and social interests should not be left apart and public interest must be over private interests. In exercises like privatization, public interest and social interest should not be neglected. Ülkenli (1999:iv) expresses that the planning is the main tool<sup>324</sup> to balance the tension between public and private spheres. He further notes that planning and public interest notions are both comprehensive<sup>325</sup>. As stated before, rational comprehensive planning is a regulative<sup>326</sup> state action for public interest where “the process of privatization of urban lands damages the urban planning in the context of public interest” (Aydoğanlı, 1995:2). For Gedikli (2004:15), urban planning stands at the interface between the market and public interest. On the other side, within the domain of the public planning activity, it has also occupied a shifting position and has always given rise to contestation and argument.

“The legitimization of planning as an activity which intervenes in land and property markets has long rested on the notion that some restrictions of individual property rights are necessary if the public interest is to be upheld” (Champbell and Marshall, 2002:164). Within this perspective, Beşiktepe (1997:1) claims that planning legislation creates development rights on a property and these are directed according to planning

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<sup>322</sup> “And it is a critical question whether moving from public to private in the sense of state to non-state entails a movement in the other senses: from open to closed (in access to information) or from the whole to the part (particularly in the distribution of benefits)” (Starr, 1988:5).

<sup>323</sup> “Planning was conceived as the means by which the *best* use of land could be secured irrespective of market conditions and this required unreserved acceptance of the need to subordinate private interests to the public interest” (Champbell and Marshall, 2002:168).

<sup>324</sup> Planning is for the sake of public and the control of development on the urban land, assuming that some generated values can be returned to the public (Aydoğanlı, 1995:13).

<sup>325</sup> For Ülkenli (1999:4), public interest is an abstract component behind every stage and may be conceived as more than one concrete mission sentence or planning decision.

<sup>326</sup> “While Weberian view conceived the intervention of the state into urban space as an independent variable, Marxian view located the issue within a broader context and related the urban and the political one to the primacy of the economic level” (Keskinok, 1997:6).

decisions taken by the public administration. Furthermore, the limiting, abandoning sides of urban planning make it achieve a land policy character<sup>327</sup>. Howe (1992) states that there are four ideas of the planner's role and the ideas of public interest associated with them: Pluralist aggregation, an economic/analytical approach, the common interest, and the good reasons approach. Rational comprehensive planners desire a common purpose of public interest whereas communicative strategic planners<sup>328</sup> decide via the consensus of all the stakeholders during the planning process, and measured according to the criteria developed within the group (Gedikli, 2004:34,57).

Planners, argued Beauregard, had become dealmakers rather than regulators and it was no longer possible to maintain a conflict-free public interest .... The challenge posed to planning as a consequence of epistemological relativism and the politics of difference has preoccupied the planning academy in the period since the late 1980s (see, for example, Milroy, 1989, 1991; Beauregard, 1989, 1991; Harper and Stein, 1995; Healey, 1997; Sandercock, 1998, 2000) (Chambell and Marshall, 2002:172-173).

Campbell and Marshall (2002) define a typology that makes the distinction between outcome and procedurally focused approaches a primary one and in the case of consequentialist conceptions distinguishes three contrasted perspectives: "utilitarianism, modified utilitarianism and the unitary approach. Procedurally focused conceptions include rights-based and dialogical approaches" (p.174).

Planning covers private and public interests. This is what market-led approaches also declare. Beşiktepe (1997) completely rejects the idea that planning rights created by public is viewed as a natural and relative result. If such a system continues, there will be a true chaos as every action will be against social interest. In addition, if authorities are unable to propose any precautions to return the increase in value gains to public, the chaos will increase.

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<sup>327</sup> According to Aydoğanlı (1995:12), planners' understanding of urban land policy is government land policy; however Healey (1983) states the opposite.

<sup>328</sup> "To identify deontological categories of the public interest is possibly contentious but we argue that communicative planning theorists are not dispensing with the idea of the public interest but are placing their faith in the future of the planning project in procedural norms and rules by which the public interest can somehow be discovered discursively through participatory practice...The communicative turn in planning theory is based upon the assumption (whether explicitly or implicitly stated) that the public interest is best discovered discursively through participatory processes" (Chambell and Marshall, 2002:174-181).

The legitimization of planning, as Campbell and Marshall (2002) has stated, rested on the proposition that the state's intervention in land and property development is necessary to safeguard the public interest against private and sectional interests. There is a dichotomy, as another state action; privatization focuses to free market economy structured by private interests and these interests have priority. As many (Yüksel (2000:57); Kafaoğlu (1995:87-104)) have claimed, due to this characteristic, privatization is away from democracy and social welfare. It is invented to maximize private interests. That is why; proponents favor deregulation or continuity of the process. Privatization has critical points all related to the process from the side of the state and the society. The critical point is that the regulatory tools of the state like market-critical planning (or mainstream planning) will decrease the market productivity. Privatization describes a direction of change without a specific origin or destination or point of departure.

Definition of the public interest raises a fundamental planning issue. Radical and advocacy planning are based on conflict models of the public interest. Transactive and incremental planning are based on dialogue and bargaining among plural interests, although without an explicit treatment of power. Synoptic planning largely ignores or avoids issues of conflict by referring to a unitary concept of the public interest. ....Synoptic rationality also focuses primarily on technical relationships and objective realities, to the exclusion of subjective and emotional discussion sparked by divergent perceptions of problems being addressed. In addition synoptic planning typically creates a division of labor between planners (experts) and politicians -a split which casts planners as technicians who can simply ignore political considerations of the public interest (Hudson, 1979).

Similarly, Ernest Alexander (1992:129) has observed that 'the rational planning approach and the traditional model of comprehensive planning are both premised on the idea that there is a collective "public interest" that can be identified through the planning process, and becomes the criterion for evaluating alternative planning proposals ...The existence of such a public interest was taken for granted during the heyday of comprehensive planning ...,and the ability of planners ...to identify this public interest and justify their proposals in its name, was rarely questioned (Moroni, 2004:152).

For Moroni (2004), the situation is completely different today:

There are still some planning theorists; ...trying to defend the idea of the public interest (see, in particular, the interesting works of Alexander, 2002, 2003; Campbell and Marshall, 2002; Klosterman, 1980; Taylor, 1994), and even though there are some planning practitioners still referring to the idea of the public interest (see the empirical research of Howe, 1994) ...This traditional idea is today under



severe attack and is in fact today a commonplace in the planning field to say that 'the public interest does not exist (p.152).

Moroni further advises ways to rehabilitate this concept<sup>329</sup>. However, not much attention has been paid on this subject up to date by the Organs of Law or law implementing public administrations.

Conclusively, the theoretical evaluation of how urban planning is related to privatization is given in this chapter. Urban planning and the role to play within the capitalist market economy is a matter of property rights and their transfer, private interests, and the value and rent generated by this transfer. The state supported privatization. Capitalist relations of production and property require mechanisms for stabilization although the regulative and directive role of the state has declined. The search in comprehensive planning and communicative strategic planning showed that interventions of free operations of land markets<sup>330</sup> became a means of (re) production of urban space against public interest. The other driving force in the short term is private benefit and interests where the exchange value is created by the investment typology and planning decisions. Urban space is a commodity on which privileged and monopole position is created to the capitalist in the (re) production process by urban planning itself, which must act equally for both private and public interest. It is risky to generalize about public versus private interest, as there is no common unique definition of public interest. The same is true for the merits of privatization (as public policy beyond a particular institutional or national context). In addition, it is showed here that, there is still a need for a more integrated control and intervention of the state over the land market for lessening the impacts of privatization. The open objectives of privatization stress this need.

Generally, in urban planning literature, it has been argued that market-led planning approaches have omitted the consensus on the targets of urban planning and the role of its tools. The comprehensive, regulative power of urban planning in the privatization process has been lost and the public-private property balance in urban areas is broken. Privatization has also revised the (critical) theory of urban planning. Within this

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<sup>329</sup> "I believe, as do Scott Campbell and Susan Fainstein (1996:11) that one of the main tasks of planning theory today is to rethink the public interest. In this connection, I hope to have shown, on the one hand, that there are no conclusive reasons for wholly abandoning the concept of the public interest, and, on the other, that there are ways of reconstructing that concept that can prove relevant even in contemporary societies characterized by complexity and pluralism" (Moroni, 2004:164).

<sup>330</sup> There are at least three categories of rationale for public intervention into the free operation of land markets. They are: (1) Land market imperfections and failure, (2) Distributional aspects of land ownership; and (3) Severe disequilibria in land markets (Lim (1987) as cited in Aydoğanlı, 1995:12).

framework, it is certain that public interest has lost its usefulness<sup>331</sup> in the fragmented intervention in the urban areas through privatization. However, the idea cannot be refuted and has to be rehabilitated as stated in the recent theoretical discussions. For such reasons, planning is treated as a standard bureaucratic procedure having market-led objectives.

The market cannot have legitimate and trustable actions without the emergence of urban planning. Urban development plans are demanded even in pure market-led cases such as Docklands. In market-led planning cases, the planners have the idea of public interest. That is the economic/analytical approach. Despite everything, it should be kept in mind that rational comprehensive planning is still, but improperly, applied today and is what secures public interest. It must be known that, although supported and implemented, communicative strategic planning cannot be implemented properly. Within this perspective, the following step will be a closer look to the process of privatization with its major ingredients and principles to understand the grounds urban development plans are prepared. The detailed analysis covers the objects of privatization and the activities and actors defining the privatization process from a historical perspective.

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<sup>331</sup> For Altaban and Duyguluer (2004), since two decades, the public service concept has changed and public interest concept has become meaningless.

## CHAPTER 5

### A HISTORICAL OVERVIEW OF THE TURKISH *DE FACTO-PRIVATIZATION AND DE JURE-PRIVATIZATION*

Public movable or immovable property, owned by public administrations are used, reserved, and transferred for social benefit. Public immovable properties are the basis of the relationship between privatization and planning. As stated in previous chapters, the transfers emerging through out history and generating naturally in time by public or private demands are termed as *de facto-privatization* whereas the transfers having a legislative framework and made by a public institution are named as *de jure-privatization*. Understanding of their role in (re) production of urban space and influence on the scope of urban planning is possible by the historical analysis of major property systems, their structural changes, emergence of private possession, and the transfer from public to private property. The differences between *de facto-* and *de jure-privatization* approaches are mentioned in terms of policy objectives, administrative responsibility, and the applied methods and mechanisms. “Why privatization is exercised in history? How and by whom public immovables are transferred, and to what extent? What are the activity typologies of responsible bodies?” are the questions that we will concentrate on in this section. The initial analysis focuses on *de facto-privatization* starting from the Ottoman to the early Republican times up until today.

#### 5.1. Emergence of the Private Possession and Public Benefit (10-18<sup>th</sup> c.)

In the Ottoman Empire, there was a well-established administrative organization, perfect land registry system, institutionalization, and more developed forms of human settlements. The settling down<sup>332</sup> ideology grew up in time. The property system

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<sup>332</sup> On the Anatolian geography, the settled form of living dates back to the Seljukian period. A new property regime is defined during the transformation from a nomadic to a settled life (Eren, 1997).

defined the urban pattern, social structure, and the macroform<sup>333</sup>. Between 14-17<sup>th</sup> centuries, Law of Islam had influence on the Ottoman property system where production of space is the formation and performance of Islamic identities (Çınar, 1999) and paternalistic philosophy (Gökçe, 2004:35). Islamic property<sup>334</sup> understanding was formed from lands in property (lands owned) and lands not in property<sup>335</sup>. Property relations of this period can be classified into four: Full right to property<sup>336</sup>, dual right to property, state property, and dealer saving condition. (See: Sönmez (1998)). Ottoman immovable property can be classified as (Eren, 1997):

- Property owned [Mülk Araziler<sup>337</sup> / Arazi-i Memluke (res incommencio)],
- State property [Mirî Arazi / Arazi-i Emiriye],
- Lands of wakfs<sup>338</sup> with a certain purpose<sup>339</sup> [Arazi-i Mevkufe (res sacrae, res religiosae, res sanctae)],
- State immovable property allocated for the common use[Musha<sup>340</sup>-Arazi-i Metruke (res derelictae)], and
- Dead or unusable state private property allocated to the use of real persons [Arazi-i Mevat (res nullius)].

<sup>333</sup> The social structure was dependent on the property system (Çoşkun, 1999:102-104).

<sup>334</sup> In the Law of Islam, the owner of land was the God. The Sultan has the right to use this land on behalf of God. This Law was guaranteeing the rights of individuals to possess. The right to property has been subject to several limitations. See also: Köprülü (1986); Güneş and Sarı (2005).

<sup>335</sup> Maliye Bakanlığı (2006).

<sup>336</sup> Full property allows the right to use and have benefit of the property: right to save, having it, and bare property [Rakabe].

<sup>337</sup> As an Islamic tenure category property is a “land owned by an individual and over which has full ownership rights. It is most common in rural areas” (Payne, 1997:53). “Lands in villages or town, land owned by giving into the possession [Temlik-i sahihler yoluyla], Arazi-i Öşriye, Arazi-i Hariciye, Villas [Malikaneler], Malikhane-i Divani” (Maliye Bakanlığı2006:22). Either Muslims or non-Muslims own the land. Norms on owned lands [Mülk Arazi] have been organized by “Fıkıh Books” and “Mecelle”.

<sup>338</sup> (Vakıf or Waqf). An Islamic tenure category. “Vakf-ı Hayri” and “Vakf-ı Ehli” are the types of wakf property. Wakf land is the “Land held in perpetuity as an endowment by religious trusts. Originally established to ensure land availability for schools, mosques, and other public buildings, it gradually became a means of keeping land away from extravagant heirs or acquisitive states. The governments of many Islamic countries even have waqf ministries” (Payne, 1997:53).

<sup>339</sup> “Mazbut Vakıfları”, “Mülhak Vakıfları”, “Esnaf Vakıfları” and “Cemaat Vakıfları”.

<sup>340</sup> “Land owned collectively. It originates from the tribal practice of dividing up arable land on which the tribe settles its members and takes account of variations in land quality to ensure equality. Restricted in application to under-populated tribal areas” (Payne, 1997:53).

In this Tımar (Dirlik) system<sup>341</sup> (Öşri, Haraci, and Mirî<sup>342</sup> lands), central authority did not act like a property owner, but precept property for all. Everybody had equal rights over the property and if allowed, could have benefit of it. “Public control of land use ...is widely accepted as a means of protecting public interest” (Payne, 1997:5). In addition, the Sultan designed this system to control the property and to collect taxes on right to use (Saner, 2000). Only the Sultan (the state) had the right to own an immovable property. State freely used the bare right to property, had the right to control revenue and the right of enjoyment. There were certain rules<sup>343</sup> preventing state property use and allocation to natural and legal persons having public interest objectives. The system led only the Wakf system<sup>344</sup> to emerge and continue. Urban areas could not expand over agricultural areas because of this property structure and state ownership (Kılıç, 1993:8-9). This restricted land fragmentation and curbed the powers of large landowners. The long-term consequences of the increase of waqf land was the immobilization of city land (Payne, 1997:5).

This static and closed property system of public property ownership was able to survive until the 16<sup>th</sup> century<sup>345</sup>. There emerged private rights to property since then. From the

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<sup>341</sup> Dirlik: “Has (Property owned by high state bureaucrats (administrators), over 100.000 akçe)”, “Zeamet (Property owned by second degree state officials, revenue between 20.000-100.000 akçe)”, and “Tımar (Property given to leading soldiers and bureaucrats, revenue between less than 20.000 akçe)”. Management of Dirlik were given to real persons called “Sâhib -i arz”. They are the owners of supply on behalf of the Sultan. These people were some kind of a state official. They were collecting the taxes the farmers are obliged to give to the state. The right to use and manage state land was allocated to villagers called “Reâyâ”. Reâyâ could rent the land through an agreement by paying the rent amount (title deed tax) in advance to “Sâhib -i arz”. Owners of “Öşri” land, that was not much in amount, were also Muslims. “Haraci” land was the land subject to taxation and taken during the first Islam conquests (Maliye Bakanlığı (2006); Güneş and Sarı (2005)).

<sup>342</sup> “Mirî land” is the land “owned by the state and which carries savings or usufruct, which can be enjoyed, sold, let, mortgaged, or even given away. A usufructuary may also transmit it to heirs, although the land could not be divided among them. The State retains ultimate ownership and if there are no heirs, such land reverts to the state. She also retains the right of supervising all transactions pertaining to the transfer of usufruct rights and their registration” (Payne, 1997:53). The right to use state land was also given to soldiers (Çoşkun, 1999:105) and wakfs. See: Akkuş (2006) for early periods of Ottoman accounting (1299-1453). As a free villager, reaya can produce and save, but this freedom is absolute. They have the right of “zilliyed” and cannot transfer and sell this land. “Reaya” is both the financial basis of the empire and political presence (Gökçe 2004:36). Administrators (central bureaucrats, soldiers, scientists) and senior bureaucrats. Land that belongs to ruling classes cannot be inherited. When such a situation appears, the land is taken back to the system, and the families are given enough income to sustain their living.

<sup>343</sup> General control principles and mechanisms were set and the rest was left to inner structures, like guilds [lonca].

<sup>344</sup> Wakf complexes formed the infrastructure in and around urban areas (like the early days of the Republic) and they aimed to cope with social and organizational problems.

<sup>345</sup> See: Çevik (2002:677-686) (Available in internet, [http://w3.balikesir.edu.tr/~zcevik/toprak\\_reformu.php](http://w3.balikesir.edu.tr/~zcevik/toprak_reformu.php) (accessed March 12, 2007)).

second half of this century<sup>346</sup> until the end of the 19<sup>th</sup> century, the evolving socio-economic system led to changes in the property system. This accelerated the amount of lands possessed and privately used and so the public demanded reforms<sup>347</sup>. By the 18<sup>th</sup> century, Dirlıks are the objects of speculation. Between 17-19<sup>th</sup> century, a decline of state land through wars, agreements, and wakf occupations has emerged. The demand for public lands increased due to the mobility of the property possessors (Kök, 1977:110) by lost wars. This demand and the financial crisis of the Empire led to the emergence of private property.

## 5.2. Emergence of Private Immovable Property and *De facto-privatization* (19<sup>th</sup> century - )

The urban pattern has resulted or transformed only from technical reasoning and social rationality. Still, planning did not emerge as a distinct practice. By the early 19<sup>th</sup> century, wakfs responsible from the reconstruction of the empire were enjoying 74 percent of the state land<sup>348</sup>. The “long-term consequences of the increase of Waqf land was the immobilisation of city land (United Nations, 1973 Vol.1:2)” (Payne, 1997:5). Passage to iltizam system<sup>349</sup> by “Sened-i İttifak” in 1808, was an important step for state property resolution (Çevik, 2002). The successive attempt, the reforms of Mahmud II (1826) aimed to increase the state revenue level by taking the wakf property<sup>350</sup> from its possessions or users<sup>351</sup>, or taxing it<sup>352</sup>.

The Political Reforms (Tanzimat Edict<sup>353</sup>) of Abdulmejid forbade the allocation of state revenues on parcel basis all around the Empire and the Tımar system. Tanzimat Edict

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<sup>346</sup> As new lands could not be achieved due to decreasing amount of occupations and state revenues from customs, taxes increased while their collection method has differed. The declining period of the Empire started from this time onwards.

<sup>347</sup> The paternalist model could not protect itself at this time when individual freedoms are accelerating (Gökçe, 2004:36).

<sup>348</sup> Wakf immovable properties have transformed into unproductive structures generating no revenue for the state.

<sup>349</sup> “As a result of this new demand for having rights, central authority had to restructure the property system by changing the Tımar system. ...“Sened-i İttifak” is signed with the private immovable property possessors. The central authority either left the right to collect tax revenues to the private entrepreneurs called “Mültezim” or directly sold the land to them” (Çoşkun, 1999:106).

<sup>350</sup> The major aim was to decrease the number of family wakfs as they cannot be taxed. The only guarantee for the state to get her properties back was the non-transferable character of the property in the Anatolia and Balkan geography due to the Law of Islam.

<sup>351</sup> The rights of Tımar and Zeamet owners have continued until 1839 (Maliye Bakanlığı, 2006:21).

<sup>352</sup> Government officials collected “Bedel-i iltizam” even from the wakf property.

<sup>353</sup> [Gülhane Hatt-ı Humayunu] 03 November 1839. After the Tanzimat Edict, the state has transferred the collection of Tımar land taxes to “mültezim” and “muhasıl” through tenders. (See: Maliye Bakanlığı (2006:21) for the definition of muhasıl).

led to an end to the Mercantilist system. The period of 1839-1859, is the period the property system is redefined. A share<sup>354</sup> from the Treasury back to Wakfs is allocated by the state. The same mentality of revenue distribution is exercised today during the *de jure-privatization* process: Revenues of all institutions or establishments in the Privatization Program are gathered in a fund and distributed relative to demand of another enterprise or any other public spending.

The state officials have used their competence with the owners of Tımar and Zeamet until 1847 and up to the date, Land Act [Arazi-i Kanunname-i Humayun (Arazi Kanunu<sup>355</sup>)] was accepted in 1858<sup>356</sup>. Taxes were collected from both the land and the product leading to an accelerating tension between the administrative layers<sup>357</sup> (Çevik, 2002). To maximize revenue in this period, “Mültezim<sup>358</sup>” was not acting for public interest, promoting productivity or even raising the welfare of Reâyâ. They aimed to get more revenue than they have paid to the state. State officials were the only agents (and created a mechanism) to occupy state owned lands (Maliye Bakanlığı, 2006:21). In order to prevent possessions a Declaration, dated 1847, has been accepted<sup>359</sup>. This new legislation, regulating land regime in detail, legitimized private property ownership besides the rights to possess and use. This marks the transition period to private property. This Act was no more than the redefinition of the private property within state property system<sup>360</sup> (Kılıç, 1993:10). According to Cevdet Pasha<sup>361</sup>, this Act was regulating the public property regime that is under the competence of the central authority (not for wakf and property on land).<sup>362</sup> In this restructuring process, land aristocracy appeared and got the competence of local authorities.

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<sup>354</sup> The distribution from the general budget is relative to type and scale of the wakf.

<sup>355</sup> “Under the Ottoman Land Act of 1858, it enabled farmers etc., to settle and develop unused land for the payment of a ground rent, or hekr, on registration of a claim. Secure where traditional writs still apply, but less so where active land markets operate” (Payne, 1997:52). (See also: Maliye Bakanlığı (2006:21)).

<sup>356</sup> Following the Reform Declaration [İslahat Fermanı (1856)].

<sup>357</sup> Owners of Tımar and soldiers of the central bureaucracy collected from any subject nationalities [merkezi bürokrasinin devşirmeleri] were responsible from tax collection for centuries.

<sup>358</sup> “Mültezim” refers to the person who collects the revenue (called “aşar” or “rüşum”) of a village or a town and pays a certain amount of money in advance to the state. (See also: Maliye Bakanlığı (2006:21)) Mültezim, who became richer through commerce and usury, could own the property for only three years.

<sup>359</sup> As disorder has emerged because of the chaos created by the revenue collection competence of mültezim and muhassıl and to omit pillaging of sultan’s properties; a Communication is accepted in 1847. This communication is the basis of Title Deed Regulation [Tapu Nizamnamesi]. (See: Maliye Bakanlığı (2006:21)).

<sup>360</sup> “Independent small farms were still the basis of the private property” (Kılıç, 1993:9-10).

<sup>361</sup> Head of the Land Act Preparation Committee.

<sup>362</sup> For this reason, the central authority had to struggle with the application of the determined procedures to wakf and private properties (İslamoğlu, 2001). Tarih Vakfı, <http://www.tarihvakfi.org.tr> (accessed December 12, 2006).

By this new system called “iltizam”, immovable property was privatized. And, this appeared to be the first prototype-privatization activity of the central administration. But, from this time onwards, central authority started to loose its strength (Çoşkun, 1999:106).

Buildings Law [Ebniye Nizamnamesi] (1848) was the first legislation regulating the use of urban immovable property and property rights. Between 1869-1876<sup>363</sup>, keeping the existing immovable property system still, several legal arrangements called “Mecelle (1877-1926)” had been applied. Through this reorganization, all scattered norms on individual property rights were gathered. Roads and Buildings Act [Turuk ve Ebniye Nizamnamesi] (1864), Province and Municipality Act [Vilayet ve Belediye Kanunu] (1877), and Buildings Act [Ebniye Kanunu] (1882) were the other successive laws related to development of immovable property in urban areas. The right to inherit was accepted with the aim to decrease the difference between state and private property by the First Constitutional Era [I. Meşrutiyet (1876)]. This administrative structural change led to the initial exercise of state property occupations - *de facto-privatization* - had spread in urban areas. Instant examples were the meadows<sup>364</sup> in Istanbul (the use and management right of meadows differed from state land). In the Article 18 of the Buildings Act, Emperor’s consent for new settlement areas was cancelled. Speculators played a role for the emergence of such an ordinance. As the control of the Emperor over speculation was restructured, speculation became legitimate and at the first stages, meadows are occupied.

Besides the transfer of the property to rich people or senior bureaucrats through sale method (mainly around Kadıköy, Istanbul), giving out as a present method was also exercised. Both of these activities created the first and one of the largest speculative movements in urban areas. Similar speculative activities can be observed in other large cities of the Empire at the same time. An example of the sale method can be given from Fenerbahçe district: As it is today, the compensation of the budget deficits is declared to be the aim of sales. A piece of state land of 100 decares (dec.) and its surrounding area is sold to four Levantine families (Swiss, German, Belgian, and French) around 1870s (Istanbul Büyük Şehir Belediyesi, 2001). In this case of giving out as a present, the land was subject to division, and later was sold out by their ancestors. Emperor Abdülmecit had given today’s Hasanpaşa and a part of Acıbadem to his door attendant Hüsameddin Efendi in 1845. Hüsameddin Efendi’s ancestors sold this land piece by

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<sup>363</sup> The decision of land sales to foreigners was taken in 1867, the Empire declared its bankruptcy in 1875.

<sup>364</sup> There is a newspaper sale advertisement for Haydarpaşa and Kadıköy meadows” (Istanbul Büyük Şehir Belediyesi, 2001).



piece. In time, on these lands there appeared a neighborhood. Another property transfer on land was experienced around Göztepe and Erenköy<sup>365</sup> neighborhoods. Both sides of the Bosphorus have been occupied in the same process since then. Until the establishment of the Republic of Turkey, the amount of private property enlarged in amount and scale. During this period, Grand Vizier Ali Paşa was the first one to spell the prototype-privatization<sup>366</sup>. Later, Union and Progress Party [İttihat ve Terakki Partisi] Government<sup>367</sup> made declarations supporting private property and private sector<sup>368</sup>. The following section analyses attempts of proto-type privatization.

### 5.3. Early Republican *De facto-privatization* and Prototype-privatization Activities (1920-24 January 1980)

The Turkish Republic inherited the Ottoman property system.<sup>369</sup> The Citizens Act<sup>370</sup> cancelled “Mecelle”. By this Act, the Republic accepted a new immovable property system: Property pattern is structured through land and parcel<sup>371</sup> policies defined by the relations of private property according to capitalist production. In the western society, at the same time, urban patterns emerged from the property system formed by fragmented numerous small private properties that can slowly adapt themselves to the emerging needs of urban land market economies. Demand shaped rural-urban transformation through time. On the other hand, the Turkish property system<sup>372</sup> led to a different urban space production resulting from the process of large public properties into fragmented private pieces in relatively shorter periods: From the right to possess, use to the right to own. Today, these fragmented pieces are (re) produced. The following section evaluates this transformation process of these rights to property.

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<sup>365</sup> Tütüncü Mehmet Efendi has bought a land of 1.000 dec. for 30 Para/yard, divided the land into parcels of 10-25 dec. and sold them to high state officials and bureaucrats. The houses of the Abdülhamid Period Pashas followed the villas of Tütüncü Mehmet Efendi who constructed them for himself and his partner (İstanbul Büyük Şehir Belediyesi, 2001).

<sup>366</sup> In his testimony.

<sup>367</sup> Minister of Finance Cavit Bey.

<sup>368</sup> Controversially, the private sector could not be developed even though the Act on Promotion of Industry [Teşviki Sanayi Kanunu] was accepted in 1913 (Yüksel, 2000:78-79).

<sup>369</sup> A gradual breakdown of the organic order of feudal society and the emergence of the economy as a system of interrelated markets (Friedmann, 1987:22) is exercised.

<sup>370</sup> Citizens Act No: 643 (17.02.1926) takes its basis from the 1924 Constitution.

<sup>371</sup> Block Parcel: Farming or building unit defined by a development plan. Agricultural Parcel: Area actually utilized one type of crop (strongly variable, basis for calculating area based subsidies, and continued as a whole in a block parcel). See: Eren (1995).

<sup>372</sup> Property system is redefined through Constitutions and supported by land registry and the management legislation. Republican property system, although has differences in terms of use and possession, is divided in terms of ownership into two: Private and public property.

### 5.3.1. *De facto-privatization* (1920 - )

In the early phases of the Republic, despite new legislation, Ottoman property system had prevailed. (Abandoned) Property and Dismissal Act [Emvali Metrûke ve Tasfiye Kanunu], the exchange of Turkish Greek inhabitants (Aydoğanlı, 1995:42), the activities of Bank of Real Estate and Orphans in between 1920-1950, and “Zilliye<sup>373</sup>” activities in the urban peripheries were the major public land transfers of this period. With benefit and interest concerns, public institutions transfer their immovables either directly or indirectly (Saner, 2000:17-19). *De facto-privatization*, as stated before, is exercised in Turkey in the form of land policies<sup>374</sup>. In none of these policies, ownership patterns could be structured for the functional and physical control of urban space (Eren, 1997). Public immovable property has been treated as an endless and primary source for the realization of these policies. From the first days of the Republic until the end of the policy of state control period, 11-12 million decares of land has been distributed to citizens<sup>375</sup> (Çevik, 2002). Sencer (1969:319) defines these policies as the distribution of public immovable property to the community and the change of the structure of the wakf property and the tax system. This supported state re-structuring and affected urbanization.

In the *de facto-privatization* process, space is (re) produced by three dominant property typologies: Publicly owned property (public); legally owned, used or possessed private property, and the public or private land occupied by low income groups for the production of their self-space. In between 1930-1950, development plans produced small urban parcels for the private entrepreneurs. Areas allocated to public use in these plans can be explained as the reflection of the limited resources of the state in urban areas, potential development areas for public interest, and large resources of land for public facilities in terms of administrative interests.

The property system had undergone a transformation within a short time to meet the accelerating demand for urban growth after 1950s. Politicians and bureaucrats stressed the *de facto-privatization* process with populist expectations: illegal groups<sup>376</sup>, public institutions, municipalities or wakfs create the private sector demand for public

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<sup>373</sup> This is observed in rural and agricultural areas or on the urban fringe.

<sup>374</sup> Rural land policies were partial and insufficient where as urban land policies have declined and were even close to minimum. According to Aydoğanlı (1995:68), the period in 1984-1991 was the end of urban land policies of governments in the urban planning context.

<sup>375</sup> See: Soil Protection and Land Use Act [Toprak Koruma ve Arazi Kullanımı Kanunu] No: 5403 accepted on 03.07.2005, Official Gazette dated 19.07.2005 and No: 25880.

<sup>376</sup> The illegal group occupies the land and later sells it. It can come out by its simple identification - Mafia - or as a real estate officer, member of a society, local governor, headman, and head of a municipality or an investor.

property transfers. Common characteristic of all these were that transfers were for their financial and political interests against public interest via either violation of the current legislation or via amendments in legislation according to their wills. In practice, all the related legislation allowed the process to activate faster<sup>377</sup> and to transform into private possession. The emergence of squatters<sup>378</sup> accelerated the demand for regulatory activities in urban areas. However, these were nothing more than the definition of ownership of an illegal immovable property based on right to use of a public property. Its transformation in the third dimension has accelerated after 1980s through squatter prevention zone development plans or Flat Ownership Act.

During 1960s, all legislative arrangements<sup>379</sup> (**Appendix H**) aimed public immovable property transfers. The tension<sup>380</sup> (See: Chapter 6) between property typologies accelerated in time as the illegal appropriation has turned into a legal status<sup>381</sup>. Comprehensive planning approaches were unable to solve the problem of unauthorized growth, because of the limitations on rights to property, legislation structured by private interests, and insufficient administrative controls. Still, until the end of 1970s, land price increases could not be controlled<sup>382</sup> through development plans. By mid 1980s, the central authority transferred several planning competences to local authorities. However right to interfere into local authority<sup>383</sup> competence areas remained in the hands of central government. This is also observed in the *de jure-privatization* process.

In addition to this, the central authority to make the plans or to allocate public investments to local authorities did not provide necessary funds. That is why; the activities of local authorities became income generating rather than activities for public interest. As a solution, either the lands are illegally appropriated or the local

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<sup>377</sup> Because of *de facto-privatization*, squatters have been structured by the informal sector: "Turkey, had applied the Ottoman Land Law of 1858, which entitled villagers in the under populated area of Anatolia to settle and cultivate state land. When these villagers migrated to the new capital at Ankara, they understandably followed the same practice and settled on underdeveloped land on the urban periphery. In traditional terms, they were acting perfectly legally, but the city was being developed according to imported planning concepts and the migrants quickly found themselves at odds with authorities (Payne, 1982)" (Payne, 1997:6).

<sup>378</sup> Squatters formed up the largest cities (Istanbul, Ankara, Diyarbakır, Adana, İzmir) of the country as the cheapest housing provision method. They emerged by the migration resulting from property system changes in rural areas and economic problems.

<sup>379</sup> The important one is the abolished Land Office Law No: 1164 dated 1969.

<sup>380</sup> For example, Yenimahalle Project planned in 1948 was prepared to prevent this tension.

<sup>381</sup> A legislative mistake is made when this illegal property ownership is legally transferred and recognized.

<sup>382</sup> This is stated in the third 5-year national development plan of SPO (Aydoğanlı, 1995: 56).

<sup>383</sup> According to Privatization Act No: 4046, the PA has the right of deciding and realizing a privatization practice within a municipal or a provincial administration boundary.

authorities have accelerated the transfer of immovable properties in their possession through the Acts No: 1580, No: 3030, and successively, No: 5216<sup>384</sup>. Partial sectoral interventions in terms of property transfers or provision of public immovable property to the urban market are proposed in housing (squatters, mass housing, urban rehabilitation), tourism and forestry sectors, and within land unification legislation from 1980 onwards.

As stated by Keskinok (1995:207) and Ülkenli (1999:79), within the agglomeration of market economies, the continuous development of urban areas cannot be easily limited, controlled or directed by the planning institution. The problematic transfers have concentrated in larger cities where rent is the driving factor. Comprehensive planning is blocked with corporatist objectives and market-led planning styles. One of the noteworthy and hazardous cases was exercised in Istanbul - Tarlabaşı in 1987<sup>385</sup>. Since 1990s, public immovable property decreased in number and scale in amount due to sales or occupations. This means commodification of public immovable properties is the practice. This becomes a bottleneck in the provision of urban services. The Treasury property is now subject to transfer, demanded mainly by the private sector or local authorities. For example, from February 2004 until January 2005, 749 ha. land for establishing organized industrial zones and 1.303 ha. land in Organized Industrial Zones (OIZs)<sup>386</sup> have been transferred, and 11 tourism investors were given the right to usufruct (to 3.762 ha.).<sup>387</sup> A recent example is the transfer of an area for 45.000 housing units in Etimesgut Squatter Prevention Zone in Ankara.<sup>388</sup> This inevitably leads to an increase in potential development rights in the surrounding areas.

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<sup>384</sup> These laws had given local authorities the responsibility of selling public lands, using these in order to intervene into the urban land market or creating funds with public interest objectives.

<sup>385</sup> According to Gürsel (1990:41), this is designed for the concentration of the international capital in Istanbul as a base for its regional actions. A similar planning understanding is applied in Stockholm with the intension to solve transportation problems around 1960s as in many European cities. Elevated car parks and highways are constructed through demolishment of the urban pattern. Later in time, it is figured out that these were wrong planning policies (Gürsel, 1990:59). By the 1/5.000 scale "Dolapdere-Piyalepaşa Master Plan" both sides of the Dolapdere-Piyalepaşa route is planned as skyscrapers of 30-70 floors high (E=15) on 5.000 m<sup>2</sup> parcels. This land use change led to the destruction of the 2500 years old town- Tarlabaşı. Each building had an investment cost of 15 billion TL. (15.000 YTL.) and the expected speculative gain was calculated approximately as 225 billion TL., which makes a 16.8 trillion TL. by the year 1987. From only Tarlabaşı zone 4.5 trillion TL. speculative gain is programmed. In addition, the plans are designed to create rent with local authorities (Gürsel, 1990:30-32). Many professionals or public sector representatives supported this action.

<sup>386</sup> Investment Advisory Council (2005:37).

<sup>387</sup> Ibid. p.38.

<sup>388</sup> This transfer is made by the Ministry of Public Works and Settlement to TOKİ in June 2006.

There have been several attempts by the central authority to control these transfers, but many viewed the transfers as a source of income or tax. Local authorities treated these as the tools for development of their settlement areas. Sales of public or private immovable to foreigners have also accelerated. To sum up, a property system having an order, sensitive to man-land relations and control of public lands and land policies (See: Appendix F for land policy issues) could not be created up-to date in Turkey with respect to the capital accumulation in the cities. Because of this, many disagreements (Yavuz (1980:79)) on property and right to property have emerged. “The major changes in societies and their policies have also created a transformation in the ideological meaning and use of the terms public, private and of course the discretionary area of planning”<sup>389</sup> (Ülkenli, 1999:83). At this point, we can analyze how and why *de jure-privatization* has deviated from *de facto-privatization*.

### 5.3.2. Prototype-privatization

The initial forms of *de jure-privatization* are termed as “prototype-privatization”. According to Baytan, *de jure-privatization* understanding (privatization of PEEs<sup>390</sup>) of today roots in the Mustafa Kemal Atatürk’s policy of state control<sup>391</sup>. However, the principle he stressed is that, when a private sector develops in an industrial sector, public establishments will be privatized<sup>392</sup>. Within this perspective, *de jure-privatization* policy is defined first by İzmir Economy Congress [İzmir İktisad Kongresi]<sup>393</sup> held in 1923. Out of many sector principles of this Congress like agriculture, industry, alcohol, navigation, only two of them were related to privatization:

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<sup>389</sup> “An identification of land use rights in urban areas, and to carry out this issue by taking public opinion into consideration constitute the nature of planning. All interventions have a role to play within the capitalist market economy. In this case, the subject cannot only be evaluated as a simple matter of property rights or equal distribution of surplus values generated” (Ülkenli, 1999:78).

<sup>390</sup> Even though roots of PEEs lie in the Ottoman period, treating state entrepreneurship as a development tool up was created in the Republic period (Saraç, 1981:11-26).

<sup>391</sup> Policy of the state control principle has come into scene in 1932 and had been applied by the first industry plan (1934-1938) of the Republic period (Baytan, 1999).

<sup>392</sup> The opinion of Atatürk on PEEs’ role in the economy and privatization is as follows: “Investments for the market should be made by the private public establishments. These establishments should be managed within the free market rules and when they reach their objectives, they must be opened to public participation and principles for them to function within the market should be guaranteed. See: Karluk (1994: 178); Baytan (1999:12).

<sup>393</sup> Republic of Turkey has applied Mixed Economy Model by the First Economy Congress, İzmir. The economic principles [Misak-ı İktisadi] accepted by the Congress diverted the economy politics of the new Republic.

- “Merchant Group’s Principles” Section, Banking Part, an establishment of a bank is proposed. The fourth article states that the public banks will be sold to the public slowly; if necessary.
- “Merchant Group’s Principles” Section, Issues on Navigation Trade<sup>394</sup> Part; a part of public land will be transferred immediately to the private navigation industry for the development of the sector and to achieve competition in trade(1999:11).

The initial forms of PEE and public bank legislation covered articles intending the transfer of shares of these banks to the private sector<sup>395</sup> (Turkish nationals) and land privatization is spelled for the navigation sector. Just after the WW II, by the İnönü Government, sale of urban public parcels to foreigners were put into agenda to finance public investments or to overcome public debts. (State land sales made through the recent land transfer legislation have similar objectives). An example of a sale attempt in urban areas by the Decision of the Council of Ministers around 1940s can be given from the hillside where Swiss Hotel locates today. However, there were no buyers. Therefore, these attempts were abandoned. Around 1950s the Democrat Party Government rehearsed the idea of privatization<sup>396</sup> (Önder, 1994:32). In the Government Program, those PEEs, which were active in the economy (other than those sectors within direct responsibility of the state),<sup>397</sup> will be transferred.

On the contrary, the government did not implement these policies and increased the number of PEEs<sup>398</sup> through comprehensive national development plans (Baytan, 1999:12). In their Party Program and even in the programs of the successive parties (until 1990s), no principle for public immovable property privatization is stated. In the year 1964, by the Act No: 440, several issues related to prototype privatization were defined: Article 4 of this Act gives the decision-making competence to the Council of

<sup>394</sup> For supporting this industry, transfer of public land to producers and workers with its compensation. See: Baytan (1999:10).

<sup>395</sup> Act on the Establishment of Industry and Mines [Sanayii ve Maadin Bankası Kuruluş Kanunu] (1925). Article 8 is on the sale of the shares of the Bank to Turkish citizens while keeping the 51 percent in state property. Sümerbank Establishment Law dated 1933 states that by the appeal of the government the Parliamentary may decide on the sale of all or a part of share certificates to Turkish natural and legal persons (Baytan, 1999:10).

<sup>396</sup> In the Party Program in 1946, it was declared that private investors and private capital activities are the major factors of the economy.

<sup>397</sup> State is responsible only from;

- Those sectors where private sector is unable to overcome the costs or is unprofitable, but will be effective on the economy,
- The major industry investments, large scale energy plants, railways, harbors, water works and construction of large vehicles and management of all these, and
- Establishing forests and mines for attaining their continuity to the next generations.

<sup>398</sup> After 1950, 21 new cement factory and 11 new sugar plants have been established.

Ministers for the transfer or closing down of PEEs. For us, these provided a basis for *de jure-privatization*.

#### 5.4. *De jure-privatization* (24 January 1980- )

Local and the central authorities were unable to overcome their financial crisis around 1980s. Public debts<sup>399</sup> of Turkey had been over Gross National Income (GNI) and its compensation had to be programmed<sup>400</sup> through additional taxes and privatization<sup>401</sup> from this time onwards. Therefore, *de jure-privatization* appeared to be a conscious state policy and the tool in the hands of the central authorities<sup>402</sup> to have an income<sup>403</sup>. Economic system change through *de jure-privatization* has started by the 24 January 1980 Economic Stabilization Program. This is declared as the first step to the free-market economy. Privatization philosophy is introduced, as the state should adhere to its conventional obligations like national defense, health, education as well as infrastructural investments, leaving the economy to be guided strictly by free market forces (Privatization in Turkey, 1995:17).

Although limited, public shares of various public firms were offered to public from 1990s onwards<sup>404</sup>. Official declaration was the extension of the capital ownership in the implementation of privatization policy and this shall be ensured through capital markets (DPT, 2000:31). Other aims of privatization are introduced as getting rid of the financial burden of loss making activities and the increase of competition by preventing monopoly in the sectors. Privatization policy is also announced as the only source of the state to compensate national debts or debts of the PEEs, and to pay wages of public officers.

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<sup>399</sup> OECD figures (1995) declare the share of public debts in Gross National Income (GNI) in 1994 as follows: France 6 percent, England 6.5 percent, Italy 9 percent, Greece 12.5 percent, Portugal 5.7 percent, and Sweden 10.5 percent (Eğilmez, 1998:26).

<sup>400</sup> The official focus of the Program is “to give chance to market forces to motivate economy while increasing productivity and to increase efficiency” (Eğilmez, 1998) besides sustaining revenue for the state.

<sup>401</sup> Governments had no alternative other than to accept the recommendations of IMF. A commitment of privatization has been made explicit to IMF in the letter of intent in the year 2000. The letter content; “if domestic interest rates are to fall and economic efficiency is to improve, it is imperative that privatization proceeds be of significant amounts in order to reduce the need for funds required for government expenditures” (Ercan, 2000:103).

<sup>402</sup> 45<sup>th</sup> (ANAP-Motherland), 49<sup>th</sup> (DYP (VII. Demirel Government) and SHP), 50<sup>th</sup>, 51<sup>st</sup> (DYP-I-II Çiller Governments), 53<sup>rd</sup> (ANAP-II.Yılmaz Government) and 54<sup>th</sup> (RP-Erbakan Government) Governments (Yüksel, 2000).

<sup>403</sup> This has been demanded more strongly by the state because of the problems accelerated after the oil crisis in 1970s leading to an increasing financial influence, social crisis, and control of IMF, WB and/or finance institutions of several international monopolies (TMMOB (1997); Aksoy (1990:31)).

<sup>404</sup> The objective was here to start the institutionalization of share certificates (The Privatization Administration, 1999:9).

In Turkey, even though there are different conditions and objectives of implementation, all privatization policies are economy based.<sup>405</sup> From the initial stages until 2003, privatization referred to the transfer in those sectors not dominant in scale within the sectoral economy (For example, Sümer Holding A.Ş., EBÜ A.Ş., SEK A.Ş., SEKA A.Ş., and else), but has a wide range of manufacturers (small industrialists). However, all had certain roles in national development or monopoly products or services. Around 2000s, the critical sectors privatized were monopoly sectors like communication, energy, mining, defense, and security, but were kept in public possession. Public possession in all is transferred after the year 2003. The framework of the privatization program can be defined through the analysis of *de jure-privatization* legislation and related government plans and programs applied.

#### **5.4.1. *De jure-Privatization* Legislation, Privatization Main Plan, and Successive Privatization Programs**

The significant characteristics of the period in between 1983-1992 were the structural changes in the economy and property system realized by a series of decisive and courageous policies reforms and programs.<sup>406</sup> *De jure-privatization* started with the studies of the State Planning Organization (SPO) in 1984 and through the transfer of incomplete plants<sup>407</sup> to the private sector or by erecting new facilities. The activities gained momentum by the Privatization Main (Major) Plan<sup>408</sup> (1986).

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<sup>405</sup> Public offerings, which had always been on the agenda as an instrument for widening share ownership and accomplishing popular capitalism based on the UK model, have been an intermittent element of the Turkish experiment. Turkish governments concentrated on privatization in 1990, 1991, 1994, 1998 and 2000 (Ercan, 2000:104) and later, 2003, 2004, 2005 and 2006. From the economists' point of view, this exercise will bring economic stability in the middle and long-term. Negative budget effects will decline by lessening annual state aids and work losses.

<sup>406</sup> "The initial Privatization Program focused on a 17.3 billion U.S. Dollar of a privatization outcome. Except 1998 and 2000, no single year privatization implementation exceeded 1 billion U.S. Dollar. The rise is due to the sale of minority public share in İş Bank A.Ş.. The year 2000 so far has been a phenomenal year with a privatization of almost 2.5 billion U.S. Dollar. This reflects the Government's commitment to the program and strong intension of revenue for large budget deficits, and to meet government expenditures as the Turkish economy is on the verge of bankruptcy" (Ercan, 2000:103).

<sup>407</sup> At the initial phases of the 1985-1997 period, half-finished PEEs were privatized.

<sup>408</sup> In 1985, the Organization tendered the study to the Morgan Guaranty Trust, and the Trust prepared the Privatization Main Plan (Aksoy, 1990:32). Within the framework of 1985 Action Plan 42<sup>nd</sup> measure, SPO started the studies of "Privatization of PEEs Master Plan Project [KİT'lerin Özelleştirilmesi Master Plan Projesi]". The Plan declared that the privatization is made to achieve direct sales to foreigners, to set balance between public and private property ownership in industrial establishments (TMMOB, 1997), and to break up the state's monopolist position in the economy. The Plan set out major intentions, objectives, and framework of the Turkish privatization experience, and according to this, early 1990 governments overwhelmed privatization.



Parallel ideology was applied in urban areas at the same time and state owned lands were transferred to the private sector through *de facto privatization* legislation since then. Besides Privatization Programs (See: **Appendix I** for objectives of the programs), several principles and priorities of privatization are accepted.<sup>409</sup> Constitution (1982) was amended in 1999 and the concept of privatization was added: Article 47<sup>410</sup> is on “Nationalization and Privatization<sup>411</sup>”. Privatization issue was included into the Constitution during the Mother Land Party governance. Aims of the Privatization Act No: 2983<sup>412</sup> (1984) organize privatization activities. The aims of privatization are defined as an additional income for public investments of highways, railways, bridges, electricity dams, telecommunication systems, sea harbors and airports in public use, drinking-water projects, and free trade areas and achieve this finance through income partnership shares<sup>413</sup> and management right<sup>414</sup> transfers. The Act concerns saving incentives and the acceleration of public investments by means of revenue participation certificates, share certificates, and operating concessions (Aydoğanlı, 1995:111). Privatization Act<sup>415</sup> No: 4046<sup>416</sup> (4232<sup>417</sup>/5398<sup>418</sup> (See: Privatization Legislation,

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<sup>409</sup> First legal document is the Act No: 3291 (Official Gazette dated 03.06.1980 and No: 19216). This document defined the responsible institutions from privatization and given the decision-making competence to governments, but not to the state. This Act covered PEEs, related partnerships, facilities, and participations. In between 1984-1994, around 20 legislative documents are passed. As the competence chaos could not be resolved, the legislative structure could not be developed and several privatization activities are refused by courts. See: Aydoğanlı (1995:111-112) for the responsible bodies until the Act No: 4046 in terms of Statutory Instrument No: 233 (08.06.1984), Act No: 3251, Statutory Instrument No: 304 (28.12.1984), Statutory Instrument No: 414, Act No: 3987 (11.05.1994), Supreme Court Decision dated 21.07.1994.

<sup>410</sup> Amended in 13.08.1999 by the Law No: 4446. (Principles and rules concerning the privatization of enterprises and assets owned by the state, state economic enterprises and other public corporate bodies shall be prescribed by Law. Those investments and services carried out by the state, state economic enterprises and other public corporate bodies which could be performed by or delegated to real or corporate bodies through private law contracts shall be determined by law.)

<sup>411</sup> With the amendment made in 1999, privatization concept was incorporated in the Constitution for the first time and international arbitration was established (DPT, 2000:55).

<sup>412</sup> Act on Promoting Savings and Increasing Public Investments [Tasarrufların Teşviki ve Kamu Yatırımlarının Arttırılması Hakkında Kanun] No: 2983 dated 29.02.1984.

<sup>413</sup> [Gelir Ortaklığı Senedi İhracı] See: Baytan (1999:15).

<sup>414</sup> [İşletme Hakkı] See: Baytan (1999:15-16).

<sup>415</sup> The Privatization Act enabled implementations to transpire within a solid legal framework. The Act defines the privatization process, related technical, economic and administrative structure and the major objectives and principles of privatization. The Act expands the scope of assets to be privatized, provides adequate framework, funds and appropriate mechanisms to speed up the privatization and restructuring processes, and establishes a social safety net for workers who loose their jobs as a result of privatization, establishes the PHC and the PA to facilitate the decision making process in the privatization endeavor” (The Privatization Administration, 2001(a):1).

<sup>416</sup> Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnemelerde Değişiklik Yapılmasına Dair Kanun] No: 4046 (accepted on 24.11.1994) Official Gazette publication date 27.11.1994 and No: 22124. This Act added a new PEE definition (to the one made in the abolished Statutory Instrument No: 233).

**Appendix J)** is the main legislation structuring the privatization process and establishing an institution for privatization activities of the state: The Privatization Administration (PA). Even though PEEs<sup>419</sup> have succeeded as commercial ventures, contributed to public revenues, and played an important role in the process of economic development, they became the objects of privatization. Proponents of privatization announced that the state should leave its productive functions through privatization.

In the fifth Development Plan, privatization is declared as the development plan target and state will prevent to invest in those sectors private investments are sufficient. Like the seventh Five-Year Development Plan, the eighth Development Plan (2000-2004) also indicated the same issue. However, no tenders were made in 2000. Between 2003-2006, from 130 tenders a revenue more than the country had received from privatization in 20 years<sup>420</sup> is gained. In the ninth Development Plan, privatization was out of the agenda, as the Plan concentrated only on the EU negotiation issues.

From 2002 onwards, governments<sup>421</sup> have accelerated their privatization activities as a part of the economic and public reform package (Optimal Public Reform). The basic principle was the privatization according to a calendar and within a framework, and until the time productive functioning of PEEs end. This economic reform package is controlled by the international economic agencies<sup>422</sup>. Necessary legal arrangements concerning privatization activities other than ownership transfer in monopoly sectors were also enacted after the year 2002 (See: Chapter 6).

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<sup>417</sup> Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law and Amending Several Articles of the Development Act [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmündeki Kararnamelerde Değişiklik Yapılmasına Dair Kanun ile İmar Kanununun Bazı Maddelerinde Değişiklik Yapılmasına Dair Kanun] No: 4232 (accepted on 03.04.1997) Official Gazette publication date 08.04.1997 and No: 22958.

<sup>418</sup> Act on Amending the Act Concerning Arrangements for the Implementation of Privatization and the Certain Laws and Decrees with the Force of Law and Amending of Several Acts [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmündeki Kararnamelerde Değişiklik Yapılmasına Dair Kanunda ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun] No: 5398 (accepted on 03.07.2005) Official Gazette publication date 21.07.2005 and No: 25882. This Law has amended the name of the Act No: 4046 as Act on Privatization Implementations [Özelleştirme Uygulamaları Hakkında Kanun].

<sup>419</sup> See: Baytan (1999:16) for those enterprises (including partnerships in foreign countries) subject to privatization. PEEs were viewed as highly inefficient, slow at developing and introducing new technologies, subject to over-frequent and damaging political intervention and dominated by powerful trade unions.

<sup>420</sup> AKParti Türkiye Bülteni (2005:17).

<sup>421</sup> 58<sup>th</sup> and 59<sup>th</sup> Governments.

<sup>422</sup> Turkish Government has given an Additional Letter of Intent to IMF on April 05, 2003 on the fourth revision for accelerating possession sales and block sales in her privatization activities.

Privatization Programs generally cover privatization of the economically monopolistic public institutions and the productive establishments, not the ones that have to be privatized economically through building, rebuilding or selling. In practice today, even the most productive and revenue generating PEEs are privatized such as POAŞ, Turk Telekom, Mersin Port, İzmir Port. Starting privatization from these enterprises proves the ideological content of privatization rather than the aim of increasing productivity, efficiency and profits as well as the rationality of development for social benefit. There are discussions on and resistances against these objectives, besides legal struggle<sup>423</sup> to protect critical sectors. At this point, the other main ingredient of the privatization practice, bodies structuring this process must be analyzed within its legislative content.

#### 5.4.2. Bodies Responsible from *De jure*-privatization

The Privatization Act No: 4046 defines the responsible bodies and their duties:

- a. The Privatization Administration (PA): The PA was an independent organ responsible to a minister of state until 1994. According to the decision of the Prime Minister dated 25 March 2003, the PA was bound to the Ministry of Finance<sup>424</sup>. This is important to note, as this is a critical political decision. This is because; this ministry is the public organ responsible from the liquidation of public entities and the transfer of state owned lands. The PA serves as the technical secretariat and directs the decision-making and planning processes<sup>425</sup>. The Administration has general advisory and preparatory duties<sup>426</sup>. (**Figure 1**). The PA is irresponsible from the transfer of local authority property, but has the competence to privatize local and provincial authorities' commercial establishments and shares of every type.<sup>427</sup> This Administration is responsible from the preparation of development plans and real estate appraisal studies.

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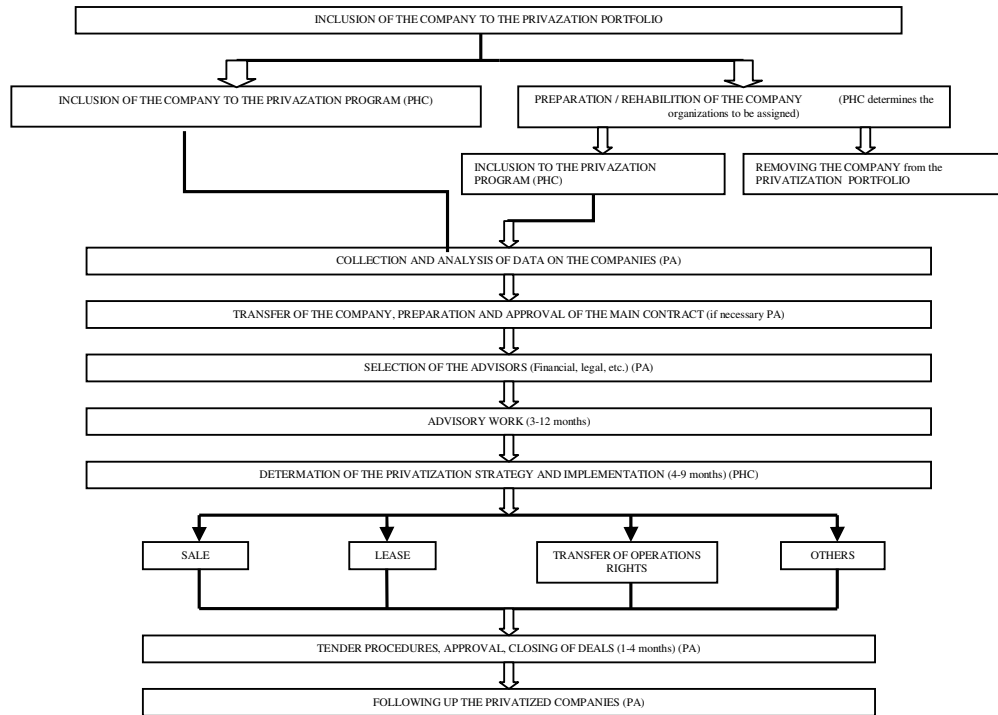
<sup>423</sup> Between 1984-1999, 112 lawsuits were opened: Annulment of the implementation (35) and court decision for a suspension of enforcement (33). In 1993, eight statutory instruments are annulled. There are 80 separate administrative cases of KİGEM (Yüksel, 2000:62).

<sup>424</sup> Tumgazeteler.com, <http://www.tumgazeteler.com> (accessed March 26, 2003).

<sup>425</sup> *britpec* (p.7). Creation of regulatory frameworks for specific industries and sectors; advice on these; financial, commercial, and technical restructuring of enterprises prior to privatization; auditing and other accounting work for companies being prepared for privatization; corporatization, valuation of enterprises and assets, and preparation of the Privatization Program.

<sup>426</sup> *britpec*, (pp.8-9). Duties include the execution of the decision of the PHC, advising PHC in matters related to the transfer of a PEE into or out of Privatization Portfolio, restructuring and rehabilitation of these in order to prepare them for privatization, and plan preparation. Assisting the preparation of plans, undertaking a privatization issue, preparing prospectuses, setting up of share registers, and marketing of privatization share offers. The Administration has made preparation studies of almost all enterprises in program.

<sup>427</sup> The Administration privatizes by taking care of capital income and terms of competition through Joint Stock Company (block) or Enterprise (plant/factory/land - partial) privatization. (Hülya Günaydın, the PA (Sept. 07, 2001, personal communication)).



**Figure 1. Privatization Procedure (The Privatization Administration, 2001(a):10)**

- b. Privatization High Council (PHC) [Özelleştirme Yüksek Kurulu]: PHC<sup>428</sup> is the final decision-making organ for privatization.<sup>429</sup> It is also responsible from the final approval of the methods of transfer and timing of the privatization procedures. The final approval regarding development plans and plan modifications are made, and the privatization transactions and the budgeting of the Fund as well as the budget of the PA are controlled by PHC (The Privatization Administration, 2001(a):2).

<sup>428</sup> PHC nominates the organizations for privatization through taking PEEs in and out of the Privatization Portfolio. The PHC also has the authority to decide whether to reduce the size and scope of the organizations, to terminate its activities permanently or temporarily, and to close or to liquidate them. The Council also decides on the preparation of main contracts, commercialization of them, capital increase or lending money, and free control and/or technical reviews. The PHC decides whether to borrow funds from domestic and/or foreign sources for the use of the Privatization Fund additionally.

<sup>429</sup> The Prime Minister chairs it. Four ministers appointed by the Prime Minister participate. In case of a coalition government, the PHC will consist of six members with addition of the Vice Prime Minister belonging to the other ruling party with second highest vote in the Parliament (The Privatization Administration, 2001(a):1).

When a PEE or a public institution service or facility is taken into the Privatization Program, it is transferred first into a Joint Stock Company<sup>430</sup> (Commercialization, Article 20 of the Act 4046) and then the firm and/or its possessions are privatized by its consent. If the main body is composed of many establishments and factories, then the total transfer of an enterprise (block sale) is found proper by the Administration. Different governmental bodies undertake privatization of some specific sectors<sup>431</sup>. The evaluation of such bodies falls aside of this study. It must be noted that there is no separate body to evaluate the planning process, land use decision change or the method of privatization of an administrative good - the urban public land. After defining the decision-making actors in the process, the level of privatization in the country is given in the next section.

#### 5.4.3. Status of the Privatization Program - The Level of Privatization

The privatization objective in Turkey turned out to be the achievement of resource distribution such as land and establishments (the land the establishment is located on may later become the object of transfer). Privatization of the PEEs is declared as a necessity and is supported even by the managers of some of the enterprises who believe in the autonomy, besides privatization. The exercise became the transfer of possession and ownership rights of administrative movable and immovable goods and service provision rights (own, manage, use, and possess) to the private sector. Activities prospect direct transfer of urban public immovable property. Privatization methods of the PA, defined in Article 18 of the Act No: 4046 are sales, renting, transfer of management rights, establishing non-tangible rights to property other than ownership, and revenue (profit shares) model and other legal dispositions depending on the nature of the business (income sharing model and other legally defined methods). **Table 1. Figure 2.**

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<sup>430</sup> Dividing a PEE and then selling the productive and profitable sections. There is a disadvantageous position: Productive ones are transferred to the private sector and the unproductive ones are left to the public sector.

<sup>431</sup> Telekom Act established a Committee for privatization. Since September 2000, Banking Regulation and Supervision Agency accomplish the authority and responsibility to restructure, sell or liquidate a state bank. Higher Coordinator of Economic Works, Council of Ministers, Ministry of Energy and Natural Resources (MENR), Ministry of Transportation, Supreme Court, PEE Administrations, related public institutions and municipalities are the other active bodies involved in the process. MENR carries out privatization in the energy sector and engaged in the transfer of operation rights (TOR) for electricity distribution and power plants.

Public offering, late public offering<sup>432</sup>, sale to workers, possession sales, renting, transfer of management rights, establishment of incorporeal rights on property and revenue (profit shares) model and other legal dispositions (income sharing model and other legally defined methods) are different methods of privatization. Selling is the common method of the *de facto-privatization* process. Privatization through block sale of companies, the combination of public offerings, block sale, public offering, and asset sale are the methods of privatization applied by the PA. Plant or establishment sales, partial asset sales, sales of joint participants are generally the methods of transfer, as these have the chance of success of transfer and revenue. The managers generally do not prefer block sale or wholesale of the enterprises. Renting method, management contract, joint venture and BOT are important transfer methods in case of not transferring the immovable property. **Figure 3.** As this is exercised for the long-term, the investor acts as the owner. Those managers of the PEEs, in certain cases shows oppositions to the methods of privatization for instance transfer of lands. Possession and block sales are the methods announced in the today's privatization portfolio in terms of land transfers. Other methods of privatization are lease and grant of operational rights (The Privatization Administration, 2001(a):2-3).

From 1985 until today, the PA has made a privatization of 25.5 billion U.S. Dollar (The Privatization Administration, 2006). **Figure 4.** Since 1986, asset sales and possession sales or possession transfers were made where as in 183 enterprise, no public participation is left. Public shares in 244 enterprises, 22 half finished facilities, 6 immovables, 4 electricity plants, 6 highways, 2 bridges, 29 facilities, and 1 service unit were taken into the privatization program and more than half of the total was privatized<sup>433</sup>. **Appendix K.** Turkish National Plan<sup>434</sup> [Ulusal Plan] 2003 Section on Economic Criteria Priority 2 covers commitments for the acceleration of privatization by taking into account its social dimensions. It is interesting to note that on the same line, World Bank (WB) has given a loan of 250 million U.S.Dollar to Turkish government (the PA) for the period of 2001-2005 by the (First) Privatization Social Support Project (PSSP1) and successively, 465 million U.S.Dollar loan for the 2005-2009 period (Second) Privatization Social Support Project (PSSP2).<sup>435</sup>

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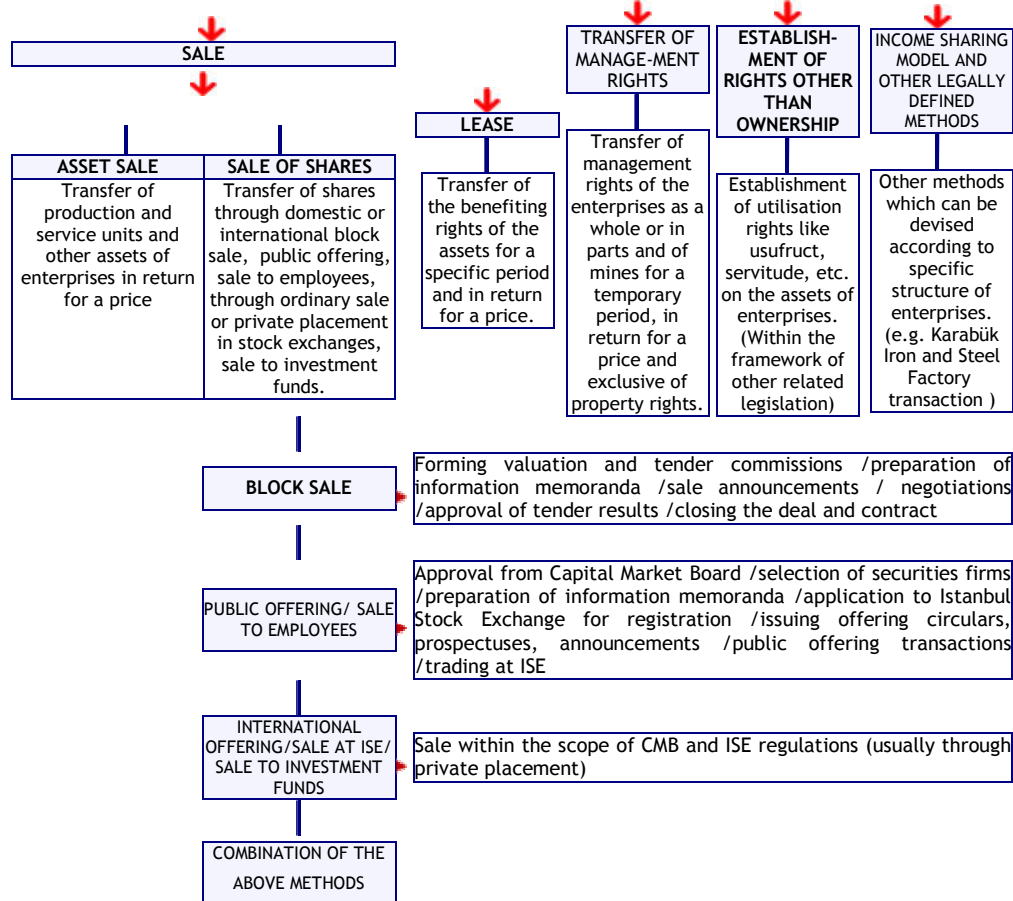
<sup>432</sup> i.e. ÇİTOSAN A.Ş. 1992.

<sup>433</sup> See: Maliye Bakanlığı (2006:453).

<sup>434</sup> Turkish National Program on the adaptation of the EU Acquis Communautaire [Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı] Official Gazette dated 24 July 2003 and No: 25178 bis, by the Decision of the Council of Ministers No: 2003/5930 (Avrupa Birliği Genel Sekreterliği, <http://www.abgs.gov.tr/index.php?p=59&t=1> (accessed June 12, 2007)

<sup>435</sup> The central authority has applied the first project through İŞ-KUR (İŞ-KUR, [www.iskur.gov.tr/mydocu/gerceklesen.html](http://www.iskur.gov.tr/mydocu/gerceklesen.html) (accessed June 20, 2007)).

## PRIVATIZATION



**Figure 2.** Privatization Methods (The Privatization Administration, 2006)

According to Baytan (1999:4), it is hard to claim that, major part of the PEEs operates according to the principles of efficiency and productivity. From the analysis of the process and level of privatization, the reverse situation is observed as many enterprises are closed down. In addition, PEEs are still as a necessity for the public<sup>436</sup>. This may result from the no disappeared need for PEEs.

<sup>436</sup> The common view that possible increase in the unemployment level may also stress the confusion (Politikanın Nabzı, 1999) and criticisms.

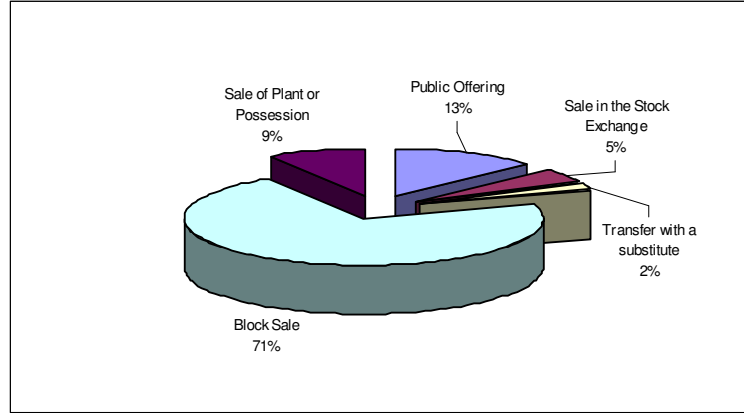


Figure 3. Privatization by Method (The PA web site, 10.07.2006)

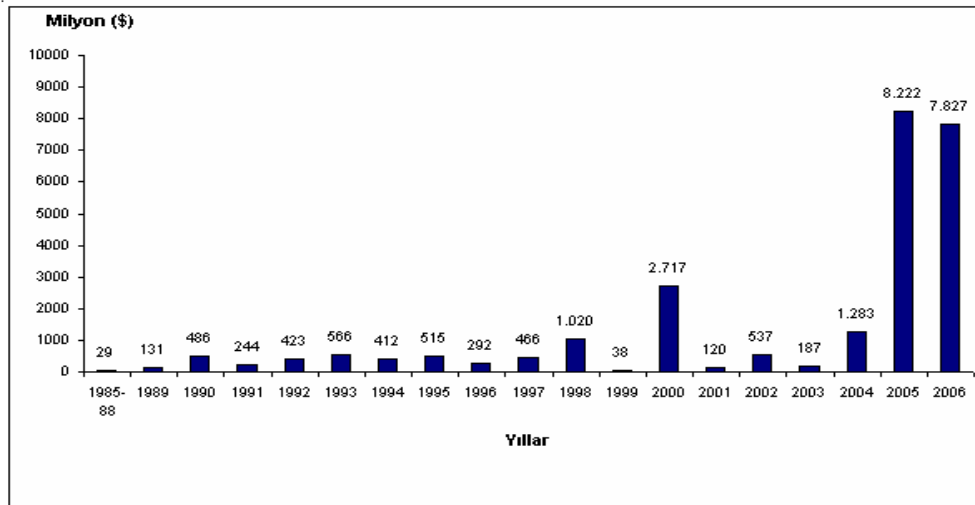


Figure 4. Privatization by Years (The PA web site, 10.07.2006)<sup>437</sup>

The thesis that public sector's inefficiency as a reason of privatization implementations in Turkey is proved to be wrong by a research study<sup>438</sup> of the National Productivity

<sup>437</sup> "Privatization by Years" Table publicized in the PA official web site (10.07.2006) in Turkish and English languages show differences of data for the years 1990, 1995, 2002, 2003, 2004, 2005, and 2006. Therefore, the Turkish version is used.

<sup>438</sup> According to this research, public efficiency increase is higher than private sector (between 1987-1990, value added is 28.6 percent in public, 15.9 percent in private sector) (Yiğit, 1998:21).



Center. The surveys show that the community either does not want privatization or is confused from the concept as well as the content of the activities. Table 1 shows the list taken from a foreign website on Turkish privatization practice and is parallel to what the political party in government has announced in its 2005 bulletin<sup>439</sup> and some unavailable<sup>440</sup> in the PA web site in terms of revenues and immovable transfers. As only the registered economy was subject to the results of this Right Politics<sup>441</sup>, *de jure-privatization* faced opposition from the initial stages onwards. Criticisms rose, as the WB representatives set the objective of revenue even forth. Many (Ercan (2000); Keskinok (1999)) have claimed that the revenue objective has become the dominant factor in time when compared to objectives of efficiency, productivity, and managerial restructuring. These objectives are shaped either during the fiscal crisis of the state<sup>442</sup> or national development. Moreover, the government in power initiates privatization.

**Table 1.** Privatized Enterprises as of September 14, 2005 (Thousand U.S. Dollar) (HR-NET, <http://www.hri.org/news/cyprus> (accessed September 14, 2005))

-Already Sold or Transferred		
.Block Sale:	458,250	
.Sale/ Transfer of Enterp. or assets:		273,719
.Sale at IMKB:	453,977	
.Transfer of immovable properties*:	26,917	
=====		
-TOTAL		1,348,115
-Tenders Concluded and Waiting for Approval		
. TEKEL Twin Towers	100,000	
. Turk Telekom	6,550,000	
. Hilton Hotel	255,000	
. Car repair shops	613,500	
. Mersin Port	755,000	
. TUPRAS	4,140,000	
. Other privatizations	133,276	
=====		
-TOTAL Tenders Concluded by OIB		13,894,891
=====		
-Atatürk Airport Terminal		3,000,000
=====		
-GRAND TOTAL	.....	16,894,891
=====		

\* This figure is not given in the PA webpage.

<sup>439</sup> AKParti Türkiye Bülteni, 2005.

<sup>440</sup> The PA has blocked several detailed information in its website from 2001 onwards.

<sup>441</sup> The only possible liberation can be achieved through decreasing inflation by the demand for public debts and struggle with the unregistered economy (Gökdere, 2000).

<sup>442</sup> The discussions on privatization concentrated at the initial phase of the property transfers from public to private sector. They appeared later as an analysis of the privatization process. The economic, financial, social and political results of the property transfers between these two sectors and effects on the national economy and the political structure are studied. The criticisms have been raised mainly by KİGEM and TMMOB.

Public immovable transfers had not been the major officially declared objective of privatization policies. Planning literature has concentrated mainly on the privatization of local services as it had direct effects on the community and urban pattern, and was widely exercised in the early periods of the process. Planning approach generally focuses on the organization of private interests and benefits in the name of public interest. In the Turkish *de facto-privatization* process, non-planning approach or plan modifications became administrative policy at both local and national levels as well as in the *de jure-privatization* processes.

This chapter analyzed the historical evolution of *de facto-* and *de jure-privatization* with the aim to help the reader to understand the historical relationship in between and to understand how the object of transfer has changed by globalization and how recent privatization policies and programs are structured. In short, to analyze privatization, regime of public goods is evaluated. For us, evaluation of historical ingredients and evolution of the process show that privatization in a *de facto* way has a long history and had impacts on the (re) production of urban space in Turkey. The need to define correct and reliable data on the object of *de jure-privatization* and the related actors has accelerated. Departing from this need, the following chapter concentrates mainly on the privatization of immovable property. In case of available data, the process itself, the data on transfer, responsible institutions from transfers, and value appraisal studies are clarified.

## CHAPTER 6

### PUBLIC ECONOMIC ENTERPRISE (PEE) LANDS IN THE TURKISH *DE JURE-PRIVATIZATION* PROCESS - ACTORS RESPONSIBLE FROM LAND TRANSFERS, THE LEVEL OF LAND TRANSFERS AND VALUE APPRAISAL STUDIES

As Tekeli (1987:87) states, for the urban areas to grow and to develop, the land should be transformed by public authorities. However, no land use decision<sup>443</sup> is given without a reason for transformation. This transformation is largely based on the tension between public and private appropriation of land and between practices of invasion: Urban lands and patterns are the products of this tension. **Figure 5.** Not much interest is shown to public land as a public good (**Appendix E**) and most important of all, PEE lands, which is a public immovable good (as the third institutional ingredient<sup>444</sup>) or its transformation. This chapter aims to show that the object of *de jure-privatization* is the state's private property (PEE's lands) and privatization is against public interest. Within this perspective, the objects of *de facto-* and *de jure-privatization*; public administrations responsible from the transfer of public lands (the content, mechanisms, and methods of transfers), and results as well as the interaction and discussion of rational perspectives are given. The legislative frameworks of *de jure-privatization* and value appraisal studies are also evaluated. In short, this chapter defines the relationship between both concepts and the related processes and covers the evaluation of privatization typologies with reference to immovable property systems.

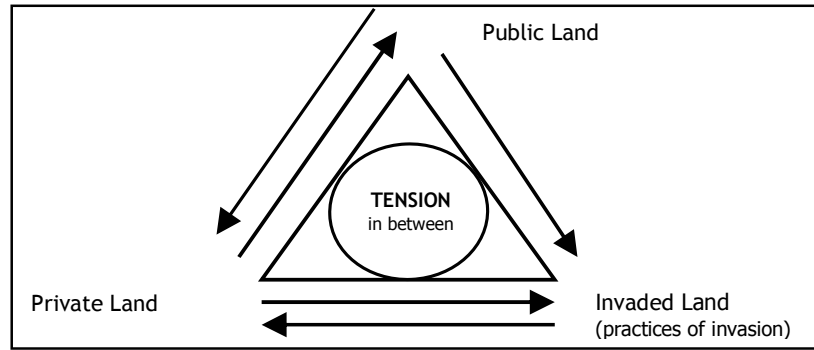
#### 6.1. Public Lands, Transfer Methods and the Related Mechanisms

Public administrations responsible from the transfer of public lands establish and implement their own transfer policies. In these cases, the content and the methods differentiate as well as reasons and amounts. Position of different actors defines the level and method of transfer.

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<sup>443</sup> Land use decision is a function of land prices and commercial potential of the immovable.

<sup>444</sup> For Keskinok (1998:91) there is a dialectical relation between these ingredients.



**Figure 5.** Transformation of Land

### 6.1.1. Public Lands (Public Immovable Goods)

Public goods [Kamu malları/Kamusal mallar] can be categorized according to type of use (See: **Appendix E**): Service goods, Common goods, and Ownerless (Unowned) goods. This differentiation is based on the principle of allocation for public interest. Public goods have a privileged position for producing spaces of public interest when compared to private property. Lands, parcels, construction of any type, and static machinery are public immovable goods<sup>445</sup>. These can be in the form of public property, municipal property, local authority property, and wakf property. Public goods are differentiated by Cadastre Act No: 3402<sup>446</sup> Article 16. This Article<sup>447</sup> has its roots in the 1982 Constitution<sup>448</sup> and defines public immovable goods as follows:

- Facilities, buildings used for public service possessed by self-budgets or with aids,
- Common goods (they are not subject to private property),

<sup>445</sup> (Allocated immovable property). By the decision of the competent authority, a private Treasury land can be transferred to public immovable property through allocation. It is the public property used for public service; allocated to private use, benefit; reserved for common use and benefit of the society or allocated to public institutions.

<sup>446</sup> (Date of acceptance 21.06.1987) Official Gazette dated 09.07.1987 and No: 19512.

<sup>447</sup> As forest areas are the areas under state's governance and saving, they are not covered by this article.

<sup>448</sup> 1982 Constitution Article 35 defines the right to property: Everyone has the right to own and inherit property. Law only in view of public interest may limit these rights. The exercise of the right to own property shall not be in contravention of the public interest. Article 44 (B. Land Ownership) and Article 168 (III. Exploration and Exploitation of Natural Resources) of the Constitution set the basic principles of limitation. There are no principles on the property transfers. Expropriation is defined in Article 46 (in social and economic rights and responsibilities section). See: **Appendix M**.

- Areas under the state’s governance and possession (saving) (including registered and unregistered areas), and
- Forests under state’s governance and possession.

Public good is different than “Treasury goods<sup>449</sup>” which are subject to different legislation. Treasury goods are also termed as “State (owned) Lands<sup>450</sup>”: The aim behind these typologies is to achieve social and public interest. Right to property of public lands is defined by Sander (2000:10-13) and Kardeş (1999) relative to public institutions (Appendix L) as follows:

- a. Institutions with General Budget.
- b. Institutions with Special Budget.
- c. Institutions with Supplementary Budget<sup>451</sup>.
- d. Institutions with Separate Budget (Institutions established by special Acts).

Every public institution has the right to own, possess, use, manage and transfer their immovables in urban and rural areas. Public lands are either Registered or Unregistered:

Registered Public Lands:

- Treasury Lands (Acts No:1050/23<sup>452</sup>, 2886/74, Statutory Instrument No: 178/13),
- Municipal property,
- Areas of institutions with special budget:
  - Provincial Local Administrations,
  - Village Legal Persons (Village Act No: 442),
- Areas of institutions with supplementary budget,
- PEE lands (State’s private lands) (Statutory Instrument No: 233 revised by act No:4046),
- Areas of institutions with separate budget, and
- Other Lands<sup>453</sup>.

<sup>449</sup> State good [emlâk-ı emiriye, emlâk-ı milliye, maliyeye ait, emlâk-ı metrûke, devlete ait, maliye hazinesi, milli emlak] (Kardeş, 1999:1).

<sup>450</sup> A police station building is a private property of the Treasury and a public good, but the land is not. Both public good and Treasury good can be allocated. A land allocated to the Ministry of National Defense is a public good, but a land rented is the private property of the Treasury (Kardeş, 1999:2). Ahmet Ermiş, teh GDNRE (December 07, 2001, personal communication).

<sup>451</sup> These institutions have the right to own an immovable property.

<sup>452</sup> According to this article, Title Deed Offices are obliged to register immovables in the name of the Treasury and will be managed by the Ministry of Finance and allocated to that administration without any compensation for the time this institution is going to use it.

<sup>453</sup> Wakfs (Traffic Wakf, Title Deed Wakf, Health Wakf, TCK Wakf), Unions, Chambers of Commerce, Industry or Agriculture, Societies, Political Parties.

Unregistered Public Lands:

- Areas under state's governance and possession.

Private goods of the state are those goods that contribute indirectly to the revenue they create for the provision of public services. They are owned by public institutions or enterprises, but are not allocated for any public service. If it is allocated than the private good becomes a public or service good. When each institution does its land management; partial and individual activities may appear. In order to prevent this, a unique responsible public organ manages land on behalf of every public institution. If one of the public institutions or enterprises loses its juridical presence, it is liquidated and the land in its possession is transferred to this organ. In Turkey, this organ is the General Directorate of National Real Estate (the GDNRE). In short, public lands, if not required for a public service, can be transferred or liquidated. The transfer methods and mechanisms must be evaluated to understand how public good becomes a private good.

#### 6.1.2. Transfer Methods and Mechanisms

The transfer process of a public or a private good is two-sided and dynamic (**Figure 6**): From public to private property and from private to public possession. Transfer is to private natural and legal persons (squatter owners, firms, farmers, cooperatives, wakfs, societies, parties, etc.) or public institutions. Transfer from public to private property means privatization. There can also be transfers between public institutions. The Turkish legislation on the transfer of public lands roots in the Constitution: Right to immovable property and the role of the state in the transfer of public land (only with agricultural purposes) is defined in Article 44<sup>454</sup>.

There is no other constitutional norm or definition related to (urban) immovable property or its transfer conditions, methods, and mechanisms. Furthermore, local and central public authorities transfer land in their use or possession with different purposes. All forms of public immovable property transfers<sup>455</sup> are subject to the control

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<sup>454</sup> Article 44 is structured from the side of the state with rural development concerns. In terms of public to private property transfer, only distributing land to small farmers without land while protecting them, protecting at the same time the environment is defined.

<sup>455</sup> The Ministry of Finance, the Ministry of Culture and Tourism, the Ministry of Environment and Forestry, the General Directorate of Wakfs, the General Directorate of Youth and Sports, the abolished General Directorate of Land Office (**Appendix P**) are some of the central authorities realizing or has made public immovable transfers.

of Court of Auditors<sup>456</sup>. During the transfer of a public good from an institution or any transfer to third persons, public institutions in Turkey are obliged to take the view of other public institutions (in the transformation, project preparation, and construction phases) or before getting any necessary permission. This mechanism is generally not applied during privatization.

Transfer methods of a public property are as follows:

- Sales (Selling),
- Conditional sales,
- Free distribution of shares - Mass privatization (Voucher System<sup>457</sup>),
- Allocation/Assignment,
- Allocation by Act,
- Establishing non-tangible character of property other than ownership,
- Revenue shares model and other legal dispositions depending on the nature of the business,
- Decisions,
  - Transfer through Court Decisions,
  - Transfer by the Decision of the Council of Ministers,
- Transfer,
  - Transfer with substitute (compensation),
  - Transfer without substitute<sup>458</sup>,
  - Transfer of management rights or through management contract<sup>459</sup>,
  - Establishment of right to easement with compensation,
- Protocols,

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<sup>456</sup> For example, several transfers in Ankara are subject to control of Court of Auditors: Wakf universities, Istanbul Greater Municipality Implementations (over 5.000 immovable property, 1.500 are occupied), Atatürk State Farm (AOÇ), Angora Houses-Ankara (Housing Cooperative of the Parliamentary), Beldes Housing Cooperative (formed by the combination of Ankara Batıkent SS. As-Yamaç Housing Cooperative, Ankara Batıkent S.S. Güldem Housing Cooperative), Atakule/Ankara, and Bilkent/Ankara (Saner, 2000).

<sup>457</sup> This method gives the right to make a difference between the good and the service. It is rarely used. Goods and services can be observed better and the method enables quality control. Producers or consumers of that good or service apply to the state for compensation. In public use, the cost is recovered by the state and in some instances the consumer participates to the cost.

<sup>458</sup> The GDNRE has also provided land for forests belonging to the Ministry of Finance [Maliye Ormanları] without any compensation (Free-giving) in 50 provinces for the 75<sup>th</sup> year of the Republic till the end of 1998. (<http://www.milliemlak.gov.tr/mesaj/mesaj.htm>)

<sup>459</sup> Management contract is different from the transfer of management rights. Management contract is the transfer of title to the firm's current managers (Starr, 1988:7). Transfer of Management Rights: This is the transfer of management of establishments, partnerships, and facilities or else for a certain period and with conditions to natural or legal persons or it is the transfer of right to market or to distribute their goods. This right defined only for PEEs and their infrastructure facilities (in Act No: 2983) has been widened by the Act No: 4046. Right to property is preserved by the state (Baytan, 1999:15-16).

- Barter<sup>460</sup> /Exchange,
- Liquidation, and
- Renting<sup>461</sup>.

The important common method of transfer is selling<sup>462</sup>. The sale is made through bargains or procurement in the privatization process. According to Falay (1990:6-9), volunteers-self-help<sup>463</sup>, grants/subsidies, incentives/subventions<sup>464</sup>, public-private partnership (PPP/public-private joint venture), user fees<sup>465</sup>, leasing<sup>466</sup>, service-shedding<sup>467</sup>, contracting out<sup>468</sup>, ownership due to over exceeding time<sup>469</sup>, opening monopolies to free competition, and franchise agreements<sup>470</sup> are the mechanisms for

<sup>460</sup> In areas, where construction is restricted according to Conservation of Historical and Natural Heritage Act No: 2863 (21.07.1983) by-law, barter method is applied.

<sup>461</sup> Renting was defined first in canceled State Bidding Act No: 2886, Article 64. Public Procurement Act No: 4734 (04.01.2002) amended this Act. This Act has omitted transfer methods like renting after 1980s. Municipalities Act No: 1580 Article 19 paragraph 6 defines conditions of transfer of municipal actions. It is a method of administration of public property for the future. In Turkey, a property is rented, if the renting period is lower than 20 years. Right to easement is established, if renting period is over this period. There must be a contract. Sand beds, tourism areas, sports clubs, ports, and horticulture areas are generally rented.

<sup>462</sup> The Ministry of Finance the GDNRE letter dated 18.07.2006 and No: 30421; TMMOB (1997).

<sup>463</sup> This method is applied in two different ways: The first (volunteers) refers to a service provision of volunteers without any salary, which means a tax support. The second is the self-help method where state elaborates the service and good provision, by the individual himself. Non-profit organizations, cooperatives, and unions are such organization types.

<sup>464</sup> Grants/subsidies method is the financial or other forms of contribution of the state to the private sector. Through this, state supports production of certain goods and services. It is applied, in general, where the demand and service quality is hard to determine; for example public security, social services, recreational, cultural, and art facilities. State instead of providing a public service pays its compensation and allows the private sector to receive these services from the private sector (Falay, 1990:6).

<sup>465</sup> If consumers use a certain amount of a good or a service, than they pay in the level of their consumption. Private sector will produce goods and services, and the sector will allow direct financing of these.

<sup>466</sup> Granting of right to use of all or some of the assets of the companies for a defined period of time (The Privatization Administration, 2001(a):3). PEEs are rented for 4 years to national or foreign private natural and legal persons with the expectation that the PEE will be bought in the end. In Turkey, this method is applied according to Financial Renting [Finansal Kiralama Kanunu] Act No: 3226 (Amended by the Act on Amendments in Several Acts No: 4842 dated 24.04.2003).

<sup>467</sup> This is the purest privatization mechanism.

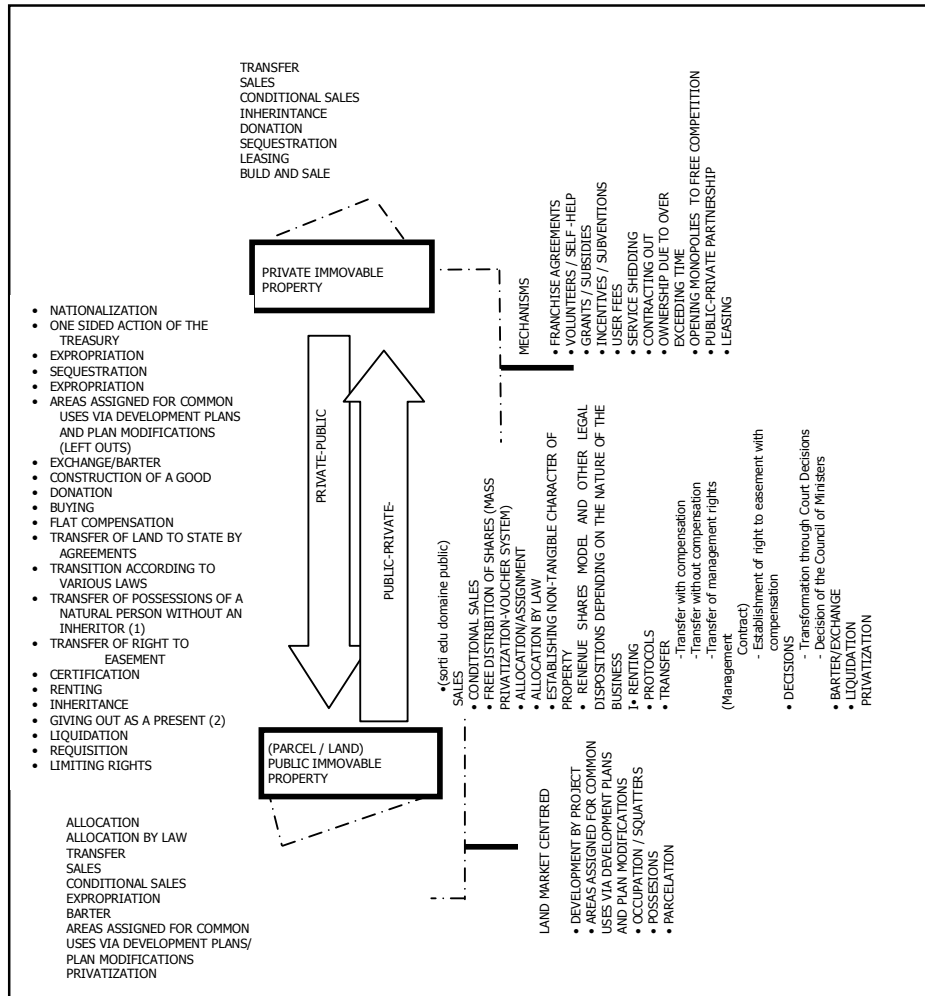
<sup>468</sup> State makes a contracting out agreement with a firm for the full or partial production of a good or a service and has the competence to give the decision of production where private sector side is the producer. This is one of the mechanisms of privatization made in the USA, England, and Japan for municipal services (Falay, 1990:5). State can define the quantity and the type of production; can make agreements with one or more firms, and can realize the production through profit or non-profit organizations.

<sup>469</sup> Cadastre Act Article 14 has its roots in the Civil Act Article 639 and is about the ownership gains due to over exceeding time. Exceptions are stated in Article 18.

<sup>470</sup> This refers to those privileges given to the private sector by the state for provision or production of goods or services fully or partially in a defined geography. State observes the process of production in terms of price, production quantity, and level and may have a close or a wide level of intervention. Consumers pay compensation. It is applied where the natural monopoly is the subject of privatization.



privatization<sup>471</sup>. Allocation of public lands is made according to Financial Management and Control Act No: 5018, Statutory Instrument No: 178 (about the organization and duties of the Ministry of Finance), and Communication No: 261 and No: 303 of the GDNRE. (Norms on state land transfers are stated in Budget Year Acts.)



- (1) Transfer of the possessions of the person without an heir to the Treasury is made according to Article 448 of the Civil Act (Amended by Act No. 3678).
- (2) Giving out as a present method has its origins in the Ottoman Empire. The Emperor can give property as a present to foreigners as well as citizens. This method is not experienced today except the transfer of property to successful sportsmen and sportswomen for their contribution to nations' pride.

**Figure 6. Transfer Mechanisms**

<sup>471</sup> Contracting out, privilege, volunteers-self help, franchise agreements, and service shedding are related to demand, whereas grants/subsidies, vouchers, incentives/subventions and pricing are related to the finance side (Falay, 1990:9).

## 6.2. Objects of *De facto-privatization* - State Owned Lands

State owned lands, as public lands, are composed of two types (Kardeş, 1999):

- Treasury lands<sup>472</sup> (State's private property that is registered in the name of the state<sup>473</sup>), and
- Areas under state's governance and possession<sup>474</sup>.

Areas under state's governance and saving can be classified as:

- Coasts (Coastal Act No: 3621<sup>475</sup>/3830<sup>476</sup>),
- Forests<sup>477</sup> (Forest Act No: 6831<sup>478</sup>/4999<sup>479</sup>),
- Left outs (Town Development Act No: 3194/11 and Greater Municipality Act No: 3030/7)<sup>480</sup>,
- Common goods (Meadows Act No: 4342<sup>481</sup>/4368<sup>482</sup>/5334), and
- Areas without a cadastre (Unregistered) (Hills, mountains) (Cadastre Act No: 3402/16b).

In the year 2002, 54.5 percent<sup>483</sup> of the country geography<sup>484</sup> was declared as state owned lands<sup>485</sup>: Treasury lands were 8.5 percent (66.348,96 km<sup>2</sup>) and areas under state's dominance and possession were 46 percent (359.064,96 km<sup>2</sup><sup>486</sup>). This decreases to 19.5 percent, if forestlands are excluded<sup>487</sup>. Number of private property was 80-90 million units (35-40 percent of the total country area<sup>488</sup>). In Ankara, there are 532

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<sup>472</sup> These goods are not subject to a competitive land market and are treated as a stock.

<sup>473</sup> They can be allocated.

<sup>474</sup> Areas where no cadastral study has been carried on before and have unused land character (lakes, mountainous areas, and riversides).

<sup>475</sup> Published in the Official Gazette dated 17.04.1990 and No: 20495.

<sup>476</sup> Published in the Official Gazette dated 13.10.1992 and No: 21374.

<sup>477</sup> All forest areas assigned in the name of the Ministry of Environment and Forestry are state owned lands. The same is valid for military land assigned to the Ministry of National Defense.

<sup>478</sup> Published in the Official Gazette dated 08.09.1956 and No: 9402.

<sup>479</sup> Published in the Official Gazette dated 18.11.2003 and No: 25293.

<sup>480</sup> The GDNRE puts a remark to Title Deed Notebooks.

<sup>481</sup> Meadows Act [Mera Kanunu] No: 4342 dated 28.02.1998 amended by the Act No: 5334 dated 03.05.2005 and No: 25804 and the Act No: 5685 dated 20.06.2007 and No: 26558.

<sup>482</sup> Act on the Amendment of Certain Articles of the Meadows [Mera Kanununun Bazı Maddelerinde Değişiklik Yapılması Hakkında Kanun] Act No: 4368 dated 11.06.1998.

<sup>483</sup> In the year 2001, this figure was covering state owned lands where cadastre registry is finished (within the 70 percent) or unfinished (within the 30 percent). 26.5 percent is forest areas.

<sup>484</sup> Total area of Turkey is 780.576 km<sup>2</sup>.

<sup>485</sup> Treasury property assignment ratio is 45,2 percent (29.984 km<sup>2</sup>) and non-assignment ratio is 54,8 percent (36.351 km<sup>2</sup>). Ahmet Ermiş, the GDNRE (Dec. 07, 2001, personal communication).

<sup>486</sup> 360.576 km<sup>2</sup> (Milli Emlak, <http://www.milliemlak.gov.tr/mesaj/mesaj.htm> (accessed June 12, 2002)).

<sup>487</sup> Forest areas are not included to the average amount in other countries. Ahmet Ermiş, the GDNRE (Dec. 07, 2001, personal communication).

<sup>488</sup> Ibid.

allocated lands<sup>489</sup> (45.009.201,50 m2 total area) and the country total is 22.108 units with 2.744.861.605 m2 land<sup>490</sup> in 2005. Table 2. In the year 2006, the overall percentage of state owned lands in Turkey was 16.18 percent (2.234.789 units<sup>491</sup>): Registered Treasury lands were 14.8 percent (115.696,24 km2). Areas under state's dominance and possession are 0.8 percent (6.373,11 km2)<sup>492</sup> and other related immovables are 0.5 percent (4.232,98 km2). Unregistered state owned lands, other forms of public lands, and private property compose the rest<sup>493</sup>. In 2007, areas under state's dominance and possession are 39 percent, state's private property is 14 percent, and the rest is 47 percent<sup>494</sup>. In the USA, by the year 2001, Federal Government property ownership ratio, in comparison to the surface area of the state ranges from one to forty percent. Land belonging to the government is 26.86 percent of the total (covering waterways, rivers, and lakes). And if, these are not included, it reduces to 24.72 percent<sup>495</sup>. The Federal Government does not own forestlands (1.614.702 km2). If forestlands, waterways, rivers, and lakes are included, this ratio raises up to 44.03 percent.

#### **6.2.1. The Administration Responsible from the Transfer of State Owned Lands - The Ministry of Finance the General Directorate of National Real Estate (the GDRNE)**

The Ministry of Finance the General Directorate of National Real Estate (GDRNE) owns "state (owned) lands" (Treasury lands and unregistered public lands). This institution is responsible from protection, management, and control of public goods. It owns and allocates state owned lands to public institutions for public service provision. Transfer process and procedures of these lands is finalized by this General Directorate<sup>496</sup>. This is also the Administration responsible from the transfer of PEE lands as they have state land characteristic. The Administration expropriates property on behalf of the ministries and makes requisition of property (money, goods and rights) for a certain group defined by Agreements or Acts. It defines the principles of administration of immovable

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<sup>489</sup> Çankaya (27/414.433,75 m2), Etimesgut (15/1.539.608,15 m2), Yenimahalle (10/ 1.943.746 m2), Beypazarı (203/13.952.207,80 m2). From center to the periphery, allocated areas increase. The Ministry of Finance the GDRNE Letter dated 18.07.2006 and No: 30421.

<sup>490</sup> The Ministry of Finance, the GDRNE letter dated 18.07.2006 and No: 30421.

<sup>491</sup> Ibid.

<sup>492</sup> Ibid.

<sup>493</sup> There is no information about the total amount of municipal property at any governmental authority in Turkey. Many municipalities have no property inventories.

<sup>494</sup> Milli Emlak, [http://www.milliemlak.gov.tr/gnmd\\_mesaj/mesaj.asp](http://www.milliemlak.gov.tr/gnmd_mesaj/mesaj.asp) (accessed June 12, 2007).

<sup>495</sup> Milli Emlak, <http://www.milliemlak.gov.tr/bilgihatti/sorular/sorular.htm> (accessed November 09, 2001).

<sup>496</sup> Milli Emlak, <http://www.milliemlak.gov.tr/mesaj/mesaj.htm> (accessed November 18, 2006). Responsibilities of the General Directorate are defined in Article 13 of the Statutory Instrument No: 178 (Amended by the Statutory Instrument No: 543).

property of public institutions and determines policies on public goods<sup>497</sup> for public interest. The Administration allocates these lands for regaining them back to the urban economy and land market. It makes investments on land in order to bring revenue to the state or preventing illegal construction and squatter formations.<sup>498</sup>

**Table 2.** Distribution of Treasury Property by Typology, 2005  
(The General Directorate of National Real Estate, 18.07.2006)

TYPE	ASSIGNED		NON-ASSIGNED	
	Number	Area (m2)	Number	Area (m2)
Buildings	94.666	593.087.782,68	1.685	3.310.672,66
Parcels	327.330	1.227.600.433,34	3.246	31.818.669,58
Lands	338.252	14.009.087.049,77	9.497	4.320.390.672,70
Gardens and yards	107.795	649.354.439,60	3.085	22.898.880,28
Agricultural plots	931.432	15.889.533.102,56	9.724	155.362.593,61
Forests	220.600	80.931.235.361,91	894	962.635.715,35
Common goods	60.223	1.866.303.728,20	4.000	358.422.065,03
Water and horticulture areas	12.505	388.245.124,33	4.341	
Mines and mining sites	881	95.699.796,43	1.215	274.811.774,26
Seaside land infill	636		4.544	
Historical and cultural areas	3.300	46.098.079,29	487	790.342,41
Others	1	100,00	3.486	71.583.520,10
<b>TOTAL</b>	<b>2.097.620</b>	<b>115.696.244.898,11</b>	<b>46.204</b>	<b>6.202.024.906,18</b>

As a result of the restructuring of the state from a welfare nation state to a neo-liberal state, there emerged a governmental stagnancy and a steady increase in the amount of lands sold.<sup>499</sup> **Figure 7.** In the *de jure-privatization* process, state owned lands in urban

<sup>497</sup> Milli Emlak, <http://www.milliemlak.gov.tr/targor/gorevler/gorevler.htm> (accessed November 18, 2006).

<sup>498</sup> According to the General Directorate, there is a resistance to sales, but the state has the right to expropriate any area, if demanded. (Milli Emlak (message of Doğan Cansızlar), [http://www.milliemlak.gov.tr/basin/hurr\\_17\\_01\\_2000.htm](http://www.milliemlak.gov.tr/basin/hurr_17_01_2000.htm) (accessed February 12, 2000)). Solutions like expropriation is not logical, as budgetary sources are insufficient. Compensation of expropriations should be paid in advance and these sales are made in an environment structured by budgetary concerns.

<sup>499</sup> Milli Emlak, [http://www.milliemlak.gov.tr/\\_istatistikler/satis\\_istatistikleri/4070\\_Satis\\_Islemleri\\_2.htm](http://www.milliemlak.gov.tr/_istatistikler/satis_istatistikleri/4070_Satis_Islemleri_2.htm) (accessed December 18, 2006) In between 1995-1999, a slight top out is visible in the sale of immovable public lands by the General Directorate according to Act No: 4070. 2000-

or coastal areas are generally transferred. Different from the PA activities, transfers of the General Directorate are over the existing land use defined in town development plans or according to the Act of Expropriation. The amount of state owned lands was unknown in Turkey<sup>500</sup> for a long time. National Real Estate Automation Project (MEOP)<sup>501</sup> defined 500 types of state property by the year 2000. Lands, parcels, buildings and forests are the major types. The responsible authority could not declare exact numbers of property assignment level and the transfer amounts except those allocations made by the Ministry of Finance in the year 2005. **Table 3. Appendix N.**

Treasury land has increased by 40 percent<sup>502</sup> in the year 2000 in comparison to the 1993 manual study<sup>503</sup>. 270.444 property units have been assigned to public institutions by 2005<sup>504</sup>. **Table 4.** This figure may be small in number, but the total area assigned to public institutions (46.028,04 km<sup>2</sup>) is the half of the Treasury land. In the same year, the total number of Treasury lands was 2.097.620 units. Only in Ankara, where there is a high public property concentration, there are 68.586 units<sup>505</sup> (4.809 km<sup>2</sup>) in the year 2000 and in 2005; there are 78.749 units of public land. Sales according to Act No: 4070 are given in **Appendix O.** In addition to this, *de facto-privatization* activities of several public institutions are stated in **Appendix P.**

In the year 2002, 55.000 units and currently 17.020 units<sup>506</sup> of immovable properties belonging to the GDNRE (allocated in town development plans for industrial, housing, commercial uses) were on sale through the Internet<sup>507</sup> according to Act No: 4070. The

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2003 is the period of stagnancy and economic crisis. Therefore, no change in the sale amount is observed. In 2006, an amount of lands three times more than the planned budget targets are sold.  
<sup>500</sup> This depends on several issues; unfinished cadastre of the country, impossibility or difficulty of registration (mountains, coasts, river basins, squares, roads, bridges), and most of the public institutions having the right to own a property have no proper and reliable inventory system of their own.

<sup>501</sup> [Milli Emlak Otomasyon Projesi (MEOP)] After the manual calculations (of 1993), an inventory study of public goods has been started in 1995. The Project aims to find out the exact amount of state owned lands and to define the rights to property.

<sup>502</sup> In the year 2000, it is 2.000.000 units (the Ministry of Finance the GDNRE Letter dated 18.07.2006 and No: 30421). The numbers are dynamic as they are changing every day due to a court decision, an invasion, a sale, a plan implementation and else. "Type of property" refers to the typology stated in registration notebooks in the Title Deed Offices. The real use may be something else on space, and the year 2000 study aims to overcome this obstacle after the registry at the second stage. See also: (Milli Emlak, <http://www.milliemlak.gov.tr/mesaj/mesaj.htm> (accessed November 18, 2006).

<sup>503</sup> Treasury land was 1.300.000 units in the year 1993. Including parcels, land, buildings, warehouses, etc. Ahmet Ermiş, th GDNRE (Dec. 07, 2001, personal communication).

<sup>504</sup> The Ministry of Finance the GDNRE letter dated 18.07.2006 and No: 30421.

<sup>505</sup> 26.596 pieces of them are Treasury lands (18 percent of the total area).

<sup>506</sup> Opcit.

<sup>507</sup> According to Act No: 4706, a Decision of Council of Ministers has been taken for the sale of 71 public goods in Ankara (5), İzmir (15), İstanbul (12) and Antalya (39). Highest revenue is expected

official aim is declared by the General Directorate as regaining these to the economy, establishing a competitive economy, and allowing natural and legal persons to reach to the land they want<sup>508</sup>. Sales were made in cooperation with municipalities and through direct sales to public method (mainly in Istanbul, İzmir, Antalya, Muğla, Mersin, Ankara, Samsun, Trabzon, Gaziantep, and Kocaeli). Until 2000, only 35 percent of the stock on sale is transferred to the private sector, as most of the units were shared property<sup>509</sup>. Examples of *de facto-privatization* are not new (Keskinok, 1992), but it is the first time, such a vast number of properties are on sale in Turkey by the central authority, mainly in the local municipality competence areas. These areas are sold out, as they are termed by the Treasury as unnecessary for public service. Even green areas defined by development plans and registered in the name of the Treasury can be on sale. There the aim was to decrease total amount of public goods (including Treasury property) from 54.5 percent to 15 percent in the year 2000<sup>510</sup>. The year 2006<sup>511</sup> registered Treasury lands are 14.8 percent of the total. However, it is interesting to note that the transfers are continuing with an accelerating manner.

Service and facility areas of the public institutions in urban areas or on western and south western coast line, and eastern and south-eastern parts of the country are at the target of transfers. These areas are also targeted by the foreigners<sup>512</sup>. This creates a dualism: Public institutions demand lands for the provision of services, production of goods or directing urban growth. At the same time, *de facto-* and *de jure-privatization* is implemented by public authorities. Not only the central authority, but also none of the local authorities have sufficient land stock for the planned development (Kılıç, 1993:53) or can direct urbanization.

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from a parcel (223.518 m<sup>2</sup>) located in Istanbul, Şişli Ayazağa (across Akmerkez) and another in Kartal (Saner, 2000).

<sup>508</sup> Milli Emlak (message of Doğan Cansızlar), [http://www.milliemlak.gov.tr/basin/hurr\\_17\\_01\\_2000.htm](http://www.milliemlak.gov.tr/basin/hurr_17_01_2000.htm) (accessed February 12, 2000). Expected state income was 100 trillion TL. in the year 2000.

<sup>509</sup> In most cases, development plans are completed before sales. Therefore, shareholders are the first ones to apply. When the sale results are searched on the related web page, it is figured out that full property shares are sold first. The unsold ones are shared titles or areas with no development plan. Rarely, there are parcels unsold although there is full Treasury share or the land is allocated to housing development as they are located in the areas where land market prices are high: For example 1.000 m<sup>2</sup> costs 100 billion TL.. The possible effects of the sale are not taken into account and should be made within a master plan covering the land policies and control mechanisms of land transfer in the country. The General Directorate is aware of this problem. Ahmet Ermiş, the GDNRE (Dec. 07, 2001, personal communication).

<sup>510</sup> Milli Emlak (message of Doğan Cansızlar), [http://www.milliemlak.gov.tr/basin/hurr\\_17\\_01\\_2000.htm](http://www.milliemlak.gov.tr/basin/hurr_17_01_2000.htm) (accessed February 12, 2000).

<sup>511</sup> The Ministry of Finance, the GDNRE letter dated 18.07.2006 and No: 30421.

<sup>512</sup> See: TMMOB Harita Mühendisleri Odası (2006).

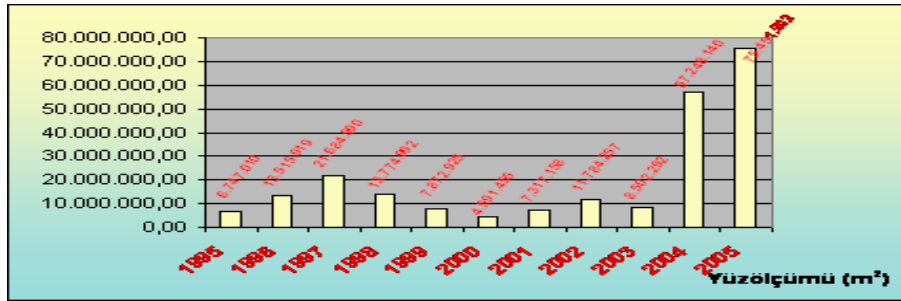
**Table 3. Distribution of Allocated Lands - Relative to Administrations**  
(The General Directorate of National Real Estate, 18.07.2006, p.10)

Administration	Piece	Area (m2)
Public Institutions bound to the General Budget	252.744	45.207.354.618,76
Provincial Administrations	5.828	295.523.540,48
Administrations Subject to Special Budget	5.073	256.693.570,81
Municipalities	3.506	175.892.196,27
Administrations with Supplementary Budgets	3.239	85.062.686,51
Public Administrations Out of the General Management	21	1.489.250,89
Regulative and Controlling Agencies	20	5.869.092,99
Public Economic Enterprises	9	136.350,03
Social Security Agencies	4	22.763,35
<b>TOTAL</b>	<b>270.444</b>	<b>46.028.044.070,09</b>

**Table 4. Public Immovable Property Numbers and Areas in Several Provinces (2005)**  
(The General Directorate of National Real Estate, 18.07.2006)

Provinces	Registered Immovable		Immovables Under State's Dominance and Possession		Related Immovable		TOTAL	
	Number	M2	Number	M2	Number	M2	Number	M2
ANKARA	73.915	5.271.734.572,86	642	40.535.318,25	4.192	370.588.634,77	78.749	5.682.858.525,82
RIZE*	2.223	44.387.465,07	215	3.760.773,73	101	1.489.509,03	2.539	49.637.747,83
KONYA**	101.052	5.924.712.209,74	331	41.750.662,44	640	113.645.225,04	102.023	6.080.108.097,22
ISTANBUL	59.939	1.622.422.595,32	2.961	302.181.933,72	20.074	21.276.625,23	82.976	1.945.881.154,27
TURKEY	2.097.620	115.696.244.898,11	46.204	6.373.111.853,18	90.965	4.232.988.732,82	2.234.789	126.302.345.484,11

\* The lowest number, \*\* Highest number of registered immovables.



**Figure 7. Land Sales According to Act No: 4070 from 1995 onwards**  
(Milli Emlak, <http://www.milliemlak.gov.tr> (accessed July 25, 2005))

Acts No: 4070<sup>513</sup>, 4182<sup>514</sup>, 4706<sup>515</sup> and 4707<sup>516</sup>, aiming to transfer state owned lands to the private sector accelerated transfers, decreased the amount of public land stock, and risked the public good and service provision<sup>517</sup>. The search for suitable locations during the reconstruction efforts<sup>518</sup> after the Eastern Marmara Earthquakes has shown that Treasury land in the western part of the country were not many in number<sup>519</sup> and were already insufficient to perform public services as these have been demanded or consumed up to date without a conscious policy or program. The level of state owned lands in Turkey also shows a low figure as public institutions already occupied half of it. When state aims to provide a social service, the lands at hand are either geographically unsuitable or relatively small in amount. This situation leads to increasing costs of expropriation. This is related to the development level of the country, which increases the demand for the transfer of public lands. In short, there is no state policy to overcome the actual results or a common policy for state owned lands.<sup>520</sup> (See: **Appendix F and Appendix Q** for public land policies).

Before an enterprise is taken into the Privatization Program<sup>521</sup> and transferred into a joint stock company, it is responsible from any sale action, and so the General Directorate of National Real Estate. As stated before, according to Article 13 of the Statutory Instrument No: 178 the General Directorate is responsible from the transfer of

<sup>513</sup> Act on the Sale of Agricultural Land Owned by the Treasury [Hazineye Ait Tarım Arazilerinin Satışı Hakkında Kanun] No: 4070, Official Gazette dated 19.02.1995 and No: 22207.

<sup>514</sup> Act on the Sale of the Immovables of Public Institutions and Establishments [Kamu Kurum ve Kuruluşlarının Taşınmaz Mallarının Satışı Hakkında Kanun] No: 4182, 12.09.1996, Official Gazette No: 22755, This Act is annulled by the Supreme Court Decision dated 12.12.1996 and E.:1996/64 K: 1996/47.

<sup>515</sup> Act on the Amendment of the Appreciation of Immovables Owned by the Treasury and Value Added Tax Act [Hazineye Ait Taşınmaz Malların Değerlendirilmesi ve Katma Değer Vergisi Kanunda Değişiklik Yapılması Hakkında Kanun] No: 4706, Official Gazette dated 18.07.2001 and No: 24466.

<sup>516</sup> Act on the Sale of Agricultural Land Owned by the Treasury [Hazineye Ait Tarım Arazilerinin Satışı Hakkında Kanun, 03 Mart 1340 (1924) tarihli ve 431 sayılı Kanunla Hazineye Kalan Taşınmaz Mallardan Bazılarının Zilyedlerine Devri Hakkında Kanun ile Mülga 2613 ve 766 sayılı Kanunlarla Hazine Adına Tescil Edilen Miktar Fazlalıklarının İlgililerine Devrine Dair Kanunda Değişiklik Yapılmasına Dair Kanun] No: 4707 Official Gazette dated 13.07.2001 and No: 24461.

<sup>517</sup> Even though it is stated as such, Acts No: 4706, No: 4070, and No: 4707 allow the transfer of areas under state's governance and possession which are allocated to or rented by public institutions.

<sup>518</sup> This has been experienced at the latest during land assignment studies of temporary and permanent housing areas, conducted under the MPWS after the Eastern Marmara Earthquakes (17.08.1999 İzmit-Adapazarı-Yalova and 12.10.1999 Bolu-Düzce Earthquakes).

<sup>519</sup> 34 percent of the GNP of the country is obtained from this region and the contribution to the total industrial additional value of this region is approximately 46.7 percent through various sectors (MPWS, 19.07.2000.)

<sup>520</sup> Several questions rise through the process: When public institutions demand land where will it be provided? What can be the level of healthy provision, if land demand cannot be compensated from the land market and in the location selected? What will be the source of income for expropriation costs? What will be sold out to overcome budget deficits in the future when all the available public immovables are transferred?

<sup>521</sup> PEEs are taken into the Privatization Program according to 4046/17.



PEE lands. The Privatization Act No: 4046 has bypassed this competence and became the only decision maker as soon as the enterprise is taken into the Program in the *de jure-privatization* process. In this process, the General Directorate makes land transfers only with the order of the PHC or the PA<sup>522</sup> in the name of the investor upon the request of the PA. The MPWS Title Deed Offices is responsible from registration and dismissal actions<sup>523</sup>. However, their decision for appraisal or transfer is not asked. Public institutions owning property and the request or opinion of the PEE is not also required. (See: Circular No: 1995/1 dated 10.02.1995 and No: 2005/15 dated 06.09.2005)

The property of the enterprise in the privatization portfolio cannot be sequestered until the time it is privatized. Any sequestration will be cancelled. Transfer methods of the General Directorate are<sup>524</sup> sales, allocation<sup>525</sup>, renting<sup>526</sup>, barter, establishing non-tangible rights to property other than ownership, liquidation, allocation, and transfer without substitute<sup>527</sup>. If conditions are deemed necessary, areas under state's governance and possession are transferred through the methods of renting and establishing non-tangible rights to property other than ownership. Contracting-out, deregulation, asset sales, management contract method, management transfer, leasing, franchising method, and pricing method are the other methods of transfer.

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<sup>522</sup> The PA directly or with the investor, or the investor by the self applies to the abolished Land Office. Council of Ministers Decision, documents related to the tender or sale, Competence Document and Representation Document. Yusuf Yalçın Former Head of Yenimahalle Second Regional Branch of Land Registry Administration (Jan., Aug. 2002, personal communication).

<sup>523</sup> For the Land Office actions, the transfer method of the land (i.e. sale, block sale, etc.) does not make a differentiation.

<sup>524</sup> Milli Emlak, <http://www.milliemlak.gov.tr/targor/gorevler/gorevler.htm> (Accessed May 28, 2006) The General Directorate does not have the responsibility to transfer any property, which is unavailable or inappropriate.

<sup>525</sup> Allocation without compensation is defined, but not applied.

<sup>526</sup> The transfer method in forest areas, areas under state's governance and possession, water product production areas (spring waters), rocks, and sand and soil mines, is renting.

<sup>527</sup> Transfer without compensation is made according to Acts No: 2981, No: 4046, No: 4325, No: 222, No: 7044, and No: 3522. The General Directorate realizes transfer without compensation method according to Act on the Creation of Labour and Supporting Investments No: 4235. In The Regions of State of Emergency And Priority Development Areas And Amendment of the Income Tax Act No: 193 [Olağanüstü Hal Bölgelerinde ve Kalkınmada Öncelikli Yörelerde İstihdam Yaratılması ve Yatırımların Teşvik Edilmesi ile 193 sayılı Gelir Vergisi Kanununda Değişiklik Yapılması Hakkında Kanun] dated 21.01.1998. The transfer is defined in Article 8, last paragraph: Principles and methods for transfer without compensation will be defined in a by-law later by the Ministry of Finance. (Milli Emlak, [http://www.milliemlak.gov.tr/projeler/bedelsiz/bed\\_devir.htm](http://www.milliemlak.gov.tr/projeler/bedelsiz/bed_devir.htm) (accessed Nov. 16, 2006)).

### 6.3. Objects of *De jure-privatization* - State's Private Lands (Public Economic Enterprise (PEE) Lands)

State's private lands are composed from Treasury lands, lands of institutions with supplementary budget, PEE lands, and areas under state's governance and possession. Privatization Act defines the transfer model and method(s) of public lands (not only PEE lands, but also all lands owned or used by the enterprise). In other words, during privatization, Treasury lands and areas under state's governance and possession can also be transferred<sup>528</sup> to private sector or public bodies. Privatization helps the registration of public lands and property rights of PEEs. In this process, ownership of areas under state's governance and possession and areas the registration of which is impossible due to special legislation cannot be transferred. The PA also transfers land to public institutions, which are directing the urban land market such as the Mass Housing Administration (TOKİ). **Appendix R.**

State owned lands can be allocated or the right to use them can be given in different times during the lifetime of any enterprise. Some state owned lands or the lands owned by other public institutions may be used by any PEE without permission. Even though PEEs are in the Privatization Portfolio, the immovable property, the establishment, plant or superstructures located on may be registered in the name of another public institution. For instance İSDEMİR is on TCDD property and a part of İGDAŞ property is owned by TÜPRAŞ. This means that many PEEs are using Treasury lands. In normal conditions, there is no problem, but as soon as they are taken into the Privatization Portfolio, problems (such as lack of construction permits, habitation permits) emerge. (See: **Appendix S**) Even the investors have to spend a few years to overcome these problems and in rare cases, no solution can be found (Baytan, 1999:270).

To sum up, those enterprises in the Privatization Portfolio possessing;

- Treasury land according to Article 19 of the Privatization Act No: 4046,
- Land transferred within the content of 4046/2i (if stated by the PHC in its Decision), and
- Areas under state's governance and possession,

are the major focuses of transfer. However, there is no reliable inventory of the PEE land stock or the total amount of land transferred is unpublicized. In these transfers, the PA and the administrative organ of the PEE are the decision-makers for the transfer

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<sup>528</sup> It can be transferred to the institution or transferred on behalf of the institution or non-tangible character of property can be established.

and/or determination of the method of transfer. The PA negotiates with the investor and the municipality. They may also decide on the use purpose. In numerous examples, it is observed that when the enterprise is taken into the privatization program; lands in possession are determined. In some cases, the institution is taken into the portfolio only because of its land stock. This is the reason behind the privatization of public banks. Public banks<sup>529</sup> own large amounts of lands or have lands as deposits.

Bodies responsible from the transfer of PEE lands in the Privatization Program during *de jure-privatization* activities can be classified as;

- a. PEEs in the Privatization Program: Enterprises (like Sümer Holding A.Ş., EBÜ A.Ş., ORÜS Orman Ürünleri Sanayi A.Ş., Petrol Ofisi A.Ş.<sup>530</sup>, Taksim Otelcilik A.Ş.<sup>531</sup>) may transfer immovable property not demanded by the assistance of PA.
- b. The Privatization Administration (The PA): The PA has a direct and/or an advisory role during the transfer of lands of those establishments in the Privatization Portfolio. The GDNRE makes this on behalf of the PA or the PHC.

### 6.3.1. Privatization of PEE Lands

The previous section aimed to show that when a PEE is taken into the privatization program, the objects of transfers are the registered and unregistered public lands. They are possessed and registered in the name of that establishment (private lands of the PEE) or used, but owned by another public institution (PEE having the right to use). In 1986-15.10.2001, out of 920 transfers of the PA, the gains achieved from direct land transfers were approximately 3.05 percent (226.341.892 U.S. Dollars) of the total gains. **Figure 8-12. Table 5.** The rate of the privatization activities covering land and parcel transfers was 9.04 percent (668.708.362 U.S. Dollars) (when the total revenue is 7.4 billion U.S. Dollars). These figures may change relative to content or escalation. It also worth noting that the privatization activities of 2005 and 2006 cover huge amounts of land transfers. According to Investment Advisory Council for Turkey Progress Report (January 2005), 749 ha. of land is sold during privatization. These activities are not subject to the Court of Auditors<sup>532</sup>.

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<sup>529</sup> Namely Vakıfbank, Ziraat Bank, Halk Bank, İş Bankası, and Emlak Bank. Citizens use credits from the public banks and show their lands as guarantee. When these banks are transferred to the private sector, the land in their portfolio is transferred without the will of the borrower.

<sup>530</sup> Hürriyet, "Petrol Ofisi A.Ş.'den satılık gayrimenkuller" (42958/1 parsel, Ergazi Ankara). January, 2001.

<sup>531</sup> Milliyet, "Taksim Otelcilik A.Ş. Satışa Sunuluyor,". June 20, 2001, 11.

<sup>532</sup> See Act No: 4046, Article 12.

At this point, we can analyze the legislative basis of land transfers. PEE land transfer activities of the PA are mainly within municipal boundaries and the transition zones of the cities. According to the Privatization Act No: 4046 defining the general principles of land privatization, the PA is the responsible institution to develop, to tender, to privatize, to plan, and to solve the problems on PEE lands. Articles 2/d-e-h-i, 3/c-d, 18, 19, and 20 of the Act are related to immovable property of those PEEs in the program and/or their transfer methods. Article 18 is on the transfer methods (See: Chapter 5). Article 19 of the Privatization Act is designed to transfer land ownership (Kardeş 1999:351). **Appendix S.** Transfer of PEE lands is demanded in general by the entrepreneurs, investors, landlords, or public institutions and/or other PEEs. The PA does not publicize the information on how land value or transfer method is determined.<sup>533</sup>

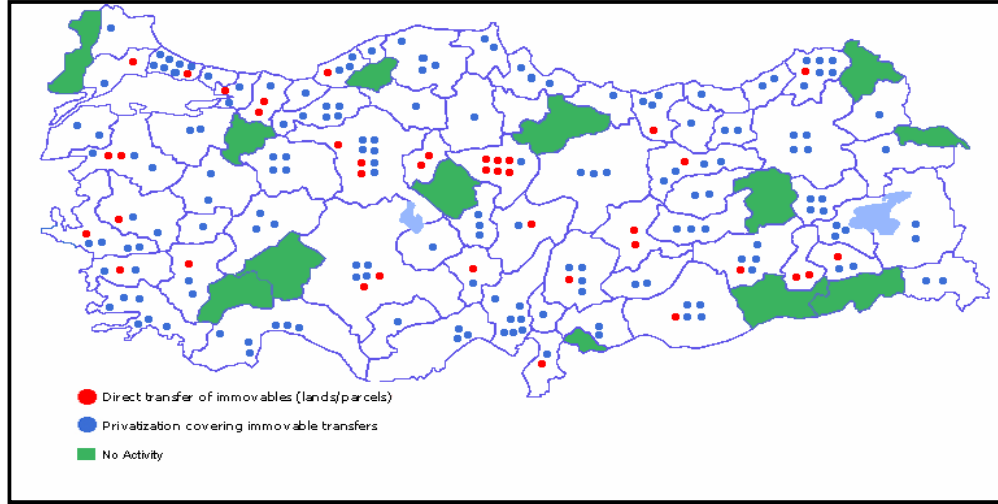
**Table 5. Privatization by Methods, between 1986-2001\* (Figures 8-12)**

METHODS	Total # of Activities	Total Revenue Gained (U.S. Dollar)	Privatization covering immovable transfer	Revenue gained (U.S.Dollar)	Direct land/parcel privatization	Revenue gained (U.S.Dollar)
Block Sales	118	2.004.975.445	61**			
Public Offering	18	1.400.858.961	8	1.069.462.236	-	-
International Public Offering	3	987.441.068	1	265.491.985		
Sale and transfer through establishment, possession and participation shares	271	735.441.226	206	631.767.273	42	52.912.835
Sale of half finished establishments	9	3.562.280	9	3.562.280	-	-
Transfer of half finished establishments	9	806.512	9	806.512	-	-
Transfer with compensation 4046/2i	84	121.175.775	19	32.572.297	59***	67.340.983
Transfer without compensation 4046/2i	290	0	23	0	249***	0
Establishments closed down or management transfer is made	38	-	33	-	-	-
Establishment of right to easement (Other transfer actions)	1	-	1	-	-	-
<b>TOTAL</b>	<b>841</b>		<b>370</b>		<b>350</b>	

Notes: \* This table is composed from the data stated in "Türkiye'de Özelleştirme" (The Privatization Administration, 2001 (b)). (15.10.2001) Firm privatization by public offering, international offering, and companies privatized by the combination of public offering and block sale are not included. \*\* An establishment, where public share is over 40 percent is mentioned. \*\*\* Land, warehouse, condominium, guardhouse, social facilities, kindergartens are included.

<sup>533</sup> The PA publicizes neither the planning process nor the privatization results. For example, in order not to announce the total privatization results of EBÜ A.Ş., which is a legal obligation, the state decided to refunction this enterprise.

An example to the implementation of Article 19/B can be given from İzmir Province Aliağa district: The PA has asked from the Ministry of Finance long-term renting of the Treasury lands used by Petkim Petrokimya Holding A.Ş. facilities and the land infill<sup>534</sup>. Article 19/B (e) defines the transfer conditions of those properties under government's governance and possession and used by the public enterprises with more than 50 percent public share. Same article defines the establishment of non-tangible rights to property other than ownership for these enterprises due to special legislation. (See also: Maliye Bakanlığı (2006:469)). In Article 19/C, different principles are defined in order to solve the problems emerging during property transfers; subdivision; unification; establishing rights of easement and enjoyment, management, transfer of right to rent, and liquidation activities between the PEE (in the privatization portfolio) and other public institutions. The view of the PA should be taken (Kardeş, 1999:353). If there are, these problems should be solved by the GDNRE<sup>535</sup>.



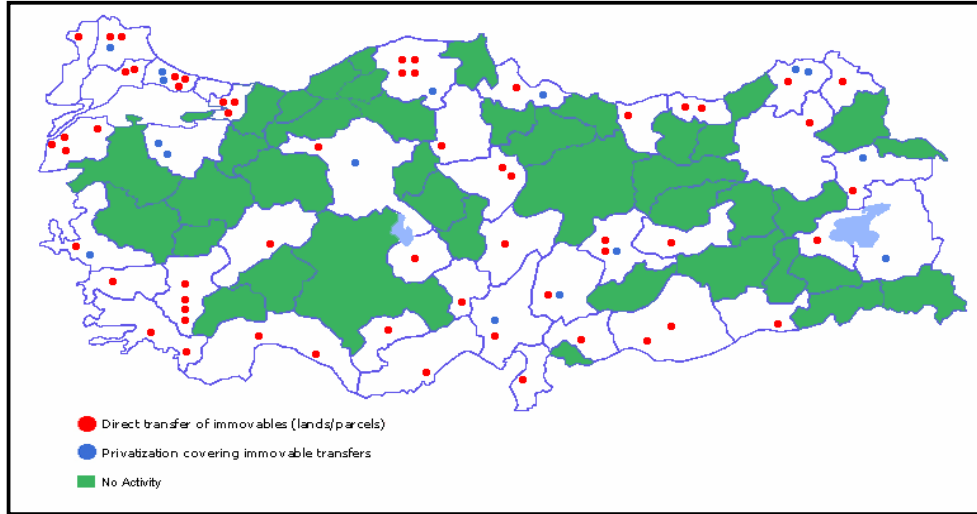
**Notes:**

(1) Data covers activities defined as direct immovable transfers and activities covering immovable transfers in the Privatization Lists of the PA by 15.10.2001. Lands subject to transfer after privatization are not included. (2) Shops, real estate, buildings, parcels, land, warehouses, condominiums and other sort of immovables are included to direct transfer of immovables. (3) EBÜ A.Ş.-134 parcels, Sümer Holding A.Ş.- 40 parcels, KBI A.Ş.-246 parcels, Balıksan A.Ş., Kızıltepe, Havsa, Solaklı, Hasköy, KBI-190 parcels, 40 parcels in different provinces, separate sales to 5 natural persons, 1 immovable, Turban T.A.Ş.-Ilica Motel, Turkish Agricultural Equipment Firm, ORÜS-78 real estate, ORÜS-38 immovables, Sümer Holding A.Ş.-249 shops, 88 shops, 11 shops, Sümer Holding A.Ş.-Soda San. A.Ş., Mannesman, Pipe Industry, Gökçeada, Eskipınar, Kalkım, Demirköy, Vezirköprü are not shown in the figure. (4) In 1999, the PA has made the transfer of two forest areas in Istanbul to the Treasury without compensation.

**Figure 8.** Sale or Transfer through Establishment, Possession, and Participation Shares

<sup>534</sup> Maliye Bakanlığı (2006:486).

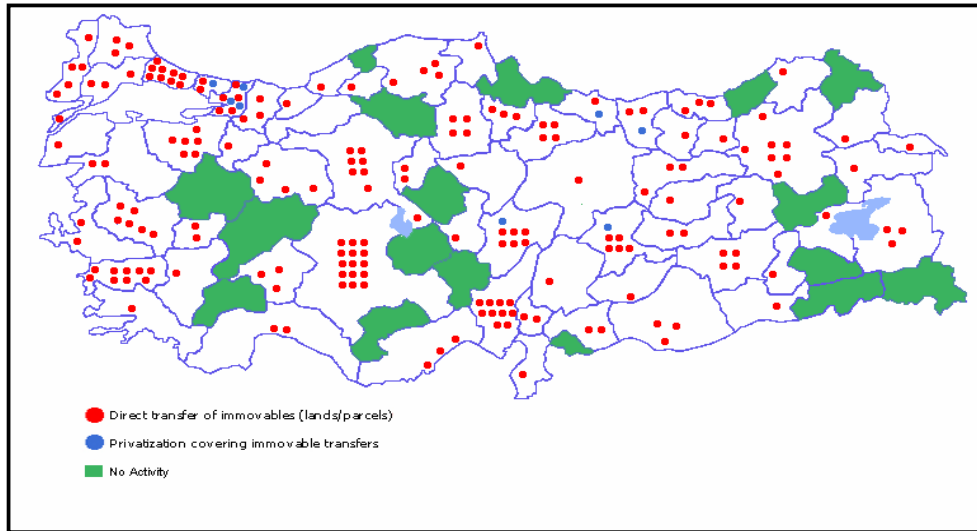
<sup>535</sup> Ibid. P. 69.



**Notes:**

(1) Data covers activities defined as direct immovable transfers and those covering immovable transfers in the Privatization Implementation Lists of the PA by 15.10.2001. Lands subject to transfer after privatization are not included. (2) Warehouses, condominiums, guardhouses, parcels, lands, and administrative buildings are included to direct transfer of immovables. (3) Karadeniz Copper Enterprise (KBI) A.Ş.-Kutlular Solid Waste Storage Area and İSDEMİR-33 immovables are not shown.

**Figure 9. Transfer with Substitute According to 4046/2i**

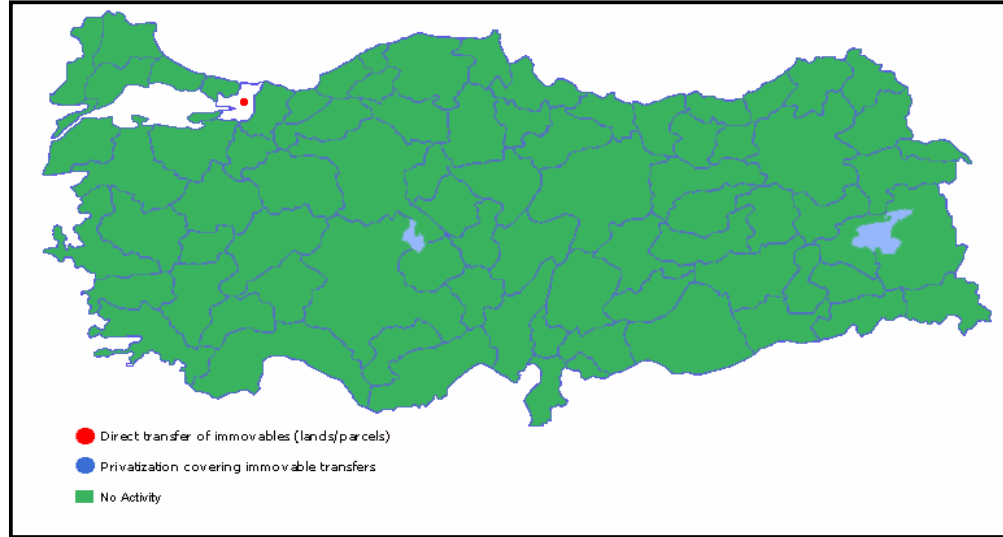


Konya, Adana, Ankara, Istanbul, Aydın, Kastamonu, Hatay, Kayseri, Bursa  
Kocaeli are the first ten provinces with the highest activity concentration.

**Notes:**

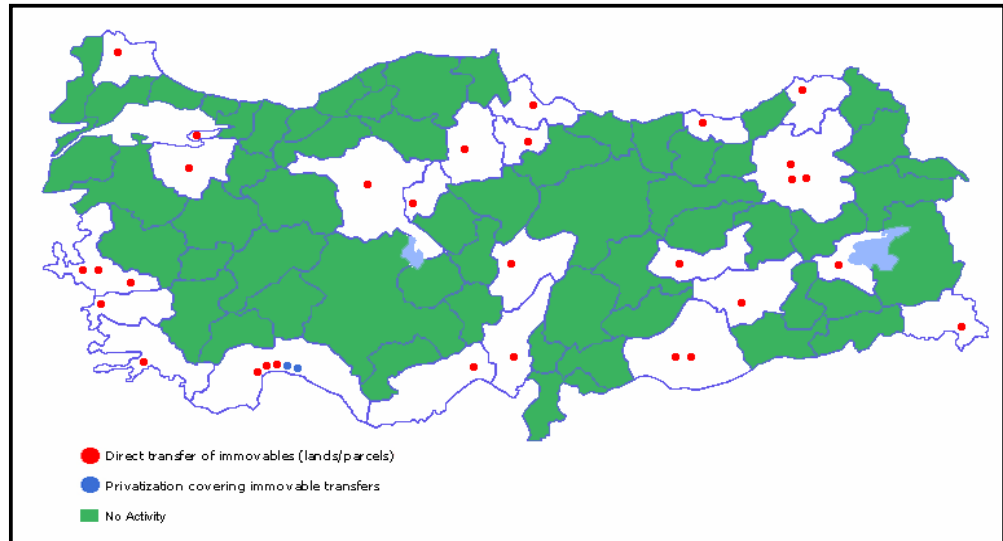
(1) Data covers activities defined as direct immovable transfers and activities covering immovable transfers in the Privatization Implementation Lists of the PA by 15.10.2001. Lands subject to transfer after privatization are not included. (2) TURBAN-Kilyos Motel and 4 parcels, Sümer Holding-Pertek wool fiber factory and its land, ORÜS İvriz Hydroelectricity, Demre Hydroelectricity, Turkish Agricultural equipment firm - 39 parcels, Heavy Industry Facilities and Engine Factory, Turkish Ship Industry Pavli Island and Facilities, 39 parcels in various provinces, 3 guardhouses, 111 condominiums, 141 warehouses are not shown.

**Figure 10. Transfer without Substitute According to 4046/2i**



Notes: (1) Data covers activities defined as direct immovable transfers and activities covering immovable transfers in Privatization Implementation Lists of the PA by 15.10.2001. Lands subject to transfer after privatization are uncovered.

Figure 11. Transfer of Right to Easement



Notes:  
 (1) Data covers activities defined as direct immovable transfers and activities covering immovable transfers in the Privatization Implementation Lists of the PA by 15.10.2001. Lands subject to transfer after privatization are not included.  
 (2) Kutlular mine field, Pamukova Agriculture Machinery Research Institute, Chlorine-Alkali Factory are not shown. İş Bank 256 shares and İzmir Harbor Line Transportation Services are the other privatized possessions.

Figure 12. Establishments Closed-down or Management is transferred

The PA has the competence of unification and subdivision according to Article 19/D. During subdivision and unification, principles of Act No: 3194 are not applied. By the PHC Decision No: 94/3 dated 23.12.1994, it is declared that division and unification practices of;

- The institutions with general and supplementary budget and their annexed institutions with revolving funds,
- Public Economic Enterprises (PEEs),
- Commercial institutions of the state or public institutions capital of which is owned fully or partially by the state and different than a PEE status, and
- Institutions in the Privatization Program,

will be carried on by the PA. Within this content, land transfer process is as follows:

- a. The PA finalizes unification and subdivision during the transfer of PEE lands or lands belonging to public institutions used by the PEE.
- b. The PA prepares local (partial) development plan and development arrangements of lands belonging to PEEs that have lost production functions, within municipal boundaries.

The principle of the PA in land transfers is that areas with urban development potential may create a surplus. Therefore; they should be transferred directly. Rent potential, urban characteristics and location are the determining factors. Urban public land or parcel privatization is made by the PA through possession sales, renting, and transfer of management rights, establishing non-tangible rights to property, sales of half-finished establishments, transfer with substitute (4046/2i), and transfer without substitute (4046/2i). The Act No: 5398 added “Tender between certain demanders” method. The Act No: 5398 has amended Article 2/i of Act No: 4046 and so the transfer without substitution method.

Except certain conditions, transfer without substitution to public institutions is omitted to achieve more revenue transfers. Public institutions or local authorities have been paying the actual value of the immovable determined by the PA according to Article 2/i since 1997. This amendment resulted as between 10.07.1995-26.08.2005, 404 activities of transfers without substitute cover the transfer of shares, buildings, parcels, and facilities. Large number of land ownership transfers to public institutions without substitute method until the Act No: 5398 proves that the PA had a certain level of public interest objectives and contributed to (local) development. Land demands of public institutions were compensated by the PA (like the abolished Land Office): For example,



the Ministry of Justice (F-type jails), the Ministry of Education (8-year education program), and the Ministry of Defense<sup>536</sup>. This objective is not apparent after the Act 5398.

Registration in the name of the Treasury without compensation, buying in compensation to tax debt, transfer without compensation to public institutions, and establishing non-tangible character of property<sup>537</sup> (Articles 18-A (d) / 19 (e) / 35 / 37)) are the methods of privatization related to the GDNRE (Kardeş, 1999:352-353):

- a. Those institutions where more than half of their shares are owned by the state may be using state owned lands. These may be a Joint Stock Company before privatization or transformed into a company in order to be privatized. Finally, the ownership is transferred to this Company. The property compensation can be taken later as capital investment during the establishment of the firm or for any capital increase.
- b. Ownership of land that is used by those institutions and is not transferred into Joint Stock Company is forwarded to the institution without a substitute.
- c. Treasury lands and areas under state's governance and possession (except those that cannot be registered due to special legislation) used by those institutions more than half share is owned by the state can be transferred to these institutions or non-tangible character of property can be established.

The PA transfers registered or unregistered PEE lands in four different ways. In every case, the responsible institution in value appraisal and the transfer method shall be determined according to the land characteristics. These are as follows:

- a. Lands directly transferred to enterprises or unregistered areas under state's governance and possession (used by the PEE) (on which non-tangible character will be established) are registered in the name of the Treasury<sup>538</sup>.

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<sup>536</sup> Ömer Ardalı and Hülya Günaydın, the PA (Sept. 07, 2001, personal communication).

<sup>537</sup> A Regulation has been put into force by the Official Gazette dated 16.12.1984 and No: 18607. Fourth section of the Regulation (Articles 72-77) has been amended by the Regulation dated 11.12.1996 and No: 22844. Article 72 defines the establishment of non-tangible character of property. According to this, establishment of right to easement for up to 49 years on state's private property or immovables under state's governance and saving by the Civil Act (except the right of habitation) and flat ownership according to Flat Ownership Act.

<sup>538</sup> This action is made, if it is found out that the area is not a forest area or an area taken out of forest area according to 2B areas of the Act No: 6831 or an area within the content of Article 16/B of the Act No: 3402; the area is adjacent to general waters like sea, lake, and river, and out of the coastal stripe and there is no court case between the property and the state in terms of boundary and property. Circular No: 1995/1. The GDNRE puts a remark to the Title Deed Notebooks and the ownership is not transferred (Turban A.Ş. establishments on coastal areas). As they have a special legislation taking basis from the Constitution (1982 Constitution Articles 43, 168 and 169), the transfer of forests and coasts are impossible.

- b. Lands transferred within the content of 4046/2i (according to PHC Decision). (This is generally observed in activities having liquidation objective.) (i.e. Sümer Holding A.Ş. 16023/1 parcel in Ankara).
- c. Lands registered in the name of the PEE, the PA and the PHC are transferred directly (i.e. EBÜ A.Ş. Akköprü). (In rare cases, this action can be made together with the investor.)
- d. Lands transferred by the GDNRE within the content of the 4046/19 (i.e. Atik Ali Paşa Palace).

Land transfer activities of the PA can be classified as follows;

- a. Activities in case of a development problem before the act of privatization<sup>539</sup>,
- b. Activities in case of non-existence of a development problem before the act of privatization,
- c. Activities that create a development problem after privatization<sup>540</sup>, and
- d. Activities that has no development problem after privatization.

Possible privatization cost, time demanded for privatization, and low demand level from the private sector led the PA divide the establishment into components and then privatize. In the privatization process to ease transfer, the plant area is also divided into sections relative to their production necessity, urban location, and function or special demand:

- a. Parcels<sup>541</sup> unused or left vacant (over demand<sup>542</sup>) by that establishment and has no difficulty of separation are privatized, at the initial phase, from (or lower than) the market price (or close to it), and
- b. Parcels used by that establishment are subdivided as:
  1. Those necessary for the establishment to function properly or for future investments (In this case, these parcels can be privatized as in the block method.), and
  2. Those unnecessary are privatized later over the market price value determined relative to its location and urban characteristic or special demand.

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<sup>539</sup> i.e. Ankara AOÇ Junction Tumulus, Meadow lands.

<sup>540</sup> i.e. Elazığ-Çimento, Antalya- Pamucak.

<sup>541</sup> These areas may be somewhere different than the production area.

<sup>542</sup> Unused property of these establishments are determined by the PA and called "over demand".

The PA applies partial sales method to make the enterprise valueless or transfer of the possession to those in need. PEEs like ORÜS A.Ş., EBÜ A.Ş., and SEK A.Ş. are some of those enterprises liquidated on component basis.

The PA prepares an Information Document (Portfolio) for the establishment or the component in the Program, and before procurement.<sup>543</sup> This document covers the characteristics and problems of that land. The investor, except rare cases, gets the land by being aware of these conditions<sup>544</sup>. Sometimes, the PA does not write the problem consciously to this document. The Administration deals with these problems only during its real estate and planning works, but takes no responsibility after privatization<sup>545</sup>. This is generally because, solving these require investment costs, time, and effort. In some cases, the cost of overcoming these problems by the PA is greater than reconstructing that establishment once again<sup>546</sup>. The PA does not also deal with those cases where production functions are ended and development rights are modified after privatization<sup>547</sup>. Those cases in which production conditionality is over are not also dealt with. The Administration follows only the problems of land speculation or land use changes as these may distort the basic principles of privatization<sup>548</sup>. This is followed up as such public activities may increase privatization value before transfer. The search of practice has also proved that the Administration deals with problematic cases and makes rent generating activities with the aim to be successful in its transfers.

In both liquidation and privatization practices, increased development rights<sup>549</sup> or plan modifications are practiced. There appears the risk of using the privatized land only with business concerns. The investor may also leave the land vacant with speculative purposes.

The PA claims that the immovable should be regained to the urban area and for this reason, the Administration tries to find out the proper land use before the sale<sup>550</sup>: For example, İSDEMİR<sup>551</sup> forest area is transferred according to Article 2/i to the Ministry of

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<sup>543</sup> Closed offer, bargain, auction, and procurement between certain volunteers.

<sup>544</sup> i.e. Manisa EBÜ A.Ş. Combine area.

<sup>545</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).

<sup>546</sup> Kılıç (1993: 38).

<sup>547</sup> Haluk Bilgin, the PA Real Estate Works Unit (July 31, 2006, personal communication).

<sup>548</sup> Ibid.

<sup>549</sup> Kılıç (1993: 38).

<sup>550</sup> Ömer Ardalı (Sept. 07, 2001) and Haluk Bilgin (July 31, 2006) (personal communication).

<sup>551</sup> İSDEMİR İskenderun plant is not in the Privatization Program at the moment. The PA is carrying on pre-privatization studies. The studies on real estate aimed to leave enough space for the future growth of the facility. Approximately 9 million m2 real estate is owned by the enterprise and is in the privatization program. For security reasons and environmental protection and to

Environment and Forestry. Only the ownership structure has changed and the trees<sup>552</sup> are preserved for social interest. Here the aim was to separate production functions from social infrastructure<sup>553</sup>. It is thought that if the factory is sold without its forest, although its value may decrease,<sup>554</sup> it becomes possible to privatize. According to the PA, in such cases, if the number of request owners increase, privatization can be made over the real value<sup>555</sup>. However, this is not valid for all activities of the Administration. Because for us, each activity should be evaluated within itself.

During land transfers, problems emerge due to misuse of administrative responsibilities, wrong actions or activities against the related legislation. The Higher Auditing Council 2004 Report accepted on 13<sup>th</sup> of October 2005 named “The Privatization Administration and the Privatization Fund” has put forward some advices to public institutions in the Privatization Portfolio by stressing the Privatization Act:

- Except national security and public interest objectives, transfers to public institutions and provincial governorates must not be made,
- The public interest issue must be clearly defined in activities,
- Immovables other than those demanded by the municipalities and those are important for the urban whole should be separated and sold by the PA, and
- In order to able the use of the immovable for public interest and to prevent production of rent; the transfer aims and conditions should be written to Title Deed Notebooks<sup>556</sup>.

Privatization of PEE lands is as diffused as the GDNRE<sup>557</sup> and was the activities of the abolished General Directorate of Land Office<sup>558</sup> in the national market. The Land

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support 8 years education around 8 million m2 area is left out off the portfolio with PHC decisions: 2.774.000 m2 for the Ministry of Environment and Forestry, 177.000 m2 General Commandorate of Gendarmerie, 99.000 m2 Ministry of Education, 330.000 m2 General Directorate of Highways, 154.000 m2 Treasury. Around 2 million m2 land is allocated to industrial use and exchange works related to highways and railways are carried. Another section of 1.972.000 m2 forestland is also transferred to Ministry of Environment and Forestry. Almost 100.000 m2 land will be transferred to the municipality. (Özelleştirme İdaresi Başkanlığı, [http://www.oib.gov.tr/duyuru/2000\\_ocak\\_haziran.htm](http://www.oib.gov.tr/duyuru/2000_ocak_haziran.htm) (accessed May 12, 2007)).

<sup>552</sup> Trees planted in order to prevent air pollution resulting from production functions still serve the same purpose.

<sup>553</sup> For example, TESTAŞ was transferred to METU; Nazilli Sümerbank was given to Adnan Menderes University, 500 of 2500 decares were given to Ahi Evran University.

<sup>554</sup> Such activities of the PA mislead public opinion.

<sup>555</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).

<sup>556</sup> *Tümgazeteler.com*, <http://www.tumgazeteler.com/fc/ln.cgi?cat=33&a=1191590> (accessed Mar. 12, 2007 (02.12.2005 (10:05) *Hürriyet*)).

<sup>557</sup> There are differences of implementation when compared to other landowning institutions. The abolished Land Office had a land stock in the outer skirts of the urban areas. The Ministry of Culture and Tourism is active in tourism centers and areas, which are mainly in mountainous or coastal areas. The Ministry of Environment and Forestry is responsible from forest or 2/b areas

Office<sup>559</sup> had no responsibility to transfer PEE lands during the privatization process even though it transfers public lands in its possession. The PA was responsible from PEE land transfers in urban areas as it started to use land at stock mainly within the municipal boundaries.

In certain cases, the land transfer activity may contradict with other national or regional public investment programs: For example, Black Sea Coastal Highway construction damaged several harbors and dockyards in the Privatization Program. For us, this is a dualism in terms of public investment which must be for public interest.

This section defining the method and level of PEE land transfers aimed to show that privatization programs mainly oriented towards the land transfers all around the country. In contrast to what has been argued, the public interest objective was not attained in the activities of the PA. Direct sales and transfer with or without substitute are the general methods applied for PEE land transfers. Here, the question rises; “Is there a relationship between land values and the method and the level of transfers?” Land values are criticized by the academicians, NGOs, and the public in common to be lower in the real estate markets.

### 6.3.2. Value Appraisal Studies and the PEE Land Values

Act No: 4046 defines how and by whom land value can be determined. Land value appraisal is made before the sales. The sale of the land with its real value is a Constitutional obligation. The Privatization Act has defined no norm for valuation, but has defined the issues related to the establishment of the Commission and its duties. The value appraisal issue defined in the Act covers the valuation of movables, immovables, and the Enterprise as a whole. The PA either carries out its valuation studies through a Commission established according to Article 18 of the Act<sup>560</sup> or receives consultancy services from the market (national or foreign natural and legal

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(Appendix P), but does not own lands. The General Directorate of Wakfs has immovable property in the old city centers that can only be repaired and rented.

<sup>558</sup> A comparison in terms of sq.m.s. cannot be made as related data is not provided by the PA. Only the numbers of privatization activities by provinces are known.

<sup>559</sup> The abolished Land Office had the duty of land provision to urban land markets and those natural and legal persons in demand.

<sup>560</sup> Composed of five people: The project group head responsible from the privatization of that establishment as the head, a specialist, project preparation department, capital markets department, officers from real-estate department. The articles of Act No: 4046 on the methods and principles on value determination and the formation of the tender commissions are cancelled by the Supreme Court’s decision dated 09.04.1997, No: E.1997/35-K.1997/45. Act No: 4232 (dated 08.04.1997) has been applied to overcome this problem.

persons<sup>561</sup>). By this expertise, Value Appraisal Commission or the Administration decides the valuation method<sup>562</sup>. This method is generally applied for privatization and liquidation activities of lands in urban areas.

Value Appraisal methods taking into account several factors<sup>563</sup> are; Decreased cash flows, Financial profit productivity, Notebook Functionality, Net active value, Amortized renovation value, Liquidation value, price/revenue ratio value, capitalization value in the market, market value, expertise value, and price/cash flow ratio<sup>564</sup>. Land value is determined according to the area (m<sup>2</sup>) of the real estate, development rights, existence of Title Deed, ownership pattern (the land may be owned by an other institution) and even according to the privatization status of that establishment (the establishment within the Privatization Program<sup>565</sup> or not). Urban location and potential of rent are not taken into account.

However, in the land valuation process, as stated before, the opinion of the GDNRE, Title Deed Offices, local authorities, and other related bodies are not taken. The search of practice has proved that the consultancy firms lack to ask opinions of the Title Deed Offices for determining the actual land value<sup>566</sup>. Neither the Commission nor those consultants make a separate feasibility analysis for urban development. Public institutions value a public land according to Public Procurement Act No: 4734 Article 9. Value appraisal should be parallel to the Act No: 4070 practice. For the author, the above-mentioned institutions must also be present in the transfer process of state's private lands. The separate valuation system set in the privatization practice is another difference between the activities of the PA and the GDNRE land transfer activities.

In a decision of the Supreme Court, it is openly declared that privatization must be made by the methods applied in nationalization and value must be close to the real

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<sup>561</sup> Gayrimenkul Ekspertiz ve Değerlendirme A.Ş. (a sub-division of Emlak Bank), İş Yatırım Menkul Değerler A.Ş., Vakıf Gayrimenkul A.Ş., TSKB (Türkiye Sanayi Kalkınma Bankası) Değerleme A.Ş., Deloitte & Touche - DRT Denetim Revizyon Tasdik Yeminli Müşavirlik A.Ş., and Price Waterhouse are some of these firms.

<sup>562</sup> In firm valuation, call indemnity is subtracted from this value and the figure is declared.

<sup>563</sup> Valuation factors are declared by the Capital Markets Board of Turkey according to the Declaration on the Amendments in the Declaration on International Standards in Capital Markets (Serial No: VIII, No: 46) (Official Gazette dated 25.08.2005 and No: 26270).

<sup>564</sup> See: Maliye Bakanlığı (2006:451-452); Açlar and Çağdaş (2002) for further information on real estate valuation.

<sup>565</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).

<sup>566</sup> Yusuf Yalçın Former Head of Yenimahalle Second Regional Branch of Land Registry Administration (January, August 2002, personal communication).

value that will provide the least loss and maximum interest.<sup>567</sup> As the privatization process is long, appraisal studies can be made several times. If not, there is the risk of transfer lower than the actual market value. In the appraisal document, the Commission defines either a value interval or a minimum price of sale.<sup>568</sup> If the privatization price is below the determined value, than the PA does not sell the land. However, this is so new because of recently accelerating criticisms against privatization cases.

In many cases, the sale value is lower than the actual value. This contradicts with social benefits. **Appendix T.** In any case or method neglecting this measure would provide a privileged position to the capitalist and be in violation with the equity principle<sup>569</sup> of the Constitution in terms of competition. If the transfer is below the actual market values<sup>570</sup>, the state has again losses<sup>571</sup>. There are several reasons for low values: The privatization can be made several years after and based on the pre-determined prices. Therefore, there appears a difference between land value in the year of value appraisal was made and the current land value at the date of privatization. Another problem comes from the lack of reliable information on market values (a general problem for Turkey<sup>572</sup>). The value also differs relative to the method used by that firm. In certain cases, the actual market value is neglected in order to ease the transfer.

The General Directorate of Retirement Saving Bank - Kızılay Emek İşhanı (08.03.2006 / 55.500.000 U.S. Dollar), Ataköy Marin and Yacht Management (28.02.2005 / 23.755.428 U.S. Dollar), Kuşadası Holiday Village (28.07.2005 / 34.500.000 U.S. Dollar), Istanbul Hilton Hotel<sup>573</sup> (15.11.2005 / 255.500.000 U.S. Dollar) and Sümer Holding A.Ş. -

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<sup>567</sup> Decision of the Supreme Court for omitting Act No: 3987 published in the Official Gazette dated 10.09.1994 and No: 22047.

<sup>568</sup> In such cases, the PA can make auction (like Bursa Çelik Palas Hotel tender). Ebru Öz LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., (July 18, 2006, personal communication).

<sup>569</sup> Official Gazette dated 10.09.1994 and No: 22047.

<sup>570</sup> A commission is set or consultancy service of private agencies is bought before privatization by the PA. This aims to find out the possible land value. This is after the finalization of planning studies.

<sup>571</sup> Sufficient and efficient precautions or regulatory principles to control and/or to direct *de jure-privatization* activities were and are not still taken by the PA within the related legislative framework. Necessary associations, rules, and mechanisms for controlling establishment's managerial expectations are not stated in the Privatization Act. The conditions and measures for the use of the immovable after the finalization of privatization for public interest are not also stated. For us, this may be because; the Administration is aware of this reality (its dimensions, probable outcomes). The PA may allow this as a political preference. This results also from the level of technical ability of the PA on planning and real estate issues, wisdom on the related legislation and the issue, and lack of criteria and limits of action through the process. Currently, there are no controls over privatization activities except the law defining bodies.

<sup>572</sup> See: Munro-Faure (2006).

<sup>573</sup> One of the 10 most expensive properties in Turkey. Estimated value is 225 million U.S.Dollar. 62.000 m2 land (4.000 dollars/sq.m.) with 80.000 m2 construction area (3.000 dollars/sq.m.)

Diyarbakır Establishment (07.12.2004 / 2.250.000 U.S. Dollar) are some of the high revenue gained privatization activities. There are rare cases where the privatization revenue is above the determined price like TEKEL Ankara Twin Towers (100.000.000 U.S. Dollar), İstanbul Hilton Tarabya (145.300.000 U.S. Dollar, the estimated price was 1/4), İzmir Hilton Efes (121.500.000 U.S. Dollar, the estimated price was 1/5).

On the contrary, there are a lot of transfers made through value appraisal mistakes: ORÜS A.Ş., SİDEMİR A.Ş.<sup>574</sup>, SEK A.Ş., EBÜ A.Ş. Facility in Akköprü/Ankara; Sümerbank. Merinos Yünlü Sanayi İşletmesi-Bursa and Manisa; SEKA A.Ş. Woodland in Gölcük-İzmit, Şekerbank A.Ş. Eskişehir<sup>575</sup>, eight parcels belonging to TURBAN Turizm A.Ş. İstinye-İstanbul<sup>576</sup>. Another valuation mistake has been made in KÜMAŞ case: By 31.05.1995, KÜMAŞ A.Ş. was priced as 99.531.078 U.S. Dollar and the mine substance potential was 82.070.880 U.S. Dollar (for 16.414.176 tons) which makes a total of 181.601.958 U.S. Dollar. However, KÜMAŞ was sold only to 108.100.000 U.S. Dollar<sup>577</sup>. As Keskinok (1999:17) states, the data available proves that besides its facilities, equipment, machinery, and the movables, the land owned has been sold even lower than their actual prices. **Table 6** shows that lands in urban centers and transition zones have higher sale values (in terms of sq.m.) when compared to lands at the periphery or rural areas. And still, the PA privatizes lands lower than their actual market values. Whereas, the proponents of privatization stress that “SEEs are sold at a fair price, is an independent professional evaluation of the business” (YASED, July 1995).

Keskinok (1999:28) compares real and sale land values of several *de jure-privatization* activities. He argues that privatization is made to possess land ownership and the rents. A comparison of 1998 and 1992 prices of ORÜS A.Ş. establishments defined by the related municipalities to the PA sale prices are given at this stage. This is to show that other than those two establishments of ORÜS A.Ş. with a large number of production functions, the rest (21 establishments) were closed down and production functions ended. Ending production function was never treated as misprocurement<sup>578</sup> by the successive governments (p.17). The real value of the land privatized is 17.958,7 billion TL., but the total privatization sale value is 6.895,14 billion TL.. **Table 7. Appendix T.**

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(Tüm gazeteler.com, <http://www.tumgazeteler.com/fc/ln.cgi?cat=33&a=1191590> (accessed Mar. 12, 2007 (02.12.2005 (10:05) Hürriyet).

<sup>574</sup> i.e. Sivas Demir Çelik İşletmeleri A.Ş.

<sup>575</sup> A business center on the land bought from Şekerbank A.Ş. in Eskişehir is constructed by TOKİ.

<sup>576</sup> See: Cumhuriyet (November 10, 1998: 1,5); Hayırsever Topçu (2004); Keskinok (1995).

<sup>577</sup> Sümer Holding A.Ş. Court Files, 09.02.2007.

<sup>578</sup> Even ORÜS Bolu establishment production has declined by the year 2001 relative to labour and wage policies. See also: KİGEM (1997:39); Hayırsever Topçu (2004).



**Table 6.** Comparison of Land Values of PEE Lands  
(Interpreted from Chart 1 in TMMOB (2005: 318))

Establishment*	Date of Sale*	Sale price A***** (U.S. Dollar**)	Land Market Actual Price B 2005 May U.S.Dollar ***	Land (m2)	Price A YTL/m2****	Price B YTL/m2
Antalya Forest Products Industry	13.02.1996	3.311.726	7.746.428	90.375,00	51,3	120,00
Sümer Holding Malatya Cotton Industry Factory	19.02.2004	6.400.000	57.000.000	129.000,00	69,45	618,60
EBÜ A.Ş. Milk Collection Center	31.08.1995	313.525	1.656.321	10.306,00	43,60	225,00
EBÜ A.Ş. Akköprü Combine	11.08.1995	28.000.000	150.000.000 (500.000.000-value of total investment)	100.750	277,91	1.4888,3

\* <http://ekutup.dpt.gov.tr/kit/kilcim/ozel-t8.html> \*\* Currency is calculated relative to the currency of buying at the date of purchase approval or date of contract signing. \*\*\* 1,4 YTL.= 1 U.S. Dollar, \*\*\*\* Including other immovables and the establishment price, \*\*\*\*\* Including other immovables and the plant. \*\*\*\*\* Including facilities and immovables.

**Table 7.** ORÜS A.Ş. (Twenty<sup>579</sup>) Establishments, Privatization Figures  
(Keskinok, 1999:28)

Sale by Years	1992 Land value in 1998 prices (billion TL)	Sale price in 1998 (billion TL)
1996	12 439.2	4 147.8
1997	2 794.8	1 093.1
1998	2 722.7	1 654.1
<b>TOTAL</b>	<b>17.958.7</b>	<b>6 895.0</b>

As stated before, land amounts cannot be figured out in block-sales. For example, amount of land transferred during the privatization of Turk Telecom is unknown. The firm was sold on 14<sup>th</sup> of November 2005 and all the lands in its possession were transferred to a foreign company. Lands and warehouses of Zirai Donanım A.Ş. in the eastern and south eastern part of the country were also transferred to Turk Telekom in the year 2000 before its privatization. Privatization of Turk Telekom has been criticized for the low values in land transfers and transfer to foreigners<sup>580</sup>.

<sup>579</sup> Out of 23 establishments, Akkuş, Ardeşen and Cide is not included.

<sup>580</sup> NGOs can be shareholders in those areas privatized to foreigners. By the last amendment made in the Title Deed Act No: 2664 by the Act No: 5444 (Official Gazette dated 29.12.2005 and No:

In certain cases, there were made mistakes due to lack of data at the PEE and/or the PA. For example, ERDEMİR Mining Industry Commerce Firm has been sued by the village legal person in August 2006. The sixty-three units of lands covering a school, a health center, houses, warehouses, and else owned by Ekinbaşı (Cürek) village had been rented by ETİBANK first in 1938 for 99 years. The land is later transferred to Sümer Holding A.Ş. and than to ERDEMİR. ERDEMİR was privatized in 2005 to OYAK. As the production functions declined, these 63 units of land belonging to this village was put on sale for 235 billion TL.. This means that the state is even privatizing the land that is owned by private natural and legal private persons<sup>581</sup>. In year 2004 Report of the Higher Auditing Council, it is stated that none of the results of valuation studies have been publicized and this violates the law. In this Report, it is stressed and stated that announcement is bound to the condition of those responsibilities of the buyer resulting from the contract. In other words, the PA should announce the valuation results of those firms and those responsibilities ended by the contract.

The analysis in this chapter reveals the fact that public administrations in Turkey are unaware of the quantity and quality of their exact property. Property rights are important to determine the methods of transfer. However this is not taken care during the privatization process. In case of problems in the land registry system, planning activities and implementation of land policies become harder. This is also valid for the PEE in the privatization portfolio and the PA. In this chapter, the difference of *de facto-privatization* and *de jure-privatization* is put forward by the detailed analysis of the objects of *de jure-privatization*, their transfer mechanisms, the privatization processes, and responsible administrations and their activities. It is shown that besides privatization the process has liquidation (and donation) character. This results in ending production functions rather than privatization. In urban areas, *de facto-* and *de jure-privatization* are known land policies. The privatization program generates as many land transfer as the exercise of public land transfers in the *de facto-privatization* process. The objects of transfer, responsible institutions, and their activities differ in *de facto-* and *de jure-privatization*. However, all public goods are subject to privatization. In other words, public goods allocated for public interest are transferred. This is against the principle of non transferable character of public goods. However, the Privatization

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26046); except firms, foreign foundations or NGOs are not allowed to own land. The Ministry of Finance can liquidate such ownerships. An enterprise can be transferred to a foreigner and such bodies may be present within the firms' structure. In the privatization process, if such conditions occur what kind of precautions or actions are taken by the PA is unknown. (Eray Büyükvelioğlu, City Planner, July, 2006, personal communication).

<sup>581</sup> Dağlar, A., "Unutkan Devlet Kiraladığı Köyü bile Özelleştirmiş". *Hürriyet*, August 30, 2006. *Ekonomi*, 9.

Act has the legal basis for the transfer of every type of public good. Public good becomes a private good that may be allocated to the use of the public. Partial privatization is the practice in general. Many cases are criticized as they cover land transfers lower than the actual value of the immovable.

For us, the other criticisms is that the PA neglects the impacts of the transfer of ownership and development rights on urban spatial structuring and possible land uses. This is why; PA had failures of revenue, efficiency, and value appraisal. However, it should take account of the rent potential of future development in value calculations or to seek for the possibilities of taxation of the revenue created. Furthermore, it only makes the transfer of ownership of public possession and development rights. The Administration has no intention for real value appraisal or public interest. On the contrary, the Administration claims that it makes plan modifications to find the real value. Despite common thought, objectives as land and investment costs are compared before and after the transfer. In direct land transfers, urban planning is used to allow value increases, to create rents, and to ease the transfer. According to Ertuğrul (2006), this is the reason why the PA has asked for planning competence during the legalization of the Act No: 4046. In the following chapter we will analyze the role of planning studies in the *de jure-privatization* process in order to find out the relationship between planning and privatization.

## CHAPTER 7

### URBAN PLANNING IN THE *DE JURE-PRIVATIZATION* PROCESS

Historically, development legislation has been rarely applied to PEE lands. For this reason, privatization of PEEs leads to certain administrative and legislative problems. Naturally, planning process of PEE lands had to be different within the current development legislation. Conditions 1 and 3 in **Figure 13** show the planning process before privatization. Urban planning after privatization is subject to Condition 2 that is the standard development plan procedure and process of the Act No: 3194. These planning activities carried on before or after the *de jure-privatization* process, are as follows:

- Planning studies of the PA (02.07.2004 onwards),
- Planning studies of the abolished Land Office<sup>582</sup> on behalf of the PA (Before 02.07.2004),
- Planning made by the PEE administration<sup>583</sup>,
- Illegally made planning activities of the municipalities before privatization, and
- Planning made by the investor and the municipality after privatization.

Who ever makes the planning study, as soon as the plan is approved by the PHC; common goods within the planning boundaries lose their characteristic and are subject to Article 912 of the Civil Act.<sup>584</sup>

The first two planning studies made before the privatization of the PEE land will be analyzed in this chapter as they represent planning approach of the central authorities. In addition to this, the chapter evaluates these planning studies to show their relation

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<sup>582</sup> The abolished Land Office has been closed down by the Act No: 5273 dated 08.12.2004. Official Gazette dated 15.12.2004 and No: 25671.

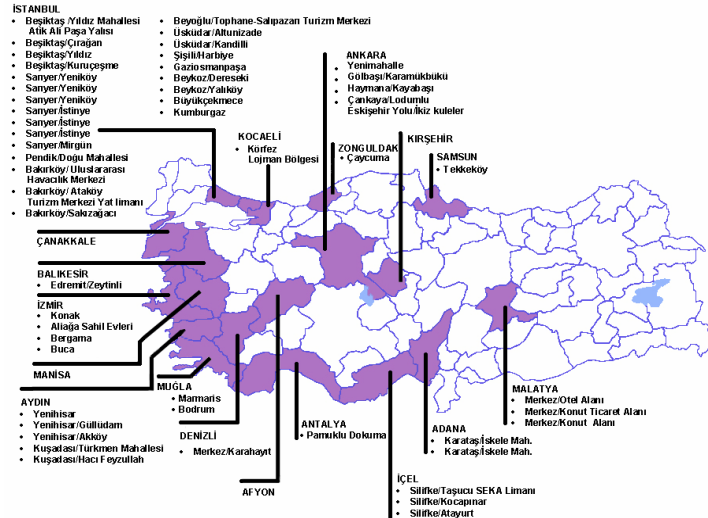
<sup>583</sup> There is no general information on planning studies made by the PEE before or after it is taken into the Privatization Portfolio. The PEE can take the planning service from either the private sector or the abolished Land Office through the PA.

<sup>584</sup> During the application of the plan, they will be registered in the name of the Treasury according to Circular No: 1995/1 [Tapu ve Kadastro Genel Müdürlüğü'nün; 4046 sayılı Özelleştirme Kanunu gereğince, özelleştirme kapsamına alınan kuruluşların kullanımında bulunan, Hazinesinin özel mülkiyetinde ve Devletin hüküm ve tasarrufu altındaki taşınmaz malların, tescil, imar ve ifraz ve devir işlemleri ile ilgili Genelge].

to the (re) production of urban space. Therefore, it is not a critical evaluation of the planning studies of the Privatization Administration (the PA<sup>585</sup>) or any other public organ, but of the relationship between urban planning and privatization. It must also be noted that there is no data available for the exact number of all the planning studies made through out the process. And it seems impossible to list all planning activities made by the central and local authorities or the PEEs. Within this framework, the first part is on the planning studies made before privatization. The following part is about the remarks on the urban planning process of *de jure-privatization*.

### 7.1. The Planning Studies before Privatization

When general problems are solved by the PA, the transfer method and over-demand land of the PEEs are determined (through demand projections). Then the PA prepares development plans or plan modifications<sup>586</sup> or has them prepared. The Administration later determines the value of the immovable and privatizes them afterwards. **Figure 14.**

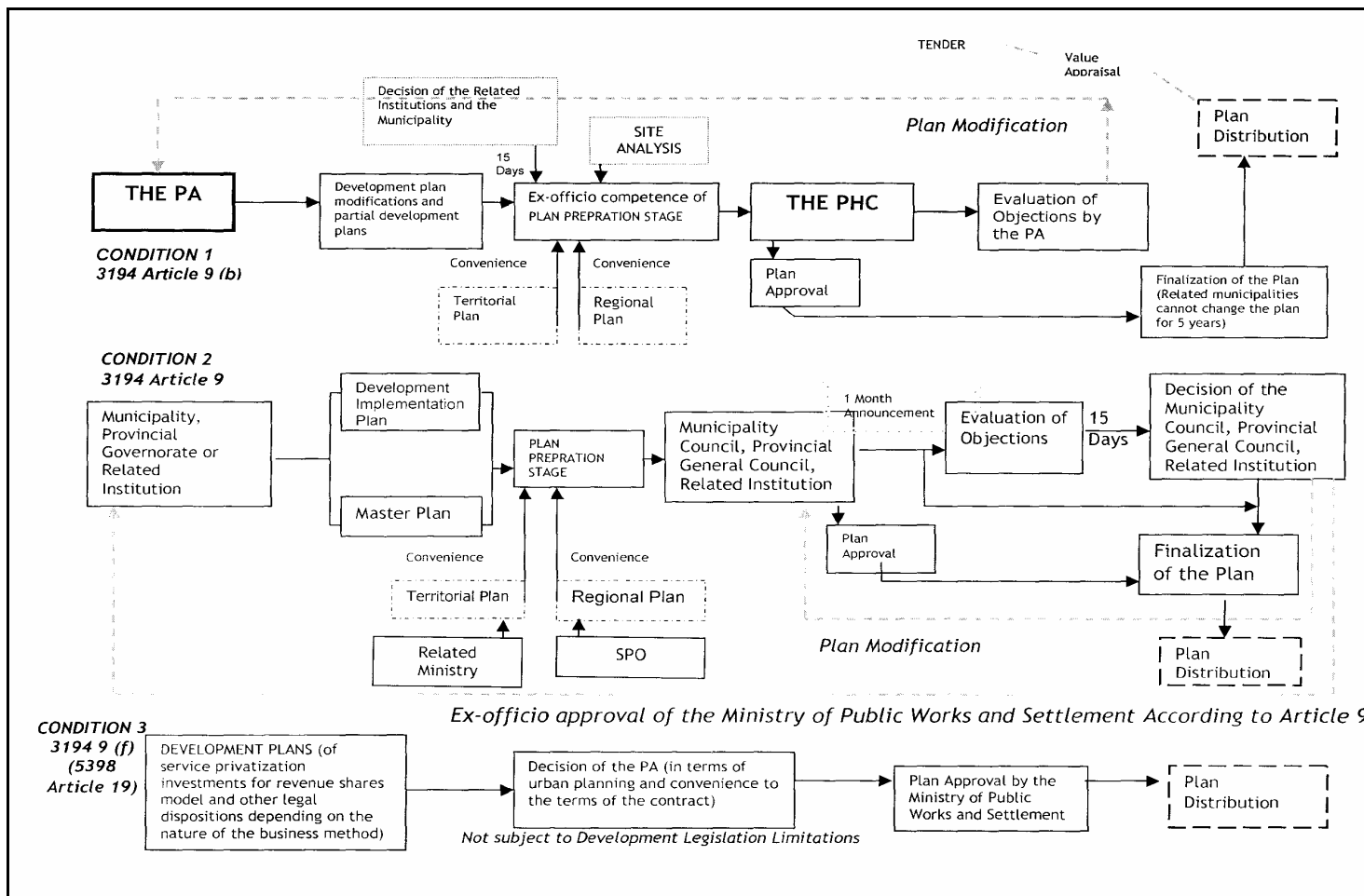


**Figure 14.** Land Evaluation, Research, Planning Studies and Plan Amendments made by the Abolished Land Office (04.01.1995 - 03.2002) and the PA (02.07.2004 - 31.07.2006)

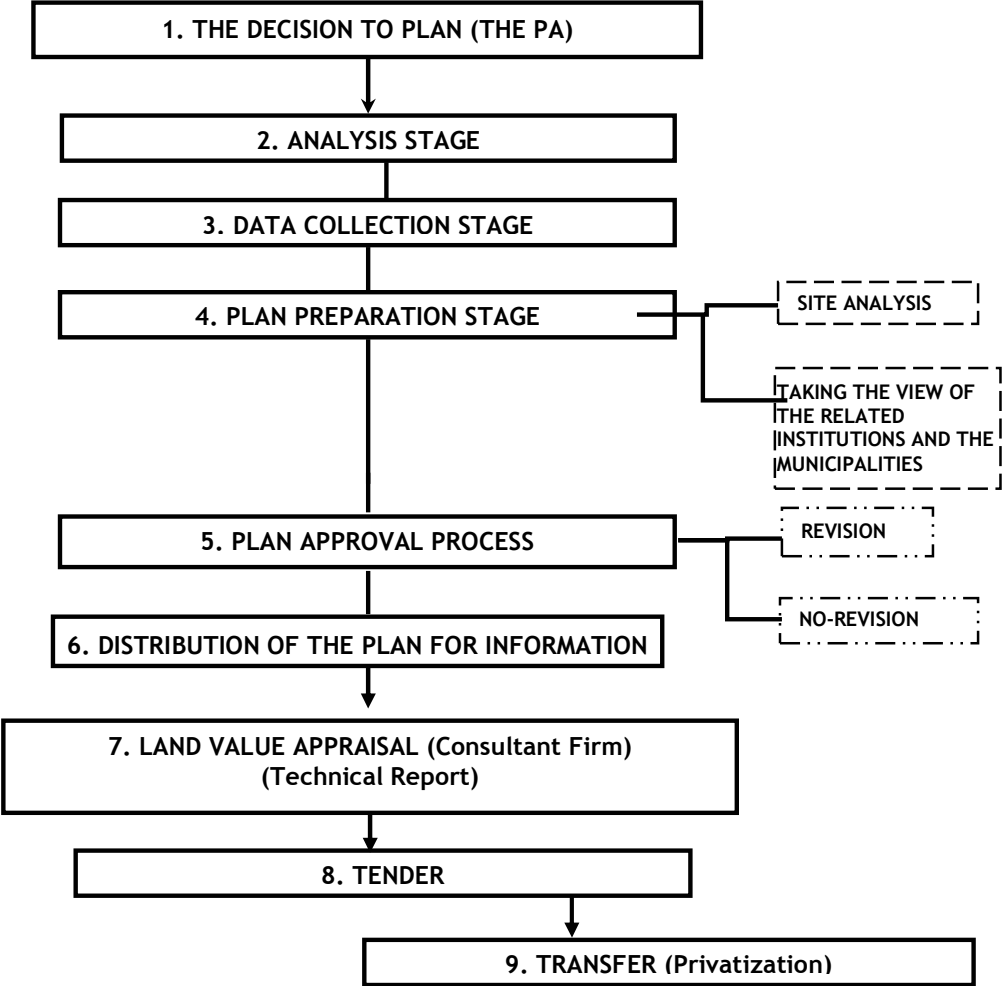
<sup>585</sup> The process structuring administration (the PA) has administrative, management, and efficiency problems just like PEEs.

<sup>586</sup> The PA decides on land value, land use, and the method of transfer. Central or local authorities are obliged to make the transfer or to implement the related plans or plan modifications of the PA. Act No: 3194 binds municipalities not to change development rights for 5 years. (Haluk Bilgin, the PA (July 31, 2006, personal communication)).

Figure 13. Planning Diagram of Acts No: 3194 and No: 4046



The abolished Land Office made planning studies on behalf of the PA (04.01.1995 - 02.07.2004). The estimated total planning studies of the PA from 1994 up until July 2006 is 60 where as 36 are approved (excluding those studies made by the PEEs). **Figure 13.** Stages of the PA's urban planning practice are similar to that of the procedures and stages of planning practices of other plan-making public organs (defined by the 3194). **Figure 15.**



**Figure 15.** Diagram of the PA's Urban Planning Practice (Since 02.07.2004)

### 7.1.1. Planning Studies of the Privatization Administration

The PA decides on the necessity of plan preparations and makes the related research and planning studies<sup>587</sup> due to the competences defined in the Development Act No: 3194 Article 9 according to Act No: 4046 and 5398. The PA has been making its own studies since 02.07.2004.<sup>588</sup> 19 planning studies are completed up to the end of the year 2006 and three more studies like Istanbul Salı Pazarı Area (Galataport), Ataköy Yacht Harbor by the PA, and Haydarpaşa Port by the MPWS still continues today. **Appendix U.** The PA prepares plans by the request of its project groups and if, there is a land problem or a land development potential<sup>589</sup>.

The legislative framework of planning studies of the PA contains following items: A norm is added to Article 9 of the Development Act No: 3194 by the Act No: 4046 Article 41:

(paragraph b)

Development plan modifications and partial development plans and development rights of lands and parcels in municipal and adjacent area boundaries owned by enterprises will be prepared by the PA. The PA will take the opinion of the related institutions (municipalities) and the plans shall not distort environmental unity and will be in use after the approval of the PHC. Related municipalities cannot change the determined land uses for 5 years and gives their opinion in 15 days.

Another norm is added to Article 9 by the Act No: 5398 (Article 19):

(paragraph f)

Development plans having prepared or are prepared for those investments having the character of service privatization within the content of the Act No: 4046 through revenue shares model and other legal dispositions depending on the nature of the business method are approved by the Ministry of Public Works and Settlement. Taking the evaluation of the PA in terms of urban planning and convenience to the terms of the contract is necessary. These plans are not subject to development legislation limitations.

Act No: 4046 Article 41 gives the PA the development plan preparation competence. According to the same article, as stated before, the PHC has plan approval

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<sup>587</sup> The PA has an insufficient technical planning and land-development capacity and lacks comprehensive planning understanding.

<sup>588</sup> The PA has appointed planners in its administrative structure from 02.07.2004 onwards.

<sup>589</sup> Haluk Bilgin, the PA (July 31, 2006, personal communication).



competence<sup>590</sup> (PHC approves also the investor). Baytan (1999:276) states that basic principles and conditions of the Development Act have been kept still by the Article 41 in order to simplify the process and the methods and shorten the period of transfer. However in practice, opposite results are observed and criticized for not establishing environmental unity and harmony between macro scale comprehensive master plans [nazım imar planları] and micro scale development plans [imar planları]. However, processes of urban planning or land transfer could not be shortened in the level expected. The PA uses the “the *ex-officio* competence of plan preparation” defined in the Act No: 3194. Planning responsibilities of municipalities and the MPWS are forwarded to the PA according to the content of the privatization activity. After the approval of the plans by the PHC, the results are announced to the Governorates and to the related institutions.

In order to implement a corporatist strategic planning approach, Article 41 of the Privatization is redefined by the Act No: 4232. Due to the problems delaying land transfers, privatization implementations, plan approvals or the competence chaos, and to overcome these, special norms are developed by the PA in the Privatization Act (so the Development Act). Since 2001, problems of the PA are resolved through amendments in the Privatization Act or other legislation like the Land Registry Act, Village Act, Tourism Act, Direct Foreign Investment Act, and Acts on the Sale of Treasury Lands. Coastal Act Draft is prepared and forwarded to the Parliament in order to able privatization of ports. The central authority changed the related legislation several times. The Administration is given the right to prepare plan modifications, by the Act No: 4232 (the Article 4) and several other rights by the Act No: 5398. (See: **Appendix S**). Act No: 4046 has also cancelled Articles 15 and 16 of the Act No: 3194 on subdivision and unification in the privatization related planning processes.<sup>591</sup> To solve these problems

Act No: 4046 has become above all other special Acts by the Act No: 5398<sup>592</sup> in 2005. Act No: 5398 reorganized plan preparation and approval of the Ministry of Public Works and

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<sup>590</sup> After completion of bureaucratic activities of development plans, plan modifications, partial development plans or the change of development conditions according to their scale and content of the activity; the plan is sent to the PHC for approval. During the approval of the PHC, the Municipality Council Decision is not a prerequisite.

<sup>591</sup> See: By-law on Land and Parcel Organization According to Article 18 of the Development Act [İmar Kanunu'nun 18. Maddesi Uyarınca Yapılacak Arazi ve Arsa Düzenlemesi ile ilgili Esaslar Hakkında Yönetmelik] Official Gazette dated 02.11.1985 and No: 18916 (bis).

<sup>592</sup> Court of State First Department has declared in 1999 by its Decision No: 173. E/1999-154 (Date of Decision 30.11.1999) that special Acts are above the Privatization Act. Ömer Ardalı from the PA (Sept. 07, 2001, personal communication) has claimed in the year 2001 the same thing. He stated

Settlement (MPWS) in coastal zones and areas under the authority of the Ministry of Culture and Tourism in Tourism. In the related legislation, no ordinance is set for or the possible results of privatization of those areas outside the adjacent area boundaries, environmental impact assessment process or health protection borders. In addition to these, while providing a greater discretionary power to the PA, this Act aimed to redesign immovable and movable property transfers neglecting the possible impacts of the transfer process. The Administration has also no legal obligation for the distribution of the approved plans to the plan-making agency.<sup>593</sup>

Besides real estate works, possible land uses, potential development rights are determined and the related plans or modifications are prepared<sup>594</sup> through Real Estate Works (Activities) Group (**Appendix V**) of the PA. These activities are based on Articles 5 and 6 of the Act No: 4046 and Article 17 of the by-law<sup>595</sup> of this Act. The existing land use is legitimized or unused PEE lands are developed by this Department. The duties of the Group cover the following cases<sup>596</sup> of;

- Privatization of lands with an existing development plan,
- Privatization of lands with an existing development plan without taking into consideration its deficiencies (legal-administrative),
- Privatization of lands with an existing development plan where the demand for plan revisions and additional plans have not been taken into consideration for years,
- Privatization of those with an existing plan, but amended after privatization by the investor or the local authority (Modification of land use decisions and development rights after privatization),
- Privatization without a development plan after finalizing subdivision and unification according to the Privatization Act (the land is privatized over the bare property),
- Privatization without a development plan and land use is unchanged after privatization,
- Privatization after the approval of the development plan by the PHC prepared by another public institution, municipality or professional body by the PA's consent,

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that the Act No: 4046 is over general Acts (as they are inflexible and cannot cope with the current needs and problems). He further added that there is a lot of political pressure and everybody is misusing this Act.

<sup>593</sup> Even the ex-plan making organ, the abolished Land Office complained for not achieving the plans after the final approval of the PHC. Cemallettin Aldemir (Sept. 06, 2001) and Meltem Kılıç (February-March 2002) (personal communication).

<sup>594</sup> Ten Project Groups of the PA ask the Real Estate Activities Group for real estate and planning studies.

<sup>595</sup> By-law on the Organization and Duties of the Presidency of Privatization Administration [Özelleştirme İdaresi Başkanlığı Teşkilat ve Görev Yönetmeliği] Official Gazette dated 08.02.1995 and No: 22196.

<sup>596</sup> Prepared by the contribution of Eray Büyükvelioğlu (August 2006).

- Privatization after the approval of the development plan by the PHC which is prepared by the PA, and
- Privatization without taking care of the existing development and master plans.

The PA has the right to determine the related actors in the process. Today, the PA asks the opinion of only several public institutions and the related municipality (ies) during its planning and real estate research studies. Municipality's opinion is important for the PA in order to prevent court cases opened against itself after the approval of the plans. This is also needed to prevent the preparation of any other plan made by the municipality before the PA finalizes its own plan. Certain problems may possibly appear in this process. For instance, there may even be cases when an investor asks the legitimization of the current use. Another example is that, the municipalities may utilize these lands as social infrastructure areas in their urban development plans: In case of Bursa Merinos Sümer Holding A.Ş. factory area privatization, the municipality has created a blockage for the planning studies of the PA for long time and even held an urban design competition for this area. As a result, 310 ha. of the area was transferred to the municipality by the year 2004 for the construction of "Atatürk Conference Center" and "Merinos Cultural Park".

The PA rejects planning studies of the municipalities and claims that such studies will decrease the value of the land. However, as we have shown in the previous chapter, the PA privatizes with values lower than the actual market values. The PA also claims that development plans are made by the administration itself to increase the sale price. The reverse is experienced as the values determined by the PA are lower than the actual market values even if the land is planned. (See: Chapter 6). There are various cases where development plans are made after privatization: i.e. Manisa EBÜ A.Ş. slaughterhouse area, Malatya EBÜ A.Ş. slaughterhouse area, Ankara Akköprü EBÜ A.Ş. slaughterhouse area.

While urban planning and value appraisal studies and/or determining the privatization method, related actors are excluded and necessary planning stages are omitted by the PA. In the first version of the Privatization Act, besides the decision of municipalities, it was obligatory for the Administration to ask the decision of the Chamber of Architects. Chamber of City Planners was not even stated in this Article, but the Administration has

applied for the opinion of the other Chamber<sup>597</sup>. By the 1997 amendment (Act No: 4232), Chamber of Architects was excluded from the process and the view of the Chamber of City Planners were never asked again.

The planning studies made by the PA seek for the best use to increase revenues. The typology of activities and intention of transfer differ relative to the location of the land in the city and possible development rights. **Table 8.** All of these are nodal interventions on urban areas<sup>598</sup> as these planned areas are generally in the urban centers or transition zones. In the early Republican times, PEEs were established in the outer skirts of urban settlements. Many cities have developed around these national or regional investments. Large areas were allocated for their future investments and expected growth. As the cities expanded<sup>599</sup>, these establishments have become surrounded by Central Business District (CBD) or transitional zones. Thus, this leads to land value increases (Baytan, 1999:273).

**Table 8.** Privatization Activities in Urban Areas Relative to Location

<b>Parcel in the center zone or transition zones</b>	<ul style="list-style-type: none"> <li>- Development Plans</li> <li>- Plan Modifications</li> </ul>
<b>Parcel or land at the fringe</b>	<ul style="list-style-type: none"> <li>- Keeping the land use still<sup>600</sup></li> <li>- Development Plans</li> <li>- Plan Modifications</li> </ul>

<sup>597</sup> Letters of the PA to the Chamber of City Planners dated 11.01.1995, No:B.02.1.ÖİB.O.61-66/192, and dated 13.01.1995, No:B.02.1.ÖİB.O.61-87/266.

<sup>598</sup> Haluk Bilgin, the PA (July 31, 2006, personal communication).

<sup>599</sup> For example, SEKA Dalaman and SEKA Taşucu were once located at the periphery, and are now in the transition zones of the cities. In time, the surrounding area of the establishments is covered with residential areas. Today, there are four municipalities only within the boundaries of İskenderun Demirçelik Factory Region. Unification studies have been carried and the production area is determined during privatization. The port and the railways are separated, but left out roads constitute a problem. This is because; they cannot be transferred according to the Development Act. Carrying the factory in many cases is impossible. In some cases, the pressures for extracting rents and increasing municipal revenues (taxes of real estate, toll, garbage, water sales, etc.) have accelerated in violation with urban development programs.

<sup>600</sup> Plan is preserved in general. In some cases, the establishment is closed down with speculative purposes. In every case, major aim is to increase land value.

At the end of the planning studies, different development rights by zoning and land use principles are set. At the initial phase, the development rights of the property are unchanged. Later the PA directs the PEE and modifications are made. Plan modifications are necessary for the PA in certain situations<sup>601</sup>: For example, some of the PEEs completed their economic life and the PA can neither use nor transfer these. The PA changes their development rights for easy transfer.

### **7.1.2. Planning Studies of the Abolished General Directorate of Land Office**

The abolished General Directorate of Land Office signed a Protocol<sup>602</sup> on 04.01.1995 with the PA and was assigned to carry on planning research and preparation studies. As stated before, the Office has performed this duty until 02.07.2004. **Figure 16.** Between 1995 - February 2002, the Land Office has carried on 38 planning studies and finalized 17 of them. **Table 9. Appendix Y.**

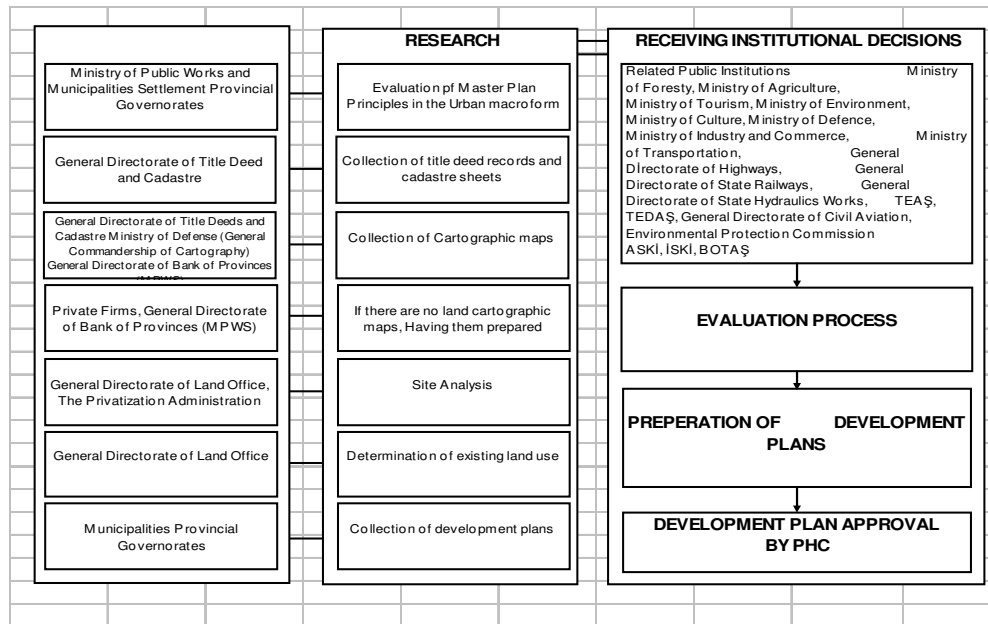
### **7.2. Remarks on the Urban Planning Process of *De jure-privatization***

The state-centered planning studies in *de jure-privatization* made by the PA or the abolished Land Office have been criticized. This is because of their market-led objectives against comprehensive urban development and denial of rational planning approaches. However, the planning perspective changes as the responsible organ in plan-making changes. This new planning understanding of the PA is not purely strategic. The aims and objectives can also be set by the municipality and/or the investor active in the process before the approval of the plan. For us, it is hard to claim that the PA applies comprehensive participatory and collaborative strategic planning. These criticisms stimulate the need for a discussion of the state-centered urban planning activity in the *de jure-privatization* process.

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<sup>601</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).

<sup>602</sup> Decision of the PHC dated 23.12.1994 and No: 94/3 declares that in those activities carried on within the framework of Articles 19 and 41 of the Act No: 4046 and for the subdivision and unification activities of the immovable and preparation of development plans of those institutions in the Privatization Program. If the PA requests (according to abolished Act No: 1164, Article 15), the Office will provide every kind of technical support. Article 7 of the Protocol declares that the PA will pay the percent of the planning service cost, which will be defined by the minimum unit prices of the Chamber of City Planners.



**Figure 16.** Land Evaluation and Planning Studies of the Abolished Land Office (1995-2004)

The initial remark is that privatization means the end of governmental control on public enterprises and production functions. The PA declares privatization as a reform, and a fundamental tool of the free market economy<sup>603</sup>. Objectives of the PA during land transfers are to get revenue to the general budget, but not to increase efficiency and effectiveness of the establishments. The state can re-own these lands only through expropriation or nationalization. To regain the property will not help the public administrations to survive financial crises, as there is no existing facility anymore. On the contrary, the proponents of privatization claimed that the loss of revenue and delay of activities result from unfinished planning studies or comprehensive and participatory planning. According to them, to overcome this problem, the central authority should have a competence over public lands in local authority competence areas. In addition to this, rent is created through land transfers and plan modifications. In other words, state indirectly becomes a partner in the production of urban rents. Therefore, planning activities have no public interest objective anymore. The rent seeking and value

<sup>603</sup> As stated by Yüksel Yalova (Politikanın Nabızı, Özelleştirme, TRT 1, 1999).

a. Privatization should be made immediately and whatever we can, we should privatize, b. State should be regulative during the process, c. Political pressure and populist policies should be lessened, and d. Institutions and all actors should work together.

maximizing opportunistic behavior of the actors in the *de jure-privatization* process structures the legislative framework.

**Table 9: Planning Studies finalized by the Abolished Land Office, between 1995-2002\*\***

PROVINCE/Subdistrict	LAND OWNER	COMPETENCE AREA	AREA (Hectares)
ANKARA-Yenimahalle	Sümer Holding A.Ş.	Municipality	14,68
ANKARA- Gölbaşı/Karamükbükü	General Directorate of Petrol Office	Provincial Governorate	2,6
ISTANBUL-Sarıyer/Yeniköy	General Directorate of Petrol Office	Municipality	0,12
ISTANBUL-Üsküdar/Altunizade	Sümer Holding A.Ş.	Municipality	2,94
ISTANBUL-Pendik/Doğu Mahallesi	T.Gemi San. A.Ş.	Municipality	2
ISTANBUL-Beşiktaş/Yıldız Mahallesi. Atik Ali Paşa Yalısı	General Directorate of National Real Estate	Municipality	1,7
ADANA-Karataş/İskele	General Directorate of National Real Estate	Provincial Governorate	13 parcels
AYDIN-Yenihisar/Güllüdam	General Directorate of National Real Estate	Provincial Governorate	49,71
AYDIN-Yenihisar	General Directorate of Petrol Office	Provincial Governorate	15
AYDIN-Yenihisar/Akköy	General Directorate of National Real Estate	Provincial Governorate	343,50
AYDIN-Kuşadası/Türkmen Mahallesi	General Directorate of National Real Estate	Municipality	1,8
İÇEL-Silifke/Kocapınar	General Directorate of National Real Estate		0,69
DENİZLİ-Merkez/Karahayıt	General Directorate of National Real Estate	Municipality	6,22
BALIKESİR-Edremit/Zeytinli	TURBAN Tourism A.Ş.	Municipality	4,8
İÇEL-Silifke/Taşucu *	General Directorate of SEKA	Municipality	197,4
İÇEL-Silifke/Taşucu SEKA Limanı	General Directorate of SEKA	Municipality	-650.000 m2
İZMİR-Konak	Sümer Holding A.Ş.	Municipality	159,626

Note: \* Cancelled in the year 2001. \*\* March 2002.

This administrative organ has been established for the transfer of state's private property, but lacked necessary control mechanisms for all forms of privatization activities. The Administration did not establish a planning unit. The PA appointed planners only after 2004. However, the relationship between planning, privatization, and the urban pattern could not be set due to several reasons such as the level of interference of political perspectives into technical issues and the lack of comprehensive rational planning ideology. Therefore, no separate legislative norm or

standard on potential development rights, the transfer of lands, and impacts on urban space are reflected to the related legislation. The PA seems to ignore the importance of the urban impact, the amount of land transferred, urban real estate market value analysis, and the related actors. Before planning studies any urban analysis covering urban costs and risks, development potentials of urban areas, or rent potential are not studied. Here, the problem is related to the characteristics<sup>604</sup> and location of the lands to be transferred.

The PA had the competence of plan preparation, but learned the meaning of urban planning, the activities and responsible actors during the process<sup>605</sup>. (See: **Appendix Z**). The Administration acted as a real estate office. However, the lack of comprehensive rational planning ideology hinders even its self-actions, and results in a loss of revenue<sup>606</sup>. It has followed its own rationality, which proves to be non-rational for the content of its planning studies. Any possible activity or transfer methods and land values are not defined.

PEE lands usually have been defined as public institution area or social service area in comprehensive urban plans. No growth potential was taken into consideration during planning studies before the decision to privatize. Data collection, synthesis, analysis, interpretation, and approval processes of the comprehensive planning approaches are long and many actors are involved. These are the factors that delay the investments. This process has been changed by the corporatist strategic planning activities of the PA. Comprehensive and participatory planning has been ended. However, the planning approaches applied by the state were not enough for the investor. For this reason, the investor, after the transfer of the immovable through any privatization method, with the guide of the local authorities, asks for a plan modification.<sup>607</sup> This request covers business concerns. In order to find out the impacts of urban planning on reproduction of urban space and urbanization process and to determine the opportunities and intervention mechanisms, a case representing urban planning studies (within the content of Article 9 Condition 2 of the 3194) after privatization must be evaluated. Within this framework, the following chapter will help the comprehension of impacts and opportunities of these transfers in the urbanization processes of Turkey.

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<sup>604</sup> Sq.m. of parcels, lands and buildings and their use functions.

<sup>605</sup> Haluk Bilgin, the PA (July 31, 2006, personal communication).

<sup>606</sup> Ibid.

<sup>607</sup> The investor, to satisfy own interests, has partial development plans made through a professional planning bureau.



## CHAPTER 8

### IMPACTS OF PEE LAND PRIVATIZATION ON URBANIZATION AND PLAN IMPLEMENTATION PROCESSES (IN ANKARA)

In Turkish privatization experience, according to Privatization Act, public production functions<sup>608</sup> are ended, land is transferred, and the basis for the emergence of spaces of consumption<sup>609</sup> through new urban development plans or plan modifications are prepared. In this process, the actors of comprehensive urban planning have neglected the impacts of ownership transfer and transfer of potential of development rights. The previous chapter showed that same ideology is implemented by the state centered planning approaches in the *de jure-privatization* process. Urban impacts and the related actors are also neglected by these approaches.

This chapter aims to discuss these impacts and the differences of urban planning studies after privatization. Urban planning process and the roles of related actors are analyzed. This is to find out how and why market mechanisms function and react, and which opportunities are created. An example of market-led capitalist approach in production of urban space, located in Ankara central business district (CBD (MIA)) İskitler transition zone is studied with reference to its surrounding. How development rights in different plan hierarchies are changed and the relation of these plans with each other after the piece-by-piece sale of Meat and Fish Products Firm<sup>610</sup> (EBÜ A.Ş.) Akköprü Slaughterhouse

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<sup>608</sup> State's private property, which is a production good, becomes a commercial private property.

<sup>609</sup> "In the main centers, particularly in Istanbul and Ankara, commercial property, including retail, office, warehousing, industrial and commercial uses, is the subject of an active market which international real estate advisers see as selectively attractive for international investors (From Colliers Resco, 2005, Turkey 2005; 2005 Real Estate Market Review Issues 1 ans 2) " (Munro-Faure, 2006:2).

<sup>610</sup> The institution was established in 1952 as Meat and Fish Institution [Et ve Balık Kurumu (EBK)]. Publicly known name of the public institution is EBK. It was taken into the Privatization Program in 1992. The Institution was transferred into Meat and Fish Products Firm (EBÜ A.Ş.) in 1993. It was the only slaughterhouse in Ankara until the day it was privatized. The city of Ankara does not still have a slaughterhouse. Publicly known name of the public institution is EBK.

Area<sup>611</sup> will be discussed. Hereinafter, this case will be named by the title of the investor - Yeni GİMAT A.Ş. - as “GİMAT”.

The evaluation starts with the analysis of how private interests (re) produce urban space. It is followed up by the discussion of the impacts<sup>612</sup> of this privatization activity to urbanization and urban planning (macro and micro scales) of the Ankara city within the framework of public interest. This chapter ends by the discussion of institutionalization of planning, which could only be understood through the evaluation of this speculative movement through plan implementation processes, market-critically.

### 8.1. The Relationship between Private Interests and (Re) production of Urban Space

Planning is applied in order not to leave rent control in capitalization or recapitalization processes to the mercy of market conditions and mechanisms and lessen its effect on the (re) production of urban space. Due to its control and zoning functions, planning is an ingredient of land policies, the major source of which is the land and parcel stock in public possession. However, today, besides their potentiality to direct urbanization and to implement plans at all scales; public lands are increasingly considered undeveloped and as degraded land stock. That is why; they are targeted for future private investments in the cities. In other words, public lands are the last vacant urban land stock available for the capital<sup>613</sup>. (Appendix AA is on the concentration of public lands in the city of Ankara.)

Concentration of public lands is mainly in the city centers or transition zones. In these areas *de facto- or de jure-privatization* is observed. The main determining factor for the capitalist<sup>614</sup> to prefer public lands (in or towards CBD<sup>615</sup>) in the privatization program is their land value<sup>616</sup>. Their location<sup>617</sup>, accessibility options, and urban development potential are the other factors. It is certain that public lands in the

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<sup>611</sup> The public named GİMAT area as Migros Akköprü. However, the investor has recently named it as “ANKAmall”.

<sup>612</sup> The impacts cover a comparison of the development rights before and after privatization.

<sup>613</sup> The case is different for the private property, which is left idle and degraded, but available in the urban land market.

<sup>614</sup> According to Gökçe (2005:75), at the end of the process, in which cities and urban-regional systems gain importance and urbanization tendencies of nation states change; capital and its movements are the main inputs that structure cities and city centers.

<sup>615</sup> CBD areas are attractive investment zones with appealing infrastructure possibilities.

<sup>616</sup> The capitalist asks for decreased land values and maximized land rents in order to have a location in the land market as well as in the global restructuring through local dynamics of urban areas (Gökçe, 2005).

<sup>617</sup> Capitalist demands a location in the urban center in terms of population and land use concentration that structures the consumption pattern. See: Keskinok (1997); Harvey (1999).

privatization lists have lower actual market values. This is because of misleading value appraisal studies of the PA and lower real estate market values of these areas. Lower real estate market values result from several notions: For example, during the urbanization process as the planning institution does not take into account their urban development potential, low values in the real estate markets appeared for public lands. This is also due to the shortage of public investments in these areas.

Public institutions cannot establish new production functions because of insufficient financial sources assigned for investments from the national budget or their incapability to obtain financial sources. In this process, these institutions either become unable to (re) produce public service areas or transfer their own possessions. They sell overdemanded land or even close down facilities to transfer the land with a compensation to overcome the financial crisis. If there is any demand, they buy or rent from the real estate market, and may even buy immovables constructed illegally<sup>618</sup>. The decision-makers of the central authority can accept these as logical public practices. The same is valid for PEE lands. The PA, to overcome the financial crisis of the central authority, privatizes public lands.

Contrary to low investment levels in the public sector, requirement of the capitalists for public lands to implement their investment projects brings together the process<sup>619</sup> of capital centralization and concentration in urban areas. During this processes, the capitalist attempts to appropriate absolute and monopolistic rents<sup>620</sup>. Today, unfortunately, there are no certain and defined tools of land management to direct the interest of the capitalist or tools to control investments.

At this point, the evaluation can be broadened by the analysis of why capitalist interest is in public lands. The Capitalist puts money and use values into circulation in order to make more money (Harvey, 1999:21). This is a natural practice of capital to take economic risks: In the circulation of capital, capital invests in real estate markets, buys public property to lower investment costs, ends production functions of the PEEs, and tries to make gains through speculation due to the location of (public) land<sup>621</sup>. At the

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<sup>618</sup> The Ministry of Environment and Forestry bought a building located in Beştepe Business Center in Söğütözü, Ankara. As defined unofficially, the building permit is lacking in 2006.

<sup>619</sup> In this process, the capitalist tries to overcome the dilemma between profit and rent.

<sup>620</sup> See: TMMOB (2005:437).

<sup>621</sup> This is the passage in transformation of urbanization of labor into urbanization of capital. This process has not been yet completed in Turkey. According to Aydoğanlı (1995:50), land is one of the few inflation-resistant forms of investment. The processes defining urban space are the real estate (property) market in the second circuit of capital and the phase when capitalist economy is

time of crises, by returning to the second stage of circulation, capital invests to avoid investment risks<sup>622</sup> on the market. Rent allows a revenue level minimizing these risks in the minimum period.<sup>623</sup> Harvey's definition of capital in its second stage exists in Turkey as it is in the world. (See: Harvey (1979:70) Figure 2.1, The circulation of capital and purchase of goods for consumption by the capitalist).

In this process, for Fainstein and Fainstein (1985), market is narrow-sighted: The central authority aims to broaden the markets' narrow-sightedness through privatization of public lands and state planning.<sup>624</sup> This is no more than the legitimization of the interest of the capitalist or the administration itself. A similar practice to what is implemented by the PA in the *de jure-privatization* process, is experienced within the *de facto-privatization* process: According to some unofficial information, TOKİ implements urban plans<sup>625</sup> either through partnerships with private contractors (PPP method), local authorities or by the Administration. Urban patterns of housing with spaces of consumption are planned while departing from the mission to provide low cost housing for the urban poor.

However, as Fainstein and Fainstein indicate, these private interests also deny state planning. These researchers note, "public-private partnerships (PPP) for urban development meant that state planning had essentially ended" (1985:496). For us, the necessity for urban planning has not ended. This necessity depends upon as Fainstein and Fainstein (1985) has stated whose interests are served by state planning and to what extent planning is actually necessary for the reproduction of capitalist social relations. Planning is also necessary when capital accepts the legitimacy of state intervention. These researchers also underline the conditions when the capitalist demands planning:

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in crises after the first cycle investments reaching contentment in production sector, would use urban space as a tool for reproduction in order to overcome fiscal crises (as Gökçe (2005:76) cited from Harvey (1973)).

<sup>622</sup> It is hard for the capital to foresee these risks.

<sup>623</sup> Such a movement of capital is experienced in Turkey, especially in Ankara and Istanbul, where the public lands are in great numbers. Mass Housing Administration is also making protocols with several public institutions and constructing housing in Ankara. (i.e. Greater Municipality of Ankara (Esenboğa Road Projects, CBD (İskitler/Kazıkıçı Bostanları) 2005 Project Proposal), the MPWS the General Directorate of State Highways (Training Center, 45<sup>th</sup> km on Eskişehir State Road), the General Directorate of Village Works (Storage Area (İskitler) and Headquarters on 20<sup>th</sup> km of Eskişehir State Road)). The recent and widely discussed investment attempts are in Istanbul.

<sup>624</sup> The PA, before transferring the land to public or private sectors, makes planning studies.

<sup>625</sup> It is unofficially determined that several planning studies and project proposals are received from the market by the public authority. It is interesting to note that the Administration taken these plans unofficially even though the Administration has plan making capacity.

Effective planning for the class as a whole inevitably favours some firms and industries over others ....Politically powerful vested capitalist interests resist class strategies, which hurt their firms. The likely end result is that capital will accept planning only when it is conservative (i.e. reproduces the extant balance of power among capitalists), not necessarily when it reflects the long-run interests of the class as a whole, much less that of other social strata (p.489).

Urban planning is needed before or after privatization. While making planning studies, central authority eliminates or lessens local urban development control ability. While doing this, in this process, central authority hinders the public interest objectives (if any) of local authorities. However, as local authorities release their control over urban planning processes, the power of the private sector and central government over land development procedures increases. In any case, there is no rationality of the central authority to intervene to local areas without the consent of the local authorities. Dominance of the private sector is stronger in the planning process after privatization. In short, as Aydoğanlı (1995:135) has stated the profit makers are the private sector in the long-term and partly the central government.

After privatization, when capital requires new development rights in the form of development plans and/or plan modifications, it is observed that zoning principles developed through lower scale plans are against the existing plans<sup>626</sup>. The land transfer then becomes an irrelevant input for urbanization and the plans. When necessary planning mechanisms are not created for controlling and taxing rent for public interest, the pressure for creating spaces of consumption interestingly accelerates. This challenges the continuity of implementation and validity of urban plans. As an inevitable outcome, the plans will keep on losing their comprehensive, regulatory, and directive character<sup>627</sup>.

Capitalist prefers to construct commercial functions to escape from the risks and costs. Functions that will create economic gains and produce rents on the land privatized are preferred. Within the framework of available data, **Table 10** is the comparison of major commercial investments in Ankara in private or public possession (including those transferred through privatization) to show the results of their interests. The following table (**Table 11**) aims to show why commercial investments are required in the form of commercial functions by a comparison of commercial and housing immovable sale values in certain districts of Ankara. It can be observed from this table that commercial

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<sup>626</sup> This is also valid for all planning studies of the PA.

<sup>627</sup> TMMOB (2005:437).

investments in city centers or transition zones generate more revenue than housing investments. This issue will be evaluated in the next section within the content of macro scale structural plans. The following section concentrates on the analysis of the relationship between the decision of a commercial construct on a privatized land and macro structural plans.

## 8.2. GİMAT Development in terms of 1990 Ankara Master Plan and Successive Structural Plans

Before analyzing the relationship defined by those planning studies after privatization, we will evaluate the case area. This evaluation will be in terms of urban location of the area, zoning principles, land management, land values, direction of urban growth, center - sub-center relations, and macro plan decisions and targets:

### Urban Location

Location of GİMAT is the main determinant of its urban characteristics. **Figure 17.** GİMAT lies within the boundaries of the Yenimahalle district. It is on the northwestern part of the Ulus historical center and its transition zone Kazıkıçı Bostanları-İskitler CBD (MİA<sup>628</sup>).

The location is on the west side of the Istanbul junction and at the crossroads of Konya-Samsun and Istanbul-Ankara highways. It is located along the Ankara stream. GİMAT is in the potential development area of Kazıkıçı Bostanları CBD development of which is blocked by SSK, DSİ areas and Ankara stream on the north<sup>629</sup>. GİMAT is on the threshold separating south part of the city where riches live and northern part of the city where poor and merchants are concentrated. After 1950s, close to this area, parallel to the Ankara stream, public institutions and immigrant settlement areas emerged. GİMAT is also in the intersection of the green axis coming from Atatürk State Farm (AOÇ) sticking to the city center (where Youth Park Park is).

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<sup>628</sup> 2.028.600 m2 construction area. Workers Neighborhood (3.200 houses), mainly construction and car repairment or equipments retail sale concentration, office uses. Net E is 1-3/3-6. In Uybadin Yücel Plan, the whole area is small scale-industry. It also covers Ulus Rüzgarlı zone (pedestrian circulation concentration, 3.000 m2 parcels, E=2, existing buildings on the main axis (1974- )) (Çakan, 2004).

<sup>629</sup> Other land uses that block the CBD are Financial Department, Historical sites, Army land, Ankara Water and Sewerage Administration (ASKİ), İller Bank, Office of District Administration, KHGM, MPWS TCK - Workshop.

**Table 10. Comparison of Investments on Public and Private Properties in Ankara (2006)**

	Date of Opening	Land (m2)	Construction Area (m2)	Rentable Area (m2)	2006 Actual Market Value <sup>630</sup> (USD)
Armada Commercial Center (Private property)	28.09.2002	-30.000	125.000 Office Tower (21 floors) 158 shops, 11 cinemas, 3100 carparks)	32.000 m2 (45-3500 m2 shops)	115- 125.000.000 <sup>631</sup>
GİMAT (Migros Akköprü) (Former public property)	27.08.1999	100.725	293.724,83 m2* (including carparks and technical spaces) I. Stage 126.483 m2 II. stage 167.241 m2	125 to 250 m2, 129 units in 76.000 m2	320- 350.000.000 m2 1200 USD
TEKEL Twin Towers (13870 island 3 parcel) (Former public property)	Construction started at 1988, under construction 26.07.2005 (date of sale)	65.000	37 floors	Unknown	100- 110.000.000 <sup>632</sup>
Kızılay 1168/8 parcel (YKM)	1979	5733	5733	10 floors and an entresol	30.000.000
Sheraton Hotel (Private property)	undetermined	undetermined	Rooms, bars, 8 conference rooms, restaurants	433 rooms and suites,	70- 75.000.000
Atakule Commercial Center (13583 island 2 parcel) (Private property)	undetermined	6.730	28.530	undetermined	40.000.000

\* Including carparks, storage rooms, and shelter and technical services. For carparks 115.234 m2 indoor area is allocated.

**Table 11. Commercial and Housing Immovable Sale Value Intervals in Certain Districts of Ankara (2006)**

Neighborhood	Average Sale Value (YTL)*	Sq.m. (m2) Range*	Value/Sq.m. (YTL)
Kızılay Office Units	145.000-300.000	110-200	1.348,48
Kızılay Shopping Malls	7.288.500 (5.000.000 USD)- 87.462.000 (60.000.000 USD)	1500-6000	1.2633,4
Çayyolu (Angora) Commercial Units	135.000	25-34	2.288,14
Bilkent Office Units	425.000	180	2.361,11
Çankaya (Housing/Apartments)	1.300.000- 7.288.500 (5.000.000 USD)	840-8000	971,54
Kavaklıdere (Tunalı) Office Units	169.000-1.166.160 (800.000 USD)	110-375	2.752,90
Kavaklıdere (Karum) Commercial Units	816.312 (560.000 USD) - 1.500.000	28-60	26.231,7
Ulus Commercial Units	59.000-4.500.000	16-1200	3.749,17
Çankaya/Turan Güneş Road Commercial Units	240.000-800.000	125-670	1.308,17
Yenimahalle Commercial Units	180.000-700.000	80-600	1.294,11
Eryaman Shopping Units (KC Migros)	600.000- 5.000.000	140-1500	3.414,63
Demetevler Commercial Units	200.000-1.200.000	65-530	2.352,94

One U.S.Dollar = 1.4577 YTL. Central Bank of the Republic of Turkey (TCMB), 05.09.2006.

\* LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., e-mail message to author, Tuesday, July 18, 2006, 9:25 am.

<sup>630</sup> LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., e-mail message to author, Tuesday, July18, 2006.

<sup>631</sup> Ibid.

<sup>632</sup> At the date of its sale, its real value was 75-80 million U.S. Dollar, but it was sold to 100 million U.S. Dollar. Therefore, its actual market value must be around this amount.



Figure 17. GİMAT Location in Ankara

#### Land Use Decisions

Physical structures around GİMAT are Turkish Coal Enterprise (TKİ) (1976), the General Directorate of Social Insurance (SSK) (143.22 ha.) (1973), Municipality Wholesale Market (1976), Varlık Housing Area (1950- ), the General Directorate of Highways-Workshop, Atatürk Cultural Center (AKM-Hippodrome) (413 ha.), the General Directorate of Village Works (KHGM), CBD (1993 Competition Area - 310 ha./ 2005 TOBAŞ Project Proposal - 217 ha.), the General Directorate of State Hydraulic Works (DSİ), International Trade Center (UTM) (22 ha., with 350.000 m<sup>2</sup> construction area), the General Directorate of Security, Ulus Historical Urban Center (116 ha.), 19 May Stadium, Nodal Historical Archeological Sites, and Ankara Train Station (Gar), and several industrial areas (small-scale).<sup>633</sup>

<sup>633</sup> [Ata Industry (1953), Demir Industry (1954), Big Industry Mall (1953)]. In the CBD 1993 Competition Winning Project, 1998 development plan, and the implementation plan, these industrial areas are planned as office areas.



From 1970s until 1990s, wholesale and warehouse functions of local and central authorities and private sectors and environmentally unfriendly small-scale industrial production were concentrated around EBK area. Major urban public formations around the area are Municipality Service Areas<sup>634</sup>, Training Center of Ziraat Bank, Atatürk Cultural Center (AKM), the General Directorate of Security, and subway station. Large-scale projects planned close to the area are as follows: AKM, Presidential Symphony Orchestra (ÇSO), Revision of Youth Park, Municipal Service and Prestige Area, Municipality Wholesale Market, Improvement Project of AOÇ, Ulus Historical Center Project, UTM, Ankara Municipality Sports Stadium, CBD 2005 Project Proposals<sup>635</sup> (ABŞB-TOBAŞ/TOKİ CBD Project and ACC CBD Project). **Figure 18.**

Kazıkıçı Bostanları district enjoys a transition zone character from the 1960s up to date. This transition zone developed legally in the years of 1953-1954, 1974, 1984, and 2003-2005. Illegal construction has continued until 2004 mainly in industrial areas up to the date small industrialists were forced to move to several industrial zones at the outer skirts of the city by the Greater Municipality of Ankara<sup>636</sup>. Moving industrial areas to outer skirts of the city after the year 2003 was a 1985-1986 macro planning decision and a principle of CBD 2005 Project Proposals. Concentration of specialized commercial and service functions in this area is observed from 1980s onwards. This local authority has stopped urban development in the area due to its project proposal in the year 2005.

EBK area in Akköprü is defined as “urban growth area of the year 1956” of the Republican Period Development (1924-1980)<sup>637</sup>. EBK area was defined as “Central Business District Area (CBD)” in urban transition zone development according to 1990 Ankara Master Plan, 2015 Structural Plan, and 2025 Metropolitan Area Master Development Plan. This is because of its building structure, the urban pattern around the area, and its untouchable public property character. In all macro-planning studies, GİMAT area was a “public institution area”.<sup>638</sup> In both the Uybadin-Yücel Plan (1957) and the Ankara Metropolitan Area Master Plan for the year 1990; the EBK Area was defined

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<sup>634</sup> Altındağ Municipality Bus Terminal (Land is owned by the Greater Municipality of Ankara (ABŞB)), the Chairmanship of Technical Services (Firebridgade)).

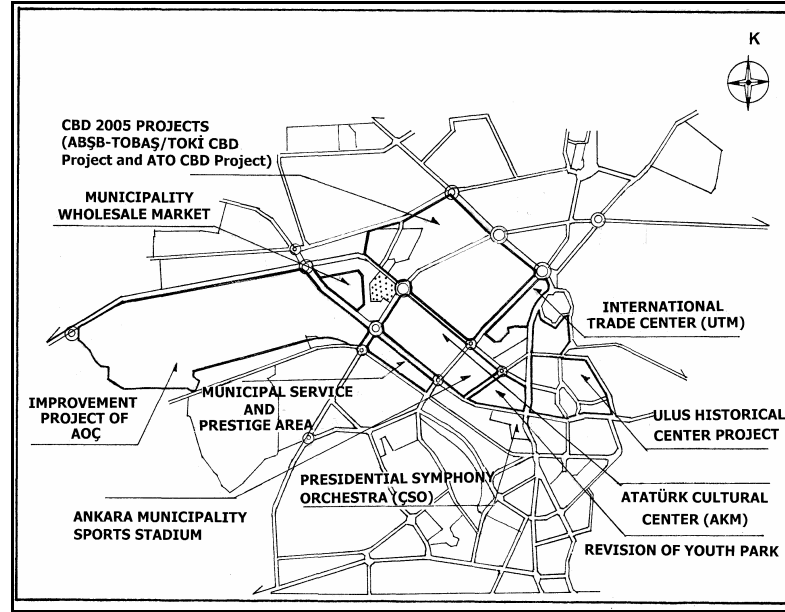
<sup>635</sup> TOKİ and Greater Municipality of Ankara Partnership - TOBAŞ - Project Proposal (2.151.779,82 m<sup>2</sup>, E=2.5, 11.000 housing units proposed). The second project is the Ankara Chamber of Commerce (ACC) proposal. (This project is being prepared by the upper union of seven sector cooperatives.)

<sup>636</sup> Çakan (2004:39) cites Gökçe's (2003) view: Functions that wish to make the most benefit from urban values by taking place in the center, locate in the central business district by pushing others outside the area. Invasion-succession process is among the basic processes that determine the central structure in Ankara.”

<sup>637</sup> See: Map 4.2.7. (METU Planning Group, 1987).

<sup>638</sup> A publicly owned and managed slaughterhouse with a 17,1 ha. area.

as a “warehouse area”. This function has been changed into “urban service area” by the Plan prepared by the Greater Municipality of Ankara in the year 1993 and kept still by all successive plans.



**Figure 18.** Several Large-scale Investment Projects

### The City and the Development of the Urban Center

There is the need to discuss the role of GİMAT in the development process of the urban center and the related urban planning approaches. At this point, attempts to restructure urban centers and transition zones in Ankara are also given. As the central authority institution, Ankara Metropolitan Master Plan Bureau (Metropolitan Planning Office) (AMNPB) has applied comprehensive planning in between 1970-1990. Ankara has a series of comprehensive macro plans. Between 1960-1970, Istanbul axis is the major development direction of the city and its center. Concentration is the main defining factor in the CBD orientation<sup>639</sup> by 1970s. According to 1970 AMNPB forecasts, this axis

<sup>639</sup> For example in Ankara, ministry headquarters are located on the east to west direction of Eskişehir route. Some of their affiliated, annexed bodies or PEEs are located on Istanbul-Ankara route (E-5 Highway). New public investments are scattered at the periphery due to lack of land

was the central growth area. Public investments in this area<sup>640</sup> were supported. However, during the plan implementation process, the plan objectives could not be attained: Private investments after that time have been structured in contrast to the Master Plan decisions and out of plan boundaries<sup>641</sup> due to the adequate supply of planned urban lands.

Between 1970-1985, AMNPB aimed to direct private sector to Kazıkıçı Bostanları and Akköprü for meeting the growth demands of the business sector located in the Ulus traditional center. The local authorities have taken no strict rules for EBK area and new CBD development areas (İskitler-Kazıkıçı Bostanları). Researches had been made by AMNPB for 1990 Master Plan studies. In AMNPB 1990 Master Plan and successive plans, the aim was to develop northwestern direction of the city where Akköprü, Varlık, İskitler, and Kazıkıçı Bostanları are. 1990 Master Plan Reports state that while vertical concentration and rehabilitations in the CBD structure are made, development on the urban spine will be on Kazıkıçı Bostanları.<sup>642</sup> This area is an opportunity for the city center and urban development and will be the new CBD of the city<sup>643</sup>. The Plan Implementation Report advised a shopping center to be constructed in Akköprü. This is believed to accelerate urban central growth<sup>644</sup>. A small-scale shopping center is constructed after 1990s in this area. In short, 1990 Master Plan has determined Kazıkıçı Bostanları CBD area as the development area of retail uses where there is the concentration of public warehouses or service uses.

İskitler Central Business District (MİA) 1993 Competition<sup>645</sup> was held to define transformation and implementation strategies of the CBD area.<sup>646</sup> **Appendix BB.** By this competition, modern central functions are located in the point where the historical urban center is expanding<sup>647</sup>. This competition had the objective to create what 1990

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and high land values in the inner city. This concentration in the city center has spread towards northern and western corridors after 1980s. Moreover, after this time, the city started to develop on the main transportation routes.

<sup>640</sup> See: 1990 AMNPB Raporu, p.377.

<sup>641</sup> METU Planning Group (1987).

<sup>642</sup> Kazıkıçı Bostanları is located in the east and southeastern directions of EBK (1990 AMNPB Raporu, p.377).

<sup>643</sup> "Kazıkıçı Bostanları will be the new Central Business District of the city" (Çakan, 2004:84).

<sup>644</sup> See: Eke and Özdemir Sönmez (2003:265).

<sup>645</sup> Ankara CBD (Northern Section) Planning and Development Competition is held at the location where Ulus Historical Urban Center is opened to development.

<sup>646</sup> Ankara CBD (North Section) Planning and Development Competition Jury Evaluation Study Report [Ankara Merkezi İş Alanı (Kuzey Kesimi) Planlama ve Geliştirme Yarışması Juri Değerlendirme Çalışması Raporu] (24.11.1993-28.11.1993), p.12; Ankara Büyükşehir Belediyesi (1993).

<sup>647</sup> See: Vardar (1996).

Master Plan<sup>648</sup> had declared in 1970s. EBÜ A.Ş. area, as urban development area proposed by AMNPB, has not been included in the 1993 CBD competition boundaries<sup>649</sup>. However, the first runner up project sets the CBD and GİMAT relationship during the competition. In Competition Jury Report,<sup>650</sup> it is advised that the first runner up project should strengthen the connections and the relations of Kazıkıçı Bostanları to neighboring urban parts located on the northern and northwestern directions.<sup>651</sup> The winning project was not applied eventhough development implementation plan (Figure 19) was prepared in the year 1998<sup>652</sup> by one of the planners<sup>653</sup> of this Competition.



**Figure 19.**1998 CBD (Kazıkıçı Bostanları-İskitler) Development Plan (Çakan, 2004:98)

<sup>648</sup> The 1990 Plan was a structural plan and had a definitive framework with 20 years perspective. It proposed urban development in the western corridor. The Plan, approved in the year 1982, aimed to decrease the development pressure on Yenışehir and Ulus districts. AMNPB has defined, programmed, and finalized the plan implementation stages until 1984.

<sup>649</sup> Greater Municipality of Ankara wanted to include SSK and Akköprü areas, but later has given up this decision.

<sup>650</sup> Ankara CBD (North Section) Planning and Development Competition Jury Evaluation Study Report (24.11.1993-28.11.1993), p. 13.

<sup>651</sup> The historical bridge should be protected. It is also added that both sides of the Ankara stream should be designed for the use of Ankara inhabitants (Ibid., p.14).

<sup>652</sup> Prepared by the Greater Municipality of Ankara in 2003.

<sup>653</sup> Planning studies ordered by the Greater Municipality of Ankara have started by 1997 (by Sedvan Teber) and finalized on September 1998. Tektonika Limited (Semra Teber) has prepared architectural projects for implementation in the year 2003 again for this Municipality.

In 1985-2005 period, the development of the Ankara city and her centers has been again left to market forces.<sup>654</sup> This led to unplanned decentralization of urban functions by market forces although it was proposed by the structural plans of 2015<sup>655</sup> and 2025<sup>656</sup>. It must be noted that Jansen Plan<sup>657</sup> and Uybadin-Yücel Plan<sup>658</sup> were also criticized as they left urban development to market forces<sup>659</sup>. Private sector investment in CBD is required in order to shape the city center and urban macroform in the directions proposed by macro plans. In 1999, GİMAT development took place. This partial location selection activity coincided with the major objectives of Metropolitan Planning Office. For GİMAT to be a concentration point, the investor constructed functions targeting high-income groups<sup>660</sup>. Sub-regional integration, which was another foresight of the Office, seemed to be supported by this investment. There is a continuity of decisions for GİMAT in all structural plans. However, development potential of public lands could not be foreseen at that time the structural plans are prepared and so the potential of EBK area by the planner or the central and local authorities.

GİMAT area was defined in 1990 Ankara Master Plan, 2015 Structural Plan, and 2025 Metropolitan Area Master Development Plan as CBD transition zone. By the 2015 Plan, regeneration of Ulus center is also foreseen (METU Planning Group, 1986). Reutilization of urban parts through urban transformation or rehabilitation projects, which was also the notion of 2015 Plan, has been accidentally made by GİMAT (in the years 1995 and 2005 through 2 development plan stages). CBD 2005 Project Proposals have a similiar

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<sup>654</sup> See: Altaban (2004:38).

<sup>655</sup> Structural Plan (2015) (200.000 ha.) is in 1/100.000 scale and was prepared in 1986. Main planning principles for the CBD zone of the 2015 Structural Plan are;

- To create a new property pattern on the existing chaotic pattern,
- To prevent construction against the plan, and
- To end development by partial development plans.

The Plan had the aim to achieve accessibility controlled central development and preserved principles of previous plans. Structural Plan (2015) aimed to manage urban development based on transportation and tried to define the macroform of the Ankara city. "According to the studies of METU group, Kazıkıçı Bostanları urban redevelopment project, which was one of the most important projects for Ulus and its surrounding areas to become a live and prestigious business district, might fit to the Ulus Business District Project Greater Municipality of Ankara suggests" (Çakan, 2004:82). This Plan was unable to structure the urban macroform fully, but started transformations.

<sup>656</sup> 2025 Master Plan covers 200.000 ha. area (in 1/100.000, 1/50.000 and 1/25.000 scales).

<sup>657</sup> Date of approval 06.05.1932. Planner, Prof. Hermann Jansen, Scale: 1/12.500. Kazıkıçı Bostanları is defined as Small Gardens Region, whereas İskitler is defined as Workers Residence/ Neighborhood (Old small gardens zone).

<sup>658</sup> In Ankara, transition zones have developed against 1932 Jansen Plan and 1957 Yücel-Uybadin Plan (Ankara, 2015). However, during the implementation of 1990 Master Plan, it is figured out that the inner dynamics of Kazıkıçı Bostanları have developed according to Uybadin-Yücel Plan (Çakan, 2004:47).

<sup>659</sup> (as stated in 1955 Competition Jury Report) METU Planning Group (1987).

<sup>660</sup> High-income groups define urban centers and retail use concentrations structure or strengthen sub-centers in the historical evolution process of the Ankara city center.

expectation. In the 2025 Plan, Akköprü, Varlık, İskitler, and Kazıkıçı Bostanları areas were again planned as CBD. In this plan, decisions of 1990 Master Plan were protected. The city has continued to develop according to 1990 Master Plan, as the 2025 Plan was not approved by the MPWS.

According to Fainstein and Fainstein (1985:496), in America around 1970s, state officials devised the means to transform urban cores. This is the exercise in Ankara in 1970-1973, 1992-1998, and 2005-2007 periods. However, mainly after 2000 and until 2005, state officials did not intervene to the development of the main city centers, but to the development of the transition zones. Since 2000, urban development has been shaped with uncertain, unpublicized, and professionally non-discussed planning decisions of the Greater Municipality<sup>661</sup>. On the other side, as these decisions were not applicable, city center, and its transition zones have developed in a *de facto* manner. The type of planning applied by the local authorities in this period was strategic and corporatist. In the years 2003-2004, due to low land values and the populist objectives proposed in urban renewal projects, Kazıkıçı Bostanları and İskitler districts became the major focus of capitalists' interests and the local authorities. CBD 2005 Project Proposals, taking financial and investment models of GİMAT as an example, aimed to get the advantage of those dynamics GİMAT (especially the second stage) has created in the surrounding area. These projects had similar base with what American urban history had experienced a half century ago, in 1950-64, that is defined by Fainstein and Fainstein (1985) as the "directive period".<sup>662</sup>

Plan Notes of the 2023 Master Development Plan of the ABŞB has certain clauses for the CBD, strategic sub-centers, and other sub-centers. There are also special norms for "Large Shopping Malls (Section B.3.4)". According to these norms, a strategic urban and environmental impact evaluation report must be prepared for existing and possible investments in order to take precautions. Central development of the city and such investments will be evaluated in terms of Main Plan of Centers that will be prepared later<sup>663</sup>.

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<sup>661</sup> 2023 structural plan, prepared by the ABŞB, was on the announcement by April 2007 and approved by May 2007. The plan is not discussed with the related actors.

<sup>662</sup> It is this period when business elements devoted to reestablishing the central business district through large-scale clearance or rehabilitation activities acted as the dominant constituency for planning leading to vote-maximization of land decision-making politicians and (re) production of urban space (Fainstein and Fainstein, 1985:496).

<sup>663</sup> Ankara Büyük Şehir Belediyesi (2007). Framework Plan Notes for the Implementation of the Capital City of Ankara 2023 Master Development Plan.

### **Decentralization (Sub-regional integration)**

In the 2015 Plan, besides the development of the city along the main transportation routes towards the periphery, decentralization is proposed. This has strengthened the dual structure of the Ankara CBD. (See also; Gökçe (2005/4:75)). **Figure 20.** Decentralization has also been proposed in 2025 Structural Plan. Retail concentration in main centers like Kızılay and Ulus has declined and shopping mall concentration in sub-centers like Akköprü, Çayyolu, Atakule, Oran, Batıkent, and Eryaman has increased in practice. Furthermore, large shopping malls tend to locate along these routes, at the crossroads or in and around the CBD<sup>664</sup>. GİMAT investment stressed such kind of a development. In other words, by an investment in Akköprü, GİMAT has also contributed to decentralization. Furthermore, local authorities, unconsciously by allowing the spaces of consumption on main transportation routes between subcenters and centers, led to continuous and partial urban sprawl and dispersion.

Master plan decisions, the major development axes of the city, infrastructure possibilities, decentralization resulting from physical thresholds, and concentration of high- and upper middle income along Eskişehir road (western direction) have created problems against the development of the city center. There is the withdrawal<sup>665</sup> of the urban center. Interestingly, in contrast to this development, GİMAT case in Kazıkıçı Bostanları like other subcenters, created a physical concentration area of several retail consumption functions. This seems to be in accordance with what is proposed in the Theory of Subcenters. A reverse development is put forward by ABŞB in CBD 2005 Project Proposal. The study of the proposal has been started in 2003. This project contradicts with several decisions of 2015 and 2025 Structural Plans, and support centralization in Kazıkıçı Bostanları. To stress centralization, in this project proposal; the transfer of several sectoral uses in Kızılay center to this area is planned. In other words, the concentration of small capitalists is proposed for Kazıkıçı Bostanları. Because the impacts of large scale investments and GİMAT to urbanization in Kazıkıçı Bostanları, the Ankara city started to experience centralization and decentralization at the same time in recent years. After defining this relationship, lower scale planning studies made before and after privatization are discussed in the next section to show their role for the emergence of this situation.

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<sup>664</sup> Gökçe (2003:82-83) stresses the importance of preparation of a decentralized city to a postmodernist center pattern structured by shopping malls. These malls are independent of the city center and urban relations.

<sup>665</sup> In various sources (Gökçe (2005); ABB:İDB (1999)), the main determinant of withdrawal is the concentration of commercial centers structured by changing consumption pattern and habits.

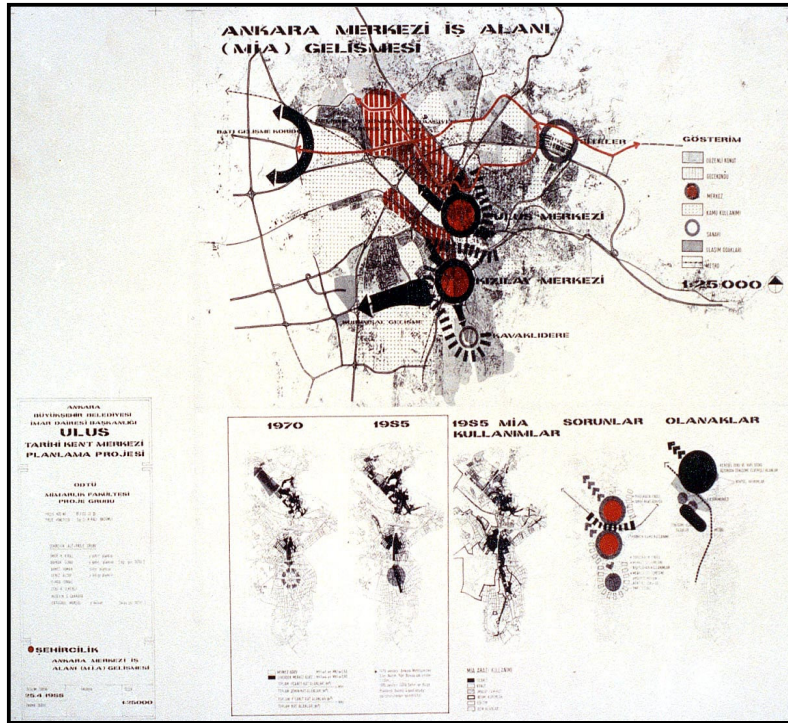
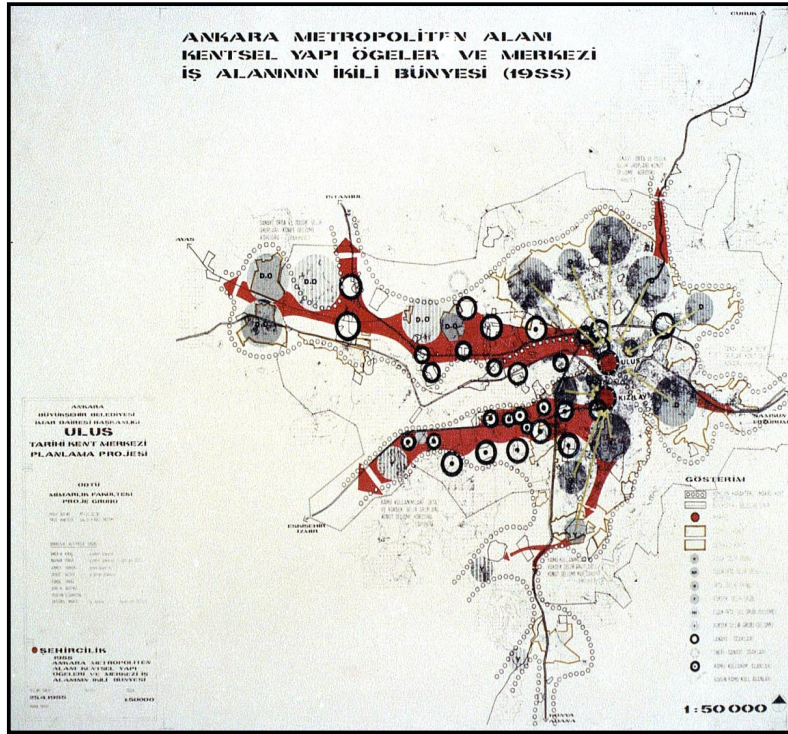


Figure 20. Dual Structure of Ankara CBD and Growth of the City Center (Günay, Kiral, and Erkal, 2005/4:35)



### 8.3. GİMAT Planning Decisions and the Related Processes

In order to understand how GİMAT land use decisions are given, lower scale planning studies and hierarchical planning relations are evaluated in this section. This is made in terms of the change in development rights before and after privatization. To determine how rent is structured and how the impacts have occurred is possible through the determination of the emergence of current zoning principles and land uses. A summary of the plans and status of the area are given in **Appendix CC**.

#### 8.3.1. Development Rights Before Privatization

EBK Slaughterhouse<sup>666</sup> (13.6 ha.) was established after 1950s. EBK development was not according to the clauses of development legislation before privatization. Like many facility areas of public institutions, EBK Akköprü establishment did not have a development plan until 1993. The local authority, to reutilize the area prepared a 1/5.000 scale master plan on 171.336 m<sup>2</sup> land<sup>667</sup>. In order to legitimize<sup>668</sup> the subway station passing near by and its transportation route, a 1/1.000 scale Development Plan<sup>669</sup> (**Figure 21**) was approved. Yenimahalle Municipality rejected and sued 1/1.000 scale development plan approved by the Greater Municipality. This case has been ended in 1997 after privatization. The road junction proposed in the 2015 Plan in the intersection point of transportation axes neighboring the area was approved in 1994<sup>670</sup>

#### 8.3.2. Change in Development Rights and the Planning Process after Privatization

Just after privatization, the investor as the main decision-maker in the GİMAT planning process has taken care of several forecasts of previous planning studies and defined its interests from 1996 onwards. The investor has planned an urban pattern that can be

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<sup>666</sup> For the construction of EBK Slaughterhouse and other public service areas in its surrounding area, like TKI and the General Directorate of Security, 70 hectares of land have been allocated from AOÇ. According to AOÇ Act, transfer of ownership could not be made to this institution and sitting permit of EBK was not apparent even at the date of privatization. How this problem was resolved during privatization, couldnot be determined.

<sup>667</sup> In an unpublished file report of Yenimahalle Municipality, the date of approval is given as 06.12.1993 and No. 430. (EBK area has Urban Service Area with E=1.5 and hmax:free principles).

<sup>668</sup> The project of subway route and stations were planned and the constructions started. Afterwards, studies to legitimize these were made.

<sup>669</sup> ABŞB approves this plan on 02.10.1993.

<sup>670</sup> The junction has been approved by ABŞB Municipal Committee decision dated 18.10.1994 and No. 3179 (18.08.1995 and No. 4056) in 1/1.000 scale, and had been constructed afterwards. (Official Gazette dated 24.08.1995 and No. 22384). For this junction and similar highway junctions within municipality boundaries, the plan approval competence of the General Directorate of Highways is transferred to the Greater Municipalities.

articulated with market mechanisms. A multifunctional commercial and a recreational center, where mainly trade in specialized goods or foreign brands are targeted<sup>671</sup>. Investor took steps forward for technical standards or input analysis<sup>672</sup> of land use typologies, structural forms and zoning principles. Several firms<sup>673</sup> have submitted Investment Proposals covering analysis of land use demand of the Ankara city and its hinterland, and conceptual proposals for the area. In all these *ex-ante* evaluations, the investment is designed as a whole in a complementary and coherent unity. Among the second stage investment studies<sup>674</sup> (in 1999-2004), the analysis of ITC Firm (1999) covers functions that can create additional synergy to the first stage development.<sup>675</sup>

After finalizing alternative investment studies and conformity assessment, the investor asked Yenimahalle Municipality to stop related planning studies and to consider their requirements and proposals. The investor also set necessary relations with the Greater Municipality. These municipalities have supported the investment for achieving tax and real estate revenues. The common expectation is that the investment will increase urban quality of the area. At the design stage, the investor stressed development by stages method, to minimize the uncertainties during the planning process and to allow investment without taking risks. The investor divided the land into two for not to make plan modifications in the future and not to give share from the second stage investment to the existing investment partner<sup>676</sup>. Development by stages method increases the rent potential of the other. The last piece is expected to generate a higher actual market value and rent gain. Transfer from private to private ownership is observed during the process of development by stages.

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<sup>671</sup> (A multifunctional commercial and a recreational center-12 concepts). By 2003, 60 ready made tailoring, 11 shoe shops, 35 shops of mixed goods, 19 food courts, 1 theatre and 6 cinema saloons are apperant (Eke and Özdemir Sönmez, 2003:265).

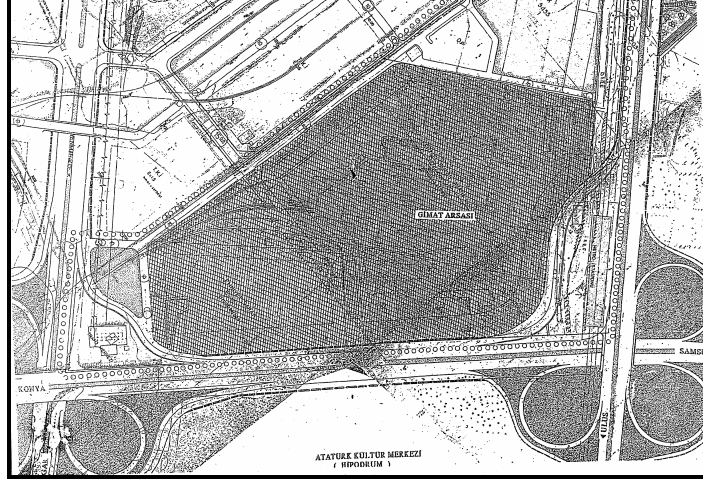
<sup>672</sup> Research studies of similiar investment design inputs and standards.

<sup>673</sup> CHK (Maryland, USA), Promet (Turkey), ITC (Germany), and Proje Yönetim A.Ş. (Turkey).

<sup>674</sup> ECE Türkiye (German origin) and ITC. The investor had made analysis for determining the functions of the second stage longer than (in between 1996-2005) the first stage.

<sup>675</sup> The firm has revised results of the previous research studies. The first proposal for the second stage was 74.800 m<sup>2</sup> in general. Total indoor area was 139.000 m<sup>2</sup>. Their conceptual proposals were festival area (Shopping mall and recreation center), high technology equipped business center, apart-hotel, and housing complex.

<sup>676</sup> Partner is Migros Türk Ticaret A.Ş. (by the year 2001). First Stage: 69.74 percent Yeni GİMAT A.Ş. (53.000 m<sup>2</sup>), 30.26 percent Migros Türk T.A.Ş. (23.000 m<sup>2</sup>). Although the partnership was successful in the first stage, it did not continue to the second stage in terms of right to ownership.



**Figure 21.** 1/1.000 Scale Development Plan (1993) (Yeni GİMAT A.Ş., 2001) (Reduced in form)

After privatization, the development plans of GİMAT are approved within the content of and to obey Development legislation. Investment type and property ownership pattern is defined through 1/1.000 scale Development Implementation Plan<sup>677</sup> (Figure 22) in 1997. This plan was approved by the Yenimahalle Municipality with construction coefficients (E) higher than the sued Development Plan of 1993. 1/5.000<sup>678</sup> scale master plan was prepared by minimizing the 1/1.000 scale plan (Appendix DD). The latter is based on the 1/500 scale urban design project<sup>679</sup>. This is also stated in the Master Plan Notes. According to the planner<sup>680</sup>; as this is a nodal intervention to the city on a parcel basis,

<sup>677</sup> 100.725 m<sup>2</sup> created for GİMAT on 171.336 m<sup>2</sup> land, 2 parcels (43344/1 (A) - 50.000 m<sup>2</sup>- E=1.5 and hmax=free. If a building of 50 stories will be constructed with E=3 and hmax: free. Another building setback is defined for hmax=15.5 (II. stage), 43345/1 (B)-50.725 m<sup>2</sup>- E=1.5 hmax: free. (I.stage)). Urban service areas have maximum TAKS as 0.50. If the first stage (B) development uses a TAKS of 0.60 than the TAKS of the second stage (A) cannot exceed 0.40. 32.800 m<sup>2</sup> of the first stage is rented to the other investor. Total planned area was 171.336 m<sup>2</sup>. (Public share was 40.672 m<sup>2</sup>, 20.768 m<sup>2</sup> is left out without substitution; 9.171 m<sup>2</sup> is given to the General Directorate of Security and 100.725 m<sup>2</sup> to the cooperative). 1/1.000 scale plan is approved by the decision of Yenimahalle Municipality dated 28.05.1997 and No. 69 (Municipality Council dated 15.07.1997 and No. 2518).

<sup>678</sup> GİMAT Urban Service Area Master Plan [GİMAT Kentsel Servis Alanı Nazım İmar Planı] is approved on 05.12.1996 in 1/5.000 scale by the decision of ABŞB No.596.

<sup>679</sup> According to Master Plan notes, 1/1.000 scale development implementation plan will be approved by the district municipality after the decision of appropriateness of the ABŞB Department of Planning on 1/500 scale Urban Design Project. GİMAT Second stage 1/500 scale Urban Design Project is accepted on 03.12.2004 by ABŞB.

<sup>680</sup> Bekir Ünüvar, Architect and planner (30.03.2007).

the development is defined in the micro scale and reflected to the macro scale. The same process is repeated at the second stage. According to Master Plan Notes about GİMAT, the construction co-efficient of the urban service area is “1.5”, but if a building of 50 stories will be constructed; the construction co-efficient (E) will be “3” with  $h_{max}$ : free<sup>681</sup>. The planner claims that they have applied “2”.<sup>682</sup> The plan was based on a development of 50 stories with “E=3” zoning principle and defined building setbacks. By this method, GİMAT used all the base area by a four story mass and constructed a 25-story hotel building in addition. This has allowed the investor to construct a bigger mass in the ground floor for shopping and department store functions that may generate more revenue (when compared to a mass of E=1.5 or the condition of building 50 stories).

It is certain that the current construction co-efficient of GİMAT is “2”. However, the construction co-efficient amounts to “3” in practice. (If indoor car parks and technical service areas are included). When the development of the second stage of GİMAT is completed, it will be certain that *de facto*-construction area in terms of construction co-efficient, will exceed that of surrounding areas. The construction co-efficient of the historical Ulus center is “3”, Rüzgarlı-Akköprü axis is “2”. 1993 Competition proposed “3” where as the 1998 development plan was “2.8”. This means that GİMAT, as a transition zone, has the same construction co-efficient like the CBD zone. **Picture 1.**

In GİMAT case, a flexible and strategic planning is applied by the investor, but not the by the actor responsible from urban planning. The planner left the architecture free by only defining building set backs. The interest of the investor was uncertain for a long time and changed several times. After the completion of the first stage<sup>683</sup> construction in 1999, the second stage development is planned. **Table 12.** For more development rights, the investor required another plan revision. The second stage development was only made applicable in the year 2004 through new 1/5.000 scale Master Plan<sup>684</sup> and

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<sup>681</sup> The building setbacks where  $h_{max}$ : 15.50 m. is 15 m. from 25 m. roads and if above, than minimum 30 m. From roads narrower than 25 m. the building set back is 10.m. Minimum parcel area is 10.000 m<sup>2</sup>. Construction area can be transferred between parcels without exceeding the total construction area.

<sup>682</sup> The investor was confused for a while from conditional co-efficients as the left outs differentiate. Bekir Ünüvar, architect and planner (March 30, 2007, personal communication).

<sup>683</sup> GİMAT first stage is operational on 27.08.1999 - Hypermarket, shops of commercial use, recreation centre, fast food, and department stores.

<sup>684</sup> 1/5.000 scale plan has been approved by the decision of ABŞB (10.08.2004 and No. 512). No officially approved master plan for this new structure in two stages could be achieved from the related local authority or the investor.

1/1.000 scale<sup>685</sup> (Figure 23) revisions by the year 2005. Those functions that will not decrease the land value of the first stage are constructed at the second stage<sup>686</sup>. Partial construction of the second stage has ended (excluding the Hotel structure) and started to function by July 2006.

During the first stage planning studies, public spaces such as green areas are created on those properties that belong to other institutions. The first plan of 1997 had left public space as Act No: 3194 Article 18 obliges. 70.611 m<sup>2</sup><sup>687</sup> (41.2 %) of an area is left as public space while planning 171.336 m<sup>2</sup> at the first stage. Green areas have no purpose and are the left outs from the architectural necessity on the horizontal (land) level. The planning area of the year 2005 development and master plans (1/1.000 and 1/5.000 scales) is smaller and covers only the GİMAT parcels and the public space in between these parcels. The investor occupied (1.739 m<sup>2</sup>) public (green) space through a passage<sup>688</sup> legalized by the year 2005 development plans. However, same square meter of an area (1.780 m<sup>2</sup>) is given from the second stage parcel by these plans: These development plan modifications were also made to omit five-meter approaching boundaries of the first stage building to the second stage building. The plans have combined two structures as one lot on the ground floor for structural harmonization while omitting the pedestrian green axis<sup>689</sup> (between two parcels) defined first in the Jansen Plan, and successively, in 1990 Master Plan, CBD 1993 Competition Project, and 1998 development implementation plan.

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<sup>685</sup> This plan is approved on 08.02.2005 by the decision of Yenimahalle Municipality No. 54 and decision of ABŞB No. 1306 dated 13.05.2005 and (by amendments) according to Act No. 5216. 1/1.000 scale development plan revision has been published in the Official Gazette on 09.07.2005. The building setbacks are differentiated. In between 43344 and 43345 parcels, a building (4 m.s higher than the ground) is made and for the section that is added to parcel 43344, land is transferred to the green axis from this parcel. On the most crowded days 80.000 people/day visit the mall and annual visitors are 7 million people. By the year 2005, only in the first stage 25.000 people use GİMAT in the weekdays and 75.000 people at the weekends. Level of activity target: 130.000 people at the weekends for two stages. Although was an expensive investment, the investor took the carpark down under the green areas. (Ahmet Erdoğan, Yeni Gimat A.Ş. (Nov. 29, 2001, Jan. 01, 2006, and May 01, 2006, personal communication)).

<sup>686</sup> Ahmet Öner Köse, Yenimahalle Municipality, Deputy Head of Development Department, (Nov. 18, 2005, personal communication).

<sup>687</sup> The mosque area (7.200 m<sup>2</sup>), the security area of the General Directorate of Security (8.804 m<sup>2</sup> (today used as a car park)), green areas (26.677 m<sup>2</sup>) and roads, subway station, and pavements compose the rest (27.930 m<sup>2</sup>).

<sup>688</sup> According to plan notes, this passage is taken downstairs and must not be closed by the investor. Actually, this passage is open at the day times, but closed at the night times to public.

<sup>689</sup> The first development plan of GİMAT has created this pedestrian axis (green axis) defined in the 1998 Plan having the basis from the CBD 1993 Competition Project. This axis is in between two GİMAT parcels reaching to the junction of Kazıkçı Bostanları and Akköprü.

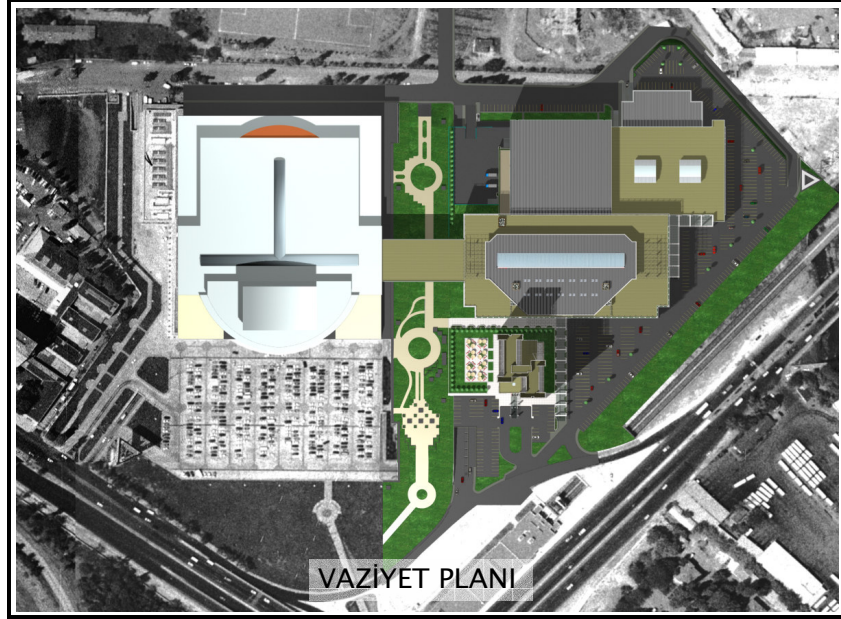
According to the planner of GİMAT, this green axis came out from an architectural necessity, but not as a planning decision of the 1993 Competition project<sup>690</sup>. The pedestrian axis present in 1/1.000 and 1/5.000 scale development plans is covered by the passage area of two shopping mall structures and is included to the private indoor area. In short, the building occupied the land left<sup>691</sup> for public use. However, it is used again with the same purpose, but as private property and private space. A similar example of multiple public spaces is created in Kanyon Shopping Mall in Istanbul. **Picture 2.** Areas that should be left for public by the development plan are in private property. The difference of this case is that no public space is created on the plot area horizontally, but vertically and horizontally within the architectural structure. In both cases, public space defined by plans has become private space publicly used and its public good characteristic is lost.

Development plans approved after privatization were used to legitimize the economic demands of the investor. Despite all research studies, the architect has determined the area demand for those functions determined by the investor. The firm has finalized *ex-ante* evaluation, in addition to the mode of assessment. The administrative body through the support of the local authority gives the decision for land uses. Furthermore, there is also uncertainty in the architecture of the investment: The investor had restructured the form of the building due to changing land use decisions and requirements (from glass pyramid design to a skyscraper mass) within the process. In other words, the competent authority is the investor and GİMAT land use decisions were defined relative to the conditions faced and opportunities created through the process. Both Greater Municipality of Ankara and Yenimahalle Municipality are on the scene during the planning process. These municipalities have controlled the plans in terms of development legislation and made few amendments. It is figured out that the municipalities have approved the plan of the investor and legitimized investor's interests.

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<sup>690</sup> Bekir Ünüvar, architect and planner (Mar. 30, 2007, personal communication).

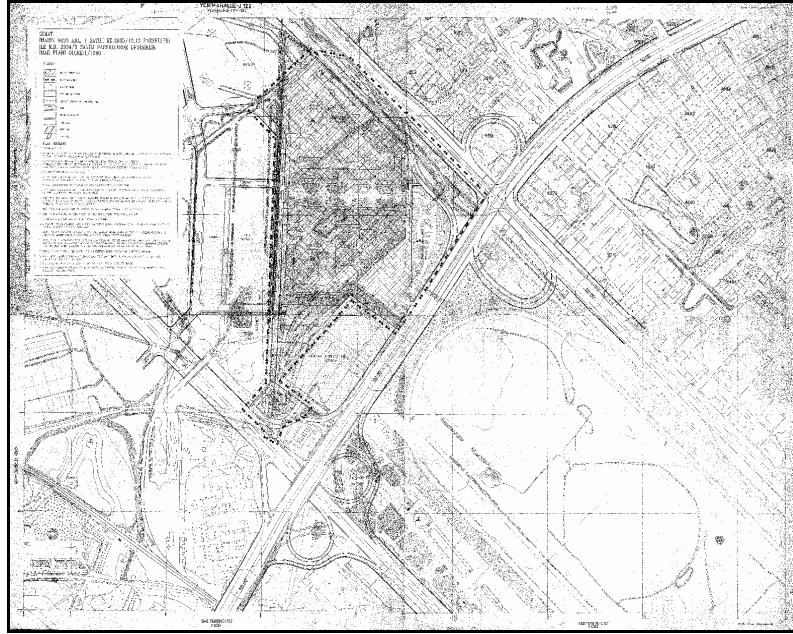
<sup>691</sup> The investor set a condition for green areas before their transfer to the municipality. The municipality is not allowed to construct any shops or buffets on the green areas.



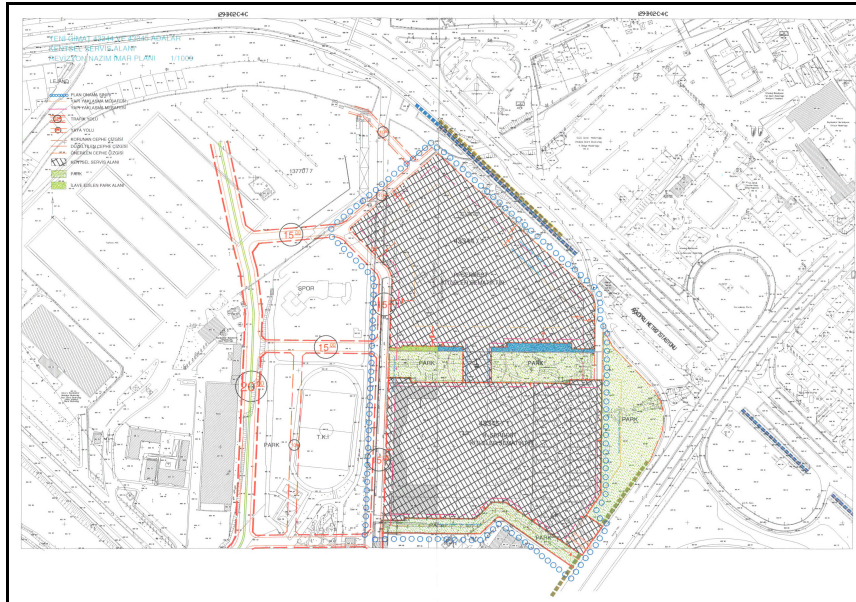
Picture 1. First and Second Stages (2006) (ANKAmall - Aerial Presentation)  
(Yeni GİMAT A.Ş., May 2006)



Picture 2: Kanyon Shopping Mall, Istanbul (Yapı, 2006:65)



**Figure 22.** 1/1.000 Scale Development Implementation Plan (1997)  
(Reduced in form) (Yeni Gimat A.Ş., 2001)



**Figure 23.** 1/1.000 Scale Development Implementation Plan Revision (2005)  
(Reduced in form) (Bekir Üzüvar, 30.03.2007)



**Table 12.** First and Second Stage Area Uses (Yeni GİMAT A.Ş., 2006)

	<b>First Stage (m2)</b>	<b>Second Stage (m2)</b>	<b>Total Area (m2)</b>
Shopping Mall Indoor Construction Area	76,072.87	46,256.00	122,328.87
Construction Market Construction Area	0	22,366.00	22,366.00
Offices- Indoor Construction Area	0	1,468.00	1,468.00
Religious Unit in the Office Section	0	630.00	630.00
Hotel Indoor Construction Area	0	19,604.78	19,604.78
Technical Services Indoor Construction Area	2,176.76	3,806.00	5,982.76
Storage Rooms and Shelter Indoor Construction Area	1,349.98	5,390.00	6,739.98
Indoor Carpark Construction Area	46,883.44	68,351.00	115,234.44
<b>Total Indoor Construction Area</b>	<b>126,483.05</b>	<b>167,241.78</b>	<b>293,724.83</b>
Number of Shops	150	150	300
Capacity of Carparks	2,200	3,400	5,600

Several other uncertainties are determined during the second stage construction phase (2004-2006): Except plan notes, the latest development plan could not be provided from plan making institutions or the planner for long<sup>692</sup>. In other words, the municipality, planner, and investor have prevented the access to the latest (approved) plans. This situation sets the “principle of publicity” of the planning institution as invalid. This case of infringement omits rights of third persons to review the legality of acts - the rights to object to the planning process or practice. The investor may have the intention to protect own negotiations for renting several functions of the second stage by unpublicizing the plan or to prevent any law case for acting against the development legislation.

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<sup>692</sup> The planner (and the architect) did not respond to any attempt of communication of the author (between 2005-2007) and provided the plans only by March 2007.

#### 8.4. Evaluation of GİMAT Nodal Intervention to the Planned Development of Urban Space (in terms of Market-led and Market-Critical Approaches)

This section covers a general evaluation of the GİMAT case in terms of the relationship between privatization and planning, and macroform and CBD development. Occupation and succession process of Ankara urban center is valid for GİMAT investment. GİMAT case has shown that *de jure-privatization* is an example of urban land policy. It is a nodal and a direct intervention to the urban planning and CBD development process of the city having market-led objectives. About such developments in the city, what Keskinok and Ersoy (2000:343) claims is valid for GİMAT case: Decisions to be taken on master plan scale leaves its place to those solutions produced in reports independently by different public units and to partial decisions and implementations. Such an approach does not fall into the lines with planning norms. It leads to the weakness of the plans. In addition, this partial intervention breaks down the unity of urban parts and dismisses the dialectical relation between parts and wholes.

GİMAT case has proved its role, as a private investment, in ending management functions<sup>693</sup> of a public establishment on public lands. By GİMAT intervention, the power of market forces to direct urban growth has accelerated. The process of GİMAT is managed and directed by market mechanisms. In other words, development plans structured by the investor is a precondition of the market to function. The public administration, as the other actor, has not applied urban planning to overcome narrow-sightedness of capital as Fainstein and Fainstein (1985) has claimed. It is applied to satisfy the requirements of the development legislation. Capital, to achieve its demands, needs the planning institution. Therefore, urban planning becomes an act of legitimization of these demands. In this situation, the urban planning institution has lost its market-critical character and public interest is neglected. All actors of the comprehensive planning are unrepresentative in the process even though the plans are made after privatization.

The capitalist in reality took the advantage of the limited movement and reaction ability of the state. Capital directed the narrow-sighted approach and activities of the state such as state planning.

State Planning, as a device used by capitalists to overcome the contradictions underlying the capitalist mode of production,

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<sup>693</sup> Ending production functions has also diminished the sectoral support.

stumbles on its own contradictions. To deal with the obstacles blocking the extended reproduction of the system, planning must be coextensive with the system. But such a scope for planning would so limit capitalist hegemony as to transform it (Fainstein and Fainstein, 1985: 502).

What Fainstein and Fainstein have noted for United States of America case is not valid for the Turkish case; capitalist has limited planning hegemony.

Besides impacts on urban planning, impacts of GİMAT on the urban development can be noted at this stage. GİMAT while changing central development direction have achieved concentration in Ulus traditional center. Albeit its partial contribution to the realization of macro scale structural plan decisions, when it is evaluated in terms of the city and its surrounding; GİMAT is still not a decision for the creation of a well-defined urban center.

GİMAT development has also impacts to the city and its surrounding: 1997 GİMAT Development Plan has changed the decision defined by the 1990 Master Plan for EBÜ A.Ş. area. The land use is transformed from public production area to an urban service area (central business district use). An investment decision for a commercial center (in the country scale) is given in a partial way as what Keskinok and Ersoy (2000:346) has again stated without setting necessary relations between the metropolitan urban centers and subcenters defined by planning studies at the metropolitan scale, and the general problem of formation and distribution of specialized areas. Both the planners and other urban decision makers did not consider urban impacts at the time the land was owned publicly, as public lands are sacred and untouchable.

At the first stage, GİMAT investment has supported urban development along the Istanbul Road and the subregion where retail commerce will develop as AMNPB has advised. In general terms, the area was a public institution area according to 1990 Master Plan decisions. GİMAT development of today is said to be against Master Plan decisions and CBD 1993 Competition project principles. GİMAT investor, by reading correctly the urban potential, has oriented urban development to the directions demanded. In many privatization cases, similar orientations can be observed: SEKA A.Ş. Taşucu Silifke, Sümer Holding A.Ş. Adana, and Nazilli. However, these do not show a generalized structure.

By the transformation from space of production to a space of consumption, the GİMAT development has parallelized this development to what AMNPB has defined in the 1990 Master Plan- for the northwest of the city<sup>694</sup>. GİMAT was the only nodal intervention that stopped or delayed growth in main center Kızılay and other sub-centers and has stopped urban central growth in Kazıkıçı Bostanları for a short while.<sup>695</sup> Kazıkıçı Bostanları is in a process structured by centrifugal forces<sup>696</sup> whereas GİMAT development has centripetal forces.<sup>697</sup> The most advantageous central area for commercial development even in the year of competition was GİMAT<sup>698</sup>:

When compared to Kale, Kızılay, and Kavaklıdere *de facto*- central formations, GİMAT is a *de jure*- central urban development. However, land uses in GİMAT have the aim of speculative rent gain rather than directing the growth of the urban center. Interestingly, what has been expected from the 1993 competition for Kazıkıçı Bostanları is coincidentally structured by GİMAT in another area (as it had similar functions proposed for Kazıkıçı Bostanları by the runner-ups). It has also created a new central physical definition, pattern, and a new design language. However, due to the amended or changed zoning principles, development rights, building-density, and lack of urban studies; the planned development of the city is distorted, investments are overloaded, and infrastructure and suprastructure costs have been accelerated in the CBD area. Similar investments in the surrounding area contain urban risks because of GİMAT<sup>699</sup>.

The GİMAT case has shown that privatization implementations might cover decisions against these plans. This is worth stressing as this situation, at the first step, questions the implementation capability of upper scale plans. We can claim that this is a result of the narrow-sightedness of the actors in the planning process, but not of the planning institution. Secondly, the macro plans should determine micro plans. However, the micro plans did not departed from the structural decisions, general relations and inputs for functions defined by macro plans. In fact, ironically micro plans have determined master plans<sup>700</sup>. As upper scale plans could not determine the general framework of

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<sup>694</sup> Ankara city CBD development direction is northwest, and the direction of urban growth is south (because of dilemmas) at the time GİMAT is constructed.

<sup>695</sup> Ahmet Öner Köse, Yenimahalle Municipality, Deputy Head of Development Department (Nov. 18, 2005, personal communication).

<sup>696</sup> That causes functions to migrate from the central areas towards the periphery (Çakan, 2004).

<sup>697</sup> That holds certain functions in the central zone and attracts the others (Çakan, 2004).

<sup>698</sup> Sedvan Teber, planner, Bilkent University, 1993 MİA Competition, First runner up, Planner (Nov. 14, 2005, personal communication).

<sup>699</sup> Ibid.

<sup>700</sup> By taking into account of principles of macro plans, the capitalist determined zoning principles in the preliminary 1/500 scale urban design project at first and then have the implementation plan afterwards.

lower scale plans, the lower-upper scale plan relations defined by the Development Act could not also be set.

GİMAT structured by EBÜ A.Ş. privatization proves the theory on privatization claiming that “privatization of PEEs supports consumption, development of land uses, and investments diverted to consumption”<sup>701</sup> where commercial services and functions like shopping malls are the major investment typologies<sup>702</sup>. Functions in GİMAT, in terms of land uses and location principles defined by Ankara city macro plans are the right decisions. It should be known that giving immovables privileged development rights, same functions, and public property transfer does not mean that the investment will be successful and achieve the expected development. There rise several questions: If some functions were in a historical housing area, will the investment have the same impact? If GİMAT functions are located in CBD area rather than a transition zone, will CBD have the same expected transformation? If GİMAT functions were in the CBD area and diffuse in a *de facto*-way, than Kazıkıçı Bostanları urban CBD development will be more successful. The following questions are; if the area was privately owned and not privatized, how could it develop? Will Kazıkıçı Bostanları develop in the same level and at this short period, if GİMAT was not constructed?

GİMAT privatization case and planning processes showed the missing evaluation of planners and authorities for the impacts on the surrounding area and the macroform. Those development rights and land uses, defined by development plans through a *de jure-privatization* decision on an urban part before the act of privatization, are also lacking. The related municipalities have made no urban studies except simple reports prepared before approvals<sup>703</sup>. The investor makes the urban analysis. This economic and spatial analysis and necessity tests of the investor are not in terms of urban impacts of the investment, but the possible land uses that will bring the maximum revenue to the investor. In other words, it is on financial returns. That is why; land use decisions of GİMAT have created opposition to macro plan decisions after privatization or municipalities were unprepared when the investor brought the plan for approval.

Urban analysis of the 1993 CBD Competition was also insufficient for this area before and after the competition of 1993. Studies for CBD 2005 Project Proposals were also

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<sup>701</sup> TMMOB (2005:436).

<sup>702</sup> Ibid.

<sup>703</sup> There is not much study made before privatization by any central or local authority analyzing the GİMAT area development potential during Ankara macroform planning studies.

started with missing analysis<sup>704</sup>. It must be noted that the planner of ĞİMAT did not also take the 1993 Competition Plan and 1998 Development Plan of Kazıkıçı Bostanları as an input<sup>705</sup>. Therefore, 1990, 2015 and 2025 macro plan studies, when compared to these projects, can be accepted as still valid general analysis.

ĞİMAT investment, being around the Ulus traditional city center, had positive returns to the area itself in terms of its location in an urban transition zone where consumer concentration is. ĞİMAT has increased the transformation pressure over CBD due to the functions and space quality it has generated. From many interviews,<sup>706</sup> it is figured out that, 2005 Project proposals can be accepted as the result of this transformation and development pressures of ĞİMAT. ĞİMAT has brought urban space quality to a degraded area, as the plans of Kazıkıçı Bostanları are not implemented properly. That is why, although CBD 2005 Project Proposals<sup>707</sup> lack a common planning understanding<sup>708</sup> and denied previous studies, these came out as a replication of ĞİMAT: As ĞİMAT is successful, similar functions in addition to housing<sup>709</sup> and office uses are proposed in.

Untill mid-2005; this neighboring Varlık and Kazıkıçı Bostanları districts have been structured in practice, by short-term objectives of many small capitalists or public institutions through partial development plans. These districts with low density are planned to be transformed into a higher urban density area by these project proposals with the objective that they will meet the same success level. The rationality of capital is to create anything it requires at anywhere or everywhere.<sup>710</sup> The development in its surrounding is an example to the limited development of the narrow-sightedness of capital.

While transforming the areas (from transition zones to the center), urban relations with ĞİMAT were not set. The presence of a CBD area close to ĞİMAT is coincidental. The

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<sup>704</sup> During the related planning studies of the CBD project of the Greater Municipality of Ankara, previous planning studies were not also taken into consideration.

<sup>705</sup> Bekir Ünüvar, architect and planner (Mar. 30, 2007, personal communication).

<sup>706</sup> Ahmet Öner Köse, Ferhat Ertürk, and Ahmet Erdoğan (2005-2006, personal communication).

<sup>707</sup> ABŞB, with a similar understanding, became the moderator between property owners, local municipality and TOKİ. By the year 2006, the Greater Municipality, in its new CBD project, defined those investments and property shares in the design stage before the project phase and than prepared the development plan.

<sup>708</sup> This situation is a good example that shows the lack of institutionalization of local authorities and a practice against public interest, but serving rent expectations of governors.

<sup>709</sup> The existence of housing areas in the region has its roots in Jansen Plan.

<sup>710</sup> TMMOB (2005:437). "Inharmonious and uncontrolled distribution of housing and center functions; create new development areas without centers on one side and decrease the effectiveness of the urban center and create important losses in the use of urban and public resources on the other side (Gökçe, 2003)" (Gökçe, 2005/4:76).

relationship of GİMAT and CBD areas, that could not be set in terms of the urban spine, could only be set in terms of its location along the main transportation axis and the green axis. Up until today, no other relation has been set in terms of spatial formation in this zone.

GİMAT - Akköprü CBD transition zone has a high level of accessibility. GİMAT using this advantage was able to compete in a very short time with similar regions. Located near a CBD zone is the advantage of the entrepreneur. However, this is not the situation in Kazıkıçı Bostanları CBD area, which is more accessible. This results from the defect in the upper structure and missing CBD uses in this area. This is also why, property values declined in Kazıkıçı Bostanları. In other words, value increase by the transformation of a public property in GİMAT area has accelerated the collision<sup>711</sup> pattern in private housing, industry, and office areas around this investment. Fragmented property pattern and degraded area characteristic<sup>712</sup> in Kazıkıçı Bostanları hinder urban transformation in the area. This means the continuity of transition zone character, and stability of those functions that have to be taken to the periphery.

As the property borders are unchangeable and the development is limited, the investor in GİMAT will accelerate its pressure of dispersal on the neighboring parcels in the future. The development of Ulus urban center, Kazıkıçı Bostanları and GİMAT Akköprü will be in a bottleneck in the end after the use of all potential areas or repetition of the same functions. Therefore, GİMAT will provoke development demands on the areas like Atatürk State Farm, Hippodrome and the CBD green axis defined by all structural plans.

The location value and development potential of EBK area is attained by the investor. If developing by stages and requirement of urban planning at every stage is evaluated, it is found out that: Building lot was divided into parcels in order not to risk the investment in the next stage and zoning principles are structured in time to create more rents. At the first stage, by a partner, the risk of creating death capital is prevented. Profit is guaranteed by not renewing the agreement with the partner for the second parcel. By this method, the rent obtained by the capitalist increases. Even a higher actual market value and real value is achieved. In short, development through a

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<sup>711</sup> Collision areas generate an opportunity for urban development and by the leadership of the public administration, new projects are developed and new opportunities are created for capital.

<sup>712</sup> See: Çakan (2004) for CBD real estate values relative to degraded area characteristic. Against 1990 plan, 2015 Structural Plan had necessary solution input to overcome low values, but no result is achieved as it is not implemented.

plan modification in addition to indoor development is the advantage for the capitalist, as there is no externality. Here, the capitalist defines the planning process. Amendments are made when required by the investor and in all planning scales. Via plan modifications, land use decisions and building structures have been redefined: Even during the construction phase, development rights are changed<sup>713</sup>.

In terms of public interest, there appeared several lines of thought and supported by all actors:

- The investment will serve community benefit as it has functions for community use.
- As the investor is composed of numerous members, it achieves a somewhat public character, which means rent will be distributed in between a limited section of the public (multiple public interests<sup>714</sup>).
- The investor used the areas allocated for public interest or even occupied and limited the use of the local authority<sup>715</sup>. These areas are owned and possessed as private property.

Development rights of the area allocated to a public institution before privatization have been left free after privatization again to overcome risks: GİMAT development rights are also defined and/or changed after privatization by the investor. Private management planning is applied by the land authority. GİMAT has developed on parcel scale and without a common and comprehensive planning understanding. Development as a separate urban part created a negative effect to its surrounding area. Several local authority representatives and one of the planners<sup>716</sup> of CBD 1993 Competition state the same issue<sup>717</sup>. On the contrary, Eke and Özdemir Sönmez (2003:267) claim that GİMAT has increased the rent level in the surrounding area and this has affected the urban land market. However, this declaration is made without any comparative study. On the other side, GİMAT investor states almost the same line of argument and notes the positive impact of GİMAT on the surrounding area, especially on Kazıkıçı Bostanları (interms of development attempts as project proposals or accelerating building permits). However,

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<sup>713</sup> During the construction phase of the second stage building, an architecture combining two parcels at the ground level to create one building is applied against the initial plan.

<sup>714</sup> Limited public interest and full private interest create "multiple public interest".

<sup>715</sup> The investor did not let the local authority to use public areas for the private interests and arbitrary practices of this authority.

<sup>716</sup> Sedvan Teber, Bilkent University, 1993 MİA Competition, First runner up, Planner (Nov. 14, 2005, personal communication).

<sup>717</sup> Ahmet Öner Köse (Nov. 18, 2005) and Yavuz Soncul (Nov. 29, 2006) (personal communication).



building permits have been blocked by July 2005<sup>718</sup>. In the report of the ITC Firm<sup>719</sup> it was stated that first and second stage developments are expected to activate urban development in its surrounding.

In the development process of GİMAT, in 1996-2005, GİMAT has affected Kazıkıçı Bostanları development negatively.<sup>720</sup> CBD 2005 Project Proposals are prepared coincidentally. If one of these new project proposals can generate the transformation of Kazıkıçı Bostanları as 1990 AMNPB has stated, a positive impact in terms of urbanization can be stated. However, development in the CBD area will be a result of these projects, but not of GİMAT. The second major opportunity is that especially the second stage development has contributed to the concentric development of the city center. GİMAT functions have supported especially the development of office uses in both Kazıkıçı Bostanları CBD and the proposals for EGO area.<sup>721</sup>

The development of the surrounding area is different: There is a development plan prepared after the competition of 1993. Besides the urban design projects, partial development plans were prepared. Not all plans and projects could be transferred to a unique development plan (except 1993 CBD Competition and later CBD 2005 Project Proposals). The failure in implementing development plans of Kazıkıçı Bostanları prepared after CBD 1993 Competition Project and 1998 Development Plan is related to the fragile and small property pattern and the investment scale. Development was only possible in those properties where no shared ownership exist.<sup>722</sup> Land development (a self-sufficient investment) was possible as a unique land with one owner in the GİMAT case. The self-sufficient character of the investment is the main issue creating monopolistic rent and absolute rent in GİMAT case. In this process, intervention mechanisms of rent control for public interest of the local authority are also lacking.

The urban planning process of GİMAT case shows that like the local authorities the central authority cannot carry out land management at the local scale: The PA has

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<sup>718</sup> Ferhat Ertürk, Housing Development-Metropolitan Municipality Construction Real Estate Architecture and Project Joint Stock Company (TOBAŞ) General Director (Nov. 30, 2005, personal communication).

<sup>719</sup> ITC Report, (1999:20).

<sup>720</sup> Sedvan Teber, planner, Bilkent University, 1993 MİA Competition, First runner up, Planner (Nov. 14, 2005, personal communication).

<sup>721</sup> Yenimahalle Municipality, Deputy Head of Development Department (Nov. 18, 2005, personal communication).

<sup>722</sup> There is no financial resource of the local authority for expropriation. Legislative support exists, but is limited. The local authority (Altındağ Municipality) has prepared a regulation in order to overcome similar problems of implementation. Like Esenboğa Road Urban Rehabilitation Project, the local authority could develop a special law for implementing the project in CBD.

transferred the urban development opportunity of the land through privatization (sale of land) by only the transfer of ownership and changing development rights. In real terms, the PA has not transferred the land by developing it. It sold a bare land and the revenue achieved by development potential has not been added to the sale price. At the date of its sale, the land is precious than the facilities on it. Today, the building and usufruct rights are more valuable than the land. The state did not take part or share in this investment and transferred rights to ownership. The narrow-sightedness is on the side of the state.

In addition, monopolistic functions in GİMAT have contributed to the value of the real estate. According to the investor, the real value of GİMAT (1<sup>st</sup> and 2<sup>nd</sup> stages) is 500 million U.S. Dollars<sup>723</sup> in 2006 after a 148 million U.S. Dollars of an investment. LÂL Değerleme Müşavirlik Ltd. Şti. (2006) defines the investment actual value in the real estate market as 320-330 million U.S. Dollars for the year 2005<sup>724</sup>. The sale value of the land was 29.2 million U.S.Dollars in 1995. The escalated sale value of the land is 61.481.461<sup>725</sup> U.S. Dollars in the year 2006. If investment cost is added, the cost of this investment is 209.481.461,9 U.S.Dollars. This means a profit of 143.618.539<sup>726</sup> million U.S.Dollars (if actual market value is accepted as 330 million U.S. Dollars). Annual gain in the year 2002 is 25.000.000 U.S. Dollar. Real value, actual market value, and sale value are all different. Here, it is important to note that GİMAT case has proved what Avishur (2000:19-20) has stated: The issue price is positively related to the post-privatization value of the firm's land stock.

Subtracting the land sale value, construction cost and the high tax payments made to the state from the actual market value, and adding annual gains prove enough returns to the investor. It is also certain that the investment has achieved a higher value in the real estate market with changing development rights. The state has only achieved direct gains from this transfer and indirect gains from the development of a PEE land. Taxes are the only gain of the central authority<sup>727</sup>. Maximization of taxpayer welfare (the no-agency case) and maximization of aggregate social welfare (the normative

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<sup>723</sup> Ahmet Erdoğan, Yeni Gimat A.Ş., Accountant Member (May 01, 2006, personal communication).

<sup>724</sup> Ebru Oz, LÂL Gayrimenkul Değerleme Müş. Ltd. Şti. (August 2006, personal communication).

<sup>725</sup>  $P_{2006} = P_{1995} \times (1+0.07)^{11}$  (Formula is provided by Prof. Dr. Ali Türel, METU Dep. of City and Regional Planning (May 2006, personal communication)).

<sup>726</sup>  $P_{2006} + 148.000.000 \leq 330.000.000 (1+0.07)$  that refers to Investment Cost  $\leq$  Price (2006) (Ibid.)

<sup>727</sup> Since 1999, Yeni GİMAT A.Ş. had made out an invoice of 20 trillion TL. of rent revenue and 5 trillion 400 billion TL. corporate tax paid to the state. Land value is not included to this gain. Ahmet Erdoğan, Yeni Gimat A.Ş., Accountant Member (May 01, 2006, personal communication).

model) were not the objectives of the central or local authorities (by creating financial means and spaces for social benefit).

The case also showed that the government's objective function is defined over the impact of privatization on the wealth of the relevant interest group. In addition to these, both the real value and actual value of the real estate after the investment are a loss of the central authority. The local authority has generated an indirect gain while the urban quality in its administrative boundaries has increased. For this authority, satisfying macro planning decisions have no priority.

It can be claimed that GİMAT is a product of collective performance<sup>728</sup>. Both the capitalist and the local authority representatives deny related actors of the comprehensive planning. In the 1993 CBD Competition and the successive conceptual project proposals prepared later for CBD development in Kazıkıçı Bostanları, the main actors of comprehensive planning; real property owners are also excluded from decision-making and design processes. Rents and revenue gains will not be returned to landowners in this area.

Conclusively, GİMAT case shows a capital accumulation process where the capitalist tries to achieve actual market value after privatization through plan modifications. This generates impacts on existing plans, comprehensive planning processes, and macroform. Public interest is neglected by both the central and local authorities and by the investor. These urban parts are subject to a speculative transformation process. Reorganization of urban land is for the transformation of the area for maximizing rent gains in the short-run: Reproduction of urban space with market-led objectives. Moreover, urban planning reproduced spaces of consumption. In other words, the case has showed how the market functions determined development rights. Different development rights are determined and achieved in time by stages according to investment demand and private interests, and so the rent is guaranteed. Besides this, cheap public land is preferred to escape from capital risks and high investment costs. If it was not a public property, located in the CBD transition zone, and the capitalist did not have a land-development consciousness, the success of the investment could also be questioned. As the interest of the capitalist determined the process, the planning institution was unable to take the chance of (re) producing urban space. Urban planning

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<sup>728</sup> Rents and revenue gained are distributed among landowners (later firm shareholders).

became the tool to create and control urban rents. The case also proves that the central authority intervenes to the planned development of the cities.

GİMAT, sensitive to comprehensive planning principles, has contributed to the realization of 1990 Master Plan targets in general terms. However, it has distorted urban development of the city with comprehensive and complementary planning approaches. A project based strategic and flexible planning is applied in the process. An urban planning understanding is implemented to be appropriate to the development legislation after a *de jure-privatization* process. In addition, a *de facto* development against the current plans is observed: Development plans are *ex post facto* prepared by the capitalist. Public interest and public spaces are neglected by the local and central public authority. In the process where micro plans define macro plans, legitimacy of the planning institution in directing the market mechanisms for public interest is lacking. However, it is clear that this type of a privatization had no contribution to and generated no value for its surrounding areas.

Due to the nature of this process of capital accumulation in terms of urban planning, it is impossible to consider this intervention within the urban unity. Urban development according to comprehensive planning approaches seems also impossible. As the public authority does not prepare the plans, this authority has no intention to implement strategic planning. In addition, this authority neglects the related actors of the rational comprehensive planning.

## CHAPTER 9

### CRITICAL EVALUATION OF URBAN PLANNING PROCESSES: MARKET-LED APPROACHES VERSUS PURELY MARKET-CRITICAL APPROACHES

*De jure-privatization* and urban planning are contradictory processes. *De jure-privatization* became an integral part of the Turkish neo-liberal experiment. It is the act of the state, and here, the public property becomes a private property for consumption<sup>729</sup>. The Turkish practice has speculative concerns leading to a decrease in the regulatory role and legitimacy of the planning institution. The studies on *de jure-privatization* treated privatization as the pragmatic solution to specific administrative (necessity of overcoming inefficiency and fiscal crisis) and economic problems. These studies have neglected the impacts of globalization on urban space through privatization. There emerged a need to discuss legitimacy, rationality of power, and hegemonic relationship between the market and the planning institutions. In other words, the relationship between irrationality in the (re) production of urban space and economic irrationality is discussed in this Thesis.

Such a discussion must be made in order to understand how the land use decisions are given, how planning processes and responses have been transforming to market-led approaches, and how to provide hints for the regulatory role of the planning institution (plans, planning processes, and urban planning responses). Urban planning responses are given in terms of public interest (social benefit). This Thesis analyses urban planning (regulative rational comprehensive planning) in the *de jure-privatization* process completely left to the market-led mechanisms. The general framework is the relationship between privatization, public goods, and the planning institution. The evaluation covers the differences and impacts of the Turkish privatization experience and the related urban planning processes with reference to *de facto-privatization*. (Re) production of urban space and the opportunities, privatization may provide for a city

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<sup>729</sup> Because of the reduction in controls over business, the investments are directed to areas where it would be economically useful.

and environs are given in a case study<sup>730</sup> from Ankara-GİMAT. This case is a well known and a typical case of creating privileged development rights for or by the capitalist.

The impacts of privatization cover spatial reflections, uncertainties, and urban contradictions and environmental impact of the location selection of the capital. Thus, this evaluation is about the process of transfer of a public production space to urban private lots. The meaning, objects, and objectives of privatization, the related legislation and discussions, the ideology of transfer, the activities, transfer methods, and those responsible actors are analyzed in the previous chapters. The concept of ownership of public lands, the process of maintaining the asset, and urban planning approaches are also given.

This conclusive section shows, at the initial step, a series of criticisms noted from the privatization process in Turkey with reference to the changing role of the state in the globalization process. Those relationships, derived from the Thesis in terms of the legitimacy of the state, market, and urban planning, are also given<sup>731</sup>. For understanding planning processes and approaches, the complementary and contradictory character of both the market and the planning institutions are discussed. Criticisms on urban planning in the *de jure-privatization* process follow the discussion. Successively, this chapter critically evaluates problem areas and dualisms resulting from privatization of urban public lands competing with purely market-critical planning processes. At the final stage, this chapter elaborates general conclusions derived from the Thesis as a whole and not only provides a work summary, but also puts forward the issues that have to be defined at this stage, even if, not figured in any other chapter of the Thesis.

### **9.1. (Re) Production of Urban Space in the *De jure-privatization* Process**

Privatization that has emerged from a financial necessity was introduced in globalization process after 1980s. For Tomaskovic-Devey and Miller (1984) and Fainstein and Fainstein (1985), in this recapitalization process, this activity is the new area for reproduction of the market and a way for the capitalist society to restructure itself. The terminology, content of activity, the ideology, and legislation of Turkish privatization has differed from the world experience even though it is officially announced as similar.

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<sup>730</sup> In terms of plan hierarchies, the reasons and ingredients of (re) production of space.

<sup>731</sup> The legitimacy of the market is a matter of space and (re) production of space relations. The planning institution neglects this during privatization process and the related processes of transfer. This is critically evaluated.

Privatization in Turkey means the transfer of public rights to property of assets, shares, movables and immovables to the private or public sector. Besides transfers to private sector, transfer to public institutions are observed (socialization).

Another difference to mention is that Turkish governments are privatizing, donating or liquidating<sup>732</sup> in the same process and all of these practices are termed as privatization: There is a conceptual chaos<sup>733</sup> and the collapse of legislative framework of privatization and liquidation. Privatization of management (privatization for increasing efficiency<sup>734</sup> and effectiveness concerns) in economic terms implemented in other countries turned out to be those activities that close down establishments and transfer of their movable and immovable possession. In cases of privatization on global scale, liquidation is not implemented. When privatized establishments are unprofitable, as they are not functioning on their fundamental production line, they are to be privatized.

After transfer if they are still unproductive, they are expropriated or nationalized for reproductivity. This is irrelevant from the point of many privatization cases<sup>735</sup> in Turkey. Liquidation and privatization are different issues, but both are termed as “privatization”. Establishments given to the private sector, since they are deprived of their basic facilities, cannot be put back to productivity as no production functions are left. Area demand for public production and provision functions have emerged from closing downs. Production areas publicly owned are reproduced as private commercial zones: PEEs, as development projects, have transformed into individual projects of other forms of living.

There can be cases where the intention is to put back some necessary enterprises into productivity in the recent years. (i.e. the case of EBK in the year 2006). Decision to reopen the enterprise is given. However, this is not for overcoming a sectoral demand or for public interest. The enterprise is reopened in order to prevent the official

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<sup>732</sup> Due to its characteristics, privatization experience in Turkey can also be termed as the process of liquidating establishments of the state.

<sup>733</sup> Notions like public interest or public property show differences relative to the objectives or subjects of practice. Property and right to property issues are articulated and non-differentiated. Examples can be given: A space can be created for social use for private interests or the capitalist can occupy public space and possess it.

<sup>734</sup> The aim of privatization, as stated in the WB’s Urban Policies and Economic Development Report (1991), is to motivate the investments on urban land with speculative emphasis, which will increase the efficiency of the market and use public sources up to the end (Keskinok, 1995:209).

<sup>735</sup> Sümer Holding A.Ş. İzmir Basma Sanayi Establishment, Adana Establishment, Bursa Merinos Establishment, SEKA A.Ş. İzmit Establishment, Afyon Establishment, ORÜS A.Ş. Establishments, TEKEL Erzurum Pasinler Cigarette Factory, EBK Ankara Lalahan Milk and Product Establishment, Şanlıurfa Slaughterhouse, Akköprü Slaughterhouse, İSDEMİR İskenderun Steel and Iron Factory, and else.

announcement of the total privatization results, which is an obligation of law or because of populist policies of the governments. In any way, by this experience, technical support for national and local urban development<sup>736</sup> has disappeared or future investments of the PEEs can be blocked by the sale of development area of an enterprise or sale of other public lands of the PEE in that region. *De jure-privatization* legislation also covers principles against the general development principles of the country.

*De jure-privatization* process shows that privatization experience in Turkey is not for commercial construct even though is originating from a Structural Reform Program. The related legislation is designed to implement the privatization programs of the state against every sort of criticism, opposition, and court decision. Structural reforms all around the world are structured to privatize PEEs and mainly PEE lands<sup>737</sup>. Privatization Programs have stressed state practice<sup>738</sup> on behalf of the important subject of the planning institution - the property. This policy turned out to be policy of property and rent. Public lands became the primary objects of *de jure-privatization* in practice and the new sources of the economy for its sustainability and hot money demand. Several norms to transfer and plan urban public lands are defined in the Turkish Privatization Act No. 4046. The economic gain in the shortest period is the only driving force for the central authority. It is easier to sell public lands. That is why; it turns to be liquidation.

The search shows that the privatization process and urban space is structured by free market conditions. By *de jure-privatization*, central authority transfers public lands to the capitalist to overcome its narrow-sightedness<sup>739</sup>. During *de facto-privatization*, this transfer emerges from the demand of the capitalist and in many times, without the will of the state and/or without a common policy objective. In terms of land privatization, state intervention to the market is for recapitalization. However, in contrast to what Fainstein and Fainstein (1985) has stated, market shapes and directs administrative practice during the related land transfer and planning processes. The public authority cannot overcome narrow-sightedness of the capital, but GİMAT development proves that capital overcomes the narrow-sightedness of the public authorities.

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<sup>736</sup> Public establishment areas may block urban growth (Ankara Cement factory).

<sup>737</sup> See: Chossudovsky (1998:62-64) and (1999:73-76).

<sup>738</sup> There is no standard implementation.

<sup>739</sup> See: Fainstein and Fainstein (1985) for state intervention to overcome the market's narrow-sightedness.



Public lands are transferred in all possible ways with every available method. *De facto-privatization* means public land is a “commodity”. It is an implicit public property occupation process whereas *de jure-privatization* is the transfer of the private property of the state. For the author, if the object of transfer is public lands (immovables), privatization is in the form of conscious land policy. This may create more problems as the authorities involved are far from solving the problem of rent. As a result, urban problems turn out to be insolvable.

However, economic development or overcoming fiscal crisis of the central authority could not be achieved by these transfers as costs are close to revenues. For Ercan (2000), its achievements in terms of both size and scope have been disappointing. Except the unrealistic real estate value in the market and several taxes, the central authority could not achieve any revenue and local authorities could not benefit from these transfers. Privatization ideology, serving market demands, (re) produced consumption spaces<sup>740</sup> (generally in the form of hybrid malls) or spaces as a commodity. (Directing investments to public lands also changed area and building scale of (re) production of urban space.) By this act of the state, the public property becomes a private property for consumption<sup>741</sup>.

The central authority in this process could not achieve revenue. Privatization of land has also contributed to the objective of debt servicing<sup>742</sup> as Chossudovsky (1998) has noted. Through land transfers, certain land demands of central and local authorities have also been satisfied. However, overcoming the urban fiscal crisis was never been the objective. The revenue achieved by the central authority is not returned to the urban area for public interest. Transferring the land against the objectives of the local authority or demands of the local economy is observed. This process has changed irreversibly the nature and the role of the state.

The study of the process also proved that *de jure-privatization* has effect on the property that is not truly registered in the name of the PEE and the property rights and relations that are not truly reflected to the legislation. This is practiced in an environment where there is no stagnant policy of the country for private or public

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<sup>740</sup> Functions in these spaces generate the maximum profit in the short-run.

<sup>741</sup> Because of the reduction in controls over business, the investments are directed to areas where it would be economically useful.

<sup>742</sup> WB advises this. Moreover, as Chossudovsky (1998) emphasizes; the National Treasury channels revenues generating from land sales to international creditors.

immovable goods or for regulating the mechanisms of their transfers (except expropriation).

Privatization became a method to redistribute rights to property and results as ownership fragmentation. This led to an urban development by partial development plans. The central authority considered constitutional and economic circumstances. However, the authority did not take care of the property system or urbanization tendencies. There is even no unique approach with a well-defined content or a responsible administration for transfers and planning. The privatization of agricultural public lands<sup>743</sup> or public housing is the foreign experience. National states preserve their ownership of land during transfers and the immovable privatization has different legislation, norms, and principles. Comparatively, Turkey adapted the western privatization, as understanding, directly into its own circumstances, but transferred urban public immovable property with the sacred objective of regaining them to the economy. The impacts of this kind of privatization and urban development by partial development plans have never been an administrative vision.

Privatization practices covering land transfers, once again, define the ideological perspective of policy: Not to channel sources to the private sector or the society through PEEs, but to transfer public sources directly to the private sector or public authorities. *De jure-privatization* has become a conscious land policy, direct intervention to the urbanization process in terms of (re) production of urban space and transfer of rights to property and development rights, moreover, an implicit form of public land transfer process. In other words, these transfers changed the relationship between production relations and the property patterns<sup>744</sup> through urban planning.

The reasons behind the land transfers are various: Demand for land use changes of business has accelerated in the urbanization process. The second circuit of capital accumulation defined by Harvey (1999) has created problems and questions of legitimacy for the market and the planning institutions as well as space and society. The capital to restructure itself targets public lands and accelerate pressure over the public

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<sup>743</sup> First concentration of agricultural land (10 hectares) was proposed, the farmers became dependant through bank credits (this has concentrated large amounts of lands in the hands of urban commercial interests), as farmgate prices are below costs many farmers sold their lands in the local market and are withdrawn from commercial agriculture. These people have migrated to cities and became “reserves of labor” for commercial agriculture (Chossudovsky, 1998:207) or industry.

<sup>744</sup> That is why, several economic perspectives supporting privatization has lost ground, and opposing thoughts gained support. Governments may also deregulate or prepare legislation against Constitution.

authorities to make land transfers. At the time of investment, either the potential areas for investment in the cities are not at the locations the investor desires or the current development legislation<sup>745</sup> or urban plans may block investments. Their potential for development due to the location is a matter of chance for the investor to generate investments on public lands. In terms of their location and sale prices, public lands became the most proper areas for investment. Local authorities aim to attract investors. However, they seem not to create a balanced development of production and consumption spaces. They seem unable to control their growth with public interest objectives.

These lands having state property character and in the privatization portfolio are generally located in city centers or CBD transition zones. Therefore, the capital saturated in private property zones directed its focus on to the establishment areas (the economic life of which has ended or not does not matter) or vacant public lands. As public immovable properties have degraded area character, public immovable properties are relatively low priced in the urban real estate markets. Their urban development potentials are not taken into account. Low values decrease investment costs. In GİMAT case, land value is 8 % of the total investment cost. If the property was privately owned, it will be 20-30 % of the total.

Operations of capital on vacant or occupied areas of public economic enterprises are against social benefit as it excludes the others or necessary urban planning relations are not set. This process also showed that absolute rent became monopole urban rent as the privatized areas have unique and special urban characteristics. The capitalist achieves monopoly rent. The use value of land is diverted to exchange value of land. GİMAT case has proved what Tomaskovic-Devey and Miller (1984:64) has predicted for investments: Investments will be based on short-term private exchange value for economic decision-makers, not on national use value to counter to internationalization of the market or deindustrialization. Same principle is stated by Szelenyi (1984:5) adding that market investments under inflationary circumstances are oriented toward maximization of private profits. Privatization of public lands is a mechanism to achieve these objectives in Turkey.

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<sup>745</sup> Discussion is on the blockage of development legislation on the architectural product (in terms of design), and the area demand and development rights of certain functions that can be against development legislation.

In this process, rent is not transferred to the private sector to create social benefit. It is sacrificed either for the ambition of the public officials to get shares from the privatization of the most productive establishments or for those natural or legal persons aiming to achieve property rights and rent. These rent-generating activities support the monopolistic character of the private sector defined by Harvey (1999). At the end of this process, like the GİMAT case, the capitalist is one of those groups<sup>746</sup> in the society that structures the CBD and the transition zones. During the process, the capitalist works for own interests and tries to influence the state as the pluralist perspective<sup>747</sup> notes<sup>748</sup>.

In case of GİMAT, the capitalist has directed public authorities even at the date of the sale. The PA with the scope of its market criteria has given more weight to the interests of capitalists<sup>749</sup> (interests not generating from needs) in its related planning studies [in an environment where efficient urban land policies are already non-existing]. The local authorities, like the PA, lack necessary mechanisms for the control of related processes, do not allow participation of the several sections of the society or take care of previously determined studies for directing investments (if any), they approve the interests of the capitalist. Therefore, urban plans as a bureaucratic tool, become a (as an unjust acquisition) tool<sup>750</sup> for rent potentials.

The plan implementation is dependent of the market mechanism, criteria, and conditions. In this situation, what is practiced is as Fainstein and Fainstein (1985:489) has declared; business elites interact with government officials and the capitalist reflected own interests to the plan. As a proof of instrumentalism, even the related legislation is prepared according to their will of the capital: Latest amendments in the Privatization Act are for foreign capital to invest or to ease the transfer of rights to ownership to natural or legal persons. For example, legislative amendments are made to easy transfers in coastal areas, meadows, and agricultural lands. Privatization can be accepted as one of the mechanisms of and besides instrumentalism, can be dealt from the pluralistic perspective<sup>751</sup> for the dominance of property owning classes.

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<sup>746</sup> According to Instrumentalism, there is only one dominant group (Ersoy,1978: 24).

<sup>747</sup> See: Ersoy (1978).

<sup>748</sup> For Ersoy (1978:21), these are the mechanisms, “which connects ruling class with the state and the concrete interrelations between state policies and the class interests”.

<sup>749</sup> Although urban planning serves some set of capitalists’ interest, the capitalist can oppose urban plans and ask for amendment.

<sup>750</sup> See: Ersoy (2007:279-280) for this common understanding of all critical perspectives.

<sup>751</sup> See: Ersoy (1978); UPL (1997).

Through this process of global restructuring of production, this rentier economy supported the dominance of ruling capability of land owning classes by the transfer of land ownership. In a spiral cycle, *de jure-privatization* is supported by this section of the society to achieve the ownership of state's lands as they achieve power and dominance in an accelerating manner. The capitalist, by excluding the related actors and changing planning processes<sup>752</sup> or amending development plans, strengthens the hegemonic power. In short, what the ownership transfer forsakes is profit maximization, achievement of the right to own uncontrolled rent, and the right of not giving rent share to the public.

In short, privatization leads to empowerment of certain social classes and a section of the society. Thus, it bears the ruling class characteristic (became landlords)<sup>753</sup>. Therefore, it is not wrong to state what Ersoy (1978:22) notes from Sweezy; the state is an instrument of the ruling classes for enforcing and guaranteeing the stability of the class structure itself. However, capital concentration in public lands by privatization, although supported by the state as an opportunity for mobilization, is against the welfare state. This relationship does neither prevent the public authority to perform its other responsibilities and/or duties nor the state disappears, but the state loses its welfare character. This means privatization is not the transfer from public to community. To spell about the community benefit is hard when the rent is gathered in the hands of a certain section of the society. The evaluation of activities shows that Simmel's paradoxical dictum "what is public becomes ever more public, and what is private becomes ever more private" is invalid for the Turkish case: Starr (1998) states that public-private distinction sharpened by the rise of the liberal state. The reverse is valid for the Turkish case.

Public lands lose meaning, everything becomes private. Public lands have historically been the basis for reproduction of the (urban) economy and urban space in the *de facto-privatization*<sup>754</sup> process. This process has created an implicit property occupation. *De jure-privatization*, like *de facto-privatization*, created a continuous demand for the transfer of the private property of the state. As a result, the role of the state has expanded to transfer more lands that belong to public. The official claim was that high quantities of public immovable property of the PEEs prevent diffusion of wealth and

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<sup>752</sup> This relationship is apparent in the privatization related planning processes. Regulative planning within the comprehensive framework is mostly static and prohibitive.

<sup>753</sup> Chossudovsky (1998:231) names them as "new commercial (compradore) élites".

<sup>754</sup> One of the aims of this Thesis is to analyze the historical relationship of *de facto-privatization* and *de jure-privatization* and how this relationship is structured through globalization.

property to the society; thus, they should be transferred. However, an imbalanced ratio of public and private lands in the urban real estate market is created. No public lands are left in many zones of the cities for realizing public investments for the production public goods and services. This process has supported the privatization of public service provision. The real aim of the Turkish privatization practice is to transfer public lands. This can also be understood from the ratio of direct land transfers or other privatization methods that cover public land transfers<sup>755</sup>. The ratio is very high within the total privatization exercises. Today, as PEE lands have already been finished in the central zones of the cities, the central authority is selling or transferring public lands of institutions bound to the general budget or with supplementary budget by the assistance of the PA or TOKİ. That is why, even though major typologies of privatization can be defined, it is impossible to determine the level of urban state land transfers or what the total urban impacts of their transfers are in *de facto-privatization* process.

Turkish *de jure-privatization* experience has consciously (re) produced urban space through purely market-led planning approaches and neglected public interest (in urban plans) while shaking the legitimacy of both market and planning institutions. The legitimacy is affected from the changing power relations. Moreover, at the same time, possible effects<sup>756</sup> were not the objective of the investor, the local authority or the PA. This is again, why privatization experience in Turkey is different from the world. Today, *De jure-privatization* process still supports market-led planning approaches. In addition, market-led approaches are accelerating in an environment in which public administrative reform package is under way. The central authority implements strategic planning in macro planning studies and establishes new administrative units to implement this approach in the last five years.

On the contrary, public institutions are given partial development competence or as implemented through privatization, project based urban developments are supported. This accelerates the question of applicability of strategic planning at macro scales or the real objectives of implementation while corporatist planning is implemented at the micro scales. Implementation and monitoring stages of strategic planning is even lacking. It must also be noted that while the central and local authorities obliges

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<sup>755</sup> Methods for the privatization of public lands are;

- sale of agricultural land,
- closing down enterprises and selling establishments piece by piece, and
- sale of enterprises with production functions and than closing them after the production condition is over or against the contract conditions defining the period of production.

<sup>756</sup> i.e. The demand for urban service provision has also accelerated.

development by parts, the Greater Municipality of Ankara has prepared and announced 2023 Master Plan in the year 2007 having the objective to open new settlement areas, to legitimize illegal constructions, and to propose developments through large-projects. The other notion to achieve dominance is that regulative character<sup>757</sup> of urban planning is unwanted by the market institution in the *de jure-privatization* process. Urban planning is under those political pressures lessening its level of regulation. As in all capitalist countries, the capital has wild attacks inside and outside the system to any kind of regulatory practice. The attacks of the market institution lessen its legitimacy as well as of the planning institution. Corporate non-rationality acts as a barrier to regulative rational planning. Both communicative rationality and instrumental rationality are apparent in the process. As a result, the planning system in Turkey is comparatively less market-critical. The market institution demands the plan only when to achieve its objectives, but not from a governing responsibility of a public authority or for spreading wealth to the society. As Tomaskovic-Devey and Miller (1984) have proved and Szelenyi (1984) has stressed; the policies of the new right are destined to fail in the space reproduction process. This is also the case during and after *de jure-privatization*. Urban planning in this process is less market-critical. Comprehensive planning, strategic planning, and corporatist planning are in a crisis in terms of public interest. The market itself as well as the planning institutions destructs the legitimacy of the market.

To sum up, the difference of the Turkish case is emphasized in the Thesis because; besides its impacts on the development of the country, the impacts on (re) production of urban space and the support for market-led planning approaches gained strength. The level of intervention to urbanization and the way of attaining ownership of urban public lands is not practiced anywhere else in the world. Privatization is “an excuse” for short-term profit maximizing speculative investment in the urban arena, which sacrifices the aesthetic, hygienic, and other private property rights. In all practices of the PA, rent is not transferred back to the public: Necessity and public benefit is not the main determining factor for the functioning or continuity of public establishments. Privatized public immovable properties in urban areas turned out to be those areas with high externalities, low privatization costs, and high potential of competition. As the capital maximizes interests, achieves monopole rent, and minimizes risks and costs through *de jure-privatization; de facto-privatization*<sup>758</sup> and production of spaces of

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<sup>757</sup> When the market institution is left idle and one-sided, it does not create those results urban planning desires.

<sup>758</sup> i.e. Sale of lands of TCDD by Eskidji, sale of TCK land and İETT land (İstanbul İli, Beşiktaş İlçesi, Ortaköy Mahallesi, 30 ada, 157) in Istanbul.

consumption<sup>759</sup> are stressed. *De facto-privatization* has accelerated [after the year 2000] as the success of the capitalist in the *de jure-privatization* process is sensed.

## 9.2. Criticisms

The relationship between *de jure-privatization* and urban planning are critically evaluated in this section. This is to point out any possible opportunity created for the city by privatization of public lands. The criticism starts from the critics of (re) production of urban space and urban planning approaches implemented during and after privatization. Urban space formation and transformation stand in between a pure socialist and capitalist logic at the initial stages of the Turkish Republic. Later as the market-led approaches gained strength, the capitalist<sup>760</sup> has (re) produced urban space. To cope with this, comprehensive planning is implemented. Market-led planning approaches, strengthened with *de facto-privatization* contradict with comprehensive planning and state planning after 1980s. Urban planning became a mechanism of defining and transferring development rights [the transfer of rights to property] whereas development plans are the legal documents defining this or transforming agricultural land into urban parcels. Urban development plans accelerated the demand for the transfer of public lands<sup>761</sup> within the city boundaries with the objective of benefit for all - social benefit. Privatization became an act that has direct, severe, and irreversible urban disturbances<sup>762</sup> and the tool of the market for (re) production of space through an intervention to the rights of property and property relations of public goods and services.

By *de jure-privatization*, public land became subject to development legislation. Development legislation has the objective to control subdivision and unification of land (parcelation), to direct, and to regulate urbanization in the expected directions of

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<sup>759</sup> Kanyon Istanbul, Akköprü Ankamall Ankara, Antares Ankara (under construction), CEPA Commercial Center (under construction), Kentpark Ankara (under construction), Forum Ankara, İstinye Park Istanbul, and else.

<sup>760</sup> From the early Republican times up until today;

- Property ordinances and legislation had taken care of private interests,
- Expropriation is made to realize large-scale development projects, to realize investments for urban growth or to transfer land to private sector while increasing its value, and
- Property is used for different purposes like speculation other than those sacred objectives of planning (directing urban growth, achieving public-private property balance, and increasing social welfare).

<sup>761</sup> Comprehensive development perspective demands public lands as the tools for implementing urban plans.

<sup>762</sup> It is an action against urban dynamics and patterns besides its directions and principles of growth and development. For example, extra demand for urban infrastructure (social/technical) investments has been practiced.



growth. However, with its rapid transforming, fragile, and uncontrollable character, *de jure-privatization* transforms public property. Urban development plans miss their dynamism and urban space is (re) produced in non-preferred locations or directions. Current developments challenge the mainstream planning approaches. In other words, a pure market-led planning of privatization interrupted plans ability of comprehensive urban development plans. This is similar to what Ülkenli (1999:92) has stated as planning itself became the legitimization or controlling tool of the economic process. For example, in GİMAT case, incrementalist perspectives raised by Yılmaz (1999:96-97) have shaped urban planning framework.

This trend in Turkey, as stated before, has hindered market-critical urban planning in practice. That is to say, land transfers have also been accelerated by the shift from comprehensive approach towards strategic and structural project-based nodal interventions into property markets. We can claim that the local authorities support such investments to strengthen their governance. The principles of transfer are changed. Because of privatization for both public authorities and the capitalist, every public land is transferable and their development rights are changeable. As a result, Turkish urbanization enjoyed a dual structure: Purely market-critical and market-led approaches are practiced at the same time, but at varying degrees.

The amendment of the Development Act No: 3194 (Article 9) with the Privatization Act abandoned comprehensive and participatory planning. The related actors who may contribute or are parts of such a process are also withdrawn from the planning processes. The same notion is valid for those cases where the capitalist makes planning studies after the transfer of land. However, there is no resistance from the actors of comprehensive planning (Chambers of Professions, NGOs, and other public institutions) for participating into this process except law courts opened after the damage is given to the urban area. Today, they are unaware of what is happening. Necessary monitoring mechanisms are not present. Development Act No: 3194 has no regulatory principle over privatization practices or principles to foresee and to overcome the negative impacts after the act of privatization.

In addition, planning objectives (and plans) of both the public authorities and the capitalist are unknown or unpublicized before or after privatization. The Thesis case study has proved that planning process is different from the British exercise that has introduced the market-led approaches of planning like trend planning, leverage planning, and private management planning. In contrast to market-led planning

approaches, market-critical approaches developed by local authorities or local communities can be observed. Contrary to the Turkish case, the related actors are not withdrawn from the British process and they are negotiated for social benefit. (See: Altaban (1990:75-101)) It must be noted that the processes of the British market-led planning approaches did not even deny market-critical approaches as practiced during leverage planning of Docklands<sup>763</sup> (after 1981).

In Turkish case, urban planning is not institutionalized. Therefore, the planner or the local authorities cannot predict the attitude towards interests before or after privatization in different levels. As a result, in many cases, private interests have priority. For example; if the local authority has taken into account urban risks, had a strategic and rational comprehensive planning approach and controlled the development of the EBK area within the Kazıkıçı Bostanları and Ulus traditional center CBD development, planning decision will be more “discretionary”<sup>764</sup> for public interest.

From 1994 onwards, the PA indirectly organized the urban property system and urban land speculation due to the amount and content of its land transfer activities. After 2000, urban impacts of *de jure-privatization* are observed as the transfers have accelerated and development plans were implemented. Urban space than became a hidden and a natural outcome of privatization activities of the central authority in the local authority area. This leads to a competence chaos. The PA takes the interests of local communities into consideration only to prevent their blockage through the process<sup>765</sup>. If their agreement is not taken, plan approvals<sup>766</sup> are asked from other central authorities (The Ministry of Public Works and Settlement or the Ministry of Culture and Tourism).

There is an ideological difference between the planning studies before and after privatization: By the transfer of ownership rights and by the change of development rights, the public authorities create privileged development rights for the capital. The capitalists generally ask new development rights to maximize their profit. If PA makes planning before transfer, it is an effort to transfer the object from the actual market value. In practice, this aim cannot be achieved at all times. If the capitalist makes

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<sup>763</sup> See: Altaban (1990); London Development Corporation (1995).

<sup>764</sup> In Turkish case, conformance view is dominant in regulative planning. In British planning practice, discretionary approach is implemented. This approach is dependant upon negotiation, discretion, and agreement.

<sup>765</sup> i.e. SEKA A.Ş. Taşucu Mersin, Yenimahalle 16023/1 and 16021 building islands Ankara, Sümer Holding A.Ş. Bursa Merinos Factory Area.

<sup>766</sup> i.e. Atik Ali Paşa Yalısı İstanbul Beşiktaş, Salıpazarı İstanbul.

planning studies after the transfer, rent is created and public immovable ownership with privileged development rights is transferred. The investor creates the actual market value after privatization through the transfer of development rights (the transfer of rights to property). In any way, the capitalist achieves rents legitimized by development plans or plan modifications. Revenue or rent achieved after privatization through development plans and plan amendments asked by the capitalist prove that the PA makes the transfer in the real estate market without reaching the real value (even the actual market value) of the immovable and the PA has only got rid of this possession. The role of the PA is uncertain: The administration can act as a land dealer or as a landowner on behalf of the public. In the *de facto-privatization* process, both the local authorities and investors follow the logic of a developer.

The meaning of privatization differentiates relative to urban characteristic, investor typology, and the planning authority. Planning approach differ relative to the plan - making authority. Private management planning<sup>767</sup> (Corporate strategic planning<sup>768</sup>) or private sector strategic planning) approach is the planning approach of *de jure-privatization*. Planning approach is strategic and/or negotiable corporatist when implemented by the PA<sup>769</sup> for the sake of the investor. The PA deals with the issues of property and planning after the decision of privatization is given. As stated before, the Administration only aims to increase the value of the land by assigning new development rights.

The public land possession and ownership rights are transferred to the private sector in order to minimize their investment risks and costs as well as short-term ventures as Tomaskovic-Devey and Miller (1984) stated. This is guaranteed by development in stages method of the capitalist. The capitalist has implemented “short-range (strategic) planning” (that is why planning norms are amended during second stage development) and “negotiable corporatist planning” in GİMAT case. This is a type of private management planning. For us, this practice is no more than “*ex post facto* urban planning”. In other words, *de facto-planning* process follows *de jure-privatization*

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<sup>767</sup> [Özel işletme planlaması]

<sup>768</sup> Corporatist planning has become the mechanism through which the state mediates between capital and labour or completely rejects labour.

<sup>769</sup> The planning approaches of the PA in the *de jure-privatization* process vary relative to urban characteristics, actors involved or location of the public land (economic activity area, marginal area, vacant area, and area with urban development potential (Appendix LL)) are: 1. Regulative Planning, 2. Negotiable Regulative Planning, 3. Private Management Planning, 4. Anti-corporatist Planning, 5. Negotiable Corporatist (Trend) Planning, and 6. Controversial Planning.

process. The related departments of the local authority prepare or approve partial development plans of the investors.

The analysis of the GİMAT planning process has proved that during the lower-scale plan preparation processes; the capitalist defines land use typology, zoning principles, and development rights at the micro scale by a long research periods. During the process of development by stages, while negotiating with the local authorities, the investor has implemented all phases<sup>770</sup> of comprehensive planning. Furthermore, the investor carried on an urban analysis and structured interests relative to the changing consumption behaviors of the city. This is also made by taking care of urban land use demand of the city and the region. Only the financial returns of such an investment are calculated. The investor decided on the investment program and development standards to create a metropolitan concentration point in the context of Ankara: Urban development is in parcel scale. In other words, urban space is (re) produced in contradiction with the planned development of the city. The central authority or by the investor makes this through development plans or plan modifications.

However, the investment distorted urban balances: Uncontrolled development of an investment decision negatively affected the development in other zones of the city. For example, as the scale of investment could not be controlled on the GİMAT second stage, competitiveness of other spaces declined, and other large-scale shopping malls have lost strength: A degradation and a consumer shift by the changing urban commercial habits has been practiced from Kızılay, Ulus, Atakule, Karum, and Bilkent centers of the city<sup>771</sup>. There is also the request for increased development rights and pressures on the same land or on the surrounding area or similar zones<sup>772</sup> in the city. Development Act No: 3194 has no regulatory role over privatization practices or principles to foresee and to overcome the negative impacts after privatization. No administrative control over the privatized areas is defined. Such developments hinder the trust in the public for the planning institution. This cancels the legitimacy of the institution.

Because of the inadequacy of the legal framework, an uncontrolled structure is created, planning competence is misused, plans are unpublicized, and the related clauses of the

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<sup>770</sup> Problem definition, determination of aims and objectives, determination of alternatives, selection of the most appropriate alternative, implementation, and monitoring and feedback phases. (See: Ersoy (2007:133) for the phases of comprehensive planning.)

<sup>771</sup> Ahmet Erdoğan and Sedvan Teber (2005-2006) (personal communication).

<sup>772</sup> GİMAT consumption space functions are consciously designed in the macro scale to combine the site with the local order while decreasing the density of the existing urban centers and creating degradation.

law are violated. Thus, private property becomes revenue-gaining, profit maximizing “thing” against “public interest”. Distortion of the hierarchical structure of the overall planning activity is experienced. Therefore, no meaningful result is maintained in terms of macro-micro plan relations. The land use determined by micro scale planning studies is transferred to macro scale plans. The investor in GIMAT case has not taken into consideration existing macro or micro scale planning decisions of the privatized area, development rights in the surrounding area, and the overall possible impacts of this investment on the city. The same perspective is valid for all those large-scale project proposals or developments in the CBD transition zone areas. All of these lack necessary urban analysis. As urban analysis (spatial analysis for a real evaluation of the transfer in terms of urbanization, investment evaluation and land value) is missing in the spatial algorithm, urban planning has lost its market-critical character in both (*de facto*- and *de jure*-privatization processes and practices against public interest have accelerated.

In terms of use of the space (re) produced by the community, privatization has certain impacts: The investor and the public may use the area at the same time. The functions are not devoted to better community use. The areas for the public use are allocated for those uses, which will serve the investment to function (for example, car parks). It is true that the community uses these areas. Symbolic public space (*espace vecu*) is created. It is not wrong to claim that social spaces, community use spaces, and spaces for public interest collapse. Public authority that must protect public interest and produce spaces for public interest by plans (as defined by law) neglects this duty in the process.<sup>773</sup> Even though plans are implemented, as rational planning ideology is left aside, the practice proves that privatization activities are against public interest. It is also against multiple public interests. Because of the following reasons; planning institution, based on public-benefit point of view in general, witnesses problems of legitimacy:

- The intervention of the planning institution is discontinuous, arbitrary, unconscious, and without a program,
- Delays due to bureaucracy or technical incapability,
- Lack of administrative support and local administrative strength,
- Being unprepared to such interventions to the cities and no development prospects for public lands, and
- Lack of will for cooperation of mutual benefits.

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<sup>773</sup> This is the difference of market-led planning approaches from the planning approach of the AMNPB devoted to public interest.

To summarize, in this process, public authorities take the decision to privatize. However, they deny the ideology and mechanisms to (re) produce urban space for public interest. Public interest in terms of regularized and planned urbanization, CBD growth and macroform is not questioned during the related planning studies of the public authorities, both local and central. As public interest could not be defined in urban plans from the macro scale to micro scale urban plans in a coherent unity, urban space comes to be functionally mismanaged and with low quality are (re) produced<sup>774</sup>. This basic dualism should be ended and public interest should be given priority.

Who ever makes the planning study, many public lands developed could not be regained to the city. “The relation of right to property having public interest objectives can only be limited by-law” and “the use of this right cannot be against social benefit” principles of the Constitution are destroyed when market-critical urban planning is left out of the process. [Article 35 of the 1982 Constitution: Use of right to property cannot be against social benefit.]

To sum up, in any privatization practice, transfer of ownership, transfer of urban development opportunity, and transfer of development potential of the land is practiced. Privatization policy is not sensitive to urban and economic characteristics, location, and use of the immovable and local demand in terms of public interest. GİMAT case has showed that the planning processes and even the construction is not legitimate. All these mean that (re) production of urban space is made through multifarious relations, and complex interactions as Keskinok (1997) have stated and several disparities have emerged between intended practices of the agents on space and the spatial outcomes.

### **9.3. Problem Areas and Dualisms of (Re) Production of Urban Space**

This section covers the critical evaluation of problem areas and dualisms production and property relations of capitalism has created in urban areas by the privatization experience in Turkey. By the analysis of the related urban planning processes, due to the changing understanding of the planning approaches, several problem areas are determined:

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<sup>774</sup> Urban space quality is relatively higher due to the level of investment. The investment level is a misleading approach for the society. Such investments are demanded or supported only because of the quality they have generated.

- *Does the idea of regulating privatization process through urban planning narrow the idea of public interest (Does these consumption spaces have any social contribution or does the omitted production spaces has higher social contribution when planned with market-led objectives)?*
- *If privatization is related to public interest, does public interest mean (re) production of spaces for community use?*
- *Is use value prior to exchange value within the market economies?*
- *How can planning be again a public service of the governments, if capitalist prepares the plans according to their interests?*
- *If authorities are unaware of the amount of land transferred and their impacts in terms of (re) production of urban space, than how can they direct future planning and investment decisions of the cities?]*
- *If all public lands are transferred, how public goods and services will be produced? What will be the successive financial resource? How the plan making authorities will implement development plans?*

Through the search of public land transfers in the (re) production of urban space, there emerge several other questions: What will be the new tool of urban planning to allow public production and/or service areas in a market where land values are high due to monopolistic character of the private interest? The demand for regulatory roles and mechanisms for urban planning seem to increase after the transition period. How will the community demanded goods (and services) be provided? Who will provide these? Moreover, how urban planning will regulate interests and benefits during (re) production of urban space? While having this economic contribution of privatization, can the state intervene into the urbanization process; use urban rent mechanisms for the maximization of social benefit? Through the critical evaluation of the privatization related planning practice in the *de jure-privatization* process, several dualisms, created by the tension between purely market-critical and market-led approaches, are noted. See: **Appendix EE**. Except private ownership and the relationship between public authorities and the investor, the contradiction between capitalists' interests and landed interests are contingent. Today, in the *de jure-privatization* process, the ability of the planning institution is missing because of these dualisms. These dualisms, resulting from the conflict<sup>775</sup>, are concentrated in administrative practice, economic, public interest issues and in terms of (re) production of urban space:

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<sup>775</sup> The conflict is between the form of planning departing from reality and planning theory arriving to reality (Gündoğan, 2005:v).

#### **ADMINISTRATIVE PRACTICE**

- Public authority competence chaos,
- Urban planning practice versus urban planning understanding,
- Contradiction of central authority policies.

#### **ECONOMIC TERMS**

- Liquidation oriented privatization (Socialization versus Privatization),
- Development objectives versus market objectives,  
(National interest versus local interest),
- Use value of land versus exchange value,
- Land value as a function of land use in time.

#### **PUBLIC INTEREST**

- Social benefit versus private interest (profit maximization versus social welfare),
- Interest notion changes by plan hierarchies,
- Development through fragile spaces,  
(Development as a project area versus development by parts),
- Intervention capacity of the related actors  
(Request for intervention versus denial of participation),
- Reliability of the actors (Truth versus changing claims).

#### **(RE) PRODUCTION OF URBAN SPACE**

- Property typology as a function of urban development,
- Public land as the tool for regulation versus public land as a marketable commodity,
- Role of the investor in restructuring land use typology and development rights,
- Urban development sensitive zones,
- Consumption spaces versus the legitimacy of the market institution (The expansion of the market over public (or private) lands);
  - a. Phase I: Expansion of the market over public production areas  
(Spaces of consumption versus spaces of production),
  - b. Phase II: Expansion of the market over public lands  
(spaces of consumption versus other typologies of space), and
  - c. Phase III: External growth through spiral effect (growth on the neighboring areas or development of similar land uses in the surrounding areas).
- Private property rights over common spaces  
(Public spaces of urban planning versus spaces of the market institution).



#### 9.4. Concluding Remark

This Thesis is carried on within the context of *de jure-privatization* that changes the economical relations, property, and urbanization systems. The relations for the sake of the community in relation to urban planning are discussed. The critics made in this Thesis are to show the differences of the Turkish case. This is also to evaluate the legitimacy of both the planning and the market. This Thesis dealt with the relationship between reasons and results of the privatization process in order to discuss the impacts and opportunities it has generated for the cities. Due to the nature of the privatization process, the evaluation of the privatized area with all urban ingredients had been impossible as some comparative data was missing. Therefore, the critical evaluation is made based on all available data. It must be stressed that this Thesis does not stand against the economy of privatization. However, it is against the impacts and dualisms the policy has created on urban planning. It does not also have the aim to criticize the activities or the ideology of the Privatization Administration.

Above stated dualisms show that urban space is reproduced by several uncertainties and through contingencies<sup>776</sup> in the *de jure-privatization* process. Market and planning institutions create this situation together and although undesired, the forces of the process are structural. The capitalist makes location selection separately. Moreover, this might be rational from own perspective. The success of the investment can be contingent for a certain period. They are coincidentally created in concentration points, but its continuity is only possible through the change of development rights or expansion. On the other side, as superiority in terms of location disappears, the capitalist may invest irrationally in other areas or ask for more development rights on the same land.<sup>777</sup>

When monopole rent is achieved, revenues attained from privatization will be used to (re) produce and transform other lands and this will strengthen the dominance of the capitalist. Even though the capitalist has given a right decision of location selection, its negative impacts show that it is not a rational investment in terms of integrity relations<sup>778</sup>. This is the point privatization process is open to contingencies. In other words, rationality of the capitalist proves to be irrational in the *de jure-privatization* process.

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<sup>776</sup> See: Keskinok (1998:99) for contingencies in the (re) production of urban space.

<sup>777</sup> See: Ersoy (2007:297).

<sup>778</sup> Because of the variety of functions and high development coefficient and as necessary relations are not set with its surrounding.

The dialog between the market and the planning institutions and availability of the intervention of the planning institution to the process could only be through awareness of the previously stated dualisms. In other words, the major problem area for urban planning is how to manage these dualisms. Without controlling these areas of dualisms, the regulation of the planning institution is impossible and urban plans will be inapplicable or undesired, by rational planning. If these dualisms and problem areas are unsolved and efficient regulatory measures cannot be structured; the technical man will be unable to intervene into the process effectively. Targeted objectives of urbanization may not be achieved when the planner is unable to overcome obstacles of the market, satisfies demands of the market in the short-run, and neglects these dualities. Nevertheless, clarifying the mentioned urban planning approach and the role of the planner to each dualism defined in this Thesis goes beyond the content of this Thesis. In other words, restructuring the planning process can only be possible by the definition of new parameters taking its roots from the dualities or through a passage to a new economic system.

Privatization and market-led planning acting together within the decision-making or development processes in GİMAT case has negative impacts on urbanization processes (negative *tendenza*). Firstly, the investment could not generate externalities for the surrounding areas. Secondly, in terms of urban infrastructure no public value is created. The search of *de jure-privatization* and the related processes showed that if planning and the transfer of public lands are opened to market mechanisms, than they do not function properly. These have to be under public regulation and control for public interest. Privatization process of urban public lands creates an opportunity in terms of market mechanisms and so for the capitalist. However, development of a privatized parcel can coincidentally be an opportunity for the city. Only if, functions defined by macro plans will be constructed, the impact of GİMAT for its surrounding area is an opportunity in the long-term. However, this does not refer to all the relationships involved or mean that every public land should be privatized or every investment will be successful as uncertainty is in the nature of the process. It must be kept in mind that public interest is also necessary for the market actors. In addition, production of the same consumption spaces will not provide the same interest level. The question rises; If the same investment was made in another area, does it create the same impacts on the (re) production of urban space?

Turkey, up to date, could not define definite, orderly and systematic legal norms and clauses on land privatization. The capitalist leads urban planning to a chaotic

environment. Urban planning has no reference towards privatization for public interest. The tension between planning and privatization, public-private dilemma, and the transformation of property is continuous. Urban planning is and will be under the attack of the tension emerging by the transfer of rights to private and public property in relation to market mechanism. This Thesis aimed to show that the privatization ideology is irrational for urban planning. Market-led ideology was unable to (re) produce sustainable urban spaces for public interest. GİMAT case has shown what Tekeli (1986:87) has stated, it is once again proved by the Turkish experiment that leaving market mechanisms alone from planning the formation of urban form has not created a healthy urban pattern.

Campbell and Marshall (2002) have claimed that the state's intervention in land and property development is necessary to safeguard the public interest against private and sectional interests. This could only be possible through urban planning. For efficient investments (generally of urban) and regulated urban development, urban planning is necessary, but should be responsive to changes and urban demands as well as the demands of the capitalist. Unequal developments in urban space resulting from privatization and the market-led planning activities, and impacts of land transfers could be prevented through urban planning. If privatization is inevitable, urban planning must be regulatory and comprehensive. In addition if, it is left behind this role all the market and planning institutions lose their legitimacy. Otherwise, current situation will be strengthened by the absence of public immovable properties, the privatization of which is inevitable. In addition, as long as the land registry<sup>779</sup> and the property definitions are missing, and the roles of the actors and definition of the concepts are not made; the chaos and crisis of the planning institution will continue<sup>780</sup>. To understand these debates, privatization and urban planning must be handled together within the same process.

Investors can be necessary for urbanization. This has several reasons: The first is that none of them is above the other and has the power to exclude the other from the process. Urban planning point of view should accept privatization of public lands to be ready to overcome its impacts and to regulate the process. To stand against

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<sup>779</sup> The lack of control depends on the absence of a reliable land-registry, and the immense and multi-dimensional character of the property transfers or the actors. Although, huge numbers of public immovable property transfers are experienced annually, these are unsystematic.

<sup>780</sup> The Thesis also proved that movement of capital to public land is a practical solution to the crises of both the market and the crises experienced in the (re) production of urban space by the planning institution.

privatization decreases the legitimacy of planning. Mechanisms and tools to direct and regulate the processes should be developed. This is like the withdrawal of the state from the economy of production. However, this does not mean that every approach, actor or activity can be acceptable (if not rational). Secondly, privatization will be implemented and planning besides rejecting it and taking no precautions or doing no interventions should develop a new manner and should have a market-critical meaning. When the market-critical approaches are accepted, there is the possibility of creating spaces for social benefit. In the third case, there are times; privatization may be demanded for urbanization.

As the public immovables in urban area have always been the tool of urbanization, the pressures for the transfer of these lands will be continuous. In urban areas, current urban state land stock is insufficient and unsuitable for the provision and production of goods and services in the amounts, prices and/or locations demanded for private or public investments. They should be compensated either from the market or by the public institutions through urban planning. What the state will do to overcome its fiscal crisis and efficiency problems when most of the public lands sold in one or two decade's time through *de facto-privatization* or *de jure-privatization*?

In urban planning process, to prevent or to slow down negative impacts of the market institution on (re) production of urban space, a planning approach should be developed for the regulation of property, privatization, and land registry<sup>781</sup>. This is a planning approach between the market-led and the purely market-critical approaches. A flexible, strategic<sup>782</sup> and participatory, but comprehensive planning understanding (by the public authority) should be implemented. According to local conditions, demands, and problems, different type of plans or planning approaches can be used. In other words, (mainstream) comprehensive rational planning should not be left aside. This is mainly because; the city still functions as a whole. This means all relations are complementary. It should be treated and developed as a whole. Comprehensive planning is even necessary for the capitalist.

In the *de jure-privatization* process, (re) production of urban space generates several guidelines for urban planning in order to devise the ways of articulation between the market and urban planning. However, new rules, guidelines and mechanisms of transfer

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<sup>781</sup> See: Ersoy (2007:296).

<sup>782</sup> State must be able to take actions according to the interests of the capitalist. Urban analysis must be ready in the plan making and/or approving organ before an investment is made.

should be developed. These guidelines can be used as an opportunity for urbanization, for supporting and pushing urban development as several local authorities of the Thatcher reign has made in the late 1980s or for regaining the legitimacy of the planning institution.

Not to become an antithesis, but to be more efficient and strong to achieve objectives, to block undesired results of privatization, to function for social benefit, and to contribute to the urban and national economy; decision-making processes should be intervened, directed, and the process should be controlled, even after privatization. This must be made in order to prevent the framework to lead to a pluralistic conception of the production of space (as Keskinok (1998:100) has stated).

Effectiveness and strength of plans have been lost today. This situation has to end for the benefit of both the market and the planning institutions. Sustainability of reliability<sup>783</sup> (trust) is also for the legitimacy of the market. Privatization as a tool of the market institution made this trust discussable. In other words, *market cannot be legitimate and trustable without the emergence of urban planning*. The market must take care of the regulatory role of the planning institution in order to be reliable. This is also important for the contribution of the market to social benefit and optimum use of limited resources.

However, for satisfying this condition, ownership rights should be kept public. Public lands<sup>784</sup> should be preserved, created, managed, and only has to be transferred for implementing urban development plans. Public lands should be defined as sensitive urban zones with possible development potentials for achieving urbanization targets by the planning institution. New risk sensitive and strategic area management approaches must be developed. By this way, private-public balance will be provided and compactness of the plans will be achieved. It will than be possible to set strategies for each problem area. It must not be forgotten that from macro level, (it can be the

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<sup>783</sup> There are two separate discussions on the reliability of the market institution. One perspective claims the functioning of the market will bring public interest through theoretical analysis. They neglect the inefficiencies as the market functions. The other perspective shows the inefficiencies in the functioning of the market through theoretical and experimental researches. In order to overcome the inefficiency problem, an institution for regulation (planning is one of these organizations of space) and rules should be present for social consent. (Altaban, 2006)

<sup>784</sup> Private property protection defined by the 1982 Constitution must be a valid condition for public property.

national level) to the micro level, land use decisions of the investment areas<sup>785</sup> will be controlled. Ülkenli (1999:82) and Innes (1998:52) state that planning should be communicative and participatory. “It is in fact the process of consensus and “on Habermas’ view of communicative action and rationality” (Innes, 1998:52). The capitalist must communicate with the planning institution, as his /her activity will lead to a land use that will contribute urbanization in terms of macro planning decisions<sup>786</sup>.

Consequently, as long as it has a level of legitimacy and reliability, the market institution will be accepted by the society. Privatization is an important tool for the market to function. However, it must be balanced with urban planning for the legitimacy and reliability of the market institution. GİMAT case shows that privatization is for private interests and has contributed to the paradigm shift of urban planning. On the other hand, for us, the privatization ideology cannot be accepted as a chance for reproducing urban space for social benefit, if urban planning for social benefit does not regulate the market. If public interest is the driving objective, above dualisms are overcome, and contingencies are not the certainties; (re) production of urban space can be regulated. Within the issues stated in this Thesis, privatization could be treated as a chance for the city from two different perspectives: Firstly, urban planning cannot leave the method of transfer of the rights to property, principles of development potentials, and the urban risks and costs to the market. Secondly, urban planning policies and tools can be implemented market-critically on urban public immovables in the cities for (re) producing urban spaces with higher urban qualities, for social benefit and for reproducing livable urban spaces.

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<sup>785</sup> For example, the plan making institution should determine the development and the transfer potential of the public land in the macro level and before privatization in the micro level with the PA.

<sup>786</sup> i.e. concentration of commercial functions in Akköprü region was a macro plan decision.

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## APPENDIX A

### GLOSSARY

#### ENGLISH-TURKISH

##### A

Abolished	: Mülga
Absence	: Yokluk
Absent	: Çekimser
Absente owner (landlord) (Property owner who does not occupy the property)	: Arazi Sahibi
Absolute Rent	: Mutlak Rant (Arazinin kısıtlı olmasının getirisi, Topraktaki mülkiyet tekeli-mutlak)
Absolute Rights	: Mutlak Nitelikte Haklar
Absolute Rotation of Property	: Mutlak Mülkiyet Devri
Abuse	: Kötüye kullanma (Kötü muamelede bulunma, istismar etme)
Acceptance	: Kabul
Accession Partnership	: Katılım Ortaklığı Belgesi
Accessory use	: (Use of a property other than its principal purpose)
Accommodation	: Konaklama
Accord	: Mutabakat (razı olma, anlaşma, uygunluk)
Accountant Member	: Muhasib Aza
to accrue	: Tahakkuk etmek, eklenmek
Act (A law passed by national parliament)	: Yasa
Act	: Hareket, fiil/eylem, işlem
Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law	: Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun (No: 4046)
Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law and Amending Several Articles of the Development Act	: Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmündeki Kararnamelerde Değişiklik Yapılmasına Dair Kanun ile İmar Kanununun Bazı Maddelerinde Değişiklik Yapılmasına Dair Kanun (No: 4232)
Act declared void	: Hükümsüz ilan edilen işlem
Act of Banks	: Bankalar Kanunu
Act of Expropriation	: Kamulaştırma Kanunu (No: 2942/4650)
Act of Returning	: İade Kanunu (No: 5658)



Act on Amending the Act Concerning Arrangements for the Implementation of Privatization and the Certain Laws and Decrees with the Force of Law and Amending of Several Acts	: Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmündeki Kararnamelerde Değişiklik Yapılmasına Dair Kanunda ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun (No: 5398)
Act on Cadastre and Title Registry	: Kadastro ve Tapu Tahriri Kanunu
Act on Encouragement of Tourism	: Turizmi Teşvik Kanunu (No: 2634)
Act on Land Provision to Farmers	: Çiftçiyi Topraklandırma Kanunu (No: 4753)
Act on the Sale of the Immovables of Public Institutions and Establishments	: Kamu Kurum ve Kuruluşlarının Taşınmaz Mallarının Satışı Hakkında Kanun (No: 4182)
Act on Privatization Implementations	: Özelleştirme Uygulamaları Hakkında Kanun (No: 4046)
Act on Promotion of Industry	: Teşviki Sanayi Kanunu
Act on Promoting Savings and Increasing Public Investments	: Tasarrufların Teşviki ve Kamu Yatırımlarının Arttırılması Hakkında Kanun (No: 2983)
Act on State Reform Law	: Devlette Reform Kanunu
Act on the Amendment of Certain Articles of the Meadows	: Mera Kanununun Bazı Maddelerinde Değişiklik Yapılması Hakkında Kanun (No: 4368)
Act on the Amendment of the Appreciation of Immovables Owned by the Treasury and Value Added Tax Act(No: 4706)	: Hazineye Ait Taşınmaz Malların Değerlendirilmesi ve Katma Değer Vergisi Kanunda Değişiklik Yapılması Hakkında Kanun
Act on the Establishment of Industry and Mines	: Sanayii ve Maadin Bankası Kuruluş Kanunu (1925)
Act on the Sale of Agricultural Land Owned by the Treasury	: Hazineye Ait Tarım Arazilerinin Satışı Hakkında Kanun (No: 4070)
Act on the Sale of Agricultural Land Owned by the Treasury	: Hazineye Ait Tarım Arazilerinin Satışı Hakkında Kanun, 03 Mart 1340 (1924) tarihli ve 431 sayılı Kanunla Hazineye Kalan Taşınmaz Mallardan Bazılarının Zilyedlerine Devri Hakkında Kanun ile Mülga 2613 ve 766 sayılı Kanunlarla Hazine Adına Tescil Edilen Miktar Fazlalıklarının İlgililerine Devrine Dair Kanunda Değişiklik Yapılmasına Dair Kanun (No: 4707)
Acquis Communautaire	: Topluluk Müktesebatı
Acquisition (The purchasing of a property)	: İktisap (kazanım, devralma)
Acquisition (Gain) Value	: İktisab Değeri
Acquittal	: Beraat (aklanma, ibra)
Acre (Unit of land measure, 43 560 feet, As a square, an acre measures 208,71 feet on each side)	: Arazi ölçü birimi (0.404 hec. /0.404 dec.)
Action	: Eylem (Dava, davranış, tutum)
Action for compensation	: Tazminat Davası
Action Plan	: Eylem Planı /İcra Planı
Action Programme	: Eylem Programı
Activated	: İşlem Gören
Active Investor (An investor who, in addition to investing equity capital in a project, also packages, builds, or manages a project)	: Atif Yatırımcı

Active Value	: Aktif Değer
Activity	: Faaliyet/etkinlik
Actual Market Value (the value determined by the real estate market)	: Rayiç Bedel (Emlak piyasası tarafından belirlenen değer)
to acquire	: İktisab Etme
Adaptation	: Uyarlama
Added Value	: Katma Değer
Adjacent Area	: Mücavir Saha
Adjudication time-limit to administer	: İmar/İhale Kararı Müddeti
Administrations Subject to Special Budget	: Özel Bütçe Kapsamındaki İdareler
Administrations with Supplementary Budgets	: Katma Bütçeli İdareler
(Public) Administrations out of the General Management	: Genel Yönetim Kapsamı Dışındaki Kamu İdareleri
Administrative Arrangement	: İdari Düzenleme
Administrative Court	: İdare Mahkemesi
Administrative Decision (decision d'affectation)	: İdarî karar (Tahsis kararı)
Administrative Goods	: İdare Malları (Kamu/Devlet Malları)
Administrative Interest (Institutional public interest (State/ institutional benefit))	: İdare Yararı (Kurumsal kamu yararı (Devlet/ Kurum yararı))
Administrative jurisdiction	: İdari yargı
Administrative Law	: İdare Hukuku
Administrative Pricing	: İdari Fiyatlama
Administrators (central bureaucrats)	: İdareciler / Enderun (Ottoman)
Admission	: Kabul, İzin (Kabul izni)
Advocacy planning to adopt	: Savunmacı planlama
Affiliated	: İlgili
Agency	: Acenta (Ajans, Daire, Birim)
Agency for International Development	: Uluslararası Kalkınma Ajansı
Aggregationist Approach to agree	: Toplamcı Yaklaşım
Agreed Minutes of a Meeting	: Anlaşmak (mutabakata varmak)
Agreement	: Toplantı Tutanağı
Agregate Value	: Anlaşma
Agricultural Parcel	: Toplam Değer
Aid	: Tarım Parseli
Allocation (affectation)	: Yardım
Allocation by an Act	: Tahsis (özüleme)
Allocation for public interest	: Yasa ile Tahsis
Allocated Immovable Property	: Kamu yararına tahsis (affectation à l'utilité publique)
Allocated land	: Tahsisli taşınmaz mal
Allotment	: Tahsisli arazi
Allowance	: İfraz
Alternative	: Muvafakat
to amend provisions	: Almaşık
	: hükümleri değiştirmek

Amnesty	: Genel af
Amortised renovation value	: Amortize edilmiş yenileme değeri
Ankara CBD (Northern Section) Planning and Development Competition	: Ankara Merkezi İş Alanı (Kuzey Kesimi) Planlama ve Geliştirme Yarışması
Ankara Chamber of Commerce (ACC)	: Ankara Ticaret Odası (ATO)
Annexed	: Bağlı
Announcement to annul (-led)	: Duyuru İptal etmek, Bozma, İlgâ etme, Kaldırmak (Yasal metinlerin iptali)
to appeal a decree	: Temyiz Etmek
Appealing Case	: Temyiz Davası
Application	: Uygulama/Başvuru
Applied	: Uygulanmakta olan
Appraisal/Valuation	: Değerleme
Appropriation	: Elde Etme
Approximation	: Yaklaş(tır)ma
to approve	: Onaylamak (tasdik etmek, tasvip etmek)
Arbitrage	: Tahkim
Arbitrary actions	: Keyfi uygulamalar
Area	: Alan
Areas without an Owner	: Sahipsiz Yerler
Arrangement	: Düzenleme
Article	: Madde
Articulated	: Eklemlenmiş
Artificial public goods	: Sun'î kamu malları (Domaine public artificiel)
Areas having urban development potentials	: Kentsel gelişme potansiyeli olan alanlar
Areas under State's Governance and Possession	: Devletin Hüküm ve Tasarrufu Altındaki Alanlar/ Tescilli mümkün olmayan alanlar)
Assent of Authorities	: Yetkili Makamın uygun görmesi
Asset/Share Certificate	: Hisse Senedi, Varlık
Asset Sales	: Hisse Senedi Satışı
Assessment	: Keşif/Değerlendirme
Assignment	: Tescil
Association Agreement	: Ortaklık Anlaşması
Atatürk Cultural Center	: Atatürk Kültür Merkezi (AKM)
Atatürk's State Farm	: Atatürk Orman Çiftliği (AOÇ)
to attainment of the plan objectives	: Plan hedeflerinin elde edilmesi
Auction	: Açık Arttırma
Authority	: Otorite, Kurum, Makam, İdare
Authorized Construction	: Yasal Yapı
Authorized Subdivision Plan	: Parselasyon Planı
Autonomy	: Özerkleşme
<b>B</b>	
Banking Regulation and Supervision Agency	: Bankacılık Düzenleme ve Denetleme Kurumu
Bare property	: Rakabe (çıplak mülkiyet)
Barter	: Trampa
Basic (Necessary) Legal Order	: Gerekli Yasal Düzenlemeler

Bay	: Koy
Being in conformity with	: Mutabakata varmak
Bending/to Undergo	: Katlanmak
Benefit	: Yarar/ Fayda, Menfaat
Bill of Law	: Kanun Tasarısı
Bis	: Mükerrer
Block	: Yapı Adası
Block Parcel	: İmar Parseli (Tarımsal/Kentsel)
Board	: İdare Meclis, Kurul
Bosphorus Front Side	: Boğaziçi Ön Görünüm Bölgesi
Bouyant Areas	: Ekonomik Canlılığı olan Alanlar
Breakwater	: Mendirekt
Budget Commission	: Bütçe Komisyonu
Budget Year Act	: Bütçe Yılı Kanunu
Buffet	: Büfe
Build and Sale	: Yap-Sat
Build-Operate-Manage	: Yap-İşlet-Yönet
Build-Operate-Transfer	: Yap-İşlet-Devret
Build-Own Operate	: Yap-Sahiplen-İşlet
Building Setback / Building approaching boundaries	: Yapı Yaklaşma Sınırı/ Bina Çekme Mesafesi
Building plot	: Arsa
Building Block	: Yapı Adası
Buildings Act	: Ebniye Kanunu (1882)
Buildings Law	: Ebniye Nizamnamesi (1848)
Bureaucrats' interest (self-benefit or technical interest)	: İdareci (Bürokrat) Yararı (Kişisel Yarar veya Teknik Yarar)
Business (or Company)	: İşletme
Buying	: Satın Alma
By-law	: Yönetmelik
By-law on Land and Parcel Organization According to Article 18 of the Development Act	: İmar Kanunu'nun 18. Maddesi Uyarınca Yapılacak Arazi ve Arsa Düzenlemesi ile ilgili Esaslar Hakkında Yönetmelik
By-law on the Organization and Duties of the Presidency of Privatization Administration	: Özelleştirme İdaresi Başkanlığı Teşkilat ve Görev Yönetmeliği

## C

Cadastre	: Kadastro
Cadastral Map	: Kadastral Harita
Calibrated Possession Document:	Çaplı Tasarruf Vesikası
Call Indemnity	: İhbar Tazminatı
To cancel	: İptal etmek
Capital	: Sermaye
Capital Goods	: Yatırım Malları
Capital Income	: Nakit Giriş
Capital Market	: Sermaye Piyasası
Capital subsidiarity	: Sermaye İştiraki
The Capital City of Ankara 2023 Master Development Plan	:2023 Başkent Ankara Nazım İmar Planı
to cause a disadvantage	: (bir) zarara sebep olmak/ sakıncalı bir

	duruma meydan vermek
Center for Developing Public Enterprises	: Kamu İşletmelerini Geliştirme Merkezi
Central Administration	: Merkezi Yönetim
Central Government	: Merkezi Hükümet
Central Bank of the Republic of Turkey	: Türkiye Cumhuriyeti Merkez Bankası (TCMB)
Certificate of Title-deed Assignment	: Tapu Tahsis Belgesi
The Chairmanship of Technical Service	: Fen İşleri Daire Başkanlığı
Clause	: Hüküm
Clauses of Development Legislation	: İmar Mevzuatı Hükümleri
Circular	: Genelge
Civil Act	: Medeni Kanun
Citizens Act	: Yurttaşlar Yasası/Türk Kanunu Medenisi
Claimant	: Davacı
Closed Proposal Method	: Kapalı Teklif Usulü
Coast Borderline	: Kıyı Kenar Çizgisi
Coastal Act	: Kıyı Kanunu (No: 3621/3830)
Colhoze	: Kolhoz
Collection	: Tahsil Etme
Collective Consumption	: Toplu Tüketim
Collective Ownership	: Toplu Sahiplilik
Collision	: Çöküntü
Commenatry	: Şerh
Commercial Center	: Ticari merkez
Commercial Property	: Ticari Mülkiyet
Commercialised	: Ticarileştirme
Commission	: Komisyon
Commodification of urban space	: Kentsel mekanın metalaştırılması
Common Area	: Ortak Alan
Common Benefit	: Ortak iyilik
Common Interest	: Ortak Yarar
Common Good (Benefit)	: Toplumsal İyi (Fayda)
Common Goods(res communes)	: Orta Mallar
Common Market	: Ortak Pazar
Common Ownership	: İştirak halinde mülkiyet/Ortak Sahiplik
Communication/Declaration	: Bildirim/Tebliğ
Community planning	: Topluluk planlaması
Compactness of the Establishment	: Tesis Bütünlüğü
Compensation	: Tazminat
Competence Document	: Yetki Belgesi
Competent Body	: Yetkili Organ, Yetkili Birim
Comprehensive Planning	: Kapsamlı Planlama
Comprehensive Planning	: Kapsamlı Planlama
Competence of Appreciation	: Takdir Yetkisi
Conditional Sales	: Şartlı Satış
Concession/ Privilage	: İmtiyaz
To conclude an agreement	: Anlaşma yapmak
Concillor councilor	: Encümen üyesi
Condition	: Koşul
Condominium	: Lojman
Conformity Assessment	: Uygunluk Değerlendirmesi
Contract	: Sözleşme
Contracting-out	: İhale yöntemi
First Constitutional Era	: I. Meşrutiyet (1876)
Construction	: İnşaat, Yapı, İnşa

Construction Co-efficient/ Precedence of Applications	: Emsal (E)
Construction Permit	: İnşaat Ruhsatı
Construction of a Good	: Mal yaptırma (İNŞAAT, büyük-küçük onarım)
Construction Permit	: İnşaat Ruhsatı/İNŞAAT İZNI
Consumer	: Tüketici
Contested act	: İtiraz edilen işlem
Contingency	: Raslantısallık
Contracting Out	: İhale
Controversial Planning	: İhtilafli Planlama
Council	: Konsey
Council of Ministers	: Bakanlar Kurulu
Council of Monopoly	: Tekeller Komisyonu
Council of Old Buildings and Monuments	: Eski Eserler ve Anıtlar Yüksek Kurulu
County Council	: Eyalet Meclisi
Court of Auditors	: Sayıştay
Court of Auditors Act	: Sayıştay Kanunu (No: 832)
Court of First Instance	: Asliye Hukuk Mahkemesi
Court of State	: Danıştay
Corporate (Corporation)	: Kurum
Corporate (Corporation) Tax	: Kurum Vergisi
Critical planning approach	: Eleştirel planlama yaklaşımı
Current Value	: Rayiç Bedel
Cultural and Natural Heritage Higher Council	: Kültür ve Tabiat Varlıkları Yüksek Kurulu
Cyprus Works Head Consultancy:	Kıbrıs İşleri Başmüşavirliği

## D

Daily Tourism Complex Area <i>de facto (L)</i>	: Günübirlilik Tesis Alanı : Bilfiil, Fiilen (hukuki tanınmadan önceki fiili tanınma, fiilî durum)
<i>de facto-privatization</i>	: Defakto özelleştirme (Doğal olarak gelişen özelleştirme)
<i>de jure-privatization</i>	: Dejure özelleştirme (Yasal çerçeveye haiz özelleştirme)
Dead or unusable state private property allocated to the use of natural persons	: Kişilerin Kullanımına Ayrılmış Ölü ya da İşe Yaramaz Devlet Taşınmaz Malları / Arazi-i Mevat (res nullius)
Dealer saving condition	: Aracılıklı tasarruf durumları
Death capital	: Ölü yatırım
Debt	: Borç
Decares	: Dekar
Decentralized Planning	: Yerel ve çok merkezli planlama yaklaşımı
Decision	: Karar
Decision of the Council of Ministers	: Bakanlar Kurulu Kararı
Declaration	: Bildirim/Tebliğ
Decreasing of Capital Flows	: Nakit Akımların İndirgenmesi
Decree	: Kararname
Decree with the force of Law/ Statutory Instrument (Governmental Decrees Having the Force of Law)	: Kanun Hükmünde Kararname
Decreased cash flows	: İndirgenmiş nakit akımları
Degraded Area	: Çöküntü alanı
Deliberation	: Mütalaa (Tartışma, Müzakere, Karar)

Democracy Deficit	: Demokrasi Açığı
Denationalization	: Devletsizleştirme/ Devletleştirmenin Ters
Department of Real Estate of the Council of Conservation of Cultural and Natural Heritage	: Kültür ve Tabiat Varlıklarını Koruma Kurulu Emlak Dairesi Başkanlığı
Department Office of Council of Conservation of Cultural and Natural Heritage: Kültür ve Tabiat Varlıklarını Koruma Kurulu Büro Müdürlüğü	
Deputy Undersecretary	: Müsteşar Yardımcılığı
Deregulation	: Yasal-kurumsal serbestleşme /Deregulasyon
Derelict Area/Degraded Area	: Çöküntü Alanı (Özel Sektörün terk ettiği, gitmediği ve ancak kamu yatırım ağırlıklı olarak planlama yapılabilecek alanlar)
Determination	: Tespit (Arazi)
Determination Document to develop	: Tespit Tutanağı
Devalorization	: İhya Etmek
Developed Parcel	: Değer yitirimi
Developer	: İmarlı Parsel
Development	: İmar ve ihya eden
(Town) Development (Planning) Act	: Kalkınma/İmar
Development Administration Commission	: İmar Kanunu
Development Amnesty	: İmar İdare Heyeti
Development axes	: İmar Affı
Development Condition	: Gelişme aksı /yönü
Development Corporations	: İmar Durumu
Development Department	: Geliştirme Ortaklıkları
Development Implementations:	: İmar Müdürlüğü
Development Legislation	: İmar Uygulamaları
Development Ordinance	: İmar Mevzuatı
Development Parcel	: İmar Düzenlemeleri
Development Plan	: İmar Parseli
Development Plan Modification	: İmar Planı
Development process	: İmar Planı Değişikliği
Development Right	: İmar süreci
Differential Rent	: İmar Hakkı
Directive	: Farklılık Rantı/Değişken Rant (Farklı yerlerdeki arazilerin ürettiği farklı değerler)
Directorate of National Real Estate	: Direktif
Disagreement	: Milli Emlak Müdürlüğü
Discharge/Disissal	: İhtilaf
Discretionary Planning view	: Terkin İşlemi
Discretionary Power	: Takdir yetkisinin kamu yararını maksimize etmek için kullanılması
Disinvestment	: Yetki genişliği
Dismissal Action	: Yanlış Yatırım
To distort environmental unity	: Tasfiye İşlemi
Distribution of wealth to the public/Extension of the capital ownership	: Çevresel bütünlüğe zarar verme
District	: Sermayenin tabana yayılması
District Council	: İlçe
District Municipality	: Bölge Meclisi
Dividing up a Property	: İlçe Belediyesi
Document	: Şuyu
Domestic	: Belge
	: Ulusal

Domestic Debt	: İç Borç
Domination	: Zilliyetlik
Dominium	: Mutlak Mülk Sahipliği
Donation	: Bağış, Hediye, Hibe
Draft	: Taslak
Draft Law/Bill of Law	: Kanun Tasarısı
Dual right to property	: İkili mülkiyet

## E

Earned Right	: Kazanılmış Hak
Economic activity areas	: Ekonomik Canlılığı olan Alanlar
Economic Indicators	: Ekonomik Göstergeler
Economic Program Package	: Ekonomik Program Paketi
Economic principles	: Misak-ı İktisadi
Effectiveness	: Etkinlik
<i>e.g. (exempli gratia)</i>	: Örneğin
<i>(L, for example)</i>	
Bank of Real Estate and Orphans:	Emlak Eytam Bankası
Eminent Domain (The right of a government to take private property for public purposes)	: Hükümetin Kamu Kullanımları için Özel Mülkiyeti Alma Hakkı
Enactment	: Yasalaştırma/Kanun yapma
Enclosed Area	: Kapalı Alan
Enforcement	: Yürütme, İcra Etme
to enter into force	: Yürürlüğe girme
Enterprise	: Teşebbüs
Enterprise Zone	: Girişim/Teşebbüs Alanı
Entrepreneur	: İşadamı, müteşebbis
Entity	: Hizmet Üretim Birimi
Environmental Impact Assessment	: Çevresel Etki Değerlendirmesi (ÇED)
Establishing Non-Tangible Character of Property	: Mülkiyetin Gayri Ayni Haklarının Tesisi
Establishment, Business or Company	: Kuruluş
Establishment/Plant	: İşletme/Tesis/Müessese
Establishment of incorporeal rights on property	: Mülkiyetin gayri ayni haklarının tesisi
Establishment of Right to Easement through Transfer with Compensation	: Bedeli Karşılığında Devir Yoluyla İrtifak Hakkı Tesisi
Establishment of Surface Easement	: Üst Hakkı Tesisi
Establishment of Right to Easement	: İrtifak Hakkı Tesisi
Equity principle	: Eşitlik ilkesi
Equity in Subsidiary	: İştirakteki Pay
European Commission (EC)	: Avrupa Birliği Komisyonu
European Monetary Union (EMU)	: Avrupa Para Birliği
European Monetary Zone	: Avrupa Para Birliği Alanı
European Single Market	: Avrupa Tek (Ortak) Pazarı
European Union	: Avrupa Birliği
Exchange of Turkish Greek inhabitants	: Mübadele
Executive Power	: Yürütme Erki (Yetkisi)
Exemption	: Muafiyet
European Single Market	: Avrupa Tek (Ortak) Pazarı
Ex-ante evaluation	: Ön Değerlendirme



<i>Ex-officio</i>	: re'sen
the <i>ex-officio</i> competence of	: Res'en plan yapma ve onama yetkisi
plan preparation and approval	
<i>ex-post facto (by subsequent action)</i> :	Sonradan yapılan eylem
ex post evaluation	: Nihai Değerlendirme
Example of dimension sketch	: Ölçekli çap örneği
Exemption	: İstisna
Expert	: Bilirkişi
Expertise value	: Ekspertiz değeri
Expropriation	: Kamulaştırma
Extended	: Genişletilmiş
Extension of the capital	: Sermayenin tabana yayılması
ownership/ Distribution	
of wealth to the public	
Externality	: Dışsallık

## F

Factory	: Fabrika
Failure to act	: İşlemden kaçınma
Fayda, Menfaat	: Benefit
Feasibility Study	: Fizibilite çalışması
Financial Capital	: Mali Sermaye
Financial Department	: Defterdarlık
Financial Market	: Mali Piyasa
Financial Profit Productivity	: Temettü verimi
Financial Renting Act	: Finansal Kiralama Kanunu (No: 3226)
Financial Management and Control Act	: Kamu Mali Yönetimi ve Kontrol Kanunu (No: 5018)
Firebrigade	: İtfaiye
First Economy Congress (İzmir)	: İzmir İktisad Kongresi
Fiscal	: Mali
Flat easement	: Kat irtifakı
Flat Ownership Act	: Kat Mülkiyeti Kanunu (No: 634)
Floor Area Ratio (FAR)	: Kat Alanı Katsayısı (KAKS)
Foreign Trade Policy	: Dış Ticaret Politikası
Forest Area	: Orman Alanı
Forestlands	: Ormanlık Alan
Formation	: Birikim, Oluşum
the fortieth part of a piastre (kuruş)	: Para
Foundation, Wakf	: Vakıf
Forest Act	: Orman Kanunu (No: 6831/4999)
Franchising (Franchise Agreements)	: İmtiyaz Devri
Free Movement of Goods	: Malların Serbest Dolaşımı
Free Exchange System	: Serbest Kur Sistemi
Free Distribution of Shares (Voucher System):	Hisselerin eşit dağılımı
Free Giving (Transfer without compensation):	Bedelsiz Devir
Full right to property	: Tam Mülkiyet
Functional separation	: İşlevsel Ayrılma

## G

Gain Value	: İktisab Değeri
Gaining through over exceeding	: Kazandırıcı Zaman Aşımı
time method	: Yoluyla Edinme (İktisap etme)

General Accountancy Act	: Muhasebe-I Umumiye Kanunu (No: 1050)
General Budget	: Genel Bütçe
The General Directorate of Agricultural Reform	: Tarım Reformu Genel Müdürlüğü
The General Directorate of Forests	: Orman Genel Müdürlüğü
The General Directorate of Highways	: Karayolları Genel Müdürlüğü
The General Directorate of Highways -Workshop	: Karayolları Genel Müdürlüğü (TCK) Atölye
The (abolished) General Directorate of Land Office: (mülga) Arsa Ofisi Genel Müdürlüğü	
The General Directorate of Liquidation Works Revolving Fund Managements: Tasfiye İşleri Döner Sermaye İşletmeleri Genel Müdürlüğü	
The General Directorate of National Real Estate (Treasury/GDNRE): Milli Emlak Genel Müdürlüğü	
The General Directorate of Retired Saving Bank: Emekli Sandığı	
The General Directorate of Security	: Emniyet Genel Müdürlüğü
The General Directorate of State Hydraulics Works: Devlet Su İşleri Genel Müdürlüğü	
The General Directorate of State Ports and Airports: Devlet Limanlar ve Hava Meydanları Genel Müdürlüğü	
The General Directorate of Technical Research and Implementation TRI): Teknik Araştırma ve Uygulama Genel Müdürlüğü	
The General Directorate of Title Deed and Cadastre: Tapu ve Kadastro Genel Müdürlüğü	
The General Directorate of Village Works (abolished) : (mülga) Köy Hizmetleri Genel Müdürlüğü	
The General Directorate of Youth and Sports	: Gençlik ve Spor Genel Müdürlüğü
The General Directorate of Wakfs	: Vakıflar Genel Müdürlüğü
The General Secretariat for National Safety Council	: Milli Güvenlik Kurulu Genel Sekreterliği
The General Directorate of Social Security Agency	: Sosyal Sigortalar Kurumu Genel Müdürlüğü (SSK)
Global institutions	: Küresel Kurumlar
Give Up	: Ferağ Etme
Government	: Hükümet
Government Housing	: Lojman
Governor's (Administrator's) self benefit (Representative's interest (Interest of the administrators)	: Yöneticinin Kişisel Yararı (Temsilcilerin yararı (İdarecilerin yararı)
Giving out as a Present	: Hediye Etme (İhsan Etme)
Grant/Subsidies	: Finans Desteği /Bağış/Yardım
Greater Municipality	: Büyükşehir Belediyesi
Greater Municipality of Ankara	: Ankara Büyük Şehir Belediyesi Başkanlığı (ABŞB)
Gross Domestic Product	: Gayrisafi Yurtiçi Hasıla
Gross National Product	: Gayrisafi Milli Hasıla
Ground Rent	: Yer Kirası / Hekr
Group interest	: Grup Yararı
Gurantee Letter	: Teminat Mektubu

## H

Harmonization of legislation	: Mevzuatın uyumlaştırması
Having Possession through Transfer	: Devir alma yoluyla taşınmaz mal edinimi
Head of Conservation of Cultural and Natural Heritage	: Kültür ve Tabiat Varlıklarını Koruma Başkanlığı
Headman (of a Village/Neighborhood)	: Muhtar
Health protection border	: Sağlık Koruma Bandı
Higher Auditing Council	: Yüksek Denetleme Kurulu

High Court of Appeals	: Yargıtay
Higher Coordinator of Economic Works	: Ekonomik İşler Yüksek Koordinatörlüğü
Higher Courts	: Yüksek Yargı
Higher Planning Council	: Yüksek Planlama Kurulu
hmax free	: serbest yükseklik
Holder of shared title deed	: Hisse sahibi
Horticulture areas	: Kültür (hayvan) yetiştiriciliği alanları

## I

<i>i.e. id est (L, that is)</i>	: Bunlar/Budur
Illegal appropriation	: Yasadışı Tahsis
Illegal Subdivision	: Taşınmazın Yasal Olmayan Yollardan Paylaşımı
Immigrant settlement area	: Göçmen yerleşim alanı
Immovable	: Taşınmaz
Immovable Allocated to a Public Institution	: Tahsisli Taşınmaz Mal (kamu)
Immovable Property (Real Property or land)	: Taşınmaz Mülk
Immovable Property Developed	: İhya Edilen Mülk
Immovable Thing	: Sabit Varlık
Immovable Historical Art Crafts and Monuments Higher Council	: Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulu
Immovable purchased on a time-share basis to implement	: Devre Mülk : Uygulamak
Implementation Plan	: Uygulama İmar Planı
Implementing By-law	: Uygulama Yönetmeliği
Implementing Institution	: Uygulayıcı Kurum
Import Substituted Domestic Economy Policy	: İthal İkamesine Dayalı İçer Dönük İktisadi Politika
Improper action	: Aykırı/Uyumsuz davranış
Improvement Plan	: İslah İmar Planı
In force	: Yürürlükte (olan)
In effect	: Etkili (Etkin)
Incentives/subventions	: Özel Kesimi Teşvik Yöntemi
Income	: Gelir
Income Partnership Shares	: Gelir Ortaklığı Senedi
Income Tax	: Gelir Vergisi
Increase cost	: Arttırım Bedeli
Incrementalism	: Küçük değişimler yaklaşımı
Indemnity/ Compensation	: Tazminat
Industry and Mining Bank (Sanayii and Maadin Bank)	: Sanayii ve Maden Bankası
Inheritance	: Veraset
Information System on Title-Deed and Cadastre	: Tapu Kadastro Bilgi Sistemi
Inner-city	: Kentlerin İç Bölgeleri
Innovation	: Sanayide Uygulama Safhası
Institution	: Kurum
Institutional Rotation	: Kurumsal Devir
Institutions with General Budget	: Genel Bütçe Kapsamındaki Kamu İdareleri
Institutions with a Separate Budget	: Bağımsız Bütçeli Kamu İdareleri
Institutions with a Special Budget	: Özel Bütçeli Kamu İdareleri
Institutions with a Supplementary Budget	: Katma Bütçeli Kamu İdareleri
Instrument	: Belge, araç, senet
Instrumentalist perspective	: Araçsalcı bakış açısı

Interest	: Çıkar
Intermediate Goods	: Ara Mallar
Internal profit rate	: İç karlılık oranı
International Finance Cooperation	: Uluslararası Finans Kurumu
Intervention	: Müdahale
Invasion Indemnity	: Ecrimisil (İşgal Tazminatı)
Inventory	: Stok kaydı
Invested Capital	: Yatırıma dönüştürülmüş sermaye
Investment	: Yatırım
Irregularity	: Yolsuzluk
Irrigation Channel	: Sulama Kanalı
Issueing Equities	: Hisse Senedi İhracı

## J

Joint action	: Ortak Eylem
Joint financing	: Ortak Finansman
Joint-Stock Company	: Anonim Şirket
Joint ownership	: Müşterek sahiplilik
Judgment	: İċtihat (Yargı, hokum)
Juridical jurisdiction	: Adli yargı
Jurisdiction	: Yargı yetkisi, yargı alanı
Jurisprudence	: Hukuk İlmı

## L

Labor	: Emek, İşgücü
Land	: Arazi
Land Arrangement	: Arazi Düzenlemesi
Land Assurance	: Arazi Temini
Land Certificate	: Arsa Edinme Sertifikası
Land Reform	: Toprak Reformu
Land Tenure	: Arazi Sahipliđi
Land Owner	: Arazi Sahibi
Land Survey	: Arazi Araştırması
Land use	: Arazi kullanımı
Lands in property (lands owned)	: Araz-i Memluke (Mülk Araziler)
Lands not in property	: Mülk olmayan Araziler
Lands of wakfs with a certain purpose	: Bir Amaca Ayrılmış Vakıfların Arazisi /Arazi-i Mevkufe (res sacrae, res religiosae, res sanctae)
Late public offering	: Gecikmeli halka arz
Law	: Karar (Meclisten onaylanmamış yasal metin veya Belediye Meclis Düzenleyici Kararları)
Law Defining Body	: Yasama Organı/Yasa yapan organ
Law of Public Services	: Kamu Hizmeti Hukuku
Law suit	: Dava
Leasehold	: Kontratla Kiralanmış Mal
Leasing	: Finansal Kiralama
Left outs	: Terkler
Legal Arrangement	: Yasal Düzenleme
Legal Conformity	: Yasal Uygunluk
Legal Dispositions depending on the Nature of the Business	: İşin Geređine Uygun Sair Hukuki Tasarruflar

Legal Entity/ Juridical Person	: Tüzel Kişi (kamu kurumu)
Legal Person	: Hükmi Şahsiyet
Legalized	: Yasallaşan
Legislation	: Mevzuat
Legitimization	: Meşrulaştırma
Levantine	: Levanten
Liquidation	: Tasfiye
Liquidation value	: Tasfiye değeri
Limited Liability Companies	: Limited Şirket
Limited public interest (of the society)	: (toplumun) Sınırlı kamu yararı
Live Animal Stock Exchange	: Canlı Hayvan Borsası
Local	: Yerel
Local (Partial) Plans	: Mevzi İmar Planı
Local Administration	: Mahalli İdare
Local Authority (Government)	: Yerel Yönetim
Locality	: Yerel Ortam

## M

Maastricht Treaty	: Maastricht Antlaşması
Mal Ticareti	: Trade in Goods
Management	: İşletme
Management Contract	: Yönetim Sözleşmesi
Management contract method	: Yönetim devri yöntemi
Management Right	: İşletme Hakkı
Management transfer	: İşletme hakkı devri
Manifesto	: Beyanname
Manufacturer /Small Industrialist:	Küçük Sanayici
Manufacturing Sector	: Üretim Sektörü
Map	: Harita
Marginal Areas (Areas where market interest concentrates)	: Kamu desteği ile yatırım yapılabilir, potansiyel piyasa çıkarları bulunan alanlar (Marjinal Alanlar)
Marginal costs	: Marjinal Maliyet
Market	: Pazar
Market-critical Planning	: Piyasa Eleştirel Planlama
Market-led Planning	: Piyasa Yönelimli Planlama
Market liberalization	: Pazarın Serbestleştirilmesi
Market value	: Piyasa değeri/defter değeri
Mass Housing Administration:	Toplu Konut İdaresi (TOKİ)
Master Plan	: Nazım Plan
Master Plan Bureau	: Nazım Plan Bürosu
Meadow	: Mera (Çayır, Otlak, Yaylak, Kışlak)
Meadows Act	: Mer'a Kanunu (No: 4342)
Means of Production	: Üretim Araçları
Meat and Fish Products Firm:	Et ve Balık Ürünleri (EBÜ) A.Ş
Meat and Fish Institution	: Et ve Balık Kurumu (EBK)
Mense Profits	: Ecrimisil
Merit Goods	: Değerlendirilmiş Mallar
Methodological Mistake	: Usul Hatası
Metropolitan Area	: Metropoliten Alan
Metropolitan Area Master Plan Bureau	: Metropoliten Alan Nazım Plan Bürosu
Metropolitan County Council	: Metropoliten Eyalet Meclisleri
Mid-term Program	: Orta Vadeli Program
The Ministry of Development and	: (mülga) İmar ve İskan Bakanlığı

Resettlement (MDR) (abolished)	
The Ministry of Environment and Forestry	: Çevre ve Orman Bakanlığı
The Ministry of Finance	: Maliye Bakanlığı
The (abolished) Ministry of Forestry	: (mülga) Orman Bakanlığı
The Ministry of Public Works and Settlement	: Bayındırlık ve İskan Bakanlığı
The (abolished) Ministry of Tourism	: (mülga) Turizm Bakanlığı
Mixed Economy Model	: Karma Ekonomi Modeli
Mode of Assessment	: Değerlendirme Usulleri
Mode of Production	: Üretim Tarzı/Türü
to monitor	: İzlemek
Monopoly	: Tekel
Monopoly Goods	: Tekel Mallar
Monopoly Rent	: Tekel Rantı
Monopolistic Rent	: Tekelci Rant (Arazinin konumunun sağladığı getiri)
Mother Land Party	: Anavatan Partisi
Movable Stock	: Demirbaş
Movable Property	: Menkul/Taşınır Mülk
Mulk (Equivalent of freehold/property)	: Mülk
Multilateral Investment Gurantee Agency (MAI)	: Çok Taraflı Yatırım Garantisi Anlaşması
Multiple public interest	: Çoklu Kamu Yararı
Municipal Council	: Belediye Meclisi
Municipal Council Decision	: Belediye Meclisi Kararı
Municipal Committee	: Belediye Encümeni
Municipality	: Belediye

## N

National Benefit	: Ulusal Çıkar
National Productivity Centre	: Milli Produktivite Merkezi
National Program	: Ulusal
Nationalisation	: Devletleştirme
Natural Person	: Gerçek Kişi
Natural public goods	: Tabii kamu malları (Domaine public naturel)
Natural Treasury and Resources:	Tabii Servetler ve Kaynaklar
Net active value	: Net aktif değer
Newly Created/Added	: Muhdesat
No-revision	: Revizyon olmaması
Non-excludability from consumption:	Tüketimden dışlanmazlık
Non-governmental interaction	: Hükümet dışı etkileşim
Non-private	: Özel Olmayan
Non-rivalry in consumption	: Tüketimde rekabetsizlik
Non-tangible rights	: Ayni Haklar
Notebook Functionality	: Defter verimi
Notification	: Bildirim/İhbar

## O

Obligation	: Yükümlülük, borç
Occupation Licence/Permit	: Oturma İzni /Ruhsatı
Office of Administrative District:	Kaymakamlık
Official Corresponce	: Resmi Yazışma
One-sided action of the Treasury:	Teferruğ (Tefevvüz) yoluyla taşınmaz mal edinme (Tek taraflı)
Open Auction	: Açık Arttırma
Opening Monopolies to Free Competition	: Tekellerin Serbest Rekabete Açılması

Opinion	: Görüş
Ordinance	: Ferman/Düzenleme
Organ of Law	: Yasa Yapıcı İdare
Organized Industrial Zone	: Organize Sanayi Bölgesi
Orginal Act	: Asıl Belgeler, Temel işlemler
Other legal dispositions depending on the Nature of the Business	: İşin gereğine uygun sair hukuki tasarruflar yöntemi
Out of Case	: Dava Dışı
Over Demand	: İhtiyaç Fazlası
Over Employment	: Aşırı istihdam
Owner of Registration	: Kayıt sahibi
Ownerless (Unowned) Goods (res nullius)	: Sahipsiz Mallar
Ownership	: Sahiplilik
Ownership due to over exceeding time	: Zaman aşımı yoluyla mal edinimi

## P

Paragraph	: Fıkra
Parcel/Building Plot	: Arsa
Parcellation	: Parselasyon
Partial Shares	: Hisseli Mülkiyet
Partial (Local) Plans	: Mevzi İmar Planı
Participant	: İştirakçi
Participation	: İştirak
Partnership	: Ortaklık
Passive investor	: Pasif Yatırımcı
Pasture	: Yaylak
per capita	: Kişi Başına
Permission Licence	: Ruhsat
Permission of use	: Oturma İzni
Permit	: İzin
Person that is not a Public Person	: Kamu Kişisi olmayan Kişi
Physical Environment	: Fiziki Çevre
Physical Structure	: Fiziki Yapı
Piastre	: Kuruş
Pious	: Hayrat
Places covered with rushes	: Sazlık
Plan	: Plan
Plan Boundary	: Plan Sınırı
Plan Modification/Amendment	: Plan Değişikliği
Plan Notes (Norms)	: Plan Notları
Plant/Establishment	: Tesis
Planning	: Planlama
Planning Approach	: Planlama Yaklaşımı
Planning responsibilities	: Planlama sorumlulukları
Plans	: İmar Uygulama Planları
Plot Area Ratio	: Taban Alanı Katsayısı (TAKS)
Plot of Land/Cadastral Unit	: Kadastro Parseli
Policy of the State Control	: Devletçilik
The Political Reforms / Tanzimat Edict	: Gülhane Hatt-ı Humayunu
To possess a land	: Bir araziye kendi tasarrufuna geçirmek
Possession Sales	: Varlık Satış
Possession Sale Method	: Gelir Ortaklığı Modeli
Possession Value (Real Estate Value)	: Emlak Değeri
to Precept	: Farz Etme

Precedence of Applications	: Emsal
Predetermined Zones of Transition	: Önceden Belirlenmiş Dönüşüm Alanları
Preliminary Project	: Avan Proje
Preliminary (Prior) Authorization	: Ön İzin
The Presidency of Privatization Administration/ The Privatization Administration (the PA)	: Özelleştirme İdaresi Başkanlığı
Principle of non transferable character of public goods	: Kamu mallarının devredilemezliği ilkesi (Principe de l'inaliénabilité du domaine public)
Pricing method	: Fiyatlama yöntemi
Principle	: Esas
Prior Public Interest <sup>787</sup>	: Üstün kamu yararı (Kurum eylemleri arasında rekabet önem arttıkça, kurum eylemleri arasında)
Private	: Özel
Private (Individual) immovable property	: Özel (Bireysel) Taşınmaz Mülk
Private Land	: Özel Arazi/Mülk
Private Law	: Özel Hukuk
Private management planning	: Özel işletme planlaması
Private Provision	: Özel Sunuş
Private property	: Özel Mal / Kamu tüzel kişiliğine ya da özel kişilere ait mal
Privatization	: Özelleştirme
Privatization Act	: Özelleştirme Kanunu
Privatization High Council (PHC)	: Özelleştirme Yüksek Kurulu
Privatization Main Plan	: Özelleştirme Ana Planı
Privatization of PEEs Master Plan Project	: KİT'lerin Özelleştirilmesi Master Plan Projesi
Privatization Portfolio	: Özelleştirme Dosyası
Privatization Program	: Özelleştirme Programı
Privatization Social Support Project (PSSP)	: Özelleştirme Sosyal Destek Projesi ÖSDP)
Privilege/Concession	: İmtiyaz
Privileged Shares	: İmtiyazlı Hisse
Privileged Development Rights	: Ayrıcalıklı İmar Hakları
Proceedings	: Tutanak (Duruşma, Dava, Müzakereye ait)
Procurement	: İhale
Production	: Üretim
Production Conditionality	: Üretim Şartı
Productivity	: Verimlilik
Profit	: kar
Proof through Witness Declaration or Expert Property	: Bilirkişi veya Tanık Beyanı ile İspat Etme Mülk
(Abandoned) Property and Dismissal Act	: Emvali Metrûke ve Tasfiye Kanunu
Property owned	: Mülk Araziler/Arazi-i Memlûke (res incommencio)
Property Owner	: Mülk Sahibi
Property Rights	: Mülkiyet Hakları / Mülk üzerindeki hak ve yararlar
Property Subject of that Right	: Hakkın Konusu olan Mülk
Property Ownership	: İyelik
Proposal	: Tasarı
Protection Area	: Sit Alanı
Protection Boundary	: Sit Sınırı
Conservation of Historical and Natural Heritage Act	: Kültür ve Tabiat Varlıklarını Koruma Kanunu (No: 2863)
Protocol	: Protokol
Province	: İl

<sup>787</sup> (as competition in administrative actions gained importance, in between administrative actions)



Province and Municipality Act	: Vilayet ve Belediye Kanunu (1877)
Provincial Administration	: İl Özel İdaresi
Provincial Governorate	: Valilik
Public Administration	: Kamu yönetimi
Public Authority	: Kamu idaresi
Public Awareness	: Kamu Bilinci
Public Good	: Kamusal Mal (Kamu Malı)
Public Administration bound to the General Budget/ Institutions with General Budget	: Genel Bütçe Kapsamındaki Kamu İdareleri
Public Economic Enterprise (PEE)	: Kamu İktisadi Teşebbüsü (KİT)
PEE lands	: KİT arazileri
Provincial Local Administration	: İl Özel İdaresi
Public Good	: Kamusal Mal/Kamu Malı
Public Immovable Good	: Kamu Taşınmaz Malı
Public Institution Area	: Resmi Kurum Alanı
Public Interest	: Kamu Yararı
Public Inquiry	: Kamusal Soruşturma
Public Land	: Kamu Arazisi (Arsa ve araziler bir bütün olarak)
Public Law	: Kamu Hukuku
Public Offering	: Halka Arz
Public Partnership Fund	: Kamu Ortaklığı Fonu
Public-Private Partnership (PPP) (Public - Private Joint Venture)	: Kamu-Özel Sektör Otaklığı
Public Procurement Act	: Kamu İhale Kanunu (No: 4734)
Public Program	: Kamu Programı
Public Property	: Kamusal Mülk
Public sector debt level	: Kamu borçlanma seviyesi
Public Service Concession Agreement	: Kamu Hizmeti İmtiyaz Anlaşması
Public Undertaking	: Kamu işletmesi
Putting Immovable Property as Real Capital:	: Taşınmazın Aynı Sermaye olarak Konulması

## Q

Qualified Majority	: Nitelikli Oy Çoğunluğu
To quash a decree (or decision)	: Karar Bozmak
Quadrillion	: Katrilyon
Quay	: İskele

## R

Ratification	: Onay
Rational planning	: Akılcı/bütüncül planlama
Real Capital	: Aynı Sermaye
Real Estate/Landed Property	: Akar, Arazi ve arsa ve üzerinde olan her türlü şey, Gayrimenkul
Real Estate Office (Emlakçı)	: Emlakçı (Gayrimenkul/Emlak Ofisi)
Real Estate Guide	: Gayrimenkul Rehberi
Real Estate Works (Activities) Group	: Gayrimenkul İşlemleri Grup Başkanlığı
Real Value (the investor's/the administration's sale value): (yatırımcının/idarenin satış değeri)	: Gerçek Değer
Readjustment Share (RS) (for public use):	: Düzenleme Ortaklık Payı (DOP)
Receiving Proposals	: Teklif Alma
to rectify	: Düzeltmek/tashih etmek

The Regions of State of Emergency And Priority Development Areas And Amendment of the Income Tax Act	: Olağanüstü Hal Bölgelerinde ve Kalkınmada Öncelikli Yörelerde İstihdam Yaratılması ve Yatırımların Teşvik Edilmesi ile 193 sayılı Gelir Vergisi Kanununda Değişiklik Yapılması Hakkında Kanun
Register/Assignment	: Tescil
Regulative and Controlling Agencies:	Düzenleyici ve Denetleyici Kurumlar
Regional Board (Council) of Conservation of Cultural and Natural Heritage	: Kültür ve Tabiat Varlıklarını Koruma Kurulu
Register	: Sicil
Register of Titles	: Tapu Kaydı
Registered	: Tescilli
Regional Land Registry Administration	: Tapu İdaresi Bölge Müdürlüğü
Registration/ Title Deed Notebook	: Tapu Defteri
Regulation	: Tüzük
Regulating	: Düzenleyici
Regulating land regime	: Arazi rejiminin düzenlenmesi
Regulative Planning	: Düzenleyici Planlama
Rent	: Kira, rant
Renting	: Kiralama
To repeal	: Yürürlükten kaldırma
Report	: Rapor
Representation Document	: Temsil Belgesi
the Republic Period	: Cumhuriyet dönemi
(Re) production of Space	: Mekanın Yeniden Üretimi
Requisition	: El Koymak/İstimval
Research	: Araştırma
Research Planning and Coordination Council:	Araştırma Planlama ve Koordinasyon Kurulu
Resolution	: İlke kararı
Resource	: Kaynak
Restricted	: Sınırlanmış
Restriction (s)	: Takyid (Takyitler)
Restructuring	: Yeniden Yapılanma
Revenue shares model	: Gelir ortaklığı modeli
Revenue Shares Model and other:	Gelir Ortaklığı Modeli ve Sair
Legal Dispositions	Hukuki Tasarruflar
Revenue (profit) Shares Model and other Legal Dispositions depending on the Nature of the Business(income sharing model and other legally defined methods)	: Gelir Ortaklığı Modeli ve İşin Gereğine Uygun Diğer Sair Tasarruflar
Reversal method	: Tersten gelim metodu
Revolving Fund	: Döner Sermaye
Right (a thing (e.g. property)	: Hak
a person is “entitled” to (includes duties and privileges)	
Right to Demand	: Talep Hakkı
Right of Easement	: İrtifak Hakkı
Right of Enjoyment	: İntifa Hakkı
Right to Expropriate	: Kamulaştırma Hakkı
Right of Habitation	: Sükna Hakkı
Right to Immovable Property	: Gayrimenkul Mülkiyeti
Right to Inherit	: Veraset Hakkı
Right to Land	: Toprak Mülkiyeti
Right to Occupation (Rights of habitation)	: Oturma Hakkı
Right to pawn	: Rehin hakkı
Right to Possess	: Zilliyet Hakkı
Right to Property	: Mülkiyet (Hak olan Mülkiyet)

Right of Pre-emption	: Şuf'a Hakkı
Right to save	: Tasarruf (menfaat/kullanma ve yararlanma) Hakkı
Right to Sue	: Dava Etme Hakkı
Roads and Buildings Act	: Turuk ve Ebniye Nizamnamesi (1864)
Rome Agreement (Treaty of Rome): Roma Antlaşması	
Rules governing the system of property ownership	: Mülkiyet rejimini belirleyen (düzenleyen) kurallar
Rural	: Kırsal

## S

Sale to workers	: Çalışanlara Satış
Sale Value	: Satış Değeri
Saleable Price/Real Value	: Rayiç Bedel
Sales	: Satış
Sales by Tenders to Natural and Legal Persons	: İhale Yoluyla Gerçek ve Tüzel Kişilere Satış
Sales in the Stock Exchange	: Sermaye Piyasası Yolu veya Teklif Alma Yolu ile Hisse Senedi Satışı
Sales Method	: Satış yöntemi
Sanayii and Maadin Bank (Industry and Mining Bank)	: Sanayii ve Maden Bankası
Sanction	: Yaptırım
Saving	: Tasarruf
Scaled cadastral map	: Ölçekli kadastral pafta
Scarce Goods	: Kısıtlı Mallar
Sea public property (domaine public maritime)	: Deniz kamu malı
Second Capital Formation	: Sermayenin İkincil Döngüsü
Secretariat General for EU Affairs: Avrupa Birliği Genel Sekreterliği	
Securities	: Menkul Kıymetler
Self-executing	: İlave Hüküm Olmaksızın Doğrudan Geçerli
Self-organising	: İç Belirleyici
Sequestration	: İcra/Haciz
Sequester	: Haczetmek
Sequestration and Bankruptcy Act	: İcra ve İflas Kanunu
Sentence	: Bend
Service Goods	: Hizmet Malları
Service provision	: Hizmet sunumu
Service-shedding	: Mal ve Hizmetin Üretimine Terkedilmesi Yöntemi
Settlement	: Yerleşim
Settlement to sequester	: Tanzim, ödeme, çözüm, tasfiye
Share Certificate	: Hisse Senedi
Shared-Title	: Hisseli Tapu
Shared Equity/ Ownership <sup>788</sup>	: Hisseli Sahiplik
Shared immovable property	: Hisseli Taşınmaz Mülkiyet
Shelter	: Sığınak
Ship Dismantle Area	: Gemi Söküm Yeri
Side Yard Setback	: Çekme Mesafesi
Simplified Planning Zones	: Plan Koşulları Sadeleştirilmiş Alanlar
<i>sine qua non</i>	: Olmazsa Olmaz Şartı
Single European Act (SEA)	: Tek Sened
Site Plan	: Vaziyet Planı

<sup>788</sup> The occupant buys part of the equity from the freeholder and rents the remaining value (Payne, 1997:53).

Sitting (Habitation) Permit	: Oturma İzni
Sitting Tenants	: Oturanlar (Bir binada kiracı veya kullanıcı olarak)
Sketch	: Kroki
Slaughterhouse	: Kombina/Mezbaha
Small-scale speculative house builder	: Yap-satçı
Social Benefit	: Toplumsal Fayda /Toplum Yararı
Social (collective/common) Interest	: Sosyal Yarar
Social Services and Child Care Institution:	Sosyal Hizmetler ve Çocuk Esirgeme Kurumu
Social Property	: Toplumsal Mülk
Social Welfare	: Sosyal Refah
Society	: Dernek
Soil Protection and Land Use Act:	Toprak Koruma ve Arazi Kullanımı Kanunu (No: 5403)
Solutions and Methods	: Çözüm Usül ve Yöntemleri
Spaces of Consumption	: Tüketim Mekanları
Spatial Division	: Alansal Bölünme
Spatial Quality	: Mekan Kalitesi
Specification	: Kısıtlama/Kısıt
Squatter	: Gecekondu
Squatter Act	: Gecekondu Kanunu
Squatter ownership	: Gecekondu mülkiyeti (Özel kullanım-kamu sahipliği/ Özel kullanım-özel sahiplilik)
Squatter Prevention Zone	: Gecekondu Önleme Bölgesi
Squatter Prevention Zone Development Plan	: Gecekondu Önleme Bölgesi İmar Planı
State	: Devlet
State Aid	: Devlet Yardımı
State Bidding Act	: Devlet İhale Kanunu (No 2886)
State Economic Enterprise (SEE):	İktisadi Devlet Teşebbüsü (İDT)
State Good	: Devlet Malı
State Land	: Devlet Arazisi
State Management	: Devlet İşletmeciliği
State immovable property allocated for the common use	: Musha - Kişilerin Ortak Kullanımına Ayrılmış Devlet Taşınmaz Malları / Arazi-i Metruke (res derelictae)
State Immovable Property	: Devlet Taşınmaz Malları
State Intervention	: Devlet Müdahalesi
State Planning Organization (SPO)	: Devlet Planlama Teşkilatı (DPT)
State Property	: Mirî Arazi (Devlet mülkü/ Arazi-i Emiriye)
State provision	: Devlet Sunumu
State's Private Property	: Devlet Özel Malı
State's Private Lands	: Devletin Özel Arazileri
Statement	: Beyan, Bildirim
Statutory Instrument	: Kanun Hükmünde Kararname /Decree with the force of Law (Governmental Decrees having the Force of Law)
Strategic Planning	: Stratejik Planlama
Subdivision(Allotment)	: İfraz
Subsidiary	: Bağlı Ortaklık
Subsidiary	: Yerinden Yönetim
Substantial content(consistence):	Maddi içerik
Substitute/Compensation	: Bedel
Subvention	: Subvansiyon/Teşvik
Superstructure	: Üst Yapı
Supplementary Budget	: Katma Bütçe
Supreme (Administrative) Court:	Anayasa Mahkemesi
Surfacta Area (square area)	: Yüzölçüm
Surface Easement	: Üst hakkı

Surrender : Bedelsiz Terk  
Surrounding area : Yakın çevre  
Suspension of Enforcement : Yürütmeyi Durdurma  
Symbolic public space (espace vecu): Sembolik kamu alanı

## T

Tax : Vergi  
Tax Method Act : Vergi Usul Kanunu  
Tax Revenue : Vergi Geliri  
Technical Specifications : Teknik özellikler  
Temporary Admission : Geçici Kabul  
Temporary Article : Geçici Madde  
Tenant : Kiracı  
Tender/Procurement : İhale  
Termination of partnership : Ortaklığın sona ermesi (şüyu'un izalesi)  
Terms of Competition : Rekabet Unsurları  
Terms of Reference : Görev Tanımı  
Territorial Plan : Çevre Düzeni Planı  
The Privatization Administration: Özelleştirme İdaresi Başkanlığı  
(the PA) (Presidency of Privatization Administration)  
Theory of Space : Mekan Kuramı  
Title : Tapu  
Title Deed : Tapu Belgesi (Senedi)  
Title Deed Act : Tapulama Kanunu (No: 766)  
Title Deed and Land Registry Offices: Tapu ve Kadastro Müdürlükleri  
Title Deed Registry Paper : Tapu senedi örneği  
Title deed tax : Tapu resmi  
to bring an action(before a court): Dava açmak  
to bring an action for an infringement : İhlal nedeniyle dava açmak  
to come into force : Yürürlüğe girmek  
to fail to act : savaqlamak  
to make applicable : uygulamaya koymak  
to make a regulation : Tüzük çıkarmak  
to review the legality of something : Birşeyin uygunluğunu denetlemek  
Toll : Resim  
Tourism Accommodation Area : Turizm Konaklama Alanı  
Trade : Ticaret  
Trade in Goods : Mal ticareti  
Training and Recreational Facilities : Eğitim ve Dinlenme Tesisleri  
Trans-national Corporations (TNCs) : Uluslararası/Ulusötesi Karteller  
Transfer : Yönetim Devri, İşletme Hakkı Devri  
Transfer according to various Acts : Çeşitli Kanunlara Göre Taşınmaz Mal İntikali  
Transfer of Good to State by Agreements: Anlaşmalar Gereğince Devlete Mal İntikali  
Transfer of land rent ownership: Toprak rantının el değıştirmesi  
Transfer of Management Right /  
Management Transfer of : İmtiyaz Hakkı Devri  
the Right of Concession  
Transfer of Operation Rights (TOR) : İşletme Haklarının Devri  
/Management Transfer/  
Transfer of Management Rights  
Transfer on behalf of the institution : Kurum lehine devir  
Transfer with Compensation : Bedelli Devir  
Transfer with compensation to : Kamu kurumları ve bu özelliğe haiz olan

public institutions or those institutions that has this character without tender	kuruluşlara ihalesiz olarak bedeli karşılığı devir
Transfer of the possessions of the person without an heir to the Treasury	: Miracısız kişinin mal varlığının Hazineye devri
Transfer without Compensation:	Bedelsiz Devir
Transformation	: Dönüşüm
Transformation through Court Decisions	: Mahkeme Kararları ile Dönüşüm
Transition Zones	: Geçiş Alanları
Transition of	: İntikal Etme
Treasury	: Hazine
Treasury Good	: Hazine/Devlet Malı
Treasury Lands	: Hazine Arazisi
Tumulus	: Tümülüs
Turkish Coal Enterprise	: Türkiye Kömür İşletmeleri
Turkish Grand National Assembly	: Türkiye Büyük Millet Meclisi
Turkish National Program on the adaptation of the EU Acquis Communautaire:	Avrupa Birliği Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı
Turkish Yard (About 27 inch)	: Arşın

## U

Unauthorized construction	: Kaçak yapı
Undersecretariat	: Müsteşarlık
The (abolished) Undersecretariat of Housing	: (mülga) Konut Müsteşarlığı
The Undersecretariat of Navigation	: Denizcilik Müsteşarlığı
Undeveloped	: İmarsız
Unification	: Tevhid/Toplulaştırma
The Union and Progress Party	: İttihat ve Terakki Partisi
The United Nations	: Birleşmiş Milletler
Unitary Approach	: Tekçi Yaklaşımlar
Universal interest	: Evrensel Yarar
Unjust Gains	: Haksız Kazanç
Unoccupation Map	: Halihazır Harita
Unowned Good / Ownerless Good (res nullius)	: Sahipsiz Mal
Unregistered	: Tescilsiz
Urban	: Kentsel
Urban analysis	: Kentsel analiz
Urban Context	: Kentleşme Kapsamı
Urban development	: Kentsel Gelişme
Urban Planning	: Kentsel Planlama
Urban service area	: Kentsel servis alanı
Urban Transformation	: Kentsel Dönüşüm
Urban Work Zone	: Kentsel Çalışma Alanı
Use rights/right to use	: Kullanım Hakkı
User Fees	: Fiyatlama Yöntemi,
Usufruct	: Zilliyet
Utilitarian Approach	: Yararcı Yaklaşım

## V

Vacant areas (Areas with no economic activity)	: Boş Alanlar
Vacating	: Tahliye

Value	: Deđer
Valuation/ Value Appraisal	: Deđerleme
Value Appraisal method	: Deđerleme Yöntemi
Vested Rights	: Müktesep Hak
Vicinity Sectors	: Yan Sektörler
Villa	: Köşk
Village Juridical Person	: Köy Tüzel Kişiliđi
Violation of law	: Yasaya aykırı davranmak
Void	: Hükümsüz
Vote Majority	: Oy Çokluđu
Voluntary Associations	: Gönüllü Kurumlar/Cemiteler
Volunteers-self Help	: Gönüllü Örgütlenme Yöntemi
Vouchers Method	: Vesika/Kupon Yoluyla Satış Yöntemi

## **W**

Welfare	: Refah
Wakf (Waqf)	: Vakıf
Weight of real estate	: Taşınmaz yükü
Welfare	: Refah
Wholesale Market	: Hal
Winter Land	: Kışlak
Work Loss	: İş Kaybı/Görev Zararı
World Bank (WB)	: Dünya Bankası (DB)

## **Y**

Youth Park	: Gençlik Parkı
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## APPENDIX B

### (URBAN LAND) PRIVATIZATION PATTERN OF THE WORLD

This section assesses and evaluates the ownership transfer of public immovable property in different countries to broaden the difference of the Turkish privatization case. The analysis covers differences as well as the subjects of privatization activities, privatization of land, end-results, and indicators - the privatization pattern of the world through available data. European Community (European Union-EU) and its Member and Candidate countries, North and South American countries, and several other former Soviet Union countries are studied. Many countries carried out privatization through offerings on the local stock exchange, but this direct effect had no account for much of the growth in local stock markets. Each country's exercise is different and far from sustaining the expected end-results depending upon the timing, content, and subject of privatization. As Şener (1994:49) has stated, the condition of privatization in WB and IMF credits has proved that developing countries have to adapt privatization unwillingly. Spain 1982, Japan 1983, USA 1986, and Latin America after 1980s (Yüksel, 2000:77) exercised privatization. The privatization process has been structured by the International Monetary Fund (IMF) and the World Bank (WB (MAI<sup>789</sup> and IFC<sup>790</sup>)) and supported by Agency for International Development (AID)<sup>791</sup>, Overseas Development Office (ODO)<sup>792</sup>, and various consultancy firms and international corporations.<sup>793</sup>

According to Ertuğrul (1999), there are no successful examples of privatization all around the world. "In particular, successful privatization results in a strengthening of property rights and institutional reliability" (Periotti and van Oijen, 1999:3). "Statistics show that most privatization success stories come from high or middle income countries where the institutional infrastructure tends to be more developed, where the macro-economic framework tends to be better, and where the capacity to regulate to be higher" (Butler, 1992). Transfer typology is undefined in most countries in terms of types of real estate as the share of immovables is relatively small or different in content. Public land privatization is exercised and the determined differentiated percentages by type are given in Table 13. For example, in Armenia, it is estimated that 370.000 of the 400.000 condominium apartments<sup>794</sup> have been privatized, effectively free of charge to the occupants, where as in Turkey, some were sold to

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<sup>789</sup> Multilateral Investment Guarantee Agency (MAI), 1988.

<sup>790</sup> International Finance Cooperation.

<sup>791</sup> Agency for International Development (AID), USA.

<sup>792</sup> Bound to British Ministry of Foreign Affairs.

<sup>793</sup> "From 1980 to 1987, a total of 696 privatization transactions were recorded by Candoy-Sekse (1988), of which 456 took place in developing countries... Privatization revenues climbed from 2.6 billion U.S.Dollar in 1988 to 25.4 billion U.S.Dollar in 1996, amounting to U.S.Dollar 154.6 billion over the whole period (World Bank 1997, 1998)" (Perotti and van Oijen, 1999:2).

<sup>794</sup> UN Economic Commission for Europe, Committee on Human Settlements. HBP/WP.7/ 2001/2. 27 August 2001.



sitting tenants with compensation and the others are still unsold or transferred to other public institutions.

Privatization programs have dealt with various types of immovable property since 1990s. “Some types of real estate have been privatized more rapidly and more extensively than others. For an economy to become more market-oriented means that market force influences the opportunities for work and for the investment of labour and capital in productive activities.... “privatization” of real estate will be required across sectors... for capital investors, who search for opportunities for maximum returns on their investments, mobility of capital geographically and across sectors is necessary for the market economy to function” (Stanfield, 2001:8).

While conditions will certainly vary across countries, it is important that we gain an improved understanding of the extent to which the new owner is in fact able to make land-use decisions consistent with the accepted idea of ownership in the rest of Europe. This reference point is necessary because throughout Western Europe (indeed in the U.S.) all private real estate is ultimately subject to collective action under some form of zoning or land-use controls. Those land-use controls in Western Europe and in the U.S. are the result of a blend of market and political forces. (Stanfield, 2001:13).

**Table 13.** Percent of Privatized Real Estate with Marketable Titles (Ownership with right to sell) For various types of real estate in selected Transition Countries (Stanfield, 2001:12)

Country	Types of Real Estate			
	Agricultural Land %	Apartments %	Land under Houses %	Land under Commercial/ Industrial Objects %
Albania	80	90	84	90 <sup>795</sup>
Azerbaijan	98	80	80	5
Belarus	∅ <sup>796</sup>	100	1	∅
Georgia <sup>797</sup>	30	85	100	60
Lithuania	73 <sup>798</sup>	96	99 <sup>799</sup>	97 <sup>800</sup>
Moldova	91	90	80	15
Russia	62	46	30 <sup>801</sup>	2

<sup>795</sup> Includes only privately held land, and does not include documentation of state ownership of land.

<sup>796</sup> Legally impossible to convert into private ownership.

<sup>797</sup> These statistics from Georgia come from a special study conducted by an NGO, and are considered more accurate than the data officially issued by the state.

<sup>798</sup> Includes pastureland.

<sup>799</sup> Legally, land under houses is available for sale, but not all the documents for marketable titles are yet complete.

<sup>800</sup> Legally, land under commercial/industrial objects is available for sale, but all the documents for marketable titles are not yet complete Source: Statistics, Land Management and Law Department, Lithuanian Real Property Central Databank (Data as of 01.09.2000).

<sup>801</sup> In Russia, the privatization of land parcels on which houses have been built is moving slowly in urban areas (about 21 percent of the housing parcels are privately owned), but somewhat more quickly in rural settlements (55 percent privatized). Overall estimate is, as 30 percent of such parcels were privately owned at the end of 1999. (Stanfield, 2001)

Land can have a Marketable title “if a specific piece of real estate is described in a document describing the transfer of ownership from the state to a specific physical or legal person who holds the marketable right or ownership over that real estate. In some countries, ..there have been more complicated concepts employed, particularly for the privatization of agricultural land: 1. Sharing out of land ownership, Group Farm Land Privatization, Ambiguous Privatization<sup>802</sup> (Stainfield, 2001:7).

## **B.1. European Union (EU) (Examples from Member States and Candidate<sup>803</sup> Countries)**

### **B.1.1. Policy of EU on Privatization**

A major expansion of state enterprises occurred during inter and post WW periods. For example, bankrupt industries were salvaged by the state in Italy, Labour Government in United Kingdom (UK) nationalized major industries such as coal, the railways and electricity, Nazi collaboration like Renault in France, and Austria’s largest enterprises were taken into state ownership<sup>804</sup>. State ownership of large, vacant lands in urban and rural areas cannot be observed in the member States except condominiums in several countries. EU policy on ownership has a sectoral or vertical basis. State ownership is significant in all of the economies<sup>805</sup>, but most important in terms of the share of employment, value added and gross fixed capital (Parker, 1998:10).

“Free Market Economy”, one of the basic conditions of the Rome Agreement (Treaty of Rome)<sup>806</sup>, is closely related to the privatization activities in EU (Güzel, 2000:1). By the Single European Act (SEA) in 1986, strengthening free market economy is aimed and the significant policy has changed. Despite of this agreement EU intervention level in utility markets remained. The 1990s have seen more privatization activity in Europe associated with two principal economic pressures; liberalization of markets at the EU level and government budgetary difficulties<sup>807</sup>. EU governments experienced privatization through programs to compensate the deficits caused while meeting the Maastricht Treaty fiscal criteria<sup>808</sup> in the run up to European Monetary Union (EMU) and European Single

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<sup>802</sup> Lifetime inheritable estate.

<sup>803</sup> Poland, Hungary, Republic of Czechoslovakia, Slovenia, Estonia, South Cyprus, Romania, Republic of Slovakia, Lithuania, Leetonia, Republic of Turkey.

<sup>804</sup> State ownership is observed in EU in the form of national or regional public corporations, state holdings in private sector companies, state holding companies and operations through local and central government departments.

<sup>805</sup> See: Parker (1998:11) or Centre European des Enterprises à Participation Publique, Bruxelles.

<sup>806</sup> Treaty of Rome runs the principles of free trade<sup>806</sup>. “Article 222 confirms neutrality on ownership by stating that the commitment to a market economy “shall in no way prejudice the rules in member states governing the system of property ownership” (Parker, 1998:22). Competitive markets are favored but this must not take the form of ownership that should be adapted in member states. Article 92 also forbids state aids that distort competition between member states. Articles 85-94 define the norms of competition.

<sup>807</sup> Although the European Commission (EC) has ruled that privatization receipts cannot be taken into account when calculating budget deficits under the Maastricht rules, privatization receipts can be used to reduce the public debt -another of the Treaty criteria- and a lower debt reduces interest payments made by the government and therefore, indirectly, the budget deficits” (Parker, 1998:20).

<sup>808</sup> Ceilings on government debts and deficits. See: Parker (1998:1).

Market<sup>809</sup> (ESM). Privatization within EU, other than the budgetary criteria for EMU, resulted from other forces like “fashion to privatize” and “expediency”.

Government financing through asset sales has become more important as the prospect of EMU. Indeed, meeting the Maastricht criteria for eligibility to join a single currency has become a very important consideration driving privatization in a number of EU countries. ..Privatization has become an article of faith in certain political circles, amongst industrialists and large swathes of the media in Europe, but at a time when economists are also inclined to emphasize the roles of competition<sup>810</sup> and state regulation in achieving long-term economic efficiency (Parker, 1998:6).

Privatization in EU exercised from the need for a technical change in terms of industrial restructuring and supported by the liberal program and the ESM Program. **Figure 24.** The role of the state industries<sup>811</sup> is expected to decline in the years ahead and that is reflected in the recent EU directives<sup>812</sup>. According to Eğılmez (1998:26), EU member states aimed to prevent economical conjuncture and applied economic policies against labour<sup>813</sup>. Economic policy can be considered to develop through three broad stages in Europe (Parker, 1998:6-7): The initial stage, the consolidation stage, and maturity stage<sup>814</sup>. The activities declined in 1989 accelerated by 2000. This was relative to the

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<sup>809</sup> Amongst other things, the ESM Program has led to policies designed to open up state monopolies to competition, notably in telecommunications, energy, transport, posts, public procurement and financial services.

<sup>810</sup> Maastricht Treaty (1991) Article 130 stresses open and competitive market system.

<sup>811</sup> Across Europe, by the forces of globalization, governments attempted to stimulate industrial development through investments in new technologies to overcome those disadvantages caused by older technologies in traditional industries.

<sup>812</sup> As the EU worked towards removing restraints on trade, resulting from regulation this has had implications for the nature of ownership in industries previously protected from competition. A change in the relationship between government and state-owned utilities, most notably in terms of ruling out state subsidies and introducing private sector competition is implied by the deregulation policy. This has created an economic environment, which has led member states to review the benefits of retaining state ownership. State-owned firms have handicaps when facing competition.

<sup>813</sup> Through the process, labour opportunity become tighter, wages decreased and participation to management decreased, labour unions and advisory mechanisms were lost (Eğılmez, 1998:27). There are also different views about whether privatization can promote economic prosperity and maintain social cohesion.

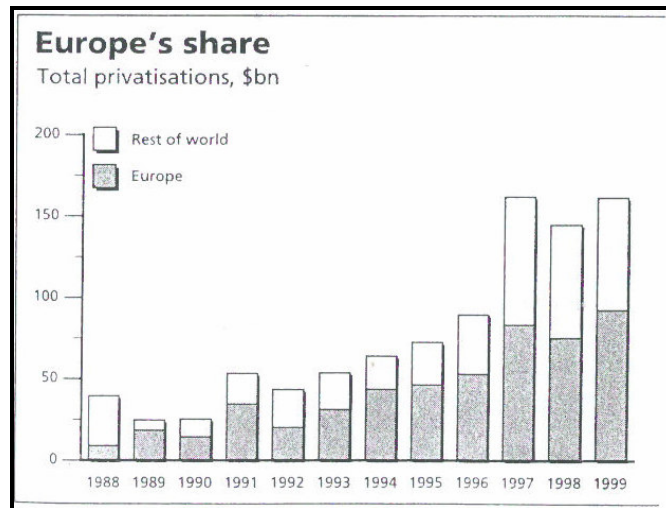
<sup>814</sup> The state needs economic policy for development and so privatization. Economic policy develops through three broad stages in Europe (Parker, 1998:6-7):

\* The initial stage: The ideas supporting the policy are new and under-developed. The theory is limited, naive and simplistic (late 1970s to mid 1980s). The idea that shareholders with clearly defined property rights will lead to successful managerial behavior and this accelerates operating efficiency,

\* The consolidation stage: Empirical studies from mid 1980s onwards (especially UK) suggested that privatization could lead to productivity increases, but that such improvements were not guaranteed. This in turn led to the clear separation of competition from ownership as constraints on managerial performance. Both were important in promoting efficiency gains. There was also an appreciation of the potential adverse effects on efficiency of inappropriate state regulation of industries after privatization. Privatization in economics is still in this stage, not the final.

\* Maturity stage: An economic idea needs a well-established theoretical base and a substantial body of supporting empirical evidence. So far, privatization lacks both. European Union (EU) Candidate countries or developing countries are exercising transfer in monopoly and scarce goods

increased privatization of the southeastern candidate countries, which are transferring into a capitalist market economy. **Table 14.** Holdings and condominiums became the major object of transfer only in candidate countries. EU member states<sup>815</sup> or candidate countries<sup>816</sup> have different approaches to state property and privatization because of historic, economic, social and cultural factors, but have similar adaptations in recognition of institutional and structural constraints on policy transfer. In some EU states, privatization programs have founded on political opposition.



**Figure 24.** Europe's Share (Pocket Europe in Figures, 2000:129)

In 1996, about 56 percent of the privatization in the world, measured in terms of financial receipts, took place in Western Europe mainly in Italy, Germany, Portugal, France and UK in between 1988-1999. **Table 15.** The largest practice was in UK with 30 percent, France followed with 20 percent. France and Italy have been more reluctant than the UK and Germany “to see privatization and associated liberalization of markets extended into areas traditionally served by monopoly state providers” (Parker, 1998:1).

Privatization in Eastern European candidate countries dates back to 1991. Privatization in these countries was tied to a systemic transition. At the initial stage, the concept of privatization -as transfer from state to private parties of a legal title to ownership of productive assets- was taken from Western experiences. As Eastern Europe was no longer a pure command economy, a decentralized system was produced, central planners lost their control in a system where most owners directly operate and manage the assets under their control, and state limits itself to only minor forms of

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such as state owned lands or services. In this stage of activity, countries are developing their own privatization methods by the country's special conditions.

<sup>815</sup> Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands, United Kingdom (05.05.2006).

<sup>816</sup> Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Romania, Turkey.

intervention<sup>817</sup> (Frydman and Rapaczynski, 1994:169). The creation of private property regime is designed between private action and state administration. “Most of these countries in some way have made the political decision to construct market economies, including the encouragement of land markets, which requires extensive private land ownership” (Stanfield, 2001:4).

**Table 14.** Privatization Proceeds (Public offerings and private sales), Million U.S.Dollar (Selected Countries) (Pocket Europe in Figures, 2000:128)

Country	1988-1995	1997	1999
Austria	3,188	1,710	301
Bulgaria	102	386	252
Czech Republic	2,231	72	1,175
France	27,739	7,454	9,805
Germany	39,662	6,418	16,204
Italy	20,277	32,396	31,410
Romania	60	396	43
Turkey	1,584	293	38
United Kingdom	63,347	234	719

**Table 15.** The Biggest Privatizers (Pocket Europe in Figures, 2000:128)

Total 1988-99, \$m	Country	Million \$	Total 1988-99, as % of 1998 GDP	Country	Million \$
1	Italy	108,762	1	Portugal	20.63
2	Germany	79,691	2	Hungary	19.84
3	United Kingdom	73,898	3	Monaco *	14.75
4	France	66,755	4	Italy	9.40
5	Spain	41,446	5	Malta	8.97
6	Portugal	21,952	6	Bulgaria	8.85
7	Netherlands	18,415	7	Ireland	8.28
8	Sweden	13,235	8	Estonia	7.73

\* Estimated.

Poland was the first communist community to launch a significant privatization program through traditional sales of shares. The government’s intension was to privatize the most efficient ones. Lithuania and Latvia are the biggest privatizers in terms of state-owned land and buildings<sup>818</sup>. The new governments face various difficulties in the

<sup>817</sup> No western economy has this characteristic (Frydman and Rapaczynski, 1994:169).

<sup>818</sup> Lithuania had a dramatic process compared to other European countries.

definition of individual private rights. They also restrict the private sector. In especially Romania and Bulgaria, in order to attract foreign capital serious tax exemptions are applied. The difficulties stem from the fact that the political forces in the post-transfer period combine to drag the state back to help them through its coercive power of redistribution as exercised in Turkey. Therefore, most of the candidate countries failed to readdress the balance between private action and its own sphere of administration and continuously fails in its effort to establish a viable private property regime (Frydman and Rapaczynski, 1994:195-196). EU tries to restrict formation of oligopolistic and monopolistic structures. The policies other than privatization are the decreasing social security costs and increasing the power of competition of traditional industries by decreasing production costs through the transfer of capital to Eastern and Southeastern European countries (Morgil, 2000). Studies on the transfer of property rights during privatization process are not dealt much by the EU.

The objective and rationale for privatization at the policy level varies across the EU. For EU, the thesis of “privatization is unable to establish integration, but to be a part of one-sided system” is still valid. This is because, privatization is an economic term, but regional integration has a politic, spatial and social characteristic (It is a part of a wider trend towards a globalization of capital and labour markets). Some governments promote privatization to achieve efficiency gains, while at least as important in others is the potential of privatization sales either to expand the capital market or to meet the Maastricht criteria for EMU. Some have achieved their objectives, even though they may be incompatible. All member states or candidate countries have some privatization activities, although the economic significance varies considerably reflecting a difference in the degree of enthusiasm for and opportunity to privatize. The UK perspective stressing that privatization will lead to efficiency gains are not fully accepted across Europe. Privatization policies within EU have been more pragmatic and less ideological than in the UK, and more recently in France.

All examined countries struggled with the consequences of the changes under way in the utility markets. Mechanisms to sustain efficiently operating public utilities, the public’s concern for fairness in public service delivery and pricing, the propensity of national governments to want to retain control of these industries to some degree, and a properly operating internal, competitive markets of economy and property. “The EU has encouraging privatization as a policy in the member states and in candidate countries. For example one of the economic criteria that the EU is requiring from Turkey is to continue the privatization of state owned enterprises (Turkey’s Accession Partnership<sup>819</sup>, 2000)” (Seven, 2001:8). Accelerate the privatization of State-owned entities, taking into account the social component is again the priority the Council of the EU declared by 19.05.2003 (2003/398/EC, 01.06.2005). In Northern Cyprus, by 14.09.2005, privatization of immovable property is exercised and a total gain of 26.917.000 US Dollars<sup>820</sup> is achieved.

### **B.1.2. Member States and Candidate Countries**

#### **England (UK)**

England (UK) had the first and the greatest privatization experience in the world<sup>821</sup>. “The economic reforms, which have been carried out by the Conservative Government governance since 1979, have been greater and their success has inspired many nations throughout the world to adopt similar policies. Privatization has played a key part in this reform process” (Britpec:7). Superiority of private ownership was the driving force

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<sup>819</sup> Under the heading of “4.2. Medium Term”, process of privatization, as an economic criterion programmed to be completed.

<sup>820</sup> HR-NET, <http://www.hri.org/news/cyprus> (accessed September 14, 2005):

of privatization policy for the Conservative Governments of 1979 until 1997. Conservative Party supported privatization while establishing new PEEs, which have been sold out under their actual value. PEE's share declined after the 1981 privatization activities.

Privatization policy was towards transferring ownership of public assets (Aydoğanlı, 1995:122): Capital ownership has widespread<sup>822</sup>. In 1979-1987, 30 percent of the public sector was privatized (TMMOB, 1997). Almost 70 percent of the 1979-state sector has been transferred to the private sector through partial or full privatization.<sup>823</sup> (Britpec:7) Privatization mechanism in UK had a complicated structure: Each body of the privatization program has its own special principles of privatization (Karluk, 1994:157). The need for privatization policies came out the monopolist structure on the public property. Public property spread declined in the post war period (1945-1951) during the working party government. PEE debts were stressing inflation and this accelerated the money demand (Gökçe, 1992:1). In 1985-1995, total privatization receipt was around U.S.Dollar 96,692 million, which made up 9.0 percent of 1996 GDP (Parker, 1998:18). This figure is low for a country that has an annual public debt of 50 billion pounds. 1.2 million Social houses were sold to their tenants. 60 percent of the tenants using the houses had become property owners, which created another income amount of 12 million pounds In addition to this, over 70 municipalities has given public services to contractors and made a saving of £ 14 million. (Britpec:7).

In 1980's by the beginning of Thatcher's Governments market criteria had gained importance in planning and control decisions. Their urban policy may be defined as the centralization and privatization of power; in other words, the centralization of power and a loss of local control. ...The government gave the private sector a leading role in urban policy (Aydoğanlı, 1995:29).

From *regulative planning* of 1947, the trend changed to *trend planning*<sup>824</sup>. British local administrations with the help of the experience they have achieved in 1960s and 1970s from comprehensive urban rehabilitation projects in the inner city or other urban parts, established partnerships<sup>825</sup> (PPP) and learned to negotiate with them. Trend planning objective was a contribution of the privatization practice to the planning institution.

According to Aydoğanlı (1995), the trend planning of Thatcher's governments maximized land use planning and land values: "Planning was oriented to the market and the

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<sup>821</sup> In England, the "White paper" is published in 1978. In this program, financial objectives and limitations were set for the PEEs (Gökçe, 1992:2).

<sup>822</sup> The percentage of shareholders was 5 percent of the adult population in 1979 and 24 percent in 1992. Around 90 percent of eligible employees typically became shareholders in their companies on privatization (TMMOB, 1997).

<sup>823</sup> "By 1992, some two-thirds of state-owned industries had moved into the private sector. Altogether, 46 major businesses, with 900,000 employees, had been privatized, and the government's take was well over \$30 billion. What was once a massive drain on the public purse; had turned into a major source of tax revenue. The number of people owning shares tripled to nine million - 20 percent of the adult population - although many of those nine million owned only a few shares ...David Young, ...under Margaret Thatcher, a member of the Cabinet. Looking back from today's perspective, he said, "The Thatcher years turned the United Kingdom from being a producer-led into a consumer-led economy, and it was becoming a competitive economy. Conviction drove the process" (Yergin and Stanislaw, 1998:114-124).

<sup>824</sup> Thatcher introduced some measures that have created passive planning process like the privatization process in Turkey. Planning was oriented to the market and the interests of the private enterprises.

<sup>825</sup> Thatcher Government supported local administration's cooperation with the private sector, and NGOs up to a limit (Altaban, 1990:81).

interests of the private enterprises. The government was against the collectivist, market critical approaches” (p.29). Market-led objectives accepted by the public authorities:

They preferred gains in planning through creation of employment opportunities, environmental recovery, and free infrastructure costs in compensation of development permission... Special subvention and financial support are provided to rehabilitation, upgrading projects in the urban centers or residential areas. The general Thatcher government policy is decreasing the limits of state intervention; lessen bureaucratic norms and privatization in every possible field (Altaban, 1990:81).

The central government returned to free market and left the traditional publicly based land policies.<sup>826</sup> Public land policy has begun to leave its place to private land policies. New planning agencies have developed but producing at the same time a more chaotic pattern of development.

In this process local authorities obviously lost power over economic development and land market. The major gainers were the private sector and central government ....Most significant characteristic of the privatizations in Britain is the privatization of real estate (Aydoğanlı, 1995:32, 122).

Local governments did not prefer to sell their immovable property, but rented these with long-term periods<sup>827</sup> by the decision of the Municipality Council<sup>828</sup>. Other subjects of privatization were municipal services like garbage collection, planning, sewerage treatment, street cleaning as well as transportation, electricity, ancillary services in armed forces, housing, enterprises and underground natural sources. The property transfer methods are public offering (the sales in the Stock Exchange), sale to workers, block sales (establishments of lower scale), public - private joint venture (partnership) and rotation of public services. UK experience had both negative and positive outcomes<sup>829</sup>. It proved that it can bring about significant economic gains, but should be adopted in a selective and pragmatic manner. There are many hosts of constraints that should be recognized and controlled. Moreover, if it is mismanaged, serious consequences may be observed. An enterprise had been transferred a few times between public and private sectors (Eğilmez, 1998:31). UK's success in privatization had elements, which in most countries are missing: England had a cadre of capable technicians, policy planners, commercially oriented managers, and fully functioning and operative capital market (Butler, 1992). The privatized monopolies<sup>830</sup> are regulated.

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<sup>826</sup> The degree of administrative discretion, and size and scale of property development are the important characteristics of the system (Aydoğanlı, 1995:32).

<sup>827</sup> See: Kılıç (1993).

<sup>828</sup> Sale decision of unused and vacant land of public enterprises was taken by the Ministry of Council of Ministers (Aydoğanlı, 1995:30).

<sup>829</sup> In practice, productivity and efficiency increase could not be achieved and public sector's demand to have loans has decreased. In telephone and gas sector privatization, regulatory measures could not break up the private monopolies. As costs are high in initial public offerings, owners of shares changed hand (in a year's time from 158.000 to 27.000), and low labour valuation is experienced. Labour sector is damaged (600.000 workers were out), positive effects over budget debts are observed, in waste collection sector efficiency increased and the number of workers' shares increased (Eğilmez, 1998:26-27).

<sup>830</sup> Thatcher Government “sold shares of British Telecom and British Gas, ....and introduced new regulatory agencies to perform some of the functions previously undertaken through public ownership” (Starr, 1988:7).



The difference of regulative and trend planning is meaningful for Turkey as Turkey had experienced the same process. The nodal intervention has accelerated in urban spaces with impacts to urban areas. In this process, market-led objectives introduced by the British practice gained strength. Like Turkey, many developing, advanced or post-communist countries followed the British privatization expertise as they seek to transfer major sections of their economies to private ownership. Britain provided highly qualified expertise to countries embarking on privatization programs or seeking to expand privatization activities already underway.<sup>831</sup>

### **The Republic of Lithuania**

The Republic of Lithuania launched a privatization program in September 1991 in order to integrate with EU and to transfer into an open market economy. The aim in Lithuania was voucher-based privatization of the state-owned property<sup>832</sup>. Privatization is made through subscription of shares, auction, the best business plan and hard currency. Companies, real estate properties, Agricultural Bank, Lithuanian Airlines, buildings, hotels, guesthouses, and several companies in chemical, pharmaceutical, electro-technical goods were within the privatization program.

The Law on the Privatization of Dwellings (1991) privatized municipal and state owned rental housing in a short time. 77 percent of the housing stock is transferred to sitting tenants<sup>833</sup> by early 1995 through buying in a single cash payment, using vouchers for up to 80 percent of the price, and by installments, with a minimum down payment of 10 percent of the price. In 1996, 22.6 percent of the dwellings were privatized through cash payments and 76 percent through vouchers (UN, 2000:37). Another Law on the order and conditions of restitution of real property was passed in 1991 and this Restitution Law returned nationalized property to the former owners or their heirs. In short, in 1996-1999 first phase of privatization consisted of the sale of apartments and the second was cash<sup>834</sup> privatization. State-owned and municipal property was sold to natural and legal persons<sup>835</sup> for cash under market conditions and both local and foreign legal and natural persons had equal rights during.

In 1996-1997, 324 entities were privatized for 84.2 million Litass. In 1999, 693 entities were privatized for 469.9 million Litass, of which State Property Fund (SPF) sold 417 entities<sup>836</sup>. During the year 2000, the SPF sold a total of 717 stakes and real estate property for 864.9 million Litass. Municipal privatization institutions sold 230 units for 41.9 million Litass<sup>837</sup>. The book value of the privatized agricultural companies amounted to 183.3 million Litass and as a result, 97 percent of the property was transferred to the private sector<sup>838</sup>. During 1995-1997, the amount of foreign investment into Lithuania was comparatively small. This has changed in November 1997 by the new Privatization Law, and the Law on the State-Owned and Municipal Property that regulate the establishment, administration and activities of the SPF. According to Law on the Privatization of State-Owned and Municipal Property (04.11.1997), privatization means,

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<sup>831</sup> Similar services are also provided by the France private sector.

<sup>832</sup> For this purpose, over 2.6 million investment accounts were opened in banks, which accumulated a value, over 10.2 billion Litass. (1 U.S.Dollar = 4 Litass by 1991)

<sup>833</sup> The privatization vouchers were accepted as payment for 80 per cent of the price.

<sup>834</sup> The purpose of privatization is declared as cash" (Establishment Law Article 2.1.).

<sup>835</sup> The citizens were able to participate in privatization directly by acquiring the sale companies included in the privatization program or indirectly by purchasing the shares in various investments established during the mass privatization phase.

<sup>836</sup> Valstybės turto fondė, [http://www.vtf.lt/english/privatizavimo\\_istorija.html](http://www.vtf.lt/english/privatizavimo_istorija.html) (accessed December 19, 2001).

<sup>837</sup> Ibid.

<sup>838</sup> Oocit.

transfer of state-owned and municipal property (shares and other property) to the potential buyers under privatization transactions concluded in accordance with the procedure. The Establishment Law, also refers to the transfer of state or municipal control in state or municipality controlled enterprises by floating issue of shares financed with additional contributions (Chapter one Article 1)<sup>839</sup>. Law on the Privatization of State-Owned and Municipal Property allows a wide range of methods: Public subscription for shares, public auction, public tender, direct negotiations and option to purchase (Combination of methods is available).

#### Latvia<sup>840</sup>

Privatization in Latvia is managed and supervised by the Latvian Privatization Agency and has essentially been completed in trade and services sectors. The types of privatization, which are allowed (lease-to-buy, auctioning, privatization through investments, which result in the state's becoming a partial owner of the charter capital of the respective enterprise), are dictated by regulations that are approved separately. At the beginning of the privatization program "close to 5.8 percent of the housing was privately owned, 10 percent belonged to housing cooperatives and 84.2 percent to state enterprises and the capital Riga municipality (Statistic Committee of Republic of Latvia (1992)<sup>841</sup> as cited in Počs and Počs (2000)). Within the general process of change in the ownership structure, four main forms can be discerned:

- restitution<sup>842</sup>/denationalization
- privatization
- accelerated privatization
- transformation of co-operatives.”<sup>843</sup>

The main goals in privatizing state and local government properties for edging toward a market economy were as follows:

- To make private initiative the basis of economic development;
- To ensure that private property would have the guaranteed status and the predominant share, as compared to state and local government-owned property;
- To restore justice in relation to the unlawful alienation and nationalization of properties occurred during the period of the Soviet occupation.

By the end of 1998 close to 4.047 buildings with 48.000 dwellings were restituted. The process, created a small private rental sector, accounting for approximately 3.75 percent of the housing stock<sup>844</sup>. The Law on the Privatization of State and Municipal

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<sup>839</sup> Valstybės turto fonde, [http://www.vtf.lt/english/privatizavimo\\_istorija.html](http://www.vtf.lt/english/privatizavimo_istorija.html) (accessed December 19, 2001).

<sup>840</sup> Počs and Počs (2000).

<sup>841</sup> Under the privatization program, Riga has 10,360 apartments in state and 182,307 in municipal ownership, which are offered for privatization. The Central Privatization Commission of Dwelling Houses administers the process for state-owned properties and Riga's Municipal Housing Privatization Commission deals with municipally owned ones. (University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006)).

<sup>842</sup> The Law on Denationalizing Buildings in the Republic of Latvia and subsequently, the Law on Returning Dwellings to their Lawful Owners. (University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006)).

<sup>843</sup> University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006).

<sup>844</sup> Ibid.

Apartment Buildings, “Enforced in June 1995, regulates privatization of state and municipal housing. Two distinct privatization methods can be applied<sup>845</sup>:

- Privatization of the entire residential building with sale of individual units to existing tenants, which is followed by registration in the Land Book.
- Accelerated privatization, which allows privatization of a housing unit within a multifamily building prior to privatization of the entire building.”

While 85 percent of the transactions involve apartments in the peripheral housing estates, demand for centrally located housing has pushed prices of these properties further. Apparently, flats in the historic part of Riga and areas such as Alberta jela with Art Nouveau buildings have reached US\$ 650-750 per sq.m. .. Apartments built during Stalin’s era are more attractive due to proximity to the central area and higher quality of construction methods. ...Unit type and quality also affect the prices ...The operation of the housing markets and the growing differentiation of house prices in Riga have resulted in a considerable divergence in the investment position of home owners. Those processes have contributed to the growing inequality between home ownership in attractive inner city housing vs. home ownership in less desirable housing estates....a ‘two tier housing market’ reflecting growing differences in social and economic status. University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006)

A third form in the ownership transformation process involves privatization of co-operative housing. Housing coops, established during Soviet times, were given the option to repay their loans at financially attractive terms and conditions in 1991. The capital Riga had 51 large cooperatives, which were later on registered as Co-operative Societies of Apartment Owners. Today their number is as high as 117. ...The cooperative sector in Riga has 39,700 units distributed in 518 buildings (CSBL 1999, Riga in Figures). It provides housing to 93,800 residents. University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006)

The privatization process of immovable property in Latvia was based on following principles:

1. Land could only be owned by citizens of the Republic of Latvia. Non-citizens are not allowed to purchase land in the country’s border zones or in the recreational zones that border on seashore, lakes and rivers. That is because residential construction is not permitted there.
2. Privatization would be based only on the purchase of the relevant properties and objects—transferal of properties without payment would not be permitted<sup>846</sup>.
3. Discrimination against specific property forms would not be permitted, and all property forms would be ensured equal working conditions.
4. In the interests of demonopolization, the privatization process would permit the establishment of legal entities representing various kinds of property forms.

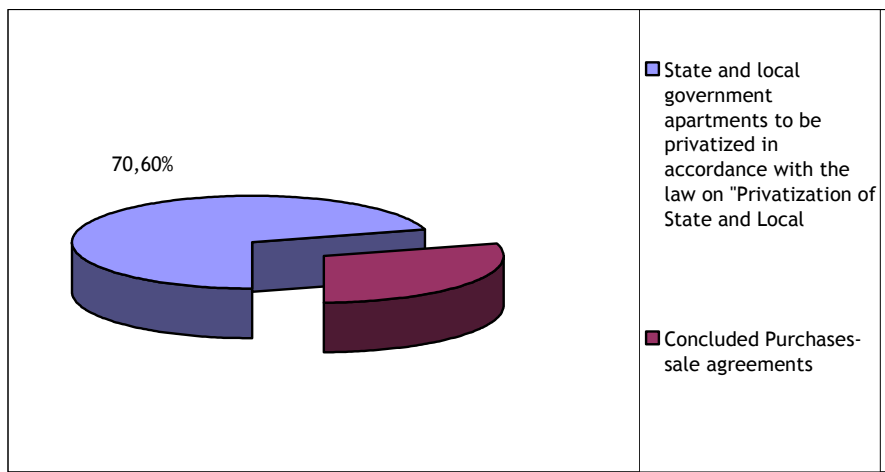
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<sup>845</sup> University of Calgary, [www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf](http://www.ucalgary.ca/~tsenkova/projects/hril/chapter03.pdf) (accessed November 17, 2006).

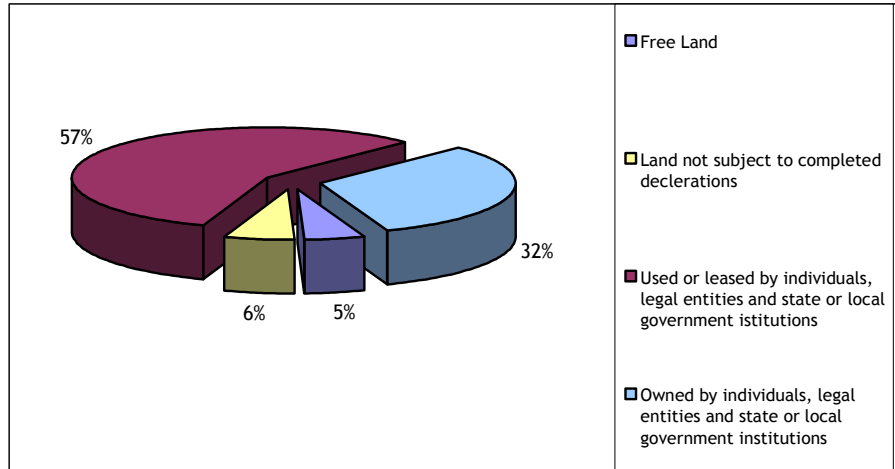
<sup>846</sup> The exception here was the restoration of ownership rights to properties that had been denationalized or otherwise unlawfully alienated.

5. Privatization would be voluntary on the part of the entity or individual that was taking over the property.
6. Public control over the privatization process would have to be ensured.

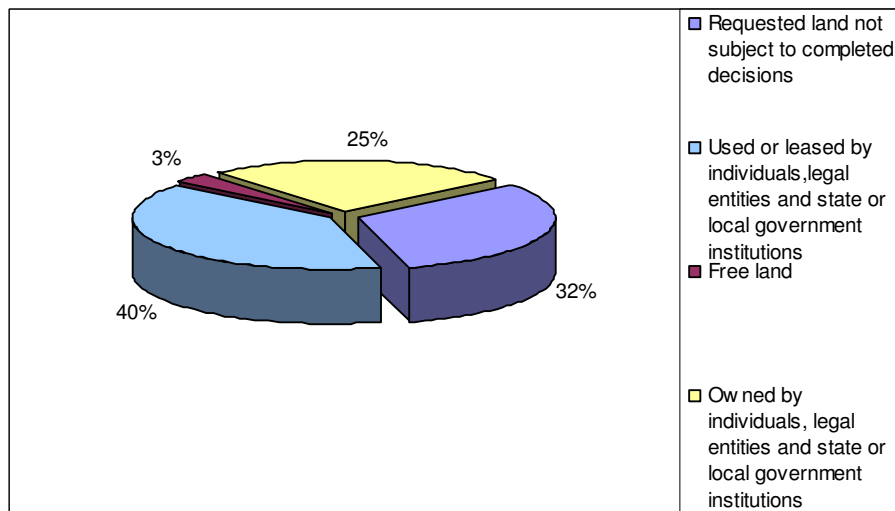
According to the National Statistical Office of the Republic of Latvia, in 1996 there were 32.710 state and local government-owned residential buildings with 509.410 apartments of a total floor space of 2.548.000 square meters that were subject to privatization. Between the beginning of the residential privatization and until July 1, 2000, 18,761 buildings were put up for privatization -1.934 state-owned buildings and 16.827 local government-owned buildings, with total 339.959 apartments. Of these, 24.922 were state-owned and 315.037 were local government owned. In all of Latvia, 16.826 buildings have been prepared for privatization, and privatization has been completed or purchase-sale agreements have been concluded on 149.969 state and local government apartments (**Figure 25**) ...In Latvia, most people pay for apartments them with privatization certificates (vouchers) like in Lithuania. “The greatest problem with privatizing the housing revolves around preparations for the privatization of buildings. Notably, the establishment of ownership on land, cadastral evaluations, legal instruments, etc. (Počs and Počs, 2000).



**Figure 25.** Privatized Apartments and the Total Number of Apartments to be privatized, July 01, 2000 (redrawn from Počs and Počs, 2000)



**Figure 26.** Distribution of Lands in Latvia (January 1, 1999, as percent of total land) (redrawn from Počs and Počs, 2000)



**Figure 27.** Distribution of Lands in Latvia's Cities (January 1, 1999, as percent of total) (redrawn from Počs and Počs, 2000)

For the State Land Service (01.01.1999), there were 3.921.000 hectares of land in Latvia that were under the use of or leased by individuals, legal entities, and local government and state institutions. Another 2.171.000 hectares of land belonged to individuals, legal entities and local government and state institutions, 333.000 hectares were state-owned land. Another 34.000 hectares had been made inquiries on, however the decisions were pending (Počs and Počs, 2000). **Figure 26-27.** Lands were transferred in general in

agricultural areas. Free land has not been requested for privatization<sup>847</sup>. Land privatization and reform process as well as the distribution process are different in cities and in rural areas. In cities, there is less free land, in terms of percentage.

Nearly one-third of land has been inquired on, however not yet awarded final decisions. This suggests that requests are not being duly handled by the relevant government institutions. One-quarter of all urban land is owned by individuals and legal entities. One-third of all rural land<sup>848</sup> has become someone's property (Počs and Počs, 2000).

### Hungary

Hungary has the most successful economy in the region. The progress of privatization has been quite slow and the degree of which privatization translates into new corporate governance arrangements is rather unclear. To avoid any accusation of cheap sale<sup>849</sup>, long bureaucratic delays<sup>850</sup> have appeared and the price demanded was often unrealistically high. Out of the twenty companies chosen for the program picked for their good business prospects, a few were privatized<sup>851</sup> (Frydman and Rapaczynski, 1994:157-158). Given the gradual transition to the new regime in Hungary and the strength of the managerial interests nourished by decades of communist reforms, it is likely that the attempts to reassert the ownership rights of the state over the Hungarian enterprises were doomed from the beginning<sup>852</sup>. The plans for centrally managed privatization have been abandoned in time and began to cooperate with the management in the decentralized process of ownership transfer.

This process, characterized by negotiations among enterprise insiders, potential investors, and the privatization administration has led to a relatively high level of foreign investment (Frydman and Rapaczynski, 1994:158). Foreigners may acquire land by the creation of local companies as in Turkey. Through this process, public land (residential property, commercial property, and agricultural land) became the object of transfer:

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<sup>847</sup> "The total area over the last two years has increased from 275.000 to 500.000 hectares-mostly because many former landowners have declined to accept land which has been awarded to them, taking privatization compensation vouchers instead" (Počs and Počs, 2000).

<sup>848</sup> Because of land reform, the structure of land users in rural areas has changed considerably. The greatest changes took place in 1993, when the privatization process began. Between 1993 and 1998, the amount of land used by statute companies declined from 2.472,800 hectares to just 49.700 hectares. The amount of land used by state-owned farms and enterprises plummeted from 790.700 to 8.500 hectares. The amount of land used by individual farms, including household plots and auxiliary plots, has increased accordingly. In 1998, farms took up 55.1 percent of agricultural land in Latvia. This is the land distribution in terms of the theoretical use of the land. Some experts believe that agricultural production takes up just a bit more than one-half of all available land resources (Počs and Počs, 2000).

<sup>849</sup> One of the first privatizations was that of Hungar Hotels and this was actually set aside by the Constitutional Court for being at an undervalue. There was also grave disquiet in Estonia over sale of the Hotel Viru in 1994 (Frics Irvv, 2001:2).

<sup>850</sup> In most of the former Soviet Union countries the pace of larger privatization (100 workers and above) has been slow exercised.

<sup>851</sup> By the year 1992, enterprises representing less than 15 percent of the larger assets to be sold have been privatized (Pirie as cited in Butler (1992)).

<sup>852</sup> A certain degree of monitoring and control over the actions of the managers, and the curtailment of abuses of the early spontaneous privatization is exercised.

The land compensation and privatization programme<sup>853</sup> has involved the redistribution of almost 5 million ha. and the creation of almost 2 million new property units. Former owners and other individuals entitled to compensation are issued with gold crown vouchers, which are then used in an auction system to subdivide allocated areas into smaller individual units, based upon the land classification, area available, and the number of bids ...The process is managed by the National Compensation Office, in partnership with the land office (UN, 1996:80).

Identification of the land and the owner was the first problem. The second problem resulted from the use and ownership rights<sup>854</sup>. The amount of compensation was another issue (Frics Irv, 2001:4).

One of the major factors which is preventing the development of the retail property market in town centers in a number of countries is problems with land ownership. In Poland and Hungary, for example, the municipal authorities have a virtual stranglehold on land and this near-monopoly pushes costs up and deters developers assembling sites... In general developers looked out of town where the advantages were that there was cheap land, construction costs were low and there were few ownership problems. The general consensus was that retail growth would occur principally in the non-food retail warehouse sector and some multi-nationals are already in the process of building up a regional presence ...most retail properties in towns are still owned by the municipality ...many companies lost interest when they discovered the difficulties involved with property development in the region. Ironically, as their interest cooled, the ability of the governments to privatize some of their properties steadily increased. Progress was slow ....as virtually all the land and existing hotels were held in public ownership, while obtaining vacant possession was problematical and building permits were difficult to procure (Frics Irv, 2001:9).

### **Romania**

Romanian legislation<sup>855</sup> in the 1960s and 1970s allowed the sale of state-owned dwellings to private citizens. Privatization in the EU candidate country Romania accelerated by the late 1980s and focused on privatization of urban public housing. No certain data is available on the number of privatized or restituted properties. In 1990, by an active privatization policy, Decree-Law 61/1990 enabled the privatization of housing units built with state funds. They are sold to their tenants who could make a down payment and sign the purchase contract backed by a loan. Foreigners wishing to settle in Romania could purchase a housing unit with foreign currency.

Ownership is guaranteed by the purchase contract and covers both the apartment and the right to use the adjoining land. ...The Law imposes some renting or resale restrictions on the new owners, but establishes no mechanism to monitor or enforce these, and also provides that the dwelling can be repossessed when loans are not paid (UN, 2001 (a):64).

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<sup>853</sup> One-sided effect of this compensation is the fragmentation of land units, often into thin strips, which are not available for individual agricultural purposes. This program needs immediate support for the assimilation of the new ownership records into the land registration system; completion of the physical marking-out of the properties; and the consolidation of the fragmented land units. (UN, 1996:80)

<sup>854</sup> Former owner may be the owner lawfully but may be used by someone other for years.

<sup>855</sup> There is also property legislation (Law 112/1995), which was formerly in private ownership and then nationalized.

## B.2. North and South American Countries

Privatization is applied in USA mainly in between 1980-1988. The Regan Government applied privatization more effectively in 1986. In addition, stagnant money politics, and politics of decreasing public expenditures were implemented. Privatization of urban services (Eğilmez, 1998:26-27) was the major activity in urban areas. Therefore, there is not much data on the transfer of immovable property transfers in urban and rural areas. By the year 2005, U.S. Forest Service sold public land in 35 states to raise \$800 million over five years for the Secure Rural Schools and Community Self-Determination Program. The Program was established with bipartisan support in 2000 with the intention of providing money for rural counties hurt by logging cutbacks on federal lands. It has distributed an estimated 2 billion U.S.Dollar nationwide since then. The Bush administration has just upped the ante on turning federally administrated public lands over to corporate interests. Direct sell-off- in the name of closing budget deficits is aimed at (World War 4 Report, [www.ww4report.com/node/1956](http://www.ww4report.com/node/1956) (accessed November 05, 2006).

In Mexico, the privatization program is applied in 1982 through the consent of IMF. In between 1982-1993, the number of public institutions decreased from 1.155 to beneath 200 closing 600 of them. In 1988, inflation was 115 percent and the growth rate was -5 percent. The public share has decreased from 44.5 percent to 26 percent. Mexico had to get a 72 billion U.S.Dollar of aid to compensate the crisis following the privatization attempt to achieve 23.7 billion U.S.Dollar (Köksal, 1999). Land privatization in Mexico aimed at formation of regions<sup>856</sup>. “*Ejido*<sup>857</sup> lands have played a determinant role in the formation of urban areas and of economic regions in Mexico. Historically, *ejido* lands have provided, willingly or not, most of the space on which processes of urbanization and industrialization have taken place. These processes have demanded the privatization of *ejido* lands, and their subsequent conversion from agricultural into other uses, i.e., to house people- labor force- and to locate economic activities.” (Castillo, 2004:45) *Ejido* lands are converted to urban use provided affordable land to low-income groups in urban areas: The landless and dispossessed Indigenous communities and rural populations. Most of those populations were landless Indians and poor *Mestizos* who had been displaced from their rural lands and they have migrated to cities. Once they are in cities, they could only afford to live on the urban periphery. Because of increasing urban growth, cities had gradually enveloped the surrounding *ejidos*. The urban periphery has been comprised of *ejido* lands (Castillo, 2004) like gecekondu lands in Turkish cities.

After privatization, in reality, the *ejido* system benefited the Mexican economic elites. Since the state had the right to expropriate *ejido* lands in the name of the public interest, in many cases such appropriation was manipulated to advance the private interest of those elites. The Mexican government expropriated *ejido* lands in order to promote industrial, tourism, and housing activities among other economic functions

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<sup>856</sup> Castillo (2004).

<sup>857</sup> “The Mexican *ejido* is a land tenure system that resulted from the Mexican Revolution of 1910 in which more than one million Indigenous people died in their struggle for land. When propounded in the 1917 Constitution, Article 27 promised land to the landless and restoration of land to the displaced. In the political culture of Mexico, the *ejido* became mythicized as a “revolutionary” entity through which Mexican Indigenous people and impoverished peasants would have access to the land promised to them by means of the abolition of *latifundios* and the redistribution of the land that their elimination would release. More than 75 years after it had been written into law, amendments to Article 27 were announced in 1992, as part of a bundle of macro policies intended to encourage investment and to “modernize” the countryside. These reforms represented a radical transformation of one of the most significant social contracts of the Mexican Revolution, that of land redistribution through the *ejido* system” (Castillo, 2004:2).



(Castillo, 2004: 45-46). In South American countries, privatization accelerated after 1985. Around 1990s, some economical indicators became healthier as a result of privatization, but still, expected consequences of income distribution and increasing level of wealth could not be observed (1994 Mexico and 2001-2002 Argentina crisis proves this). The first activities emerged in Chile and initiated an example to the others. International finance institutions in these countries (Eğilmez, 1998) stress privatization, as a prerequisite of the Structural Adaptation Programs.

Argentinean case is defined here, as its economy is similar to Turkey. IMF's Restructuring Program has brought privatization to Argentina and the object of privatization was urban services or large stake privatization. Airlines and communication are the initial sectors of privatization. The country was unable to privatize due to labour unions' struggle. All implementations from 1980s onwards had negative effects to the society. In 1980, the Argentina Government decentralized control of urban water and sanitation systems and delegated assets or activities to provincial and municipal authorities<sup>858</sup>. In 1989, the Government embarked on a privatization program, and water and sewerage were non-excluded<sup>859</sup>. In the same year, Carlos Menem, by the Act on State Reform Law transferred 150 public institutions to the private sector. The objective was a free enterprise system and "open economy" as well as to generate revenue to reduce the internal and external debts. The initial activity was the privatization of 60 percent of the National Telephone Company<sup>860</sup>. Argentina have also exercised sales of PEE's or firms' immovables in urban areas: A dockyard in Buenos Aires, livestock market of Liniers, a hotel in Bariloche, the Retiro main bus terminal, a chemical plant besides two military plants<sup>861</sup>.

### B.3. Other Countries

#### Ukraine

After independence in December 1991, the Ukrainian Government liberalized most prices and erected a legal framework for privatization. Widespread resistance to reform within the government and the legislature soon stalled reform efforts and led to some backtracking: Reforms in the more politically sensitive areas of structural reform and land privatization are still lagging.<sup>862</sup> The year 1999 had become a crucial year for Ukraine's privatization process<sup>863</sup>. The government and the Parliament tried to focus on the Privatization Act. To increase the investment climate for foreign capital and to implement privatization German Advisory Project is applied. Privatization started from the energy sector, successive is the telecommunication sector (sale of Ukrtelecom) and companies operating in other sectors. Strategic enterprises to be sold to strategic

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<sup>858</sup> Deloitte.com, <http://www.deloitte.com.ar/ingles/publications/privatization.asp> (accessed December 19, 2001).

<sup>859</sup> NextCity.com, <http://www.nexcity.com/EnvironmentProbe/pubs/ev542.html> (accessed November 20, 2000). See also, Privatization link, <http://www.privatizationlink.com/doc/database/s/plink/argentina/arg02.htm> (accessed December 19, 2001).

<sup>860</sup> Ibid.

<sup>861</sup> Deloitte.com, <http://www.deloitte.com.ar/ingles/publications/privatization.asp> (accessed December 19, 2001).

<sup>862</sup> Rainforests, <http://rainforests.mongabay.com/deforestation/2000/Ukraine.htm> (accessed December 24, 2006).

<sup>863</sup> "Output by 1999 had fallen to less than 40 percent of the 1991 level. Loose monetary policies pushed inflation to hyperinflationary levels in late 1993. Ukraine's dependence on Russia for energy supplies and the lack of significant structural reform have made the Ukrainian economy vulnerable to external shocks. Ukrainian government officials have taken some steps to reform the country's Byzantine tax code." (Rainforests, <http://rainforests.mongabay.com/deforestation/2000/Ukraine.Htm>. (accessed December 24, 2006)).

industrials only through large stakes offered to facilitate management control<sup>864</sup>. In total 900 companies with stakes, at least 25 percent and more are slated. In the year 2000, and by 16 August 2000 the Cabinet has decreased the number of companies, which have a strategic importance to Ukraine by 47 enterprises. Like Lithuania, SPF offered stakes of 2,224 enterprises with a nominal value of UAH 39 min. for the sale through compensation certificates. In Ukraine, during the privatization of Kolkhozes, there is the residency requirement. Foreigners are allowed to privatize for only 49 years. During the privatization, the major principle is that the land characteristic may not be changed<sup>865</sup>.

### Georgia

The Georgian economy from 1994 onwards showed signs of progress. By May 1994, however, after prodding from the IMF, president Shevardnadze began issuing decrees that eased privatization conditions and this policy spurred a noticeable acceleration of privatization in the summer of 1994. About 23 percent of state enterprises had been privatized, and only 39 joint-stock companies had formed out of the more than 900 large firms designated for that type of conversion. A voucher system for collecting private investment funds, delayed by a shortage of hard currency, began operating. The national financial system remained chaotic<sup>866</sup> -especially in tax collection, customs, and import-export operations. The small-scale privatization process has produced over 17.000 small private enterprises since 1993 while several privatization attempts of large-scale enterprises resulted in failures<sup>867</sup>. Privatization of public immovables is exercised in Georgia both in urban and rural areas<sup>868</sup>. **Figure 28.** The Government in 1992 started privatizing state land to the country's citizens. Land was allocated to approximately 1 million households (an average of 0.9 hectares per household and was free of charge) (Egiashvili, 2005:1).

Only about 25 percent of arable agricultural land has been privatized, and around 30 percent of state owned land is leased out. Private ownership of land is fragmented (COM (2005) 72 final).

Although the government has carried out a massive land privatization campaign in rural areas, a significant amount of land remains in state ownership (UN, 2001 (c):11).

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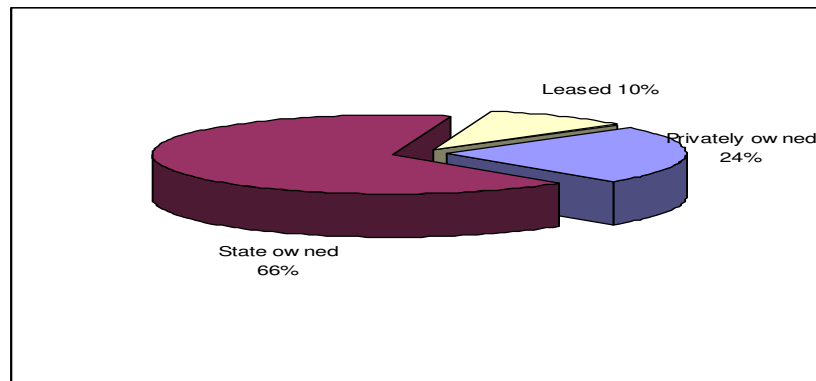
<sup>864</sup> Ukrainian Privatization Administration, [http://www.privatisation.kiev.ua/Priv\\_Eng/PubE/Priv\\_Progress9m2000E.htm](http://www.privatisation.kiev.ua/Priv_Eng/PubE/Priv_Progress9m2000E.htm) (accessed December 19, 2001).

<sup>865</sup> Ibid.

<sup>866</sup> The state economic bureaucracy, entrenched since the Soviet era, was able to slow the privatization process when dispersal of economic power threatened its privileged position in 1994. Between mid-1993 and mid-1994, prices rose by an average of 300 percent, and inflation severely eroded the government- guaranteed minimum wage. Under those conditions, a vast network of unofficial economic activities supported most Georgians (FAO (land and water development division) ,[www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm](http://www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm) (accessed February 12, 2007)).

<sup>867</sup> FAO (land and water development division), [www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm](http://www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm) (accessed February 12, 2007).

<sup>868</sup> Law on Privatization of Agricultural Lands under State Ownership. Land presently being under the state ownership will be sold out directly to the lessees where the price will be tenfold of land-tax. The resultant change in farm structures and loss of markets through privatization has led to a dramatic drop in farm production (Egiashvili, 2005:3).



**Figure 28.** Land Categories<sup>869</sup> (1996) (Total 2987 473 ha.)

Clear and transparent rural land privatization policy and land management programs (to prevent future damage to rural infrastructure and the environment) are demanded. Most of the land is located in mountainous areas with a significant natural value; therefore, there are problems to set measures. They should be taken to maintain and protect these areas in the public interest (UN, 2001 (c):11). Like other former Soviet Union countries, Georgia exercised condominium privatization.

#### **Republic of Moldova**

Agricultural land “was the property of the state and of collective farms and urban land had no monetary value, being considered a natural resource with the state as the only owner, allocating and managing it according to central-planning principles” (UN, 2002:51). Therefore, a new legislative approach - Land Code - had to be applied.

Former collective or State farm workers and pensioners were allocated a share of land (an average of 1 ha) out of a “privatization fund”; plots for individual housing construction were granted free to all applicants inside the settlement limits (0.04 ha in cities and 0.08-0.12 ha in villages). Land-share owners can use their plot for farming, or they sell, donate or lease it. ....“The Law on the Normative Price of Land” is the main regulative act organizing public and private land conversion to non-agricultural use. The Law on Expropriation defines compensation that should be granted in any case of compulsory purchase of private land and property for Public Utility Purposes. And, the Law on Leasing contains provisions on the long-term (up to 99 years) leasing of real estate, including land, buildings and housing of all types (UN, 2002:52).

The privatization of housing is implemented for reinstating and reinforcing private property rights. However this did not eliminate housing inequalities (p.53). 94 percent of the stock has been transferred to private ownership most of which are in the urban stock. By the Law on Housing Stock Privatization (No.324-XII, 1993) state and enterprise housing were transferred to sitting tenants, mainly in exchange for national “patrimonial” bonds and, to some categories or residents, free of charge. In between 1993-1996, only the apartments were transferred into private ownership and the buildings remained on the balance sheet of the state. By 1997, patrimonial bonds were

<sup>869</sup> FAO, [www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm](http://www.fao.org/ag/agl/aglw/aquastat/countries/georgia/index.stm) (accessed February 12, 2007).

no longer used for privatization and the buildings and houses were transferred to the balance sheet of the homeowners' associations. Resources obtained from privatization were used in the municipal budget to be used for housing purposes.

**Table 16.** A Comparison of Privatization Programs of Several Countries (2000)

Country	Privatized Institutions	Reasons and Criteria for Privatization	Results
South Korea	Commercial Banks	Market effectiveness	Unsuccessful, Government regulates interests and directs credits
Malaysia	General Thought	Establish equality	Many monopolies
Thailand	Urban Transport	Effectiveness	Better service level
Bangladesh	Textile Factories	Proper investment environment	Competition, better performance than state enterprises
Pakistan	Flour, Rice	Restructuring	Unclear
Sri Lanka	Various	Performance deficiency	Private profit has replaced social interest in textile factories
Venezuela	Various	Performance deficiency, powerful private sector	Restructuring, ineffectiveness in private sector shares
Peru	Various	Economic growth, effectiveness	In the planning stage
Chile	Banks, manufacturing firms, agricultural firms	Protectiveness	Rapid privatization created a system increasing financial difficulties
Jamaica	Local transport, food firms	Economic growth and freedom	Limited privatization made PEEs sensitive to the market.
Turkey	Enterprises (that can be easily sold) and their assets, movables and/or immovables. (Even in monopoly sectors privatization is exercised)	<ul style="list-style-type: none"> <li>Increase of effectiveness, growth</li> <li>Creating new resources of revenue by directing local, national or foreign savings.</li> <li>Prevent the negative pressures on the financial markets</li> </ul>	Privatization lower than programmed, effects to urban macroform, destroyed private-public immovable property balances, unsuccessful to meet budget deficits, decline of central and physical planning.
Lithuania	Construction and household service sectors, state and municipal property (urban, agricultural (colhozes)), condos, PEEs	<ul style="list-style-type: none"> <li>To integrate to EU</li> <li>To transfer into open market economy.</li> </ul>	Lithuanian Agricultural Bank, Lithuanian Airlines, hotels, guesthouses, and several companies in chemical, pharmaceutical, electro-technical goods will be privatized. In 1997, the received income was low, accelerated after.
Argentina	Telephone, Cellular Phones, Petroleum, Electricity, Railroads, Airlines, TV and Radio, Petrochemicals, Steel Companies, Post Offices, and National Mortgage Bank, dockyards, hotels, bus terminals, military plants, highway tolls and systems.	<ul style="list-style-type: none"> <li>Economic restructuring</li> <li>A free enterprise system</li> <li>"Open economy"</li> </ul> Revenue to reduce the internal and external debts	<ul style="list-style-type: none"> <li>All implementations from 1980s onwards had negative effects to the society.</li> <li>Decentralization of public services</li> </ul>

*Table 16 (continued)*

<p><b>England</b></p>	<p>PEEs, municipal services (monopoly infrastructure sectors); airports, condo; gas, steel, transportation services; air industry, chemistry, telecommunication and petroleum sectors, warships</p>	<ul style="list-style-type: none"> <li>• To control money demands and to increase inflation rate through decreasing public sector debt level,</li> <li>• To solve problems of public institutions (public costs, budget deficits),</li> <li>• To increase productivity and competitiveness by omitting monopoly structures</li> <li>• To create a liberal, free competitive environment,</li> <li>• To protect the consumer,</li> <li>• To restructure the economy,</li> <li>• To create a new alternative source of revenue besides public debts and tax income</li> <li>• To achieve integration<sup>870</sup> with the world economies and</li> <li>• To widespread property and capital.</li> </ul>	<ul style="list-style-type: none"> <li>• Productivity and efficiency could not be achieved,</li> <li>• Labor unions have lost strength and wages declined,</li> <li>• Sale of PEEs under their actual value,</li> <li>• Capital ownership widespread,</li> <li>• Home ownership increased,</li> <li>• Intervention to the cities in the project scale.</li> </ul>
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Vernon-Wortzel and Wortzel (1989:633-641); Suiçmez (1995:6); United Nations, 2000 (a). Lithuania, Country Profiles on the Housing Sector, Economic Commission for Europe. Geneva. New Africa.com, <http://www.newafrica.com/investment/privat/investarticle.asp?ID=18492countryid=1>, (accessed December 14, 1999). Valstybės turto fonde, [http://www.vtf.lt/english/privatizavimo\\_istorija.html](http://www.vtf.lt/english/privatizavimo_istorija.html) (accessed December 19, 2001). Deloitte.com, <http://www.deloitte.com.ar/ingles/publications/privatization.asp> (accessed December 19, 2001).

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<sup>870</sup> European Union (EU) political structure is federalism (subsidiary is the main principle), but not a national cooperation. It leads the path to confederation through economic and political integration. EU is a systematic integration and appears on the level of actors. This is because integrations at the system level require a formation that is supranational, but not omitting the nation state and the change of political actors.

## APPENDIX C

### THE REASONS AND IDEAS FOR PRIVATIZATION

The reasons for privatization are;

- Financial internal and external debts,
- Inability of the public institutions to realize technological updates or capacity increases,
- State's inability to administer and to manage<sup>871</sup> and incapability to adopt,
- Intervention of politics to technical and labour issues,
- Solution to national, regional and urban demands for development,
- Loss of production/performance (inefficiency and non-productivity),
- Heavy burden of PEEs on the national economy due to high production, labour and investment costs<sup>872</sup>,
- Low quality of public goods and services,
- Low marketing capacity,
- Importing environmental unfriendly technologies,
- Dominance of the state in the market economy,
- Corruption and misuse,
- Creating job opportunities for political governing parties,
- Public institutions and PEEs/SOEs means planned development, and
- Missing business timing (rapid decisions, right incentives and programming),

In economic terms and on the basis of PEEs;

A. **General Reasons** (Özmen, 1987:14-15):

1. Reasons and the need for PEEs have disappeared.
  - a. PEEs emerged because of economical reasons or to overcome under consumption. Privatization is claimed to be equal to economical development and efficient production quantities under suitable conditions.
  - b. The reason for the establishment of a PEE was preventing poverty. If necessary precautions can be set and new resources for creating job opportunities are found, then the reason for PEEs disappears.
  - c. When a PEE achieves a monopolistic or an oligopolistic character and destroys public, it should be privatized.
  - d. PEEs have declined technologically.
2. Misleading legal framework may demand privatization.
3. Deep relations with public management may demand privatization:
  - a. PEEs seek for own institutional benefit<sup>873</sup>, not social interest.

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<sup>871</sup> The responsibilities of the public sector have grown. "In Mexico in the 1950s there were eleven state economic enterprises; prior to the privatization move, there were 4000 economic enterprises owned by the government. Egypt had seven public enterprises in the 1950s and today it has 8000 enterprises, the bulk of which is causing the government great losses and absorbing over 60 percent of annual public expenditure" (Pirie, 1992).

<sup>872</sup> These are natural outcomes of non-profitability.

- b. They may increase public expense.
  - c. They may act like labour offices.
  - 4. Negative consequences of PEEs to national economy may emerge.
- B. Political Preferences (Özmen, 1987:16-20):**
- 1. Dominant power relations claim that PEEs are dangerous for the country.
  - 2. In developing countries, capital owners formed by the existence of PEEs support those parties willing to perform privatization.
  - 3. International monetary institutions such as WB, IMF and others require it.
  - 4. State may attempt to prevent establishment of PEEs, to make partial privatization through dividing PEEs or transform them into private institutions through foreign pressure.
- C. Financial Reasons (Özmen (1987:21-22); Önder (1997:22)):**
- 1. To overcome increasing public investment costs (State cannot allow PEEs to sink and to compensate their loss) where accelerating tax collection is insufficient.
  - 2. To wide spread property through letting workers becomes shareholders. (Diffusion of private property will strengthen democracy).
  - 3. To prevent financing of the PEEs needs from the National Budget to minimize public debts.
  - 4. To achieve economic efficiency and production through competition.
  - 5. To withdraw the public sector from the market decision making process,
  - 6. To achieve revenues through sales method.
  - 7. To enlarge stock exchange volumes in order to achieve efficient capital market.

Ideas supporting privatization are (Yiğit, 1998:20-21):

- PEEs are a burden to the state. They have great amounts of immovable property in urban areas.
- State can use privatization revenues to compensate debts, other than for service supply to the citizens, (This means a decline in the public services and ownership of public goods).
- State gathered all economic powers at hand and such a power becomes a source of pressure. If this power diminishes, there will be democracy.
- PEEs create monopolies and this prevent competition.
- Cost of production is high due to inefficient labour conditions.
- PEEs are the sources of public debts and the high inflation rates. Privatization will lead to social welfare and justice.
- Private sector will develop and be able to compete.
- Neo-liberal property understanding will accelerate.
- Large sections of the society will benefit from this approach.
- Irregularities and over employment can be prevented.

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<sup>873</sup> National demand cannot be solved through any administrative acting for its own interest and seeking gain. The private sector may establish and manage those institutions productively.

## APPENDIX D

### AIMS OF PRIVATIZATION

In economic terms (Güzel, 2000:6-10; Baytan,1999:8-9) privatization is demanded for;

- Supporting free market economy,
- Minimizing public share to minimum and attaining regulation,
- Directing and controlling role of the resources to perform basic duties,
- Creating competition,
- Developing stock-exchange and capital markets for a healthy economy,
- Increasing productivity (amount of goods produced) and efficiency,
- Increasing the productivity of the labour force,
- Spreading of capital and property for the general welfare of the society,
- Decreasing public finance burden on the budget,
- Creating a general budget income source,
- Minimizing the support of the Treasury to PEEs,
- Decreasing the pressure over public establishments producing goods and services,
- Overcoming the barriers to investment (specially foreign),
- Implementing modern technology and their administration techniques by attracting foreign capital,
- Allowing administrators' political activities,
- Supporting the process of democracy, and
- Decreasing the power of labour unions.

According to Gökçe (1992:1, 5-6) and Şener (1994:49) privatization is made;

- to control capital demands,
- to increase inflation rate through decreasing public sector debts,
- to solve problems of public institutions (public costs, budget deficits),
- to increase competitiveness and productivity by omitting monopoly structures,
- to create a liberal, free competitive market environment,
- to protect the consumer,
- to restructure the economy,
- to create a new alternative source of revenue besides public debts and tax income,
- to achieve integration<sup>874</sup> with the world economies, and
- to widespread property and capital.

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<sup>874</sup> EU political structure is federalism (subsidiary is its main objective), not a national cooperation, leading the path to confederation through economic and political integration. EU is a systematic integration and appears on the level of actors. This is because integrations at the system level require a formation that is supranational, but not omitting the nation state and the change of political actors.



In social terms, privatization aims;

- Decreasing work disagreements by combining property and labour ingredients.
- Spreading capital property to public and taking necessary precautions for its continuity (Güzel, 2000:10).

In political terms it aims supporting economic individualism, which means omitting or limiting personal freedom and protecting the individual through attaining social welfare.

## APPENDIX E

### PUBLIC GOODS

Public goods<sup>875</sup> (domaine public<sup>876</sup>) are required to provide public services or for the production of public goods. They are the goods that belong to public [kamuya ait mallar<sup>877</sup>]. They cannot be subject to private property and are allocated to direct use of the public (citizens)<sup>878</sup>. Therefore, public goods are produced through public finance (except BOT and BOO case). There are two principles for public goods: To be in public ownership [kamu mülkiyeti şartı] and the good must be allocated for public interest [tahsis şartı]<sup>879</sup>. Allocation for public interest principle is composed from two sub-principles:

- a. This public good must be allocated for direct use of the public<sup>880</sup> [Kamunun kullanımına doğrudan tahsis edilmelidir.]
- b. This public good must be allocated for public service provision<sup>881</sup> [Bir kamu hizmetine tahsis edilmelidir.]

In the economist's point of view, public goods have two distinguishing properties (Starr, 1988:6):

- One person's consumption does not preclude another's, and
- Excluding anyone from consumption is costly, if not impossible.

Kardeş (1999:2) and Gözler (2006:255) categorize public goods [Kamu malları<sup>882</sup>/Kamusal mallar] according to type of use:

- a. Service goods<sup>883</sup>: Goods used for public services,
- b. Common goods<sup>884</sup> (res communes): Goods subject to free use of the public, and

<sup>875</sup> Gözler (2006:252-272) and Danıştay, [http://www.danistay.gov.tr/2%20-kamu\\_mallarinda\\_ecrimisil.htm](http://www.danistay.gov.tr/2%20-kamu_mallarinda_ecrimisil.htm) (accessed February 22, 2007).

<sup>876</sup> Ibid. p.252.

<sup>877</sup> Ibid.

<sup>878</sup> Adalet Bakanlığı, <http://www.adalet.gov.tr/hukuksoz/hukuksozlugu.htm> (accessed January 05, 2007).

<sup>879</sup> Gözler (2006:254).

<sup>880</sup> Places allocated for public use; Roads, rivers, cemetery, coasts, market places, mosques, and parks (Gözler, 2006:254).

<sup>881</sup> Army bases, school building, police station, airport building, train stations, metro stations, etc. (Gözler, 2006: 254).

<sup>882</sup> "İdare malları, devlet malları, amme emlakı ve kamusal alan" (Kardeş, 1999:1).

<sup>883</sup> Official buildings or plants used for public services and constructed by budget shares or aids are registered in the name of the Treasury and subject to special legislation: Public institutions, provincial or local administrative units. For example; schools, police stations, parks, ministry buildings, administrative buildings, etc..

<sup>884</sup> Common goods are meadows, pastures, and harvest or festival areas assigned for the use of public with or without substitute or proved through documents or witnessing that public have been having benefit. Property boundaries and dimensions are defined. Common goods like roads, squares, bridges are shown only in maps.

c. Ownerless (Unowned) goods<sup>885</sup> (res nullius): Goods subject to free use of public due to its natural characteristic and cannot be transferred to private property<sup>886</sup>.

Pure-public goods, impure public goods, and pure public goods impurely distributed are the categories of public goods, which can also be grouped as unowned goods, common goods, and service goods. Natural public goods (sea, rivers) and artificial public goods (roads, market places) are their clusters. Characteristics of public goods are indivisibility, non-rivalry (nonrivalrous) in consumption, non-excludability from consumption, and externality<sup>887</sup>.

Public goods are divided into four according to “substantial content [maddi içerik (consistence)]”<sup>888</sup>: land<sup>889</sup>, sea<sup>890</sup>, water<sup>891</sup> and air<sup>892</sup>. According to the emergence of the good they are divided into two: Natural public goods [Tabii kamu malları/*domaine public natu-rel*] and artificial public goods [Sun’î kamu malları/*domaine public artificiel*]. Public goods may be in movable or immovable character: Immovable public good [Taşınmaz (gayrimenkul) kamu malları / *domaine public immobilier*] and movable public good [Taşınır (menkul) kamu malları / *domaine public mobilier*].

There is no formal allocation decision for natural resources to achieve a public good character. Artificial goods achieve public good character through either acquisition<sup>893</sup> or allocation<sup>894</sup>. The reverse action, exit from public good character (*sortie du domaine public*) means that a public good in the possession of a public institution enters the status of private property. This does not mean that it is private possession.

Principle of non transferable character of public goods [kamu mallarının devredilemezliği ilkesi] (*principe de l’inaliénabilité du domaine public*) and the sub-principles taking base from this principle define the framework of the transfer of public goods<sup>895</sup>. Public goods in public good status (other than private goods) cannot be transferred to other public institutions or private individuals. This principle is not defined constitutionally. Therefore, it is not a binding principle for the law maker who can transfer a public good to a private person with a law<sup>896</sup>. According to Gözler (2006:259), for this transfer the administration should take a decision to transfer (*décision de désaffectation*) and the good achieves a private good character. Any transfer against this principle is invalid. The private person who achieved the good should return it to the administration and the compensation should be paid.

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<sup>885</sup> Unowned or agricultural lands impossible to cultivate such as rocks, hills, mountains, bushes, mines, forests, cultural and historical resources, and resources gained from these areas or seas, lakes, rivers are not subject to registration and limitation. The High Court of Appeals General Council’s Decision numbered 30.09.1981/E.1979/1-167/K.1981/ 656. There is no need for a legal norm in order to define the public character of unowned goods.

<sup>886</sup> These goods cannot be allocated to a specific part of the public (Civil Act Article 641): Lands impossible to cultivate, coasts, forests, general waters, and natural wealth and resources.

<sup>887</sup> For Klosterman (1985:3), public goods are defined by two technical characteristics: (1) jointed or nonrivalrous consumption, and (2) nonexcludability or nonappropriability.

<sup>888</sup> Gözler (2006:255).

<sup>889</sup> Roads, railroads, market places, cemetery, school buildings, mosques (Gözler, 2006:256).

<sup>890</sup> (*domaine public maritime*) Harbours, bays, signs, lighthouse and else (Gözler, 2006:256).

<sup>891</sup> Except seas; lakes, rivers, streams, streamlets, and underground water resources (Gözler, 2006:256).

<sup>892</sup> (*domaine public aérien*) (Gözler, 2006:256).

<sup>893</sup> A legal action that makes a thing the possession of a public jurisdic person (such as buying, expropriation). (Gözler, 2006:257)

<sup>894</sup> A legal action that allocates a thing for public use. Atificial public goods are allocated through traditions or administrative decision (*décision d’affectation*). (Gözler, 2006:257)

<sup>895</sup> See: Gözler (2006:259-261).

<sup>896</sup> Gözler (2006:259).

Methods of public appropriation of immovable goods (Kardeş, 1999:12) are buying<sup>897</sup>, barter, one sided transfer action of the Treasury, expropriation (See: **Appendix M**), left outs, areas assigned for common uses via development plans, sequestration, donation, flat compensation, nationalization<sup>898</sup>, construction of a good<sup>899</sup>, transfer of land to state according to Agreements, and transfer according to various Acts<sup>900</sup>. The sub-principles are as follows (valid for all public goods): It is not obligatory to register these immovable goods to Title-Deed Offices<sup>901</sup>; they cannot be expropriated, sequestrated, limited non-tangible rights (rights of easement, weight of real estate [taşınmaz yükü], right to pawn [rehin hakkı]) cannot be established, and cannot be gained through over exceeding time.

There is no definition of public goods in Turkish Constitution or laws<sup>902</sup>. Court of State General Council decision dated 26.12.1946 and No: 46/213/199 defined the concept stated in the General Accountancy Act [Muhasebe-i Umumiye Kanunu] No: 1050 (1927) (Article 2 on state property; Article 23, 24, and 25 is on immovable property management, transfer and registry) has a narrow content. The concept covers only those institutions subject to general budget<sup>903</sup>. Institutions with supplementary and special budgets may own their own properties. Article 23 defines that all properties belonging to the state are registered in the name of the Treasury and managed by the Ministry of Finance. Financial Management and Control Act No: 5018 has omitted Act No: 1050 (01.01.2005). Act No: 5018 Section 3 is about movables and immovables. Cadastre Act No: 3402 Article 16 is about public goods and Article 17 is on immovable goods. Article 18 is on the registry in the name of the Treasury.

Cadastre cannot be duplicated. Cadastres of public institution areas are also made according to Cadastre Act, and special Acts define the transfer methods, conditions and principles. Several public authorities are given the right to use state owned lands (not belonging to any individual or institution) without compensation: The Ministry of National Defense, The Ministry of Public Works and Settlement, The Ministry of Agriculture and Village Works, The General Directorate of State Railways, The General Directorate of Highways, The General Directorate of Hydraulic Works. Institutions may ask another institution for a property transfer (property, source or the right to easement). Both sides have the right to sue (Article 30).

Statutory instrument No: 178 Article 13 contains several concepts like national real estate, immovables of the Treasury, immovables demanded by the state. Act No: 2863 Article 5 defines movable and immovable cultural and natural possessions as state goods. Title Deed Act No: 2644, Public Housing Act No: 2946, and Bankruptcy and Sequestration Act (Article 82) have norms about public goods. Private property of the state is devoted to public service. This property is different from Treasury property. Act

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<sup>897</sup> One-sided action of the Treasury: Nationalization (not applied since the first years of the Republic).

<sup>898</sup> When necessary, possessions or shares of private persons can be nationalized with compensation over the actual value. This method can be applied on the private enterprises providing public services by law. It is different from expropriation as expropriation method is applied only to immovable property. Nationalization method has not been applied since the establishment of the Republic except private banks.

<sup>899</sup> Necla Güven, The Ministry of Finance, the General Directorate of National Real Estate, Head of a Department (Responsible from Special Sales and Transfer without Compensation Sections) (Nov. 21, 2001, personal communication).

<sup>900</sup> Transfer by Acts are detailed in Kardeş (1999:12).

<sup>901</sup> Civil Act Article No: 999. See: Maliye Bakanlığı (2006:16).

<sup>902</sup> Ibid.p. 253.

<sup>903</sup> See also: Kırbaş (1988:14).

on abolishing Caliphate No: 431<sup>904</sup> (1924), states that on caliphate property, no rights to property can be set.

Abolished Statutory Instrument on PEEs (No: 233) notes that any guilt towards PEE goods will be treated as it is towards state properties<sup>905</sup>. Immovables registered in the name of the Treasury or areas under the dominance and possession of the state have been transferred to PEEs, local authorities or institutions with supplementary budget with or without substitute<sup>906</sup>. Transfers without substitute (Acts No: 882, 1785, 2043 and 2360) and with substitute (Acts No: 3573, 3653, 3788, 6831, and 7269). According to the abolished Act No: 2983, distributions of share certificates and transfer of management rights have been declared for the facilities of the PEEs. For PEE immovables such as highways, dams, electric plants, railways, telecommunication systems, partnership certificates were defined according to this abolished Act. For PEEs to make allocation [özüleme], special norms should be defined in the related legislation.

Privatization Act Article 1 defines public enterprises as the objects of privatization and in practice, privatization became the conscious transfer of PEEs: Public shares and shares in commercial public organizations; public shares and shares that belong to the Treasury; and organizations with a national and supplemental budget and their assets producing goods and services. The Act covers besides PEEs, Administrations with general and supplementary budgets and their revolving fund units, Institutions with commercial purpose other than PEE status, and Provincial and Municipal Administrations. The *de jure-privatization* process is as follows: Problems have to be solved and conditions and methods of privatization should be determined before that PEE is taken into the Program.

According to Article 11 of the Development Act No: 3194, areas allocated to public service such as roads, squares, parks, green areas, car parks, bus stations on those immovables of Treasury and provincial administration are allocated to local authorities by the approval of the Ministry of Finance<sup>907</sup>.

### Characteristics of Public Goods

Public goods have different characteristics that differentiate it from private goods (Kardeş, 1999:2):

- a. Public goods cannot be transferred or given up,
- b. Unless Act states it, Civil Act principles cannot be applied to public goods.
- c. Public good cannot be sequestrated according to Sequestration and Bankruptcy Act No. 2004 (09.06.1932<sup>908</sup>, Article 82 (Amended by 18.02.1965-538/46 Article))
- d. Public goods cannot be gained through over exceeding time method,
- e. Public goods cannot be registered to Title Deed Offices (Civil Act Article 912). This principle is not valid for service goods<sup>909</sup>.

<sup>904</sup> [Hilafetin İlgasına ve Hanedan-ı Osmaninin Türkiye Cumhuriyeti Memâliki Haricine Çıkarılmasına Dair Kanun].

<sup>905</sup> Kırbaş (1988:15).

<sup>906</sup> Ibid. p.100.

<sup>907</sup> Opcit (1988:42-43).

<sup>908</sup> This Act has been amended by Act on Amendment of Bankruptcy and Sequestration Act [İcra ve İflas Kanununda Değişiklik Yapılmasına Dair Kanun] No: 4949 (Date of acceptance 17.7.2003) Official Gazette Publication Date: 30.07.2003 and No: 25184 and Act No: 5092 Act on Amendment of Bankruptcy and Sequestration Act [İcra ve İflas Kanununda Değişiklik Yapılmasına Dair Kanun] (12.02.2004).

<sup>909</sup> According to General Accountancy Act No. 1050 Article 23 (until 01.01.2006) and Act No: 5018 Article 45, service goods are registered in the Title Deed Offices. Determination of common goods are made and registered in the special records by Cadastre Act No: 3402/ 5304.

- f. According to the Act of Expropriation No. 3402 Article 30, public goods cannot be expropriated.
- g. Public goods are subject to special protection, and special Acts (of transfer and management).
- h. Public goods are not subject to tolls and taxes.

#### **Legislative Framework of Public Immovable Goods**

Rights to public land are defined in Cadastre Act No:3402/ 5304 (Kardeş, 1999:106-110):

1. Determination of immovable property registered in Title-Deed Office: Immovable property in the Title-Deed Office is registered in the name of the owner<sup>910</sup> (Article 13)
2. Determination of immovable property unregistered in Title-Deed Office (Article 14<sup>911</sup>).
3. Public goods (Article 16).
3. Immovable property developed (Article 17): If certain conditions<sup>912</sup> are satisfied, then the property is registered in the name of the developer or his/her inheritors.
4. Determination in the name of the Treasury (Article 18): Any property not defined above but must be registered or where transferring to agricultural land is possible, is registered in the name of the Treasury.
5. Limitations to those gains achieved through over exceeding time method (Article 18).
6. Restrictions, limiting non-tangible rights and newly created/added during the determination of right to possession (Article 19). Restrictions and limitations to non-tangible rights are preserved while the immovable property is registered in the Title-Deed Office.
7. Appointment of registration and documentation content (Article 20).

#### **Invasion Indemnity According to Privatization Act**

The privatization Act Article 19 (B) (d) paragraph covers norms on invasion indemnity about public immovable goods.

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<sup>910</sup> See: Kardeş (1999:106) for right to possess.

<sup>911</sup> Proof through expert or witness declaration.

<sup>912</sup> The conditions are as follows (Kardeş, 1999:108):

- The land must be a place under state's governance and saving and must not be a forest area.
- The immovable must not be assigned to a public service.
- The land should be made suitable for cultivation through some expense and labor.
- One or more pieces of immovable property must be unregistered.
- The total surface area should not exceed 40 dec. in watery soil, 100 dec. in dry land.
- If the immovable property is used without any contradiction and interruption for 20 years, the possession must be proved through documentation, and by witnesses.
- The immovable must not be within the borders of a development plan.

When one or few conditions are satisfied, the immovable is registered in the name of the possessor.

## APPENDIX F

### LAND POLICY

Land policy is a mean to achieve the goals of development, and naturally influences this process. Recommendations related to land issues of the Vancouver United Nations Habitat Conference on Human Settlements of 1976 which are stated by Aydođanlı (1995:9), including the revolutionary ideas on land policy issues which should be universally implemented, are still valid today:

- Land should be subject to public control in the interest of the nation.
- Change in the use of land should be subject to public control and regulation.
- The unearned increment in land values should be recaptured to the community.
- Public ownership should be used to secure and to control areas of urban expansion and protection; and to implement land reforms, and supply serviced land at socially acceptable prices.
- Patterns of ownership rights should be transformed to match the changing needs of society and be collectively beneficial.
- The supply of usable land should be maintained by all appropriate methods.

## APPENDIX G

### PUBLIC INTEREST

Aristotle makes the initial definition. Later Cicero, in the Roman law, defined “social interest” as the common concept of public law and private law. (Akıllıoğlu, 1991:8) In the Medieval era, according to St. Thomas d’Aquin social interest is the common objective of the individual and the society. It is the representation of God’s decree in the world. Public interest (L’interet general) emerged as a reaction to common benefit (le bien commun) (Akıllıoğlu, 1991:8) during the 1789 French Revolution, because of a social contract declaring rights and benefits.

Roman law is the first document defining the limits of public interest. It emerged from the competence of appreciation of the state institutions (Karadeniz, 1975:49). It covers monetary and obligatory needs (in terms of belief and senses) and demands necessary for the society in terms of religion, norms, and aesthetics (Keleş, 1993:98; Karadeniz, 1975: 49).

There are different perspectives over public interest: Charles Lindblom/ Robert Dahl (political scientists) claim that it does not exist. Akıllıoğlu and Monique-Roland Weyl see it as a “myth”, where Daniel Bell/Irving Kistal (social scientists) state that communities not directed by this ideal cannot be thought off. (Keleş (1993:95); Bademli (1999), and Ülkenli (1999: iv) define it as an ideology. **Table 17-18.**

All through out history, there emerged different approaches (interpreted from Keleş, et al., 1999:36) for public interest:

- Individualistic Approach (Utilitarian / Aggregationist): Addition of individual interests (Hobbes, Hume, Bentham).
- Common Interest: A summation of common interests of the community. Not a summation of individual interest of the members of a society, but as something that lays in its nature. (Gedikli, 1998:81) Defense, security, and lowest life and health standards (J.J. Rousseau, W. Pareto, B. Barry, R.Keleş, C.Geray)
- Unitary Approach: Public interest is a political decision/preference that is normative and depending on value judgments (Platoon, Aristotle, Hegel and Marx, C.W. Casinelli).



Table 17. Public/Social Interest

	<b>PUBLIC INTEREST (PI)</b>	<b>WIDE MEANING</b>	<b>CLOSE MEANING</b>
<b>BADEMLİ (1999)</b>	<ul style="list-style-type: none"> <li>• Defined/undefined</li> <li>• (+), (-) ve effects</li> <li>• Normative</li> <li>• Ideology</li> <li>• Individual/Institutional interest</li> </ul>	<b>SOCIAL BENEFIT</b> [Toplum Yararı]	<b>PUBLIC INTEREST</b>
<b>KELEŞ (1983)</b>	<ul style="list-style-type: none"> <li>• Normative concept covering the social duties of the State,</li> <li>• Its success depends on taking care of every class of the society,</li> <li>• PI versus Private interest,</li> <li>• Social benefit is needed to make private interest parallel with public interest,</li> <li>• Achieving this needs a level of consciousness,</li> <li>• A public law measure</li> <li>• It is the right of possession or use over ownership</li> </ul>	<b>SOCIAL BENEFIT (TOPLUM YARARI)</b> [Halkın Yararı] "Social benefit should be greater than public interest"  "Society"	<b>PUBLIC BENEFIT (KAMU YARARI)</b> [Devlet Yararı]
<b>KELEŞ et al. (1999)</b>	<ul style="list-style-type: none"> <li>• Both should be defined and used by the same legal framework,</li> <li>• Both should be over private interest,</li> <li>• A summation of common interests.</li> </ul>	<b>SOCIAL INTEREST</b> Common interest of the people within a country and it corresponds to the needs of the individuals. All actions are approved by all, which makes life conditions easier.	<b>PUBLIC INTEREST</b>
<b>İLGEN (1978)</b>		<b>SOCIAL BENEFIT</b> (the concept referring to the welfare of the whole society)	<b>PUBLIC BENEFIT [Kamu Yararı]</b> (The concept either covers and structures the benefit of the whole society in terms of the ideological and political level or covers the benefit of various parts of the society in different levels through public policies)
<b>ÜLKENLİ (1999)</b>	<ul style="list-style-type: none"> <li>• Public undefined, but exists as a given fact</li> <li>• Ideology</li> <li>• Planning and PI are both comprehensive</li> </ul>	<b>A. PUBLIC INTEREST</b> (mine, yours, our, for everyone) Protected by law, immortal, redefined at the ideological level <b>B. UNIVERSAL INTEREST</b>	<b>PUBLIC INTEREST</b> (of the state, the municipality, or other institutional public) Presupposed that institutions or authorities are for the public and the act is for PI.

Table 17 (continued)

	<b>PUBLIC INTEREST (PI)</b>	<b>WIDE MEANING</b>	<b>CLOSE MEANING</b>
AKILLIOĞLU (1991)	<ul style="list-style-type: none"> <li>Multi-functional,</li> <li>Multi-dimensional,</li> <li>Non-clear</li> <li>Emerged as a reaction to common benefit</li> <li>PI is used to correct State action or any action of the State is for PI</li> <li>A reason to limit basic rights and a measure to define the application of Administrative Law</li> <li>A myth</li> <li>Planning - the common characteristic</li> </ul>	SOCIAL INTEREST  - Mundane - Defined by the law creator	PUBLIC INTEREST
TURKISH CONSTITUTION (1982)	<ul style="list-style-type: none"> <li>A general and a covering concept,</li> <li>Adoptable to social interest,</li> <li>Public service is for public interest,</li> <li>A reason of limiting private rights,</li> <li>Is a social interest which is superior and changeable,</li> </ul>	(Aims) SOCIAL BENEFIT	PUBLIC INTEREST
Expropriation Act No: 2942/4650	<ul style="list-style-type: none"> <li>Any plan is for public interest (No provision for the plan changes)</li> </ul>	PUBLIC INTEREST (It can be decided by public authorities/not the society itself) (Article 5)	
Planning Act No.3194	<ul style="list-style-type: none"> <li>Private property of the public can be directly used for public interest</li> </ul>	PUBLIC INTEREST (It is aimed at, but individual or institutional benefits are referred in practice)	
For the author	<ul style="list-style-type: none"> <li>Qualitative/Quantitative</li> <li>Normative</li> <li>Multi-dimensional, therefore indefinite.</li> <li>Must be over private interest,</li> <li>There are four different meanings:                Universal interest, Social (Collective) interest, Multiple public interest, Public interest</li> <li>Social interest vs. governors' interest</li> </ul>	SOCIAL BENEFIT	PUBLIC INTEREST  A. Governor's (representative's) Public Interest B. Institutional Public Interest

Table 18. Concepts And Applications of The Public Interest (Table 1 from Alexander (2002:229))

TABLE 1 <i>Concepts and applications of the Public Interest</i>					
<i>Focus</i>	<i>Approach</i>	<i>Interest Base</i>	<i>Theory</i>	<i>Perspective</i>	<i>Application</i>
Substantive	aggregative	individual values/ preferences	<i>utilitarianism</i>	objective	social welfare function; benefit-cost analysis
	aggregative	individuals and/or groups	<i>modified utilitarianism</i>	subjective	multi-objective evaluation
	unitary	collective community	<i>communism</i>	value-based cultural ideological	political/ administrative: compatibility with values, norms
	unitary	polity, state	<i>statism, constitution law</i>	objective	legal/adjudication compatibility with state interest
	deontic	individual (planning) rights	<i>liberal-democracy; constitution law</i>	objective	administrative/legal review; compatibility with planning rights
Procedural	deontic	individual rights	<i>liberal individualism</i>	objective	legal/adjudication compatibility with individual procedural rights
	dialogical	stakeholder groups	<i>Madisonian liberalism communicative practice</i>	inter-subjective	political discourse

## APPENDIX H

### MAJOR ACTS OF *DE FACTO*-PRIVATIZATION

Major legislation of *de facto-privatization* having the public immovable property as the object of transfer and transfer of rights for (re) production of urban space:

- [Emlaki Metruke Kanunları (13.09.1915 and 15.04.1923)],
- Village Act No: 442<sup>913</sup> (1924),
- Budget Act No: 627 (1925),
- Act on Distribution of Land in the Eastern Part of the Country No: 1505 (1929),
- Turkish Civil Act No: 743 (1926)/4721<sup>914</sup> (2001),
- Act of Obligation No: 818<sup>915</sup> (1926),
- Settlement Act No: 2510 (1934)
- Act on Cadastre and Land Registry No: 2613 (1934)<sup>916</sup>,
- Act on Title Registry No: 2644<sup>917</sup> (1934) (related Act is the Act No: 2589),
- Title Deed Act No: 766 (1966)<sup>918</sup>,
- Land Reforms (Acts No: 4753<sup>919</sup> (1945)/ No: 1757<sup>920</sup> (1973)/ No: 3083<sup>921</sup>(1984), No:1617<sup>922</sup> (1972)/ No: 3083 (1984)/ No: 6603<sup>923</sup> (1955) and the succeeding agricultural partial reforms),
- Act of Expropriation [ No: 6830 (1956)<sup>924</sup>] No: 2942<sup>925</sup> (1983)/ 4650<sup>926</sup> (2001),
- Forest Act No: 6831<sup>927</sup> (1956),

<sup>913</sup> Date of acceptance 18.03.1924, Official Gazette Publication date 07.04.1924 and No: 68.

<sup>914</sup> [Türk Medeni Kanunu] No: 4721, Date of acceptance 22.11.2001. Official Gazette publication date 08.12.2001 and No: 24607.

<sup>915</sup> [Borçlar Kanunu]. Official Gazette publication date 29.04.1926 and No: 359.

<sup>916</sup> [Kadastro ve Tapu Tahriri Kanunu], 15.12.1934.

<sup>917</sup> [Tapu Kanunu]. Official Gazette publication date 29.12.1934 and No: 2892 (Date of acceptance: 22.12.1934).

<sup>918</sup> “[apulama Kanunu]. Act dated 28.06.1966 and No: 766 has been omitted.

<sup>919</sup> [Çiftçiyi Topraklandırma Hakkında Kanun] Official Gazette publication date 11.06.1945. It has been omitted by the Act No: 1757 (Amended by Act No: 5618 dated 1950 and No: 6603 dated 27.05.1955).

<sup>920</sup> [Toprak ve Tarım Reformu Kanunu] 19.07.1973. It has been omitted by the Decision of the Supreme Court.

<sup>921</sup> [Sulama Alanlarında Arazi Düzenlemesine Dair Tarım Reformu Kanunu]. Official Gazette publication date 01.12.1984 and No: 18592.

<sup>922</sup> [Toprak ve Tarım Reformu Ön Tedbirleri Kanunu], Official Gazette publication date 26.07.1972 and No: 14257.

<sup>923</sup> 20.05.1955.

<sup>924</sup> [Kamulaştırma Kanunu]. Amended by the Act No: 2942 (Date of acceptance on 04.11.1983).

<sup>925</sup> [Kamulaştırma Kanunu] No: 2942 (omitted the Act No: 6830). Official Gazette publication date 08.11.1983 and No: 18215.

<sup>926</sup> [Kamulaştırma Kanununda Değişiklik Yapılması Hakkında Kanun] (Date of acceptance 24.04.2001).

- Act on Aids and Measures to be Taken for a Disaster Affecting the Daily Life (Disaster Act) No: 7269<sup>928</sup> (1959),
- [Land Office Act No: 1164<sup>929</sup> (1969) (Act No: 5273 amended this Act, Act No: 1164 has been omitted by the Act No: 4698<sup>930</sup> (Act No: 4698 has been omitted by the Act No: 4966<sup>931</sup>),
- Bosphorus Act No: 2960<sup>932</sup> (1983),
- Act on National Parks No: 2873<sup>933</sup> (1983),
- Act on Towns, Villages that will be under water due to Dam Construction and Land No: 6541<sup>934</sup>
- Act on Transfer of Property Ownership in Small Scale Industrial Zones No: 3385<sup>935</sup> (1987),
- Act on Protection of Cultural and Natural Possessions No: 2863<sup>936</sup> (1983),
- Act on Prevention of Invasion of Immovable Good Possession No: 3091<sup>937</sup> (1984),
- Development Act (Development Plans and Amnesty Implementations) No: 3194<sup>938</sup> (1985),
- Mining Act No: 3213<sup>939</sup> (1987),
- Cadastre Act No: 3402<sup>940</sup> (1987) / 5304<sup>941</sup> (2005),
- Squatter Act No: 775<sup>942</sup> (1966) / 5609<sup>943</sup> (2007),
- Flat Ownership Act No: 634<sup>944</sup> (1965),
- Mass Housing Act No: 2487(1981) / 2985<sup>945</sup> (1984) / 5273<sup>946</sup> (2004),

<sup>927</sup> (Date of acceptance 31.08.1956) Official Gazette Publication date 08.09.1956 and No: 9402.

<sup>928</sup> (Date of acceptance 15.05.1959) Official Gazette Publication date 25.05.1959 and No: 10213.

<sup>929</sup> [Arsa Üretimi ve Değerlendirilmesi Hakkında Kanun] (Date of acceptance 19.04.1969) Official Gazette Publication date 10.03.1969 and No: 13195.

<sup>930</sup> [Konut Müsteşarlığının Kurulması ve Arsa Ofisi Kanununda Değişiklik Yapılması Hakkında Kanun] dated 28.6.2001.

<sup>931</sup> [Bazı Kanunlarda ve Bayındırlık ve İskân Bakanlığının Teşkilât ve Görevleri Hakkında Kanun Hükümünde Kararıname Değişiklik Yapılmasına Dair Kanun]. Date of acceptance 31.07.2003. Official Gazette publication date 07.08.2003 and No: 25192.

<sup>932</sup> (Date of acceptance 18.11.1983) Official Gazette Publication date 22.11.1983 and No: 18229.

<sup>933</sup> (Date of acceptance 09.08.1983) Official Gazette Publication date 11.08.1983 and No: 18132.

<sup>934</sup> [6541 sayılı Baraj İnşaatı Dolayısıyla Sular Altında Kalacak Kasaba, Köy ve Arazi Hakkındaki Kanun]

<sup>935</sup> [Küçük Sanayi Bölgeleri İçinde Devletçe İnşa Edilmiş Örnek Sanayi Sitesi İş Yerlerinin Mülkiyetinin Devredilmesi Hakkında Kanun] (Date of acceptance 15.06.1987). Official Gazette publication date 25.06.1987 and No: 19498.

<sup>936</sup> (Date of acceptance 21.07.1983) Official Gazette Publication date 23.07.1983 and No: 18113.

<sup>937</sup> [Taşınmaz Mal Zilyetliğine Yapılan Tecavüzlerin Önlenmesi Hakkında Kanun] (Date of acceptance 04.12.1984) Official Gazette publication date 15.12.1984 and No: 18606.

<sup>938</sup> (Date of acceptance 03.05.1985) Official Gazette date of publication 09.05.1984 and No: 18749. In between 1934-1935, Settlement Acts No: 2510 and 2848, and in 1958 Development Act No: 6785 are accepted.

<sup>939</sup> [Maden Kanunu] (Date of acceptance 04.06.1985) Official Gazette publication date 15.06.1985 and No: 18785.

<sup>940</sup> (Date of Acceptance 21.06.1987) Official Gazette publication date 09.07.1987 and No. 19512. This has amended Act No: 2613 (1934), Act No: 766 (1966) and Article 20 of Act 1617 (1972)

<sup>941</sup> (Date of Acceptance 22.02.2005) Official Gazette publication date 03.03.2005 and No: 25744.

<sup>942</sup> Official Gazette publication date 30.07.1966 and No:12362. This Act is followed by several acts some amending the development Act such as No: 2805 (1983), 2981 (1984), and 3290 (1987). Act No: 775 has been amended by the Decision by the Act Degree No: 247 and Act No: 4916 dated 19.07.2003.

<sup>943</sup> [Gecekondu Kanununda Değişiklik Yapılmasına Dair Kanun] (Date of acceptance 22.03.2007) Official Gazette publication date 28.03.2007 and No: 26476

<sup>944</sup> (Date of acceptance 23.06.1924) Official Gazette Publication date 02.07.1924 and No: 12038.

<sup>945</sup> Amended by Acts No: 3645 (1990), No: 4684 (2001), and Statutory Instrument No: 412 (1990).

- Tourism Encouragement Act No: 2634<sup>947</sup> (1982),
- Act on Extraordinary Conditions No: 2935<sup>948</sup> (1983),
- Act on Sale of Agricultural Land Owned by Treasury No: 4070<sup>949</sup> (1995).
- Act on the Sale of Immovables Belonging to Public Institutions and Establishments No: 4182<sup>950</sup>
- Meadows Act” No: 4342<sup>951</sup> (1998)/4368 (1998) 5334 (2005)/ 5685 (2007)
- Technology Development Regions Act No: 4691 (2001),
- Industrial Zone Act No: 4737(2002),
- Act on Using Treasury Lands No: 4706(2001)<sup>952</sup>/4916<sup>953</sup> (2003),
- Act on Amendments in Various Acts and Amendment of the Statutory Act defining the Duties of the Ministry of Finance No: 4916<sup>954</sup> (2003).
- Encouraging Investments and Employment and Making Amendments in Some Acts No: 5084<sup>955</sup> (2004),
- Provincial Special Administration Act No: 5302<sup>956</sup> (2005) [Provincial Special Administration No: 5197<sup>957</sup> (2004)]<sup>958</sup>,
- Northern Ankara Entrance Urban Transformation Project Act No: 5104<sup>959</sup> (2004),
- Municipality Act No: 5272<sup>960</sup> (2004),
- Greater Municipalities Act No: 5216<sup>961</sup> (2004),
- Year 2005 Budget Act of Institutions with Supplementary Budget No: 5279<sup>962</sup> (2005)

<sup>946</sup> (Date of acceptance 08.12.2004) Official Gazette Publication date 15.12.2004 and No: 25671.

<sup>947</sup> Official Gazette publication date 16.03.1982 and No: 17635 (Amended on 19.03.1982 and No: 17638 / Act No: 2817 - 20.4.1983 (18.04.1983) and No: 18024 / Act No: 3487 - 05.11.1988 (27.10.1988) and No: 19980 / Act No: 3492 - 16.11.1988 and No: 19991 / Act No: 3754 - 06.06.1991 and No: 20893 / Act No: 4957 - 01.08.2003 (24.07.2003) and No: 25186 / Act No: 5571 - 28.12.2006). Several other amendments are not stated, as they are not related to rights to property.

<sup>948</sup> (Date of acceptance 25.10.1983) Official Gazette publication date 27.10.1983 and No: 18204.

<sup>949</sup> [Hazineye Ait Tarım Arazilerinin Satışı Hakkında Kanun] Official Gazette publication date 19.02.1995 and No: 22207. Amended by the Act No: 4916 dated 03.07.2003 and Act No: 4707 dated 29.06.2001.

<sup>950</sup> [Kamu Kurum ve Kuruluşlarının Taşınmaz Mallarının Satışı Hakkında Kanun] (Official Gazette No: 22755, Date of acceptance 30.08.1996)

<sup>951</sup> Dated 28.02.1998. This Act is amended by the Act No: 4368 dated 11.06.1998, Act No: 5334 dated 03.05.2005 and No: 25804 and the Act No: 5685 dated 20.06.2007 and No: 26558.

<sup>952</sup> [Hazineye Ait Taşınmaz Malların Değerlendirilmesi ve Katma Değer Vergisi Kanununda Değişiklik Yapılması Hakkında Kanun], Official Gazette publication date 18.07.2001 and No: 24466.

<sup>953</sup> [Çeşitli kanunlarda ve Maliye Bakanlığı Teşkilat ve Görevleri Hakkında Kanun Hükmünde Kararnamede Değişiklik Yapılması Hakkında Kanun], Official Gazette publication date 19.07.2003 and No: 25173.

<sup>954</sup> [Çeşitli Kanunlarda ve Maliye Bakanlığının Teşkilât ve Görevleri Hakkında Kanun Hükmünde Kararnamede Değişiklik Yapılması Hakkında Kanun], Date of acceptance 03.07.2003. Official Gazete publication date 19.07.2003 and No: 25173.

<sup>955</sup> [Yatırımların ve İstihdamın Teşviki İle Bazı Kanunlarda Değişiklik Yapılması Hakkında Kanun] (Date of acceptance 29.01.2004) Official Gazette dated 06.02.2004 and No: 25365

<sup>956</sup> [İl Özel İdaresi Kanunu] (Date of acceptance 22.02.2005). Official Gazette Publication date 04.03.2005 and No: 25745.

<sup>957</sup> [İl Özel İdaresi Hakkında Kanun] Official Gazette publication date 24.06.2004.

<sup>958</sup> Act No: 5197 has been partially rejected by the Presidency of the Republic. Amendments are made and a new Act No: 5302 has been published in the Official Gazette on March 04, 2005.

<sup>959</sup> (Date of acceptance 04.03.2004).

<sup>960</sup> (Date of acceptance 07.12.2004) Official Gazette publication date 24.12.2004 and No: 25680.

<sup>961</sup> (Date of acceptance 10.07.2004) Official Gazette publication date 23.07.2004 and No: 25531.

<sup>962</sup> (Date of acceptance 28.12.2004) Official Gazette Publication date: 06.01.2005 and No: 25692.

- Act on Cadastre No: 3402<sup>963</sup> (1987)/ 5304 (2005),
- Soil Protection and Land Use Act No: 5403<sup>964</sup> (2005),
- Act on Amendments in Several Acts and Statutory Instruments No: 5335<sup>965</sup> (2005),
- Act on Earthquake Disaster in Denizli-Buldan, Hakkari, Bingöl-Karlıova, Erzurum-Çat and their close environment and amendments in several legislation No: 5327 (2005)<sup>966</sup>,
- Act on Revenue Tax Act and Amendments in Several Acts No: 5615<sup>967</sup> (2007).

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<sup>963</sup> [Kadastro Kanunu] (Date of acceptance 21.06.1987) Official Gazette publication date 09.07.1987 and No: 19512.

<sup>964</sup> [Toprak Koruma ve Arazi Kullanımı Kanunu] No: 5403 (Date of acceptance 03.07.2005) Official Gazette dated 19.07.2005 and No: 25880.

<sup>965</sup> (Date of Acceptance 21.04.2005) Official Gazette Publication date 27.04.2005 and No: 25798.

<sup>966</sup> (Date of acceptance 30.03.2005) Official Gazette Publication date 06.04.2005 and No: 25778.

<sup>967</sup> [Gelir Vergisi Kanunu ve Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun] (Date of acceptance 28.03.2007). Official Gazete Publication date 04.04.2007 and No: 26483.

## APPENDIX I

### OBJECTIVES OF THE PRIVATIZATION PROGRAMS IN TURKEY

Outstanding domestic debt and interest burden on public sector are planned to be reduced through foreign resources and privatization revenues (DPT, 2000:36) in the Plan periods although Privatization Act forbids revenue use for budget expenditure or investments. Cash excess of the Privatization Fund is transferred to the Treasury to compensate internal and external debts. "Every Privatization Program of the governments aimed to achieve the objectives stated before like decreasing of state's active role in industrial and commercial sectors, creating a competitive market mechanism, lessening the financial burden of the PEEs<sup>968</sup> on the national budget, achieving stability, sustainable public labor, liberalization, and regaining the inactive savings in order to channel sources to infrastructure or new investments" (The Privatization Administration, 1999:2).

Through the process, privatization and liquidation policies can be misunderstood: For example, Petrol Office A.Ş. (POAŞ)<sup>969</sup> privatization. This privatization activity is perceived as an action that covers immovable transfer and transfer of monopoly rights although Marketing Effectiveness has been privatized in POAŞ and the public is unaware of this issue<sup>970</sup> and perceived the action as transfer of immovables.

Güzel (2000:1) defines the basic objectives of the Privatization Programs as;

- Increasing competitiveness through competition, deregulation and several other methods,
- Lowering the need of public sector demand of debt,
- Decreasing state intervention to public bodies' decision-making process,
- Creating necessary sources for state expenditure with priority,
- Decreasing problems of the state resulting from wage determination,
- Supporting PEEs' employees through asset sales,
- Widening the perspective of asset sales in the economy, and
- Strengthening, widening and deepening stock-exchange markets.

Other objectives can be classified as;

- Minimizing state involvement in the economy
- Opening PEEs to market discipline,
- Accelerating further establishment of market mechanisms within the content of liberal economic policies,
- Broadening and deepening the existing capital markets by promoting wider share ownership,
- Providing efficient allocation of resources,

<sup>968</sup> The share of PEEs in the fixed investments is 27,4 percent in 1999 (DPT, 2000:36).

<sup>969</sup> Hülya Günaydın, the PA (Sept. 07, 2001, personal communication).

<sup>970</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).



- Encouraging foreigners to be active in the process,
- Allowing more people to have shares,
- Returning surplus to the economy,
- Decreasing financial burden on the state budget resulting from PEE losses,
- Getting revenue, and
- Encouraging private ownership (mainly on land).

#### **Obstacles of the Privatization Programs**

- **Political Obstacles:**  
PEE employment is accepted as equal to vote and this appeared as an unlogical political decree. The stagnancy of the political system is necessary.
- **Economic Obstacles:**  
High-risk premium and precedence indemnities burden generates an obstacle for the investors. Miss evaluation of the method of transfer and the possible outcomes closing down that establishment, land use change within the processes, creates an obstacle or extra bureaucracy for the state.
- **Social Obstacles:**  
Public pressure created by strong ideologies of mainly the labor sector and pressure of the high-level public bureaucracy is the social obstacles. The privatization should be explained to the public briefly.

The problem is not minimizing the state, but strengthening the adaptability of the state to the recent conditions, transferring its economic and infrastructure enterprises, and setting necessary control mechanisms.

## APPENDIX J

### *DE JURE- PRIVATIZATION LEGISLATION*<sup>971</sup>

- 21.02.1924 Telegram and Telephone Act [Telgraf ve Telefon Kanunu] No: 406 (Official Gazette No: 59, Date of acceptance 04.02.1924) Amended by the Act No: 4673
- 17.03.1984 Act on Promoting Savings and Increasing Public Investments [Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanun] No: 2983 (Official Gazette No: 18344, Date of Acceptance 29.02.1984)
- 18.06.1984 Statutory Instrument on Public Economic Enterprises [Kamu İktisadi Teşebbüsleri Hakkında Kanun Hükmünde Kararname] No: 233 (Official Gazette No: 18435, Decision of the Council of Ministers 08.06.1984)
- 19.12.1984 Tea Act [Çay Kanunu] No: 3092 (Official Gazette No: 18610, Date of acceptance 04.12.1984)
- 19.12.1984 Act on Nomination of Institutions Other than Turkish Electric Institution with the Production, Transmission, Distribution and Commerce [Türkiye Elektrik Kurumu Dışındaki Kuruluşların Elektrik Üretimi, İletimi, Dağıtımı ve Ticareti ile Görevlendirilmesi Hakkında Kanun] No: 3096 (Official Gazette No: 18610, Date of Acceptance 04.02.1984)
- 08.05.1984 Act on Amendment of Several Articles of the Act on Promoting Savings and Increasing Public Investments No: 2983 [2983 Sayılı Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkındaki Kanunun Bazı Hükümlerinin Değiştirilmesi Hakkında Kanun] No. 3188 (Official Gazette No: 18748, Date of acceptance 01.05.1985)
- 03.06.1986 Act on Amendment of Several Acts and Privatization of Public Economic Enterprises [1211 sayılı Türkiye Cumhuriyeti Merkez Bankası Kanunu, 3182 sayılı Bankalar Kanunu, 2983 sayılı Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanun, 2985 sayılı Toplu Konut Kanunu, 07.11.1985 tarihli ve 3238 sayılı Kanun, 2499 sayılı Sermaye Piyasası Kanunda Değişiklik Yapılması ve 1177 sayılı Tütün Tekeli Kanununun Bazı Maddelerinin Yürürlükten Kaldırılması ve Kamu İktisadi Teşebbüslerinin Özelleştirilmesi Hakkında Kanun] No: 3291 (Official Gazette No: 19126, Date of Acceptance 28.05.1986)
- 28.12.1987 Statutory Instrument No: 304

<sup>971</sup> See also: Kilci (2007) available in internet; <http://ekutup.dpt.gov.tr/kit/kilcim/ozel3.html> (accessed March 12, 2007).

- 10.04.1990 Statutory Instrument No 412
- 10.04.1990 Statutory Instrument [Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanun ile 190 sayılı Kanun Hükmünde Kararnamenin Eki Cetvellerde ve 223 sayılı KHK'de Değişiklik Yapılmasına İlişkin Kanun Hükmünde Kararname] No: 414 (Official Gazette No: 20488)
- 22.03.1991 Act No: 3701 (Omitted by the Statutory Instrument No: 437, dated 17.07.1991)
- 14.08.1991 Statutory Instrument No: 437.
- 06.01.1992 Statutory Instrument [Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun Hükmünde Kararname] No: 473 (Official Gazette No: 21103, Decision of the Council of Ministers dated 20.12.1991)
- 01.03.1994 Act on Amendment of Several Acts and Privatization of Public Economic Enterprises [1211 sayılı Türkiye Cumhuriyeti Merkez Bankası Kanunu, 3182 sayılı Bankalar Kanunu, 2983 sayılı Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanun, 2985 sayılı Toplu Konut Kanunu, 07.11.1985 tarihli ve 3238 sayılı Kanun, 2499 sayılı Sermaye Piyasası Kanununda Değişiklik Yapılması ve 1177 sayılı Tütün Tekeli Kanununun Bazı Maddelerinin Yürürlükten Kaldırılması ve Kamu İktisadi Teşebbüslerinin Özelleştirilmesi Hakkında Kanuna Ek Maddeler Eklenmesine İlişkin Kanun Hükmünde Kararnamenin Değiştirilerek Kabulüne Dair Kanun] No: 3974 (Official Gazette No: 21864, Date of acceptance 22.02.1994)
- 13.09.1993 Statutory Instrument No: 513.
- 14.09.1993 Statutory Instrument No: 509
- 13.06.1994 Statutory Instrument No: 546
- 20.12.1991 Statutory Instrument No: 470.
- 06.06.1994 Statutory Instrument [Tasarrufların Teşviki ve Kamu Yatırımlarının Hızlandırılması Hakkında Kanunun Bazı Maddelerinde ve 190 sayılı Kanun Hükmünde Kararnamenin Eki Cetvellerde Değişiklik Yapılmasına Dair Kanun Hükmünde Kararname] No: 530 (Official Gazette No: 21952, Decision of the Council of Ministers dated 30.05.1994)
- 11.05.1994 Act on Organization of Privatization Activities and Solving labor Problems Emerging from Privatization [Özelleştirme Uygulamalarının Düzenlenmesi ile Özelleştirme Sonucunda Doğabilecek İstihdamla ilgili Sorunların Çözümlemesine İlişkin Kanun Hükmünde Kararnameler Çıkarılması Amacıyla Yetki Verilmesine Dair Kanun] No: 3987 (Official Gazette No: bis. 21931, Date of acceptance 05.05.1994)
- 06.06.1994 Statutory Instrument [28.05.1986 tarihli ve 3291 sayılı Kanunda Değişiklik Yapılmasına Dair Kanun Hükmünde Kararname] No: 531 (Official Gazette No: 21952, Decision of the Council of Ministers dated 30.05.1994)

- 06.06.1994 Statutory Instrument [Özelleştirmeye Bağlı İş Kaybı Tazminatı ve Yeni Bir İş Bulma, Meslek Geliştirme, Edindirme ve Yetiştirme Eğitimi ile İlgili Hizmetlerin Verilmesi Hakkında Kanun Hükmünde Kararname] No: 532 (Official Gazette No: 21952, Decision of the Council of Ministers dated 30.05.1994)
- 06.06.1994 Statutory Instrument on Amendment of Several Acts [Bazı Kanunlarda Değişiklik Yapılmasına Dair Kanun Hükmünde Kararname] No: 533 (Official Gazette No: 21952, Decision of the Council of Ministers dated 30.05.1994)
- 13.06.1994 Act on Realizing Several Investments and Services by Build-Manage-Transfer Method [Bazı yatırım ve Hizmetlerin Yap-İşlet-Devret Modeli Çerçevesinde Yaptırılması Hakkında Kanun] No: 3996
- 18.06.1994 Act on Amending an Article of Telegram and Telephone Act and Adding Temporary Articles to this Act [Telgraf ve Telefon Kanununun Bir Maddesinin Değiştirilmesi ve Bu Kanuna Ek ve Geçici Maddeler Eklenmesine Dair Kanun] No: 4000 (Official Gazette No: 21964, Date of acceptance 10.06.1994)
- 18.09.1994 Act on Amendment of Statutory Instrument on Public Economic Enterprises [Kamu İktisadi Teşebbüsleri Hakkında Kanun Hükmünde Kararnamede Değişiklik Yapılması Hakkında Kanun] No: 4011 (Official Gazette No: 22055, Date of acceptance 14.09.1994)
- 27.11.1994 Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun] No: 4046 (Official Gazette No: 22124, Date of Decision 24.11.1994. This Act is restructured by the Law No:4232)
- 03.12.1994 Act on the Amendment of the Act on Realizing Several Investments and Services by Build-Manage-Transfer Method [Bazı Yatırım ve Hizmetlerin Yap-İşlet-Devret Modeli Çerçevesinde Yaptırılması Hakkında Kanunda Değişiklik Yapılmasına Dair Kanun] No: 4047 (Official Gazette No: 22130, Date of acceptance 24.11.1994)
- 02.05.1995 Act on Amendments of the Act No: 6224 and Act No: 4046 [18.01.1954 tarihli ve 6224 sayılı Kanun ile 24.11.1994 tarihli ve 4046 sayılı Kanunda Değişiklik Yapılmasına Dair Kanun] No: 4105 (Official Gazette No: 22275, Date of Acceptance 27.04.1995)
- 06.05.1995 Act on Adding Several Additional Articles to Telegram and Telephone Act and Amendment of Several Statutory Instruments [Telgraf ve Telefon Kanununa Bazı Ek Maddeler Eklenmesine, Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun] No 4107 (Official Gazette No: 22279, Date of acceptance 03.05.1995)
- 16.07.1997 Act on Establishment of Electricity Production Facilities and Management of These and Organization of the Sale of Energy [Yap İşlet Modeli ile Elektrik Enerjisi Üretim Tesislerinin Kurulması ve İşletilmesi ile Enerji Satışının Düzenlenmesi Hakkında Kanun] No: 4283 (Official Gazette No: 23054, Date of acceptance 16.07.1997)

- 05.08.1996 Act on the amendment of Several Articles of Telegram and Telephone Act [Telgraf ve Telefon Kanununun Bazı Maddelerinde Değişiklik Yapılmasına Dair Kanun] No: 4161 (Official Gazette No: bis.22718, Date of acceptance 01.08.1996)
- 04.09.1996 Act Amending the Act No: 3996 [3996 sayılı Bazı Yatırım ve Hizmetlerin Yap-İşlet-Devret Modeli Çerçevesinde Yapıtırılması Hakkında Kanunda Değişiklik Yapılmasına İlişkin Kanun] No: 4180 (Official Gazette No: 22747, Date of acceptance 30.08.1996)
- 12.09.1996 Act on the Sale of Immovables Belonging to Public Institutions and Establishments [Kamu Kurum ve Kuruluşlarının Taşınmaz Mallarının Satışı Hakkında Kanun] No: 4182 (Official Gazette No: 22755, Date of acceptance 30.08.1996)
- 08.04.1997 Act Concerning Arrangements for the Implementation of Privatization and Amending Certain Laws and Decrees with the Force of Law and Amending Several Articles of the Development Act [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun ile İmar Kanununun Bazı Maddelerinde Değişiklik Yapılmasına Dair Kanun] No: 4232 (Official Gazette No: bis.22958, Date of acceptance 03.04.1997)
- 23.05.2000 Act on Liquidation of Certain Funds [Bazı Fonların Tasfiyesine İlişkin Kanun] No: 4568
- 03.01.2002 Act on the Amendment of the Acts No: 046 and Statutory Instrument No: 233 [Tütün, Tütün Mamulleri, Tuz ve Alkol İşletmeleri Genel Müdürlüğünün Yeniden Yapılandırılması ile Tütün ve Tütün Mamullerinin Üretimine, İç ve Dış Alım ve Satımına, 4046 Sayılı Kanunda ve 233 Sayılı Kanun Hükmünde Kararnamede Değişiklik Yapılmasına Dair Kanun] No: 4733
- 26.03.2003 Declaration of the Presidency [Cumhurbaşkanlığı'nın 2003-373 sayılı Tezkeresi] (The PA is bound to the Ministry of Finance) (Official Gazette dated 26.03.2003)
- 01.08.2003 Act on the Amendment of Several Acts and the Establishment and Duties of the General Directorate of National Lottery [Bazı Kanunlarda ve Milli Piyango İdaresi Genel Müdürlüğü Kuruluş ve Görevleri Hakkında Kanun Hükmünde Kararnamede Değişiklik Yapılması Hakkında Kanun] No: 4971 (Official Gazette No:25200, dated 15.08.2003)
- 27.04.2004 Act on the Amendment of the privatization Act and Several Acts and Statutory Instruments [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnamelerle Değişiklik Yapılmasına Dair Kanun İle Kamu İhale Kanununda Değişiklik Yapılması Hakkında Kanun] No: 5148 (Official Gazette No: 25455)
- 31.07.2004 Act on Amendment of Several Acts and Statutory Instrument No: 178 [Bazı Kanunlarda ve 178 sayılı Kanun Hükmünde Değişiklik Yapılması Hakkında Kanun] No: 5228 (Date of acceptance: 16.07.2004, Official Gazette dated 31.07.2004, No: 25539)

- 21.09.2004 Act on Amendment of Several Acts and Statutory Instruments [Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun] No. 5234 (Official Gazette No: 25590, Date of acceptance 17.09.2004)
- 27.04.2005 Act on Amendment of Several Acts and Statutory Instruments [Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun] No: 5335 (Official Gazette No: 25798, Date of acceptance 21.04.2005)
- 03.07.2005 Act on Amending the Act Concerning Arrangements for the Implementation of Privatization and the Certain Laws and Decrees with the Force of Law and Amending of Several Acts [Özelleştirme Uygulamalarının Düzenlenmesine ve Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılmasına Dair Kanun ve Bazı Kanunlarda Değişiklik Yapılması Hakkında Kanun] No: 5398 (Official Gazette No: 25882, Date of publication 21.07.2005. Date of acceptance 20.07.2005)
- Circular of the Privatization Administration No: 1993/2 dated 23.02.1993 i
- Circular of the Prime Ministry The General Directorate of Title Deed and Land Registry (Department of Possession) [Başbakanlık Tapu ve Kadastro Genel Müdürlüğü (Tasarruf İşlemleri Daire Başkanlığı)] dated 10.02.1995 and No: 1995/1
- Circular of the Ministry of Public Works and Settlement The General Directorate of Title Deed and Land Registry (Department of Possession) [Başbakanlık Tapu ve Kadastro Genel Müdürlüğü (Tasarruf İşlemleri Daire Başkanlığı)] No: 2005/15 dated 06.09.2005

## APPENDIX K

### MAJOR OUTCOMES OF PRIVATIZATION ACTIONS AND THE STATUS OF THE PRIVATIZATION PROGRAM

(21.11.2006)

Since 1985, state shares in 244 companies, 4 power generators, 22 incomplete plants, 29 energy generation and distribution units and 5 real estates have been taken into the scope of privatization portfolio. Later, 23 of these companies, four power generators and four real estates were excluded from the portfolio for various reasons. One of these companies was T. Ogretmenler Bankası, which was merged with Halk Bankası in May 1992 and Denizcilik Bankası, which was merged with Emlak Bankası in November 1992 (Özelleştirme İdaresi Başkanlığı, [http://www.oib.gov.tr/portfoy/1985-2003\\_portfolio.htm](http://www.oib.gov.tr/portfoy/1985-2003_portfolio.htm) (accessed May 12, 2007)). 376 immovables, 6 highways, 2 Bosphorus bridges, 94 plants or facilities, 6 ports, lottery and car inspection area will be privatized by the year 2007. Currently, there are 31 companies and some real estates in the portfolio and 21 of these companies have more than 50 percent state shares. Considering privatization implementations since 1985, it can be observed that;

- This first phase of privatizing half-finished establishments aimed to cut down the growth acceleration and to erase the ability to meet the necessities of the public sector.
- The Privatization Programs of Turkey do not cover the whole privatization modes, mechanisms and models implemented under a unique Administration or a program. Therefore, the real content, dimension of the actions and effects on the economy cannot be forecasted.
- As legislative and structural precautions could not be taken at the right time, even though the privatization exercises started earlier than many other countries, they are inappropriately left behind.
- All through out the process, privatization implementations have been dealt in properly, and could not be followed up after privatization. The answers to questions are lacking: What the protective measures of the state will be? In addition, how the precautions can be taken? The answers should be certain and well defined for the benefit and interest of the public.
- No privatization policy is defined in accordance with the national Five-Year Development Plans or urban economy, plans, and programs.
- No privatization policy is defined about the immovables of the PEEs as they are accepted as the possession or shares of the main object of transfer- the PEE.
- The real meaning of privatization was hidden- not the efficiency, but the transfer of property. The immovable property belonging to public institutions, establishments or the Treasury has been sold out.
- No relation has been set with urbanization or the planning institution.
- Bodies responsible from planning have been kept away from the process.

- Privatization of public goods is the directing factor. Therefore, no policy is defined relative to the public service provision capacity of the enterprises. Establishments producing goods and services are treated as a commercial entity - a good.
- Transfer with or without compensation to public institutions has been made. This, in a way, meets the immovable property demand of the public sector.
- The organic relation of the state with those establishments or shares generating revenue has been cut: NETAŞ, TOFAŞ, İş Bankası A.Ş..
- Public shares in NETAŞ, and TOFAŞ were issued for foreign investors through international public offering for the first time. This served as a driving force of the integration of Istanbul Stock Exchange (ISE) with foreign capital markets.
- Public shares in many companies were issued to the public and this enhanced the institutionalization of Istanbul Stock Exchange.
- Public immovables are transferred to foreigners.
- Public pervasion and accessibility has been rendered through privatization 90 percent of those establishments producing the needs of the society or their vicinity sectors.
- International arbitration has been approved.
- Various decision-making public bodies were created to lessen the effect of the control mechanisms (Bribery widespread among the bureaucracy)
- The rights to property of major strategic establishments and shares or investments of the monopolistic sectors have been fully transferred: TÜPRAŞ, TEKEL.
- Spaces of production are transformed into spaces of consumption.
- Privatization of public banks (For example; Sümer Holding A.Ş., Etibank, Denizbank, Anadolu Bank, İş Bank<sup>972</sup>, etc.) is made.
- Even monopole enterprises are completely privatized - complete withdrawal of the state from the economy. State completely withdrew from cement, animal feed production, milk-diary products, forest products, handling and catering services and petroleum distribution sectors.
- Approximately, 50 percent of the state shares were privatized in companies operating in tourism, telecommunications, textile, iron and steel, sea freight and meat processing sectors. State has partially withdrawn from the ports and petroleum refinery sector.
- An expenditure saving implementation was performed for the first time at Kardemir privatization through free-of-charge transfer, to public industrialists and employees of the region.
- The process of approval of Tender Commission's Decisions by the PHC is long as the signatures of the Ministers are completed by one by or the meetings of the Council cannot be held. Longer period of decision approval decreases the interest to tenders. The investors' criticism to the tender process is as it is "an open ended process subject to political struggles", "unable to make predictions of investment and finance planning", and "increasing the cost of guarantee letters<sup>973</sup>".
- Development status and land use typology of the immovable affect the privatization procedures and time.
- "Privatization Social Support Project" has been prepared by the support of the WB and has been approved by the Council of Ministers in 22 December 2001, with a budget of 355.3 million U.S. Dollars to support the population affected from privatization implementations.

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<sup>972</sup> The international and domestic offering of the 12.3 percent state share in İş Bank in May 1998, has been the largest public offering in Turkey until that time and recorded as one of the largest privatization proceeds among the European emerging markets.

<sup>973</sup> Kamunun Ekonomideki Rolü Projesi, 14.09.2001. p.37.



- Privatization of public services<sup>974</sup> is exercised by the local administrations and is not within the content of the central privatization policies. Therefore, it is hard to note that all privatization implementations are made within a program and through a policy to overcome national and local economic crisis.

The major outcomes of the Law No. 4046 is as follows:

- Privatization Higher Council.
- Privatization Administration.
- Those who became unemployed by the privatization implementation, will be paid an additional loss of work compensation,
- Privatization Fund.
- Public institutions other than PEEs are taken under the content of privatization.
- Promotion of early retirement.
- Wage addition for the personnel working in those establishments within the privatization program as a promotion of social aid will be compensated from the Privatization Fund,
- Transfer of workers to empty positions or places in other public institutions.
- Revenue gained from the implementation cannot be spent for any action that has to be made from the budget.
- Having privileged shares in strategic establishments.
- Transfer of ownership and possessions of immovable property to the private sector.

Privatized establishments either are closed down or low functioning. Several studies like KİGEM (1997) and Hayırsever Topçu (2004) have proved that the emptiness created in economics by the state when she left its productive functions is not filled private sector investments. For example, the contribution share of PEEs into consolidated budget incomes was 40 percent in 1986 and 23.5 percent in 1995. For the same years share of tax payments in total was 55 percent and 27.5 percent successively. Privatization led to a decrease in public revenues (KİGEM, 1997).

Gains<sup>975</sup> achieved from privatization are close to or slightly over the cost<sup>976</sup> of privatization according to official announcements. **Table 19.** That is why; privatization activities are criticized for their low privatization costs (Yüksel, 2000:60) and revenues. This a natural outcome as there is no sufficient cost analysis or necessity and dependency investigations, as well as economic needs tests, publicly acceptable value appraisal or list of true results of privatization. Another reason is that, in practice, the PEEs are sold lower than their actual value. The amount of privatization is defined relative to public debts, not to necessity and for its possible contribution to development. Because of this, every type and scale of public good and service is taken into the privatization programs. In addition to this, the differentiation of good and service is unclear<sup>977</sup>, the target and the detailed content of privatization is unknown,

<sup>974</sup> Public services are a concession, subject to the control of the Court of State and not subject to special laws. Therefore, the international arbitration is experienced. This also results from the issue of unequalness. In the private sector there is competition and the sides are not equal. In the market, administrative law accepts the superiority of the State. Arbitration controversially may bring priority to the private sector. The system of concession is observed in water, natural gas and solid waste disposal services sectors (Ertuğrul, 1999).

<sup>975</sup> "According to the Stand-by Agreement signed with the IMF in December 1999, U.S. Dollar 7.6 billion is to be generated from privatization activities" (Ercan, 2000:103).

<sup>976</sup> Assoc. Prof. Dr. Sencer İmer (Head of Kardemir Management Board); "East Germany spent lots of money to regain industrial establishments such as Troyland. In Turkey what are we spending money for?" (TRT 1, Politikanın Nabzı, 1999).

<sup>977</sup> There are several different approaches defining a public service. According to one, any service can be a public service relative to its characteristic and subject of intent. Court of State decisions

and cannot be diverted or limited. The activities are not carried out in unity or within a program. In all these actions, the immovable property amount in the privatization portfolio privatized or subject to privatization is not totally stated.

Failures of privatization are as follows: Spreading wealth<sup>978</sup> and property to monopolist groups, Lack of sound legal framework - legal ambiguities and shortcomings - have been costly to the programs, and as a result, numerous tenders had to be cancelled or annulled by the Constitutional Court<sup>979</sup>. Political instability, interference to the PA's operations, management mistakes, mishaps<sup>980</sup>, and changes in the managerial body are the other ingredients of the failure.

The Higher Auditing Council 2004 Report (accepted on 13 October 2005) named The Privatization Administration and the Privatization Fund has defined problems related its administrative structure and its activities and functions. The Report set forward that contractual amendments have been made through the PA presidents' consent and last date of submission have been expired and so the tender process. Examples are given as TEKA Puro Üretim ve Ticaret A.Ş., TEKEL Twin Towers, TEKEL Cigarette Industry Establishment and Commerce A.Ş. and privatization tenders of production brands and possessions of TEKEL Adana, Balıca, Malatya and Tokat cigarette factories, TEKEL tenders made in September 2004, TÜPRAŞ, ERDEMİR, Mersin Port, İskenderun Port, Petkim, car inspection stations, SEKA Mediterranean Establishment, Eti Alliminium, SEKA Karacasu and Aksu Establishments. The Report adds examples where necessary preparations are not made before the tenders and in some cases; several articles of the contracts are changed leading to additional costs.

**Table 19: Revenues by Years (The PA Website, www.oib.gov.tr, July 10, 2006)**

	1986-2004 (\$)	2005 (\$)	2006 (\$)	TOTAL (\$)
<b>Block Sale</b>	3.926.793.478	7.054.000.000	7.178.000.000	18.158.793.478
<b>Asset Sale</b>	1.870.966.352	434.285.986	441.601.123	2.746.853.461
<b>Public Offering</b>	2.860.019.875	273.719.603	207.820.151	3.341.559.629
<b>I.S.E. Sale</b>	800.819.126	460.234.642	0	1.261.053.768
<b>Incomplete Asset Sale</b>	4.368.792	0	0	4.368.792
<b>TOTAL</b>	<b>9.462.967.623</b>	<b>8.222.240.231</b>	<b>7.827.421.274</b>	<b>25.512.629.128</b>

have the same perspective. Another view states that any service can be public service relative to the political consciousness (Lütfi Duran, İdari Hukuk Dersleri). Similar approach is applicable for public goods.

<sup>978</sup> Transfer of shares in the less developed sections of the country show that the spreading of property and/or wealth does not prevent migration (KİT Özelleştirme Modelleri ve Türkiye Üzerine Bir Uygulama, Atatürk University, 1991-1992) (Karluk, 1994:148-155).

<sup>979</sup> The Court has a dual role: Its presence had assisted the opponents of the privatization to obstruct the process and it rendered the process democratically more accountable by mitigating the most overt forms of abuses or corruption that one would normally associate with politics characterized by strong cleintelistic networks (Ercan, 2000:105).

<sup>980</sup> Mishaps within the process "increased the already existing mistrust to politicians in disposing of state assets. Discussion frequently raged about protecting publicly owned goods. ....Interest is still given to politicians who desire to consolidate their own basis of political support by controlling state assets. Yet, strong external prodding and vested interests of major conglomerates and media groups in the divestiture of state assets are very likely to overcome any obstacle created by those who benefit from the status quo" (Ercan, 2000:105-108).

## STATUS OF THE PRIVATIZATION PROGRAM (21.11.2006)

In the 2006-2008 year period, 9 billion U.S. Dollars revenue is expected by the Privatization Plan.<sup>981</sup> Total revenue generated from entities within the privatization program in between 1986-December 2004 has amounted to 9.5 billion U.S. Dollars. In the same period, privatization expenditures<sup>982</sup> were 9.2 billion<sup>983</sup> U.S. Dollars (The Privatization Administration website, 2006). 13.1 billion U.S. Dollars are achieved in the first 9 months of the year 2005 (AKParti Türkiye Bülteni, 2006:17). Status of the Program is available in internet (on [www.oib.gov.tr](http://www.oib.gov.tr)).

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<sup>981</sup> Mid-term Program (2006-2008), Council of Ministers Decision No: 2005/8873. p.5.

<sup>982</sup> Privatization expenditures are as follows; Transfer to Treasury (Public Partnership Fund), Debt related to privatization bonds, capital subsidiary, credit debts and personnel expenses, Expenditure-Expense (Consultancy, advertisements, tender announcements, information expenses), and other (Share Buying in ISE, Transfer to Administrative Budget, and other) (The Privatization Administration website, 2006).

<sup>983</sup> Similar figures are given by TÜRK-İŞ (09.04.2005); the revenue gained since 1985 is 9.9 billion U.S. Dollars whereas expenditures are 9.7 billion U.S. Dollars.

## APPENDIX L

### RIGHTS TO PROPERTY RELATIVE TO PUBLIC INSTITUTIONS BY 2006

A

<b><i>Institutions with General Budget</i></b>	
Article 23 <sup>984</sup> of the General Accountancy Act No. 1050 <sup>985</sup> (till 01.01.2006),	
Article 45 of the Public Financial Management and Control Act No: 5018 <sup>986</sup>	
<b>a. State private property</b> (can be subject to private property):	
- The Ministry of Finance (The General Directorate of National Real-Estate) is the responsible institution (Statutory Instrument No: 178 <sup>987</sup> , Article 13 is changed by Statutory Instrument No: 543 <sup>988</sup> )	
<b>b. Areas under State's governance and saving<sup>989</sup></b> (can not be subject to private property):	
- The Ministry of Finance (The General Directorate of National Real-Estate) is the responsible institution (Statutory Instrument No: 178)	

- 1- Türkiye Büyük Millet Meclisi
- 2- Cumhurbaşkanlığı
- 3- Başbakanlık
- 4- Anayasa Mahkemesi
- 5- Yargıtay
- 6- Danıştay
- 7- Sayıştay
- 8- Uyuşmazlık Mahkemesi

<sup>984</sup> [MADDE 23- Devlete ait bütün taşınmaz mallar Tapu İdaresince Hazine adına tescil edilir ve Maliye Bakanlığı tarafından yönetilir. Bunlardan bir daireye tahsisi gerekenler, kullanıldıkları sürece o daireye kirasız olarak verilebilir.]

<sup>985</sup> General Accountancy Act No: 1050 (1927) will be omitted by 01.01.2006. This act is about the provisions on collection of state revenues, expenses, and management of goods. Provisions of Act No: 1050 on institutions with general budgets and although provisions of special legislation are kept still, financial management and control of institutions with supplementary and special budgets are preserved. Public Financial Management and Control Act No: 5018 covers the financial management and control of public institutions of the central administration, social security institutions, and local authorities that create the general management of public authorities.

<sup>986</sup> (Date of acceptance 10.12.2003) Official Gazette publication date 24.12.2003 and No: 25326. Articles related to immovable property and sale and transfer of this property are in Section 3, Article 44, 45, 46, 47 and Temporary Article 12.

<sup>987</sup> Date of Decision: 13.12.1983, Official Gazette date 14.12.1983 and No: bis 18251.

<sup>988</sup> Changed by 20.8.1993-Statutory Instrument 516 Article 6; Omitted by Supreme Court decision dated 25.11.1993 and E.1993/47, K.1993/49; Reorganization by 19.6.1994-Statutory Instrument 543 Article 6.

<sup>989</sup> In certain conditions, these areas can be subject to private property. For example, Acts No. 4072 and No. 4070.

- 9- Yüksek Seçim Kurulu
- 10- Adalet Bakanlığı
- 11- Milli Savunma Bakanlığı
- 12- İçişleri Bakanlığı
- 13- Dışişleri Bakanlığı
- 14- Maliye Bakanlığı
- 15- Milli Eğitim Bakanlığı
- 16- Bayındırlık ve İskan Bakanlığı
- 17- Sağlık Bakanlığı
- 18- Ulaştırma Bakanlığı
- 19- Tarım ve Köyişleri Bakanlığı
- 20- Çalışma ve Sosyal Güvenlik Bakanlığı
- 21- Sanayi ve Ticaret Bakanlığı
- 22- Enerji ve Tabii Kaynaklar Bakanlığı
- 23- Kültür ve Turizm Bakanlığı
- 24- Çevre ve Orman Bakanlığı
- 25- Milli Güvenlik Kurulu Genel Sekreterliği
- 26- Milli İstihbarat Teşkilatı Müsteşarlığı
- 27- Jandarma Genel Komutanlığı
- 28- Sahil Güvenlik Komutanlığı
- 29- Emniyet Genel Müdürlüğü
- 30- Diyanet İşleri Başkanlığı
- 31- Devlet Planlama Teşkilatı Müsteşarlığı
- 32- Hazine Müsteşarlığı
- 33- Dış Ticaret Müsteşarlığı
- 34- Gümrük Müsteşarlığı
- 35- Denizcilik Müsteşarlığı
- 36- Avrupa Birliği Genel Sekreterliği
- 37- Başbakanlık Yüksek Denetleme Kurulu
- 38- Devlet Personel Başkanlığı
- 39- Özürlüler İdaresi Başkanlığı
- 40- Devlet İstatistik Enstitüsü Başkanlığı
- 41- Devlet Su İşleri Genel Müdürlüğü
- 42- Karayolları Genel Müdürlüğü
- 43- Tapu ve Kadastro Genel Müdürlüğü
- 44- Devlet Meteoroloji İşleri Genel Müdürlüğü
- 45- Tarım Reformu Genel Müdürlüğü
- 46- Orman Genel Müdürlüğü
- 47- Petrol İşleri Genel Müdürlüğü
- 48- Sosyal Hizmetler ve Çocuk Esirgeme Kurumu Genel Müdürlüğü
- 49- Aile Araştırma Kurumu Başkanlığı
- 50- Kadının Statüsü ve Sorunları Genel Müdürlüğü
- 51- Sosyal Güvenlik Kurumu Başkanlığı
- 52- Basın-Yayın ve Enformasyon Genel Müdürlüğü
- 53- Darphane ve Damga Matbaası Genel Müdürlüğü

## B

### ***Institutions with Supplementary Budget***

Institutions (juridical persons) established by special laws:

Article 115<sup>990</sup> of the General Accountancy Act No: 1050 (till 01.01.2006),

Public Financial Management and Control Act No: 5018 (01.01.2006 - )

- 1- Yükseköğretim Kurulu
- 2- Üniversiteler
- 3- Yüksek Teknoloji Enstitüleri
- 4- Öğrenci Seçme ve Yerleştirme Merkezi
- 5- Atatürk Kültür, Dil ve Tarih Yüksek Kurumu Başkanlığı
- 6- Atatürk Araştırma Merkezi
- 7- Atatürk Kültür Merkezi
- 8- Türk Dil Kurumu Başkanlığı

<sup>990</sup> Act No: 1050, Article 115 [Giderleri özel gelirlerle karşılanan ve Genel Bütçe dışında yürütülen bütçelere Katma Bütçe, yerel gider ve geliri kapsayan bütçelere Özel Bütçe denir.]

- 9- Türk Tarih Kurumu Başkanlığı
- 10- Türkiye ve Orta Doğu Amme İdaresi Enstitüsü
- 11- Türkiye Bilimsel ve Teknik Araştırma Kurumu
- 12- Türkiye Bilimler Akademisi Başkanlığı
- 13- Türkiye Adalet Akademisi Başkanlığı
- 14- Avrupa Birliği Eğitim ve Gençlik Programları Merkezi Başkanlığı
- 15- Yakın ve Ortadoğu Çalışma Eğitim Merkezi
- 16- Kredi ve Yurtlar Kurumu Genel Müdürlüğü
- 17- Gençlik ve Spor Genel Müdürlüğü
- 18- Devlet Tiyatroları Genel Müdürlüğü
- 19- Devlet Opera ve Balesi Genel Müdürlüğü
- 20- Türkiye Radyo ve Televizyon Kurumu Genel Müdürlüğü
- 21- Vakıflar Genel Müdürlüğü
- 22- Hudut ve Sahiller Sağlık Genel Müdürlüğü
- 23- Türkiye Muhasebe Standartları Kurulu
- 24- Türk Akreditasyon Kurumu
- 25- Türk Standartları Enstitüsü
- 26- Milli Prodüktivite Merkezi
- 27- Türk Patent Enstitüsü
- 28- Türkiye Sanayi Sevk ve İdare Enstitüsü
- 29- Ulusal Bor Araştırma Enstitüsü
- 30- Türkiye Atom Enerjisi Kurumu
- 31- Savunma Sanayi Müsteşarlığı
- 32- Milli Savunma Bakanlığı Akaryakıt İkmal ve NATO POL Tesisleri İşletme Başkanlığı
- 33- Küçük ve Orta Ölçekli Sanayi Geliştirme ve Destekleme İdaresi Başkanlığı
- 34- İhracatı Geliştirme Etüt Merkezi
- 35- Ekonomik Kültürel Eğitim ve Teknik İşbirliği Başkanlığı
- 36- Özel Çevre Koruma Kurumu Başkanlığı
- 37- GAP Bölge Kalkınma İdaresi Başkanlığı
- 38- Özelleştirme İdaresi Başkanlığı
- 39- Toplu Konut İdaresi Başkanlığı
- 40- Doğal Afet Sigortaları Kurumu
- 41- Elektrik İşleri Etüt İdaresi Genel Müdürlüğü
- 42- Maden Tetkik ve Arama Genel Müdürlüğü
- 43- Ceza ve İnfaz Kurumları ile Tutukevleri İş Yurtları Kurumu
- 44- Adli Tıp Kurumu Başkanlığı
- 45- Refik Saydam Hıfzıssıhha Merkezi Başkanlığı
- 46- Yüksek İhtisas ve Araştırma Hastanesi
- 47- Milli Piyango İdaresi Genel Müdürlüğü
- 48- Spor-Toto Genel Müdürlüğü
- 49- Kefalet Sandıkları

## C

### ***Institutions with Separate Budget***<sup>991</sup> (Institutions established by special laws):

- These institutions have their special legislation:
- State Owned Enterprises (SOEs), and Public Economic Enterprises (PEEs),
  - State Banks
  - Stock Exchanges
  - Water and Sewerage Works Departments bound to Greater Municipalities
  - Chambers of Commerce
  - Private Wakf universities

<sup>991</sup> They are the common goods of the society as this immovable good is gained through public resources subject to public Acts and targeting public service (or allocated for). Prime Ministry Undersecretariat of Housing and the abolished General Directorate of Land Office were in this part until the date they are closed down.

**D*****Institutions with Special Budget***

Articles 115 of General Accountancy Act No: 1050 (till 01.01.2006),  
Article 2 of the Public Financial Management and Control Act No: 5018  
- Municipalities (Municipalities Act No. 1580, Articles 1 and 19/6 till 01.01.2006),  
- Provincial Local Administrations,  
- Village Legal Persons.

**E*****Institutions subject to General Budget: REGULATORY AND INSPECTORY INSTITUTIONS***

Public Financial Management and Control Act No: 5018

- 1- Radyo ve Televizyon Üst Kurulu
- 2- Telekomünikasyon Kurumu
- 3- Sermaye Piyasası Kurulu
- 4- Bankacılık Düzenleme ve Denetleme Kurumu
- 5- Enerji Piyasası Düzenleme Kurulu
- 6- Kamu İhale Kurumu
- 7- Rekabet Kurumu
- 8- Şeker Kurumu
- 9- Tütün, Tütün Mamulleri ve Alkollü İçkiler Piyasası Düzenleme Kurumu
- 10- Tasarruf Mevduatı Sigorta Fonu

**F*****SOCIAL SECURITY INSTITUTIONS***

Public Financial Management and Control Act No: 5018

- 1- T.C. Emekli Sandığı Genel Müdürlüğü
- 2- Sosyal Sigortalar Kurumu Başkanlığı
- 3- Bağ-Kur Genel Müdürlüğü
- 4- Türkiye İş Kurumu Genel Müdürlüğü
- 5- Ereğli Kömür Havzası Amele Birliği Biriktirme ve Yardım Sandığı Başkanlığı

## APPENDIX M

### EXPROPRIATION

Expropriation means the transfer of private property to public property without the will of the private owner with compensation. It can be applied only to immovable property. 1982 Constitution Article 46<sup>992</sup> defines expropriation as;

State and public legal persons, in conditions when public interest is necessary, can expropriate or set administrative cooperation on a part of or the whole immovable goods within the principles and methods defined by law, if its compensation is paid in advance. Expropriation and increase cost are paid in advance and as cash. However, payments of agricultural reform applications, large-scale energy, irrigation and settlement projects approved by the Council of Ministers; cultivation of new forest areas, preservation of coasts and projects with tourism purposes are defined by law. In cases where payment by installments is accepted, installment period cannot exceed 5 years; they are paid equally. In any case, the compensation of small farmers is paid in advance and directly is subject to the highest interest rate and unpaid expropriation costs.

Immovable registered in Title Deed Office cannot be acquired except the will of the owner and putting the money to the administration's budget before the decision to expropriate. The only exception is stated for those areas with different cadastre levels in Cadastre Act No: 3402/5304 Article 46: In the first paragraph of the Article, those areas, where cadastre will be made or unfinished by the time the Law is in effect, are registered due to conditions of acquisition in the name of the ones possessing. The Treasury areas are also registered by the Title Deed Act No: 766 Article 37 and Act on Land Provision to Farmers No: 4753 (amended by several Acts). For ownership, natural person should prove that the land is used by them for 20 years and without disagreement. Those societies, implementing modern administrative laws, recognize private property through special law systems and provide public services to answer the needs of the social life; expropriation is a must (Karadeniz, 1975:47). Modern societies implement this legislation on the basis of rights to property.

Expropriation is an institution the limits of, which is defined with certain rules and regulations. It is "interference" to private property of the state for public interest. There was expropriation in Rome around 2<sup>nd</sup> B.C. without any legal form and characteristic of intervention. Intervention to private property can be through transferring ownership or as public responsibilities. Property owners' consciousness is demanded for omitting ownership or transfer demands (Karadeniz, 1975:49). Omitting private property for public interest will not be similar to the modern understanding of expropriation. Later (in the post-classical era), it became a one-sided legal act of the

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<sup>992</sup> Amended by the law of Constitutional Change dated 03.10.2001 and No: 4709.



Empire State, not taking into account the private property owners' consciousness. Today, expropriation can also be accepted as a state aid in certain conditions or land policy tool.

**Act of Expropriation No: 2942 (04.11.1983):**

Act of Expropriation No: 2942, Article 1 defines methods, conditions and ways of transferring private property that is not used to public, and any related action, solutions and methods as well as taking it back. The right to expropriate is given to administrations whose duty is to provide public services: To provide public services or create space of production of public goods; the immovable property, resources and their right to easement (or servitude) can be transferred to public, with compensation paid in advance or by installments.

According to Article 3, compensation of the land that belongs to small farmers is paid in advance in any condition. Another property can also be given to the owner if accepted in compensation to his/her property. The right to easement of a total or a part of the land could be given (Article 4). Public interest could be decided by authorities (but not by the public) (Article 5). It is stated by law that any plan is for public interest. However, there is no obligatory factor for plan modifications that they should be for public interest, and be sensitive to the unity of the plans.

The land (land/parcel) can also be bought by administrations responsible from expropriation (Article 8). In such a situation the right to court is omitted. When the administrations need a property urgently, the Court may decide to transfer ownership on land, immediately, if both parts are lacking (Article 16). In cases where property is unregistered in land registration office, the right to possess is treated as the same way as ownership. The Act also defines the conditions where public property could be transferred to private property: When the administration or both sides give up the decision to expropriate, the owner can take his/her property back (Articles 21-22).

When the administration cannot start its action within 5 years, the private previous owner has the right to take back that property by paying the compensation (Article 3) and the legal interests. This condition is invalid for those expropriations made according to abolished Land Office Act No: 1164 or for large scale energy and irrigation projects and settlement projects, cultivation of new forest areas, protection of coasts and with tourism purposes by the decisions of the Council of Ministers (Article 23). It means that property owner has no right to have his property back, and the abolished Land Office may transfer this property to any private person or institution. There is no ground for objection. When the decision to expropriate is taken, the owner loses his/her right to use the land (construct, cultivate, etc.) (Article 25). By the decision of expropriation, the procedures are unfinished or expropriation is not made; the possessors or their heirs have 20 years of right to sue (Article 38).

Transfer mechanisms stated in the Expropriation Act No: 2942 are;

- Buying by the owners' will (Article 8),
- Quick requisition (Article 16),
- Limiting Rights to Property (Article 25),
- Transfer of right to easement (Article 4),
- Barter (Article 28), and
- Exchange (Article 26).

**Act No: 4650<sup>993</sup> (05.05.2001):**

Act No: 4650 [Kamulaştırma Kanununda Değişiklik Yapılması Hakkında Kanun] has amended the Act of Expropriation No: 2942 on 05.05.2001. The main provision is expropriation without giving its compensation is omitted by this Act. Article 3 on Conditions of expropriation, Article 7 on prior actions and administrative commentary, Article 10 on the determination of expropriation value, Article 11 the principles of value appraisal, Article 14 on the right to sue, Article 15 on the formation of experts, Article 17 is omitted, Article 18 is on the disagreements on the immovable, Article 20 emptying the immovable, Article 22 on giving up disagreements and transfer, Article 25 on limiting rights to property and transfer of ownership to the administration, Article 27 on quick requisition (emergency expropriation), Article 29 on paying the expenses, Article 30 on the transfer of one public institution to the other, Article 31 on forbidden works and actions and Article 33 on punishments in addition to several temporary articles. Transfer mechanisms defined by the Act No: 2942 are unchanged, but several provision article numbers are changed.

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<sup>993</sup> Official Date of acceptance 24.04.2001, Official Gazete No: 24393. See: Arpa (2001: 19-21); Gözler (2006: 268-272) for detailed discussion.

**Table 20.** Distribution of Registered Immoveable Types, between 1950-2000  
(The Ministry of Finance, the GDNRE, Official Letter dated 18.07.2006 and No: 30421.)

TYPE	1981-1990		1991-2000	
	Number	Number	Number	Area (m2)
Buildings	20.815	128.348.214,23	30.333	176.234.524,34
Parcels	58.421	211.813.904,61	127.082	531.261.747,99
Lands	45.773	1.440.537.218,19	151.256	7.313.983.573,43
Gardens and Yards	23.954	117.320.073,67	35.936	260.499.056,60
Agricultural plots	213.598	3.320.935.493,56	277.416	4.557.219.893,65
Forests	24.427	11.747.926.976,42	130.506	37.140.161.336,16
Common goods	9.803	293.482.746,72	25.818	490.913.991,29
Water and Horticulture Areas	1.818	68.570.913,35	3.991	45.048.900,31
Mines and Mining Sites	186	18.771.220,85	269	50.002.044,44
Seaside Land Infill	123	5.565.060,10	115	5.565.060,10
Historical and Cultural Areas	499	9.628.551,23	1.008	17.288.997,55
<b>TOTAL</b>	<b>399.417</b>	<b>17.362.900.372,93</b>	<b>783.730</b>	<b>50.588.179.125,86</b>

Table 20 (Continued)

DISTRIBUTION OF REGISTERED IMMOVABLE TYPES IN BETWEEN 1950-2000

APPENDIX N

TYPE	1950-1960		1961-1970		1971-1980	
	Number	Area (m2)	Number	Area (m2)	Number	Area (m2)
Buildings	4.984	15.175.790,98	8.256	41.113.794,04	14.845	145.898.216,35
Parcels	8.677	32.927.394,58	14.997	22.566.196,98	40.012	78.902.795,02
Lands	7.030	211.446.835,04	11.508	349.659.765,18	30.271	828.928.197,14
Gardens and Yards	5.750	20.826.604,42	10.007	43.478.668,61	16.281	128.343.132,82
Agricultural plots	43.571	710.649.722,95	102.393	1.792.787.736,16	180.099	3.226.578.653,88
Forests	1.586	4.302.633.903,97	2.108	1.509.711.703,27	3.719	3.879.735.370,36
Common goods	2.918	98.516.799,03	3.806	309.126.482,86	5.211	290.712.514,75
Water and Horticulture Areas	317	18.469.923,65	780	102.107.061,24	1.316	103.393.084,71
Mines and Mining Sites	23	725.503,11	84	2.846.473,83	154	7.394.072,25
Seaside Land Infill	67	5.565.060,10	62	5.565.060,10	139	5.565.060,10
Historical and Cultural Areas	164	2.112.337,50	178	4.770.073,46	1.091	6.921.897,24
<b>TOTAL</b>	<b>75.087</b>	<b>5.419.049.875,33</b>	<b>154.159</b>	<b>4.163.733.015,73</b>	<b>293.138</b>	<b>8.702.372.994,62</b>

APPENDIX O

LAND SALES ACCORDING TO ACT NO: 4070 BETWEEN 1995-2005

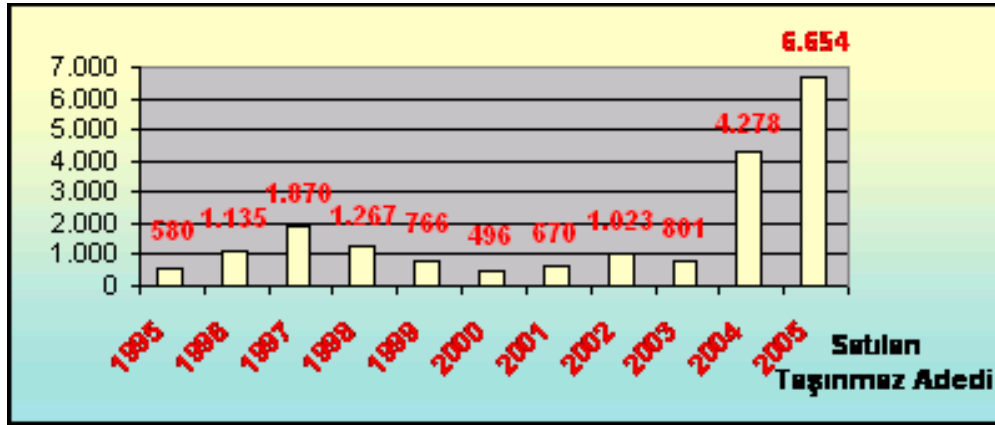


Figure 29. Number of Immovables Sold,<sup>994</sup> between 1995-2005

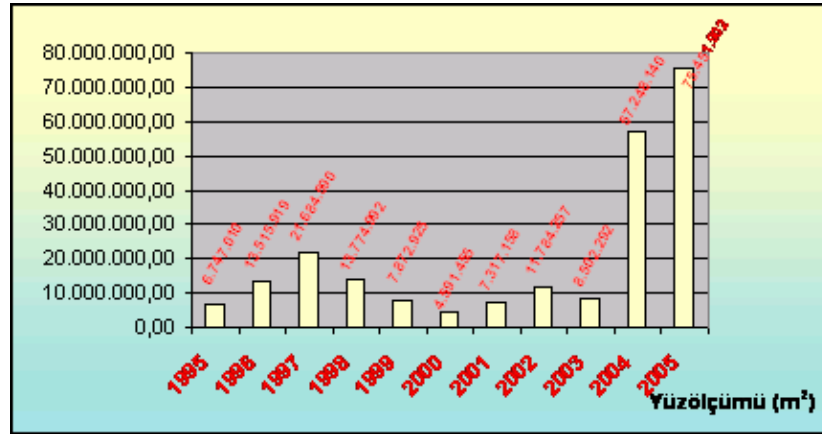


Figure 30. Area of Immovables Sold, between 1995-2005<sup>995</sup>

<sup>994</sup> Milli Emlak, [http://www.milliemlak.gov.tr/\\_istatistikler/satis\\_istatistikleri/4070\\_Satis\\_Islemleri\\_2.htm](http://www.milliemlak.gov.tr/_istatistikler/satis_istatistikleri/4070_Satis_Islemleri_2.htm) (accessed December 18, 2006).

<sup>995</sup> Ibid.

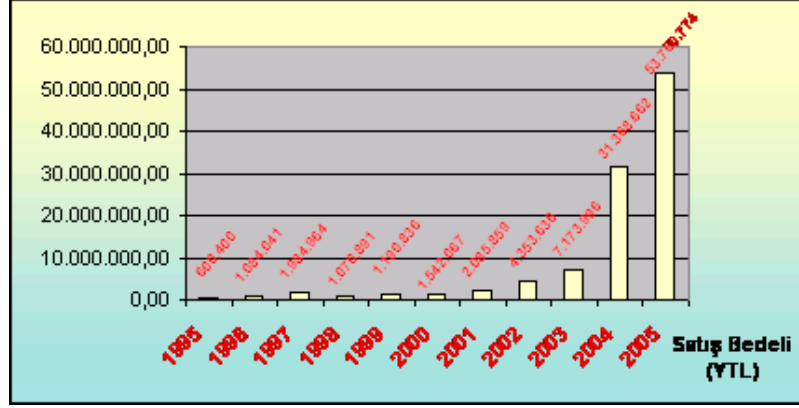


Figure 31. Value of Immovables Sold, between 1995-2005<sup>996</sup>:

Table 21. Act No: 4070 Sale Results (2005) (January-December)<sup>997</sup>

PROVINCE	NUMBER OF IMMOVABLES SOLD	AREA (m2)	SALE VALUE (YTL)
ADANA	156	2.508.679,00	4.009.685,00
ADIYAMAN	17	1.029.973,00	385.608,00
AFYON	13	190.481,00	224.530,00
AMASYA	131	779.106,00	457.367,00
ANKARA	479	8.903.482,00	4.753.307,00
ANTALYA	51	468.645,00	1.912.789,00
AYDIN	351	2.821.409,00	2.322.965,00
BALIKESİR	29	98.725,00	139.785,00
BİLECİK	4	1.725,00	7.030,00
BİNGÖL	2	11.800,00	10.990,00
BOLU	13	35.375,00	86.204,00
BURDUR	126	119.447,00	339.497,00
BURSA	406	1.434.638,00	626.525,00
ÇANAKKALE	53	297.241,00	224.009,00
ÇANKIRI	183	2.871.512,00	1.269.997,00
ÇORUM	157	1.068.533,00	335.313,00
DENİZLİ	68	433.826,00	419.500,00
EDİRNE	122	961.049,00	982.967,00
ELAZIĞ	217	2.134.087,00	774.275,00
ERZİNCAN	34	164.733,00	250.980,00
ERZURUM	9	90.448,00	35.372,00
ESKİŞEHİR	497	6.540.386,00	1.792.131,00
ISPARTA	23	140.212,00	159.795,00

Table 21 (continued)

<sup>996</sup> Milli Emlak, [http://www.milliemlak.gov.tr/\\_istatistikler/satis\\_istatistikleri/4070\\_Satis\\_Islemleri\\_2.htm](http://www.milliemlak.gov.tr/_istatistikler/satis_istatistikleri/4070_Satis_Islemleri_2.htm) (accessed December 18, 2006).

<sup>997</sup> Ibid.

PROVINCE	NUMBER OF IMMOVABLES SOLD	AREA (m2)	SALE VALUE (YTL)
MERSİN	112	863.167,00	1.467.746,00
İSTANBUL	102	991.029,00	3.256.580,00
İZMİR	153	1.001.392,00	2.859.900,00
KARS	15	350.052,00	27.524,00
KASTAMONU	4	28.516,00	28.565,00
KAYSERİ	73	918.580,00	466.315,00
KIRKLARELİ	53	393.751,00	216.774,00
KIRŞEHİR	248	3.408.211,00	760.572,00
KONYA	443	5.471.948,00	2.910.998,00
KÜTAHYA	27	135.336,00	127.620,00
MALATYA	123	1.120.300,00	1.292.374,00
MANİSA	220	1.260.811,00	2.047.353,00
K.MARAŞ	135	1.730.257,00	1.876.358,00
MARDİN	3	10.200,00	10.200,00
MUĞLA	190	1.184.091,00	2.639.437,00
MUŞ	5	23.479,00	21.549,00
NEVŞEHİR	89	988.105,00	506.715,00
NİĞDE	4	124.233,00	94.780,00
ORDU	55	307.743,00	256.952,00
SAKARYA	50	254.492,00	170.365,00
SAMSUN	13	42.024,00	50.267,00
SİİRT	1	7.600,00	3.500,00
SİVAS	32	361.493,00	210.139,00
TEKİRDAĞ	536	4.056.301,00	3.474.092,00
TOKAT	32	201.529,00	361.643,00
TRABZON	12	65.071,00	42.521,00
TUNCELİ	3	9.126,00	3.650,00
ŞANLIURFA	13	6.621.268,00	1.976.567,00
VAN	33	407.691,00	86.941,00
YOZGAT	188	2.605.696,00	813.992,00
AKSARAY	24	501.102,00	199.147,00
BAYBURT	13	108.762,00	22.475,00
KARAMAN	36	912.916,00	395.330,00
KIRIKKALE	205	2.754.871,00	383.655,00
BATMAN	16	432.202,00	496.779,00
İĞDIR	6	35.600,00	43.860,00
YALOVA	51	107.052,00	368.366,00
KARABÜK	1	20.618,00	41.240,00
KİLİS	9	176.353,00	49.457,00
OSMANİYE	62	880.649,00	1.116.219,00
DÜZCE	3	3.990,00	8.978,00
GAZİANTEP	118	1.429.049,00	1.033.558,00
GİRESUN	2	39.734,00	19.100,00
<b>TOTAL</b>	<b>6.654</b>	<b>75.451.902,00</b>	<b>53.760.774,00</b>

Land sales by the Ministry of Finance General Directorate of National Real Estate<sup>998</sup>  
According to Act No: 4070 are given in Table 22.

**Table 22.** Total Distribution of Land Sales by years According to Act No: 4070

YEARr	Number of Immovables Sold	Area (m2)	Sale Value (YTL)
1995	580	6.747.010,00	600.400,00
1996	1.135	13.515.919,00	1.084.041,00
1997	1.870	21.684.590,00	1.984.964,00
1998	1.267	13.774.992,00	1.070.891,00
1999	766	7.872.925,00	1.190.836,00
2000	496	4.591.455,00	1.542.067,00
2001	670	7.317.158,00	2.085.859,00
2002	1.023	11.784.257,00	4.353.636,00
2003	801	8.502.292,00	7.173.996,00
2004	4.278	57.248.140,00	31.368.662,00
2005	6.654	75.451.902,00	53.760.774,00
<b>TOTAL</b>	<b>19.540</b>	<b>228.490.640,00</b>	<b>106.216.126,00</b>

<sup>998</sup> Milli Emlak, [http://www.milliemlak.gov.tr/\\_istatistikler/satis\\_istatistikleri/4070\\_Satis\\_Islemleri\\_2.htm](http://www.milliemlak.gov.tr/_istatistikler/satis_istatistikleri/4070_Satis_Islemleri_2.htm) (accessed December 18, 2006).



## APPENDIX P

### INSTITUTIONS WITH GENERAL, SUPPLEMENTARY, SEPARATE OR SPECIAL BUDGETS TRANSFERING PUBLIC IMMOVABLES IN URBAN AND RURAL AREAS, AND SAMPLES OF LAND INVASIONS BY 2001

Several public institutions stated here have been abolished or changed structure after the year 2002. As longer applied and mainly (re) produced the space of today, the year 2001 data has been used and the legal bodies at that time are referred here.

#### A. The Ministry of Tourism:

Act on Encouragement of Tourism No: 2634<sup>999</sup> gives the Ministry of Tourism or the Minister the competence to transfer, to expropriate, and to allocate public immovable property to the investor. The Ministry also rents and establishes the right to easement. All public goods within a tourism area are at the disposal of the Ministry. Tourism areas and centers are defined first, and approved by the Council of Ministers. In planned tourism areas and centers, the General Directorate of National Real Estate, the Ministry of Forestry, the Ministry of Culture (historical monuments), and Provincial Administrations can own the immovable allocated to the Ministry of Tourism for tourism purposes according the Article 8 of the Act. **Table 23.** By-law for the Allocation of Public Land for Tourism Investments<sup>1000</sup> Article 4 defines the competence of the Ministry in terms of using the land, establishing the right of easement and renting models. In BOT models, allocation to the investor, renting and establishing right to easement are generally exercised. No tourism facilities may be constructed on land that is not allocated for tourism uses by land use plans at any scale. The Ministry announces those areas, which are deemed appropriate for allocation, to investors from time to time.

The Ministry transfers immovable property in and outside tourism areas and centers. **Figures 32-33.** According to this by-law and the Protocol signed with the Ministry of Finance (the General Directorate of National Real Estate), the Ministry can make allocations of public immovables outside tourism areas and centers. In line with the "By-Law for Allocation of Forest Lands"<sup>1001</sup>, and the Protocol signed between the Ministry of Tourism and the Ministry of Forestry on 11.06.1993, forestland outside tourism areas and centers are allocated to the Ministry of Tourism. There is no agreement for forest areas outside the tourism centers and areas.

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<sup>999</sup> Date of acceptance 12.03.1982, Official Gazette Publication date 16.3.1982 and No:17635, Correction by Official Gazette Publication date 19.03.1982 and No:17638, Amended by Act No: 2817 (20.4.1983 - 18024), Act No: 3487 (05.11.1988-19980), Act No: 3492 (16.11.1988 - 19991), Act No: 3754 (06.06.1991 - 20893), Act No: 4957 (01.08.2003 - 25186).

<sup>1000</sup> [Kamu Arazisinin Turizm Yatırımlarına Tahsisi Hakkında Yönetmelik] Official Gazette No: 18031, 28.04.1983.

<sup>1001</sup> Official Gazette No: 22249 dated 05.04.1995.

An investor can<sup>1002</sup>;

- a. carry out the investment on a piece of land owned by the investor,
- b. carry out the investment after buying a land
- c. apply for allocation of public land allocated within a tourism area or centre, and
- d. apply for the allocation of Treasury or forest land outside tourism areas and centers.

**Table 23.** Distribution of Public Immovable Property Allocated by the Ministry of Tourism in terms of Ownership (sq.m) (2001)

PROPERTY OWNERS	In Tourism Centers and Areas ( sq. m)	Outside Tourism Centers and Areas ( sq. m)
THE UNDERSECRETARIAT OF TREASURY	3.604.865,8	355.520
THE MINISTRY OF FORESTRY	21.120.324,89	18.460
TREASURY +FORESTRY	690.717,96	-
OBJECTIONS TO PROPERTY	52.452,85	-
PROVINCIAL ADMINISTRATIONS	128.675	-
HISTORICAL MONUMENTS	87.165,286	4627

Note: State gets a certain amount in the entire establishment where right to easement or renting is applied.

Allocations (Management, Pre-permission, Certain Allocation) inside Tourism Centers and Areas are by property ownership (m<sup>2</sup>)<sup>1003</sup> are as follows:

Treasury .....	3.604.865,8	.....	14.035 percent
Forest .....	21.120.324,89	... ..	82.230 percent
Historical Monument .....	87.165,286	.....	.0.340 percent
Provincial Local Administrations	128.675,00	.....	0.500 percent
Treasury + Forest .....	690.717,96	.....	2.690 percent
Objections .....	52452,85	... ..	0.205 percent
<b>Total .....</b>	<b>25.684.201,78</b>		<b>m2</b>

Allocations (Management, Pre-permission, Certain Allocation) outside Tourism Centers and Areas<sup>1004</sup> by property ownership (m<sup>2</sup>):

Treasury.....	355.520	.....	93.9 percent
Forest .....	18.460	.....	4.97 percent
Historical Monument.....	4.627	.....	1.2 percent
<b>Total .....</b>	<b>378.607</b>		<b>m2</b>

In tourism centre and areas, Antalya is the province where the largest transfer is exercised (15.855.089,56 m<sup>2</sup>). Outside tourism centers and areas, Muğla is in the first place (128.833 m<sup>2</sup>). 19.90 percent of tourism investment bed capacity (with investment certificate) is made on private or public property on the countrywide and in the areas

<sup>1002</sup> Tourism Investment Opportunities and Procedures in Turkey, 1998, Ministry of Tourism, General Directorate of Investments.

<sup>1003</sup> Data of Antalya (4), Kayseri (1), Bursa (1) and Isparta (1) does not exist.

<sup>1004</sup> Data of six establishments in the Antalya Province with pre-permission does not exist.

allocated by the Ministry. Between 1983-2001, 304 allocations have been made (206 of them are located in Antalya province). Today, in practice, the Ministry exercises;

- allocation (with or without compensation)<sup>1005</sup>,
- renting (rarely used), and
- establishment of right to easement<sup>1006</sup>.

Allocation to public institutions is for 49 years. By the privatization implementations, these areas are transferred to private sector before the allocation period finishes. Allocation to private investors for daily tourism purposes is 20 years, and for other uses 49 years. Those areas reserved for urban infrastructure in tourism areas are allocated without compensation to the related public institution. Land Allocation Commission finalizes the application of the investor within 2 months. Allocation decisions are finalized upon the approval of the Minister. The process does not refer to an open free selection of investors. Therefore, the implementations can be political and subject to criticisms<sup>1007</sup>. The abolished General Directorate of Land Office may take the land into its possessions, but the Ministry of Tourism cannot. That is why allocation is preferred in practice. Allocation method is also exercised as many areas are under state's governance and saving.

The immovable that cannot be taken into institutional possession is allocated to private investors. The Ministry has accepted the sale of those lands, allocated before by the Act No: 2634, through the Act No: 4706. It can also be stated that the areas under state's governance and saving cannot be transferred to the private sector according to the Constitution, but they are sold by the Act No: 4706<sup>1008</sup>. By this Act, the Ministry started to seek public property with tourism potential all over the country. Before the approval of this Act in 2001, the Ministry tried to sell the lands previously allocated to its investors. As there is no condition of sale by installment, no demand has appeared. The Act No: 4706 has brought up the sale method by two installments.

The Ministry has no immovable property administration or management model<sup>1009</sup>. For that public immovable property belonging to public institutions in the Privatization Program, but located in tourism centers and areas, Act on Tourism Encouragement is applied besides the Privatization Act. For example, Atik Paşa Yalısı. Istanbul.

### **C. Prime Ministry The General Directorate of Wakfs (Başbakanlık Vakıflar Genel Müdürlüğü)**

Wakf is an allocation of a good for a definite purpose with social objectives and originates from the Ottoman property system. Exchange of this good with another good or its sale is not possible. They can be used with either Real Estate/land (Akar) or Pious (Hayrat) purposes. In the Ottoman period, "İcareteyn (Çift Kira)", "Mukataa System" and "Gedik System" were the transfer methods of wakf immovables. Today, they can only be rented, allocated or occupied. The Prime Ministry the General Directorate of Wakfs controls Wakf property. Today, there are 50.000 pieces<sup>1010</sup> of wakf immovable countrywide and 14.000 pieces of which is in Istanbul, and 2.144 of them are illegally occupied (Saner, 2000).

<sup>1005</sup> Allocation of land for the investor through pre-permission method.

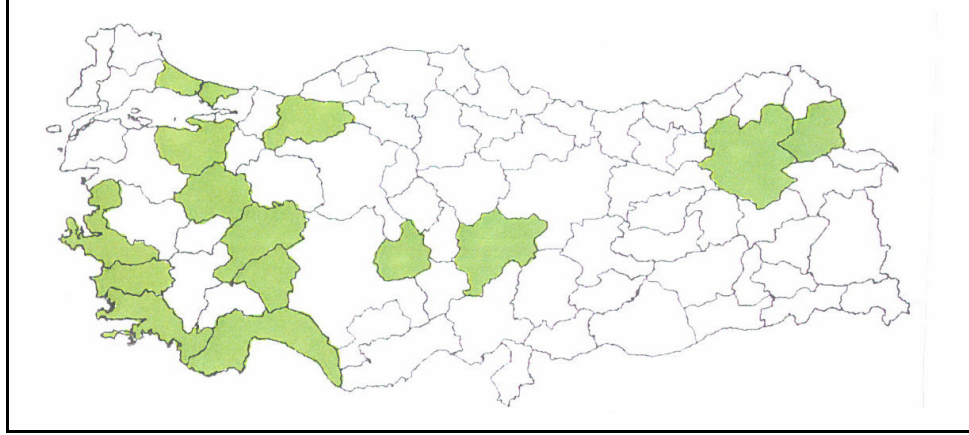
<sup>1006</sup> Transfer of right to use.

<sup>1007</sup> Gökhan Özok, the Ministry of Tourism (Oct. 31, 2001, personal communication).

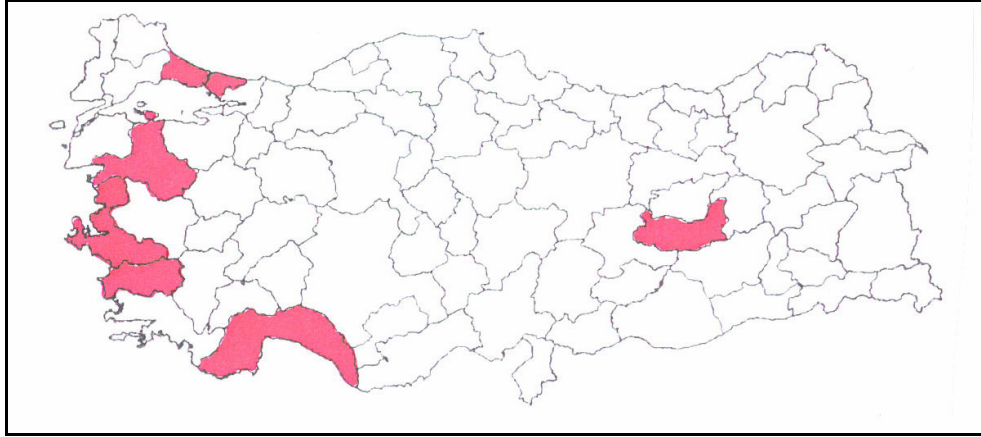
<sup>1008</sup> Although nothing has been stated in Act.

<sup>1009</sup> Gökhan Özok, Ministry of Tourism (Oct. 31, 2001, personal communication).

<sup>1010</sup> Ahmet Ermiş Ministry of Finance, the GDNRE, Information Processing Center, Former Head of the Department (December 07, 2001, personal communication).



**Figure 32.** Allocations by Provinces in Tourism Areas and Centers (Data taken from the Ministry of Tourism, the General Directorate of Investments, the Department of Land Assurance and Allocation, October 2001)



**Figure 33.** Allocations by Provinces outside Tourism Areas and Centers (Data taken from the Ministry of Tourism, the General Directorate of Investments, the Department of Land Assurance and Allocation, October 2001)

### C. The Ministry of Forestry

Act of Forests No: 6831<sup>1011</sup> (Amended by Acts No: 1744, 2896, 3302 and 3373) defines rights to immovables. The Ministry of Forestry has a supplementary budget and can direct the immovables under its responsibility. The General Directorate of National Real Estate allocates these areas in the name of the Ministry of Forestry (The Treasury owns the right to own forest areas). Forest areas are 20.7 million hectares by the end of 1999 that compensates to the 26.5 percent of the total country area<sup>1012</sup>. The Ministry plans to enlarge it up to 30 percent<sup>1013</sup>. The Ministry will get substitute in its every action with a

<sup>1011</sup> The first Act on Forests is the Forest Act No: 3116, dated 18.01.1937.

<sup>1012</sup> Orman Genel Müdürlüğü, [http://www.ogm.gov.tr/apk\\_bulten1.htm](http://www.ogm.gov.tr/apk_bulten1.htm) (accessed May 13, 2000).

<sup>1013</sup> The situation is different today.

public interest objective, if there is a profit gain of the private sector. This condition is valid today and studies continue<sup>1014</sup>. The Act No: 1744 left those areas in the forest boundaries that lost the forest character outside the forest boundaries (2/b areas) for the first time. Total amount of land taken out of the forest boundary by the Article 2/b (by the successive Acts No: 1744, 2896, 3302, 6831), is 458.588 hectares<sup>1015</sup>.

By the Act No: 4785, nationalization forests owned by natural or legal persons is allowed from 1945 onwards. According to Act No: 5658, they can be returned to the original owners if they demand and satisfy the notions defined in the Act. Problems<sup>1016</sup> created through the application of the related legislation<sup>1017</sup> are as follows<sup>1018</sup>:

- In areas where title deed exists:
  - Owned before 13.07.1945, but has lost its character by the Act No: 4785 (2/b Areas).
  - Established as “state forest area” (according to the Acts related to title deed) after 13.07.1945 and has become definite (if there is no objection of the Ministry).
  - Because of a Court Decision (or verdict) where the Ministry is the part or area dimensions have been increased.
- In areas where there is no title deed:
  - There can be ownership claims according to tax registrations, title deed<sup>1019</sup> records or land manifestos. Even the forest character is lost; the land cannot be subject to private ownership through possession or over exceeding time.

According to Saner (2000:207), privatization destroys forests<sup>1020</sup>. Accept their forest products they do not generate revenue. So, they must not be privatized. In the western society, firms, families and wakfs own forests with the prestige objective, and there is a state control over these areas.

**D. The General Directorate of Land Office Sales and Sale and Transfer Procedures<sup>1021</sup>**  
The General Directorate of Land Office was bound to the Undersecretariat of Housing<sup>1022</sup> and later to the Ministry of Public Works and Settlement before closing down in the year 2004. The Administration was able to own public goods, transfer these, and could make land stock while organizing immovable property regime of the country. Land Office Act No: 1164<sup>1023</sup> established the General Directorate of Land Office and Statutory Instrument No: 542 defined its duties. The main responsibility of the Office, defined in Article 1 is “to buy and to sell land in order to prevent excessive price increase of parcels” for housing, industry, education, health and tourism investments and public plants. All

<sup>1014</sup> Orman Genel Müdürlüğü, <http://www.ogm.gov.tr/kadastro.htm> (accessed May 13, 2000).

<sup>1015</sup> Orman Genel Müdürlüğü, <http://www.ogm.gov.tr/istatis-004.htm> (accessed Feb. 10, 2001).

<sup>1016</sup> People may be unaware of the related legislation and Court of State decisions, so they accept these properties in their possession.

<sup>1017</sup> Recent legislation in force<sup>1017</sup> on ownership and determination of quality of forest areas is: Article 169 of the Turkish Constitution, Article 18/2 of the Act No: 3402, Article 1 and exemption articles of the Act No: 6831 amended by the Act No: 4965, Act of Nationalization No: 4785, Act of Returning No: 5658, Forest Act No: 6831 (that is amended by the Acts No: 1744, 2896, 3302, 3373, 4949). Forest cadastre by-law, Title Deed by-law, the High Court of Appeals Decisions.

<sup>1018</sup> Opcit.

<sup>1019</sup> [Tahrir kayıtları]

<sup>1020</sup> Only in 1997, in Istanbul; 16.153 hectares of forestland lost forest character and were owned by illegal housing.

<sup>1021</sup> Today, the general directorate is closed down.

<sup>1022</sup> The Undersecretariat of Housing is established by the Act [Konut Müsteşarlığı Kurulması ve Arsa Ofisi Kanununda Değişiklik Yapılması Hakkında Kanun] No: 4698 (accepted on 28.06.2001). Official Gazette No: 24455 and dated 07.07.2001. Articles 1 and 3/a of the Act No:4698.

<sup>1023</sup> (Accepted on 29.04.1969) Official Gazette No: 13195 and dated 10.05.1969 (Amended by Statutory Instrument No: 542. 19.06.1994).

lands in the stock are public goods (Article 17). Transfer activities are for public interest. The Office aims to prevent land speculation and meet sectoral or public establishments' land demand<sup>1024</sup>. The parcel and land transfer actions are defined in Act No: 1164, Article 30.

Methods of transfer are defined in the second article of the Act: Agreement, transfer and buying are the methods of the Land Office to get land from the land-market. Transfer from public to private property is defined in Article 2/c: Sales, renting, barter/exchange, and establishment of right to easement, and marketing and sales through public institutions. On the other hand, Land Office Adaptation By-Law (Article 2) defines five models of immovable property transfer to the private sector: Sales, barter, transfer, establishing right to easement and renting. The Office has a budget<sup>1025</sup> required for expropriation and buying expenses for the formation of the land stock. The transfer actions of the Office are not subject to the principles of the General Accountancy Act No: 1050 and State Bidding Act No: 2886. Conditions of transfer are defined in the second section of the by-law. In practice, the Office<sup>1026</sup>:

- a. Transfers with compensation to public institutions or those institutions that has this character without procurement,
- b. Sells land by procurement to natural and legal persons, **Figure 34**, and
- c. Establishes right to easement through transfer with compensation to public institutions and those institutions for housing<sup>1027</sup>, industry<sup>1028</sup>, tourism<sup>1029</sup>, health and education purposes.

In the process of transfer:

- a. Either natural or legal person finds the land and applies to the Office or the Office makes procurement<sup>1030</sup> and then the request owner applies, or
- b. When the natural or legal person<sup>1031</sup> cannot find a suitable land, the person applies to the Office, and asks the consumption of the land on behalf. The Office transfers land to the applicant after expropriation or buying.

Immovable transfers made by the Office by the year 2001 are as follows;

a. Expropriation <sup>1032</sup>	: 617.981,03 m2
b. Transfer method <sup>1033</sup>	: 20.651.370, 93 m2
c. Sales	: 5.179.942,16 m2
c.1. Transfer	: 1.860.470, 52 m2

<sup>1024</sup> Act No: 1164, Article 1.

<sup>1025</sup> The Land Office budget was 5 trillion TL. before, and revenue achieved over this amount had to be transferred to the Treasury. Office capital is later increased to 250 trillion TL. in order to prevent this transfer.

<sup>1026</sup> Cemalettin Aldemir (Former Head of the Department) Sales and Allocation [Satış ve Tahsis Daire Başkanlığı]. (Abolished) Prime Ministry Undersecretariat of Housing General Directorate of Land Office (Sept. 06, 2001, personal communication).

<sup>1027</sup> Cooperatives, unions, natural persons, public institutions.

<sup>1028</sup> Manufacturing industry complex, construction cooperatives, organized industry areas, industry and mass work places construction cooperatives.

<sup>1029</sup> Till the approval of the Act on Encouragement of Tourism No: 2634 (12.03.1982), the Office was realizing the actions in tourism areas.

<sup>1030</sup> Closed Proposal Method.

<sup>1031</sup> Manufacturing industry cooperatives ask for such kind of a transfer in general. The Office even though finds the request proper, generally does not have enough money in its budget for buying. Therefore, the initial payment is asked from the request owner.

<sup>1032</sup> The Office can realize this action in any area the Office has responsibility. Municipalities have also the competence for expropriation in plan applications.

<sup>1033</sup> This refers to having possession through transfer.

c.2. Sales	: 3.246.841,64 m2
c.3. Land certificate	: 72.630 m2
d. Renting	: 403.079 m2
e. Invasion indemnity <sup>1034</sup>	: 14.500 m2

Act No: 1164 Article 7 implies that immovable goods of the Treasury can be transferred to the Office with its compensation. In the year 2001, the amount of land transferred from the Treasury to the Office is 20.651.370,93 m2 (12.420.449.917.500 TL.)<sup>1035</sup>. Second paragraph of this article state that the Treasury can get back the land transferred to the Office at its actual price<sup>1036</sup>. This immovable property can be given back to the Treasury or the municipality by adding the cost made by the Office on the initial price<sup>1037</sup>. Land taken through expropriation is 617.981,03 m2<sup>1038</sup>. Amount of land sold by the Office is 5.179.942 m2 (15.506.509.144.046 TL.)<sup>1039</sup> whereas the total amount of land received from the land market is 21.269.351, 96 m2(13.909.407.547.893 TL.)<sup>1040</sup>. **Figure 35.**

The last public administration providing land for industrialists was the abolished Land Office. Eryaman Mass Housing Area, İkitelli Organized Industry Zone, Tuzla Organized Leader Industry Region, South Antalya Tourism Centre, Pendik-Kurtköy-Istanbul Airport, Gebze High Technology Institute, Prime Ministry Treasury Building on the Eskişehir axe in Ankara are some of the state owned lands the Office has transferred. Aliğa Ship Dismantle Area is rented by the Office. **Table 24.**

The Office had a plan preparation, but no approval competence in all its actions. The Office also makes plan modifications. The plans are subject to Development Act No: 3194. The Office does this, as it is easier for the Office to sell those lands with development rights. The Office puts a limitation to Title-Deed registrations after the transfer in planned areas: "Construction should be finished within a 5 years time relative to the conditions of development plans and related legislation. By this principle, Office may follow up the process even after the act of transfer." The Office is

<sup>1034</sup> According to the by-law of State Bidding Act No: 2886 Article 74 defines "Ecrimisil (invasion indemnity)". It is the annual compensation for the use/invasion of a property without the will of the original owner. It is also a form of public property management, but there is no contract. It is taken as any property is used in the past. If the invasion indemnity is not paid at the right time, according to Act No: 6183<sup>1034</sup>, public takes it. Disagreements are solved in administrative courts.

- According to Article 19/B-d of the Law No: 4046, for the immovable property defined in Article 19/B first paragraph, except the registration of which became definite in the Title Deed Office, either no invasion indemnities is asked for or those amounts collected are paid back<sup>1034</sup> (Articles 43, 168 and 169 of the Constitution are preserved).

- For the administration not to ask invasion indemnity; the following conditions should be satisfied (Milli Emlak Genel Müdürlüğü,1998:14):

- Establishment, the immovable property is reserved, should be in the Privatization Program,
- Those establishments should use the immovable property where public share is over 50 percent.
- The immovable should be state's private property or under state's governance and saving (excluding those that cannot be registered).
- The immovable should be registered to the Title Deed Office in the name of the establishment subject to privatization or right to easement should be established.
- There must be no court announcement about invasion indemnity debt.
- Invasion indemnity debt should not be required.

<sup>1035</sup> Arsa Ofisi Genel Müdürlüğü (2002:5).

<sup>1036</sup> Act on Land Provision to Farmers (11.06.1945)" No: 4753 (amended by Act No: 6603) and Act No: 189 (28.12.1960) is not applied to these areas.

<sup>1037</sup> This transfer action has to be made within 3 months.

<sup>1038</sup> Arsa Ofisi Genel Müdürlüğü (2002:4-5).

<sup>1039</sup> Ibid. p. 6.

<sup>1040</sup> Ibid. p.7.

not in a position to create or implement any urban land or parcel policy in terms of its land stock and technical structure. There are several characteristics of the transfer process, any land, either owned by the Treasury, the municipality, provincial, local or wakf administration can be sold by the owner authority, but has to be declared first to the Office (Article 8). The Ministry of Finance is responsible from the expropriation of land belonging to natural and legal persons on behalf of the Office (Article 9). **Table 25.** Total amount of land expropriated<sup>1041</sup> up to date is ~15.000<sup>1042</sup> hectares According to Article 10, the Office has the right of pre-emption. The Act limited the transfer of property to third persons by Article 11: If the sale conditions are not maintained, the land cannot be transferred, donated or expropriated, and the assigned land can be taken back by the Office.



**Figure 34.** Distribution of Office Sales by Sectors, between 1972-2001 (The General Directorate of Land Office, 2001)

In the first paragraph of the Act No: 1164 (Article 12) it is stated that public institutions are obliged to meet their land demand through the Office. However, if, the Office is unable to meet this demand within 4 months time, this obligation disappears. As the Office does not have sufficient land stock and organization in the country wide, public institutions compensate their demand from the land market and this Article is not applied completely. Transfer of land without compensation according to various Acts from the Treasury or other resources, and the land that will be provided for municipalities according to the Acts No: 1580, 6785 and 6830 and their amendments are not subject to this principle.

<sup>1041</sup> Expropriation is not made on behalf of the natural persons. It is a social and urban problem when the land is expropriated from 700 people and transferred to a housing cooperative composed of only seven people. Courts related to expropriation exercises of the Office are about the value determination of expropriation, not against the urbanization process. Cemalettin Aldemir, the Land Office (Sept. 06, 2001, personal communication).  
<sup>1042</sup> 149.539.075 m2.



**Table 24.** Immovable Property Transferred from the Treasury to the Land Office  
(The General Directorate of Land Office- RPC Section, October 2001)

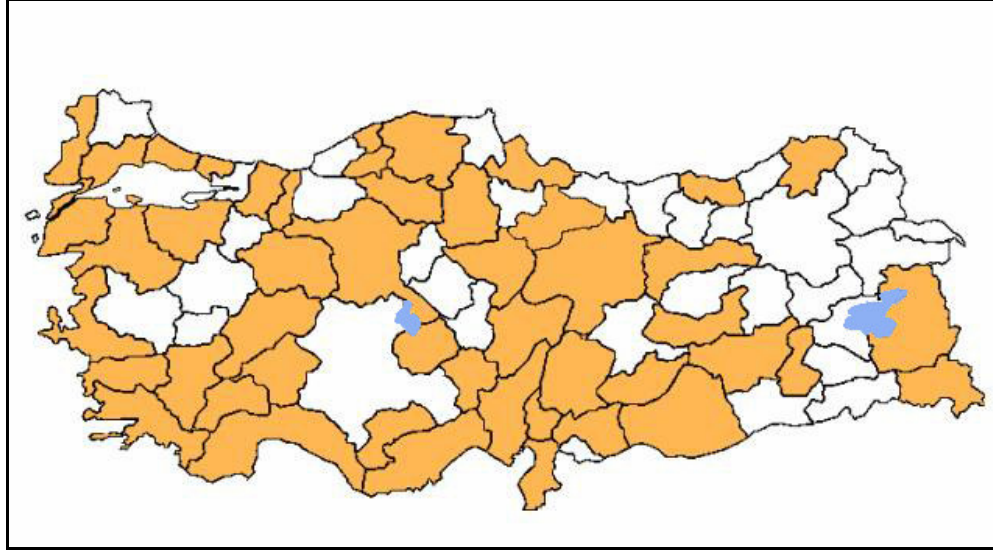
YEAR	Area (m2)	Value (TL.)
1994	1.481.993,00	169.432.500.000
1995	20.061.842,00	1.640.397.669.880
1996	15.652.472,22	2.414.339.767.200
1997	33.859.316,62	6.965.782.677.000
1998	8.374.006,00	604.118.199.000
1999	1.373.005,00	190.410.000.000
2000	1.952.078,98	239.029.202.370
2001	771.391,00	218.031.450.000
<b>TOTAL</b>	<b>83.526.104,82</b>	<b>12.441.541.465.450</b>

**Table 25.** Immovable Property received through Expropriations, between 1971-2001  
(The General Directorate of Land Office, RPC Section, October, 2001)

YEAR	Area (m2)	Value (TL.)
1971	3.938.600	82.000.000
1976	3.547.000	121.500.000
1981	3.053.000	656.900.000
1986	1.751.000	8.875.900
1991	1.822.093	19.653.075.300
1996	2.088.153	155.727.802.800
2000	1.377.948	5.244.187.332.774
2001	617.981,03	1.488.57.630.393

The Land Office was bound to the Ministry of Development and Resettlement (MDR) till 12.09.1989. Up to that time, transfer decisions were given at the upper-scale plan preparation level and the Office was realizing an investment to achieve the planning principles: For example, Ankara Sincan, Eryaman and İstanbul/Çerkezköy mass housing area investment decisions. As the cities grow, public institutions like the Mass Housing Administration or Emlak Bank transferred these areas in the periphery or in transition zone. The Ministry had the ability to intervene and control the process. The aim was here to prevent squatter development, to direct the city in the planned directions and provide housing necessary for the other forms of land use through a Land Office. The Office was bound to an investor institution and a plan-making body, land investment decisions were given in uniformity with the plans. At the plan preparation stage, investments with an urban development potential could be easily started and demand could be satisfied in the end<sup>1043</sup>- production of space was of greater success.

<sup>1043</sup> Cemalettin Aldemir, the abolished Land Office (Sept. 06, 2001, personal communication).



CITY		CITY	
Adana	2.459.970,00	Hatay	16.160,00
Adıyaman	11.650,00	İçel	24.456,00
Afyon	5.476.171,00	Isparta	264.823,00
Aksaray	1.096.408,00	İstanbul	8.868.846,39
Ankara	13.779.516,22	İzmir	2.074.350,00
Antalya	61.439,00	Kahramanmaraş	310.858,00
Artvin	2.369,00	Karabük	11.925,00
Aydın	1.597.023,00	Karaman	728.382,00
Balıkesir	475.816,00	Kastamonu	1.369.024,00
Bartın	5.578,00	Kayseri	8.591.861,20
Batman	584.934,00	Muğla	63.050,00
Burdur	302.863,00	Niğde	474.199,00
Bursa	521.304,00	Osmaniye	1.000.000,00
Çanakkale	1.137.935,00	Sakarya	48.592,00
Çorum	21.819,00	Samsun	159.394,00
Denizli	2.510.037,00	Sivas	46.638,00
Diyarbakır	1.684.032,00	Şanlıurfa	637.267,00
Düzce	68.200,00	Tekirdağ	7.982.910,00
Edirne	44.400,00	Tokat	37.892,00
Elazığ	46.840,00	Trabzon	87.400,00
Erzincan	22.758,00	Van	844.829,00
Eskişehir	704.238,00	Yalova	199.423,00
Gaziantep	3.895.020,00	Yozgat	495.370,00
Hakkari	264.662,00		

**Figure 35.** Immovable Property Transferred from the Treasury by the Office, between 1994-October 2001

This type of development and land investment approach could no longer be made after 1989 due to political and institutional differences. The Office was bound to the Ministry of Finance<sup>1044</sup> and in 28.05.1999, to the Prime Ministry. This action prevented local and central investment and planning decisions to be applied on the urban areas and land policies as a whole. The land stock was formed disorderly after that time. The ideology of the Ministry of Finance was parallel to the actual actions of the Land Office and the PA. It is a cash providing institution. Due to this reason, when Central administration has financial bottlenecks, the principle of selling land was applied besides buying land

<sup>1044</sup> The Ministry of Development and Resettlement (MDR) became the Ministry of Public Works and Settlement (MPWS) in 1985.

and making an investment to control urbanization and provision of land. Relations of the parcels and lands with plans were not also cared for. In short, the Office did not have any stagnant land or administrative policy between 1984-2001.

Act No: 4698<sup>1045</sup> binds the Office to the Prime Ministry the Undersecretariat of Housing in 28.06.2001. Changing administrative<sup>1046</sup> structure and political positions deepened the situation and stressed short-term solutions. Exchange actions of the Office are structured relative to rent. In addition, besides prevention of rent, the Office restructured it. Within this perspective, by the year 2001, land development programs and plans for Polatlı and Beynam regions are made. Before closed down, the Office was programming transfers of large-scale state's private property and provision of planned areas through various methods<sup>1047</sup>. Reorganization with the Mass Housing Administration was believed to satisfy the demand for planning competence, as the Administration may prepare and approve the plans as exercised before in the MDR. Between 1972-2001, the General Directorate of Land Office has made 2.400 sales in various provinces. The general analysis of the sales is as follows:

- From 1994 second half onwards, the number of parcels sold for industrial use diminished and sales for housing purpose expanded.
- Housing demand of Istanbul has moved towards Tekirdağ (Çerkezköy and Karaağaç) from 1997 onwards.
- From 1998 onwards, small parcels between 125-250 m<sup>2</sup> have been sold in Istanbul Kadıköy, and from 1998 onwards, the number of sales in Istanbul in comparison to total sales is 85 percent.
- In the year 2000, only 3 sales have been made in Istanbul.
- 90 percent of the year 2000 sales is made in İzmir.
- In Ankara, generally, sales to public institutions are exercised<sup>1048</sup>.
- When compared, housing demand of coastal municipalities is very small.
- In the western provinces of the country, housing and industrial purposes are the dominant reasons behind sales.
- In Erzurum, there is only a sale and it has industry purpose.
- In middle-sized cities, the demand (area and number of sales) is very small.

#### E. Samples of Invasions on State Owned Lands

This section covers several examples of invasions (public land/parcel transfer other than privatization) of state owned lands to give a broader perspective of *de facto-privatization*. Court of Auditors in the "Research on Public Immovable Property in Istanbul Province Report<sup>1049</sup>" proves how politicians, squatter inhabitants, local authorities, entrepreneurs, and even sport clubs have enjoyed public immovable property. According to this report, out of 38.045 public properties belonging to the National Treasury, 17.123 are invaded. From 5.000 municipal property 1.500, 14.348 property of wakfs 2.144, and out of 2.040, in 30 property of Provincial Local Administrations, the same can be observed (Şener,1999). **Table 26.** The general objectives of such an invasion are housing and recreation (bufes, tea gardens, car

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<sup>1045</sup> Act No: 4698.

<sup>1046</sup> One of the responsible ministers from the Office may give importance to planning; another would like to close the Office declaring that it has finished its functions. Later, one can understand its importance and search for ways and methods of development. Through populist policies and accelerating political influence on the technical sections, the communication has broken down in the administrative structure between upper-lower sections.

<sup>1047</sup> Give the land to private natural or legal person with an expiration of payments by installments for 5 years or establish a firm and get the land.

<sup>1048</sup> Not in terms of sq.m., but number of sale actions.

<sup>1049</sup> [Istanbul İl'inde Bulunan Kamu Taşınmazlarının İncelenmesi]

parks). Actors responsible from this act may ask for legal permission from the local administrations to continue their presence (Şener,1999).

The biggest invasion is observed in Ümraniye with 3.337 property (Şener, 1999). This is due to its location, use purpose and social structure of the invaders. This represents by whom and how the transformation is originating-the lower classes in the city. Not only individuals, but also municipalities enjoy or hire public property to third persons. This action mainly covers property that belongs to the National Treasury and General Directorate of Wakfs. For example; Kartal Akvaryum Restaurant, Süreyya Beach Land infill area, Wonderland (Maltepe) Sports and Recreation Area, Kumkapı Fishers Market. The municipalities can not control property. It can be understood from their low rent gains and un-renewed contracts. Property of Youth and Sports Directorate of Istanbul Province (hired for sport facilities) are used for some other activities such as restaurants, cafes, bars of high income groups -and closed to public: Yeşilyurt, Beykoz, Çatalca, Moda Spor, Çamlıca Wrestling Special Clup, Istanbul Hunting Clup, Istanbul Tennis Clup, Bakırköy.

**Table 26:** Treasury Lands subject to Invasion (composed from Şener (1999)):

<b>Anatolian Side</b>		
Ümraniye	3397	89.462.488
Üsküdar	790	73.017
Sultanbeyli	340	1.501.820
Kadıköy	462	1.489.550
Kartal	960	17.177.985
Adalar	135	720.552
Pendik	868	10.796.600
Beykoz Şile	1403	69.172.257
Maltepe	560	3.250.000
<b>TOTAL</b>	<b>8915</b>	<b>193.644.269 m2</b>
<b>European Side- Beyoğlu Section</b>		
Beyoğlu	770	681.671
Şişli	1244	49.416.573
GOP	1157	31.896.176
Kağıthane	1717	1.151.106
Sarıyer	785	6.789.519
Beşiktaş	207	425.640
Eyüp	34	151.613
<b>TOTAL</b>	<b>5194</b>	<b>90.512.298 m2</b>
<b>European Side- Topkapı Section</b>		
Zeytinburnu	100	58.550
Bayrampaşa	14	20.100
Bağcılar	216	510.429
Avcılar	93	102.263
Güngören	48	68.660
Bakırköy	330	10.354.939
Bahçelievler	315	800.180
Fatih	516	125.931
Eminönü	267	21.583
Sefaköy	15	230.265
Halkalı	80	15.221.433
<b>TOTAL</b>	<b>2.294</b>	<b>27.514.333 m2</b>
<b>GENERAL TOTAL</b>		<b>17.123 311.670.900 m2</b>

A large amount of land is allocated to Universities (composed from Şener (1999):

- Hacı Ömer Sabancı University/Tuzla 966.800 m2 (forest area)
- Koç University/Rumeli Feneri 1.921.735 m2 (forest area)
- Batı University/Çatalca 1.325.914 m2 (forest area)
- Işık University/Şile 490.000 m2 (forest area)
- Galatasaray University/Beykoz 8.634.500 m2 (forest area)
- Başkent University/Balıca 30.000.000 m2
- Bilgi University/Kuştepe Neighborhood 4.494 m2  
(without compensation for 49 years by Şişli Municipality)
- Has University/Selimpaşa 251.000 m2  
(rented by Selimpaşa Municipality with a 1000 U.S. Dollar monthly rent)
- Bilkent University/Hacettepe 1370 decares

Sports clubs are active in the process (composed from Şener (1999):

- Fenerbahçe Spor Klubü Dereağzı (Zühtüpaşa)- 425/2 parcel(21.358 m2 of 31.120 m2)
- Üsküdar Küplüce Bey Bostanı Street - 751/9 parcel (38.337 m2) There is a stadium construction on the wakf property,
- Fenerbahçe Clup- Kayışdağı - 228 sheet 1845/18 parcel (49.091 m2),
- Fenerbahçe Clup-Kartal Yakaat Neighborhood Paşaköy Location- 144 sheet 967/1 parcel (out of 95.893 m2, 84.018 m2 forest area),
- Fenerbahçe Clup- Provincial Local Administration Kadıköy Merdivenköy- 191 sheet 734/7 parcel (643 m2 school area),
- Beşiktaş Spor Clup-Akaretler Tayyare Houses (Owned by the General Directorate of Wakfs),
- Beşiktaş Sports Clup-Fulya Facilities (rented for 49 years without compensation from General Directorate of Youth and Sports- 55.18 m2),
- Beşiktaş Sports Clup-Pendik Facilities- 93 sheet 1634/4 parcel (rented for 49 years without compensation from General Directorate of Youth and Sports-700 m2), and the neighboring parcels 5 and 6 (of the Treasury 6.925 m2)).

## APPENDIX Q

### PUBLIC LAND POLICIES<sup>1050</sup>

Land refers to rural or urban parcels and lands. Lands and parcels have been treated as rent generating structures<sup>1051</sup> and investment tools as well as subjects of transfer in history. Parcel is the physical surface on which any type and scale of construction can be made and vegetation and/or superstructure exist. Urban parcel is the area with development rights, physical structures on, and with an infrastructure. Development rights define the type of land use, as well as scale and type of construction on the parcel. Land policies, urban and rural in character, are the tools of the administrations to sustain development. Stagnancy of a country and sustainability of spatial organizations are related to the appearance, flexibility, sustainability and success of policies on land. Policies aim to control formation and transformation of the immovable for a certain land use decision. Sustainability will be achieved as its reflection on the society and space is controlled and directed.

There are two policy approaches: one defines the development of production relations and the other supports the existing production relations, on behalf of the landowners, the investor or the informal sector while seeming helping through agriculture and development aids/subventions. These two may appear at the same time with different weights. The second approach is applied in Turkey: Land policies were agricultural aid based between 1940-60s. After that time urban land policies accelerated. As the informal sector developed through populist policies, the housing provision for low income emerged or invasions of public immovable accelerated<sup>1052</sup>. The sectoral policies were separate and directed by the central administration, until mid 1980s, in accordance with the upper scale planning decisions. Housing-cooperative areas; planned new settlement areas, and industrial zones are exercised.

By mid 1980s, land transfers done through privatization, tourism encouragement, free trade zones, and sale of Treasury goods policies can be observed. These partial policies were strengthened by decentralization after 1984. Therefore, transfer policies of state owned lands to private ownership, possession and use, have never been the objective of sustainable development and urbanization. Land policies in rural areas target the agricultural sector and aim;

- to support agricultural production,
- to increase the ownership level of agricultural plots,
- to provide sufficient irrigation, and
- to limit the use of agricultural land for urban purposes.

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<sup>1050</sup> See also: Karadeniz Teknik Üniversitesi, <http://www.jeodezi.ktu.edu.tr/tahsin/yayinlar/kurultay05politika.pdf>, accessed February 22, 2006), TMMOB (“Türkiye için Sürdürülebilir bir Arazi Politikası İhtiyacı”, T. Yomralıoğlu, M. Çete, 2005), and DPT 8. V Yıllık kalkınma Planı (Genelge 1997/7).

<sup>1051</sup> Parcel value share in construction ranges from 50 percent to 20 percent (Payne, 1997).

<sup>1052</sup> Eren (1997).

Rural land policies had failures, as agricultural lands are under the treat of erosion, rapid urbanization<sup>1053</sup>, uncontrolled population growth, pollution, and lack of irrigation investments, unorganized industry, and division and inheritance risks. Every urbanization process demands an urban land stock relative to its direction and potential of growth. Urban land stock can be formed through public land policies. Urban land demand is a function of population growth rate, changing socio-economic balances of the country, population concentration, suburbanization<sup>1054</sup>, and local, regional and global investment requirements (in terms of location and amount) and investment requirements. As demand accelerates, the agricultural land on the periphery transforms at the initial stage. Functions structure the demand for land transfers or development, and increase the level of construction in the urban pattern secondly. Within this urbanization process, urban land policies aim;

- to create urban parcels,
- to provide healthy, organized and controlled urbanization,
- to meet the infrastructure and housing demand of rapid urbanization.
- to solve the land allocation demand of informal sector (squatter) population,
- to prevent price increases unnatural in character, and speculation, and
- to channel rent back to public by the administrations that have created it.

In practice, urban land policies aim the last defined objective. In addition, stagnant, unified and definite policies on land or parcel<sup>1055</sup> of central and local administrations are lacking. Land policies of the administrations are far from defining methods, mechanisms of and limitations to public immovable transfers. These policies cannot prevent agricultural area invasions; create necessary mechanisms for rent control or direct urbanization as they are supported for short-term economic solutions. Literature survey on this issue has proved that there is not much study on these policies similar to the case of privatization of public immovables, and transfer methods and mechanisms. Urban parcel has always been an important object of development plan implementations and investments. Through land policies, development plans, plan modifications or investments; the owner gains a privilege and a status while a land use is defined or differentiated and space for realizing different urban functions is provided. As the location of the parcel relative to the urban area changes (even though the parcel is stagnant, the location of the parcel changes due to the growth of the city), there appears no risk for the property owners except the land use change or expropriation for public interest.

Rent is created without the effort of the owner. The rent generated does not disappear in inflationist environments. If parcel dimensions change and the amount increase, this leads to a differential rent. In addition, if, its land use is changed, then monopolistic or absolute rent emerges. Development plans, tax regulations (land, parcel and building taxes), expropriation, sales and renting, development projects for preservation of agricultural lands, cadastre and title-deed works, prevention of sales of shared parcels through legislation, Land Office Act No. 1164, Privatization Act No. 4046, Sale of Treasury Lands Act No. 4076, 1982 Constitution, Land and Farmer Registry System for the EU legislation adoption studies, and else, are the current land and parcel policies. However, none of the policies aims to protect or control property or rights to property of state owned lands or define these rights in the related legislation.

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<sup>1053</sup> A research study, carried on by ToprakSu in 12 provinces, proved that those 42.000 (44 percent) hectares of 95.000 hectares of urban land is suitable for agricultural production (Kılıç, 1993:55-56).

<sup>1054</sup> Kılıç (1993: 28-29).

<sup>1055</sup> Ahmet Ermiş (07.12.2001) and Necla Güven (21.11.2001), the Ministry of Finance (personal communication)..

## APPENDIX R

### LANDS TRANSFERRED TO THE MASS HOUSING ADMINISTRATION

**Table 27.** Lands Transferred to the Mass Housing Administration (TOKİ) in Ankara<sup>1056</sup> and Adana (From the Public Institutions In The Privatization Portfolio) by 19.07.2006<sup>1057</sup>

District	Area (m2)	Land Transferring Institution	Land use Typology
<b>ANKARA</b>			
Keçiören*	37.973	SHÇEK	Housing
Yenimahalle**	159.000	General Directorate of Highways (a part of Training Center)	Unplanned
Etimesgut***	37.330	General Directorate of Highways (Vehicle Inspection Station)	Housing
Sincan****	21.039	Treasury	Housing
Altındağ*****	42.418,29	Municipality	Housing
Mamak *****	1.225.889	MKE (143.428 m2) and Treasury (1.082.461 m2)	Housing, Cultural Center, Commercial Center, Area with Trees, Water tank, Unplanned (Treasury) Area
<b>ADANA</b>			
Yüreğir	301.189,85	Sümerbank	Housing, Commercial units, Transformer, unplanned area

<sup>1056</sup> Only in Ankara there are 4513 ha. (45.133.962,82 m2) land in TOKİ (Department of Real Estate). "Real Estate Guide", Ankara. January 2006.)

<sup>1057</sup> TOKİ Department of Real Estate. Real Estate Guide, Ankara. January 2006.



## APPENDIX S

### PUBLIC MOVABLE AND IMMOVABLE PROPERTY TRANSFERS BY THE ACT NO: 4046- PRINCIPLES OF PRIVATIZATION-AND THE LEGISLATIVE AMENDMENTS

Privatization Act Article 2<sup>1058</sup> defines the principles of privatization implementations: Article 2/d is designed “to prevent negative outcomes of the occurrence of a monopolistic structure”, 2/e “to find out partnership group that can carry the responsibility and competence of the administration as well as wide spreading property”, 2/h “privatization of natural resources through the transfer of management right for a certain period”, and 2/i “ in privatization implementations except the conditions of national security and public interest, any transfer to public institutions or local administrations cannot be made”. The last paragraph of the second article defines the responsibility of the Privatization Higher Council (the PHC) during privatization implementations: Decision priorities are determined relative to the principles defined in this article. Principles and methods of privatization that will be structured according to these decisions will also be defined by the PHC. The PHC should take care of the characteristics of the public institution and the economical conditions of the country. The Privatization Administration (the PA) also defines privatization method and completes tender documents, and tenders.

Article 3 defines the PHC duties. In Article 3/c, the Council is given the right to determine the method of privatization. In Article 3/d is on the approval of the tender commissions’ decisions and approves the final transfer actions of the PA. Even though the PHC is responsible from development plan approvals in the process, no provision about plan approval competence is stated in this article. Only article 3/1 is on the competence given to the PHC by other laws. The related municipalities or ministries approve plans and than these are transferred to the PHC. Article 4 is on the PA and its duties. Article 4/1 is on the transfer of enterprises in the Privatization program and saving their possessions, and achieving immovables. Article 12 states that to the works subject to 4046, State Bidding Act No: 2886, General Accountancy Act No: 1050 and Court of Auditors Act No: 832 are not applied.

Article 14 is about the sale of immovables to foreigners, the transfers are subject to the existing legislation, and correspondence must be taken into consideration. Article 17 is about the privatization implementations. Article 18<sup>1059</sup> defines the privatization methods, and value appraisal and tender procedures of the enterprises in the Privatization Program. The Act No: 4232 dated 03.04.1997 has amended the provision related to value appraisal and the emergence of the Tender commissions and tender methods and works. The Acts No: 4971 and 5398 has amended the duties of the Commission. Public enterprises in the privatization portfolio can be privatized through single or a combination of methods: Sales, renting, transfer of management rights,

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<sup>1058</sup> The Principles of Privatization Implementations.

<sup>1059</sup> Methods of privatization, value determination and tender methods.

establishing non-tangible rights to property, and possession sales, and revenue shares model and other legal dispositions depending on the nature of the business are defined.

Supreme Court Decision cancelled the last sentence of 18/B about the formation of the Value appraisal Commission and the last sentence of the 18/C (d) on barter in block sales of shares by the Decision<sup>1060</sup> No: 1999/44 and Principle 1998/43. Article 18/C (c) is about tender methods; closed offer method, bargain method, and open auction. Article 19<sup>1061</sup> is about treating real estate as firm capital and “the transfer of immovable property owned by the Treasury” of those public establishments in the privatization portfolio. According to this article, it is not compulsory for those PEEs in the Privatization Program to become a joint stock company. Principles of transfer to a joint stock company structure are defined in Article 20. The PA is the only responsible body for taking such a decision. In Article 19/A<sup>1062</sup>, it is stated that when an establishment becomes a Joint Stock Company, “all” immovable properties can be put as real capital. The PA will define the value of the real estate. The share compensation will be owned by the PA and transferred without compensation. This article aimed to transfer important and valuable establishment immovables as share certificates. Through the sale of shares, privatization over the real value can be achieved<sup>1063</sup> (Baytan, 1999: 270).

**Article 19/B;**

*“Keeping 43, 168 and 169 Articles of the Constitution still; the immovable property owned by the Treasury, but used by those public institutions that has public share over 50 percent and in the Privatization Program and - except those that cannot be registered due to its special legislation- transfer of the immovable property under state’s governance and saving to these institutions or establishing non tangible right to property is as follows;*

- a. *The value of right to property used by those the full or and/or more than half of its capital of which is owned by state and those in the status of Joint Stock Company and/or transformed into Joint Stock Company are transferred without paying any thing, to the institution, in order to put as real estate capital during the establishment of the firm or capital increases. Shares in compensation to this real estate are accepted as transferred to the administration without any compensation.*
- b. *The immovable property used by those institutions not transferred to Joint Stock Company is transferred to the institutions without any compensation. These immovables are evaluated as active value during the search for the property potential of the institution by the Administration.*
- c. *During the privatization of those public institutions immovable properties defined in the (B) bend first paragraph of this Article are transferred, while the Administration is realizing value appraisal; the value of these immovables are determined by the “Value appraisal Commission” defined in the Article 18 of this Act and the principles defined in the Act of Expropriation No: 2942, dated 04.11.1983.*
- d. *The immovables defined in the (B) bend first paragraph of this article, except those become officially certain till the day of registration in the Title Deed Office, invasion indemnities declared is not asked for or the ones collected are not paid back.*

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<sup>1060</sup> The Draft Act and revision of the Act No: 4046 covers this decision too. Related Court Decision has been legalized after 19 months and published in the Official Gazette No: 24451 and dated 03.07.2001.

<sup>1061</sup> Act No: 4105 amended this article on 27.04.1995.

<sup>1062</sup> Putting Immovable Property as Real Capital.

<sup>1063</sup> To realize this, Act of Stock Exchange, Act of Banks, Tax Method Act (Mükerrer 298’inci maddesi birinci fıkr -hesap dönem sonu) and paragraph 5, and Turkish Commerce Act (Articles 285, 299, 392 and 404) will not be applied.

- e. *Those immovable property owned by the Treasury, but used by those public institutions that has public share over 50 percent and in the Privatization Program and - except those that cannot be registered due to its special legislation- transfer of the immovable property under state's governance and saving to these institutions or on behalf of these institutions; non-tangible right to property on the transferable property can be established.*

Article 19/B<sup>1064</sup> contains norms;

- For the immovable private property of the state or those areas under State's governance and saving; Articles 43<sup>1065</sup>, 168<sup>1066</sup> and 169<sup>1067</sup> of the Constitution is kept still and limitations defined in these articles are preserved. Legal status, principles and methods of use have been defined.
- Transfer of state private immovable property or areas under state's governance and saving, and establishing non-tangible character of property for that establishment is possible. The same is valid for those establishments with public share more than 50 percent.
- State private property and areas under state's governance and saving subject to special Acts are not subject to Article 19/B.
- Immovable property is transferred to a Joint Stock Company as real capital during the capital increase or firm establishment. Either the PA or the institution that gets that immovable property will pay any compensation. The only compensation value is the shares allocated for that property and the PA will own these. When these shares are privatized through sales method, immovable property put as real capital will be privatized indirectly.
- State land used by those establishments in the Privatization Program but not transferred into a joint stock company, is transferred without compensation. But when the privatization is through "possession sales" method, this immovable property is valued separately as an active value and will later be added to the value of that establishment.
- The value of the state land (used by the establishments in the Privatization Program according to Article 19) is defined during general value appraisal before privatization.
- Till public institution transfers; the state land is in Title Deed records, there will be no request of invasion indemnities. This condition is set to protect institutions from long legal disagreements.
- Non-tangible character of the property transferable can also be set on state land. This practice is generally true for the property of those establishments in the Privatization Program. "Right of enjoyment" and "Right of easement" types of rights to use can be set. These rights can be transferable to third persons and passes to the buyer during privatization (Baytan, 1999:271-272).

The Expropriation Act has defined transfer of immovable property from public institutions to legal persons: 2942 Article 30<sup>1068</sup>. As related articles of the Act of Expropriation are insufficient to solve disagreements between public institutions, Article 19/C<sup>1069</sup> of the Act is designed (Baytan, 1999:273). The Ministry of Finance is

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<sup>1064</sup> Transfer of an immovable property owned by the GDNRE.

<sup>1065</sup> Article 43: Sea, lake and river coasts.

<sup>1066</sup> Article 168: Natural treasury and resources.

<sup>1067</sup> Article 169: Forests.

<sup>1068</sup> Expropriation of an immovable property (good, resource or right to easement) owned by any public institution or legal person is rivaled. The administration in need of property (possession or right) can apply to the property owner administration by defining the substitute of that property (Baytan, 1999:273).

<sup>1069</sup> Transfer of immovable property of other public institutions and establishments.

given the responsibility to solve these disagreements on transfer; subdivision; rights to easement, enjoyment, and management; transfer of rent rights and liquidation. The Ministry solves the issues related to the transfer of immovable, the transfer of which is compulsory and the problems emerged during the adoption of this article by taking the opinion of the PA. If any institution in the privatization program, and as uses this property partially subdivision is necessary, the limitations of the Development Act No: 3194 will not be used. Subdivision and unification actions of the PA are not exercised according to articles 15 and 16 of the Act No: 3194 due to Article 19/D<sup>1070</sup>. This principle aimed to simplify the process and shorten the period and bureaucracy, while leaving the related planning institutions and actors apart of the process. **Figure 36.**

#### **19/D. Subdivision and Unification Actions:**

*“Till the public share in public institutions in the Privatization Program with Joint Stock Status decreases under 50 percent, and in the others till the date of transfer; subdivision and unification organizations of immovable property and related actions are done by the Administration. By the declaration of the results of these actions by the Administration, registration and “dismissal” actions are made by the related Title Deed Office without any other action. The results of registration will be send to Title Deed Office, related municipalities and provincial governorates. Articles<sup>1071</sup> 15 and 16 of the Act No: 3194 are not applied for the subdivision and unification actions of immovables defined in this bend.”*

The PA may organize subdivision and unification actions of immovable property of the establishments till;

- a. The public share in capital of those establishments in joint stock company status decrease below 50 percent in the Privatization Program, and
- b. They are transferred to investors after privatization.

According to Baytan (1999:275), this article has created the possibility for privatization. The Administration has done successful exercises of pre-privatization activities<sup>1072</sup>. Article 20 defines how a PEE or SOE is taken into the Privatization Program and then transferred into a Joint Stock Company. Development Act No: 3194 Article 9 and Privatization Act No: 4046 Article 41:

*(addition 24.11.1994-4046) Plan amendments and partial development plans and development conditions of parcels and land that belongs to establishments in the Privatization Program within the municipal or adjacent area boundaries are prepared by the PA not be against the environmental development unity (Addition by 03.04.1997-4232) by taking the opinion of the related institutions (amended by 03.04.1997-4232) and will be in use by the approval of the PHC, and related municipalities cannot change the development functions of these areas for 5 years. The municipalities give their views within 15 days.*

Article 41 aims at simplifying privatization of a parcel or a land over its real market value relative to its location, quality and legal conditions in terms of development implementations. The duty to prepare partial development plans, plan modifications and development conditions, is given to the PA by this article. Not all these actions should be against the environmental development unity<sup>1073</sup>. Local administrations and municipalities privatizes according to their own legislation.

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<sup>1070</sup> The procedure, periods and approval and permission processes defined by the Development Act is long, and this causes a delay.

<sup>1071</sup> Articles 15 and 16 of the Development Act are about subdivision and unification.

<sup>1072</sup> For example; Sümer Holding A.Ş., ORÜS Orman Ürünleri A.Ş., Et ve Balık Ürünleri A.Ş..

<sup>1073</sup> Baytan (1999:276).

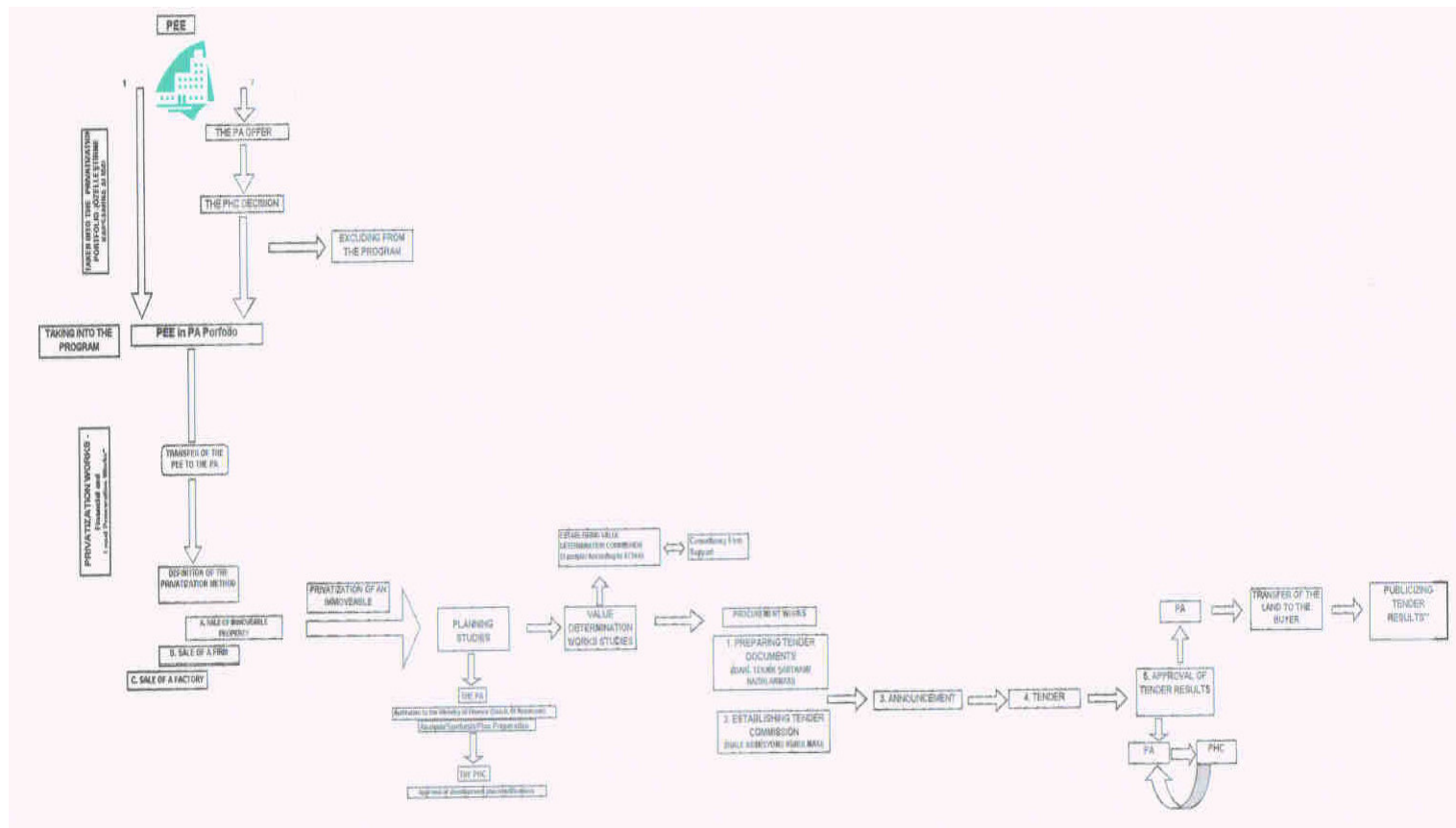
4046 SAYILI KANUNDA 4971 SAYILI KANUNLA YAPILAN DEĞİŞİKLİKLER

- “1. Madde 3’ün birinci fıkrasının değiştirilmesi üzerine ÖYK bundan sonra herhangi bir kısıtlama olmaksızın (Başbakan Yardımcısı olması gerekliliği vb.) Başbakanın belirleyeceği dört bakandan oluşacaktır.
2. Madde 3’ün ikinci fıkrasının (d) bendinin değiştirilmesiyle bundan sonra ÖYK nihai devir işlemlerini değil, ihale komisyonun vereceği nihai kararları onaylayacaktır.
3. Madde 3’ün ikinci fıkrasının (ı) bendinin değiştirilmesi ile ÖİB’nin hak, alacak ve borçları hakkında ÖYK karar verecektir.
4. Madde 4’ün birinci fıkrasında yapılan değişiklikle Başbakanın bu Kanunla ilgili yetkilerini görevlendireceği kişinin özelleştirmeden sorumlu devlet bakanı olması zorunluluğu kalkmıştır. Başbakan herhangi bir bakanı görevlendirebilir.
5. Madde 4’ün son fıkrasının değiştirilmesiyle ÖİB bundan sonra programda yer alan kuruluşlara araştırma, proje işleri, reklam, tanıtım, halkla ilişkiler işlemleri ve malî denetim ile hukukî, teknik, idarî ve malî değerlendirme işlemlerini yapmak ve/veya bu işlerin danışman görevlendirilmesi suretiyle yaptırılmasını temin etmek hakkında yetki verebilecektir.
6. Madde 7’nin birinci fıkrasının üçüncü cümlesinin değiştirilmesiyle programdaki yarıdan fazlası kamuya ait olan kuruluşların yönetim kurulu başkan ve üyeleri, denetçileri, genel müdürleri, idare personeli ile kurul başkan ve üyelerinin programda bulunan herhangi bir kuruluşun özelleştirme işlemlerine dolaylı ya da dolaysız taraf olmaları engellenmiştir.
7. Madde 10’un birinci fıkrasının (l) bendinin değiştirilmesi ile özelleştirme fonu ÖYK’nın özelleştirme ile ilgili olarak belirleyeceği herhangi bir alanda kullanılabilir hale gelmiştir.
8. Madde 18’in birinci fıkrasının (B) (c) alt bendinin değiştirilmesiyle değer-tespit metodlarının en az ikisinin kullanılarak değer-tespit yapılması yeterli sayılmıştır.
9. Madde 18’in (C)(c) alt bendinin değiştirilmesi ile ‘belirli istekliler arasında kapalı teklif usulü’ için isteklilere teklifleriyle beraber yatırım, üretim, istihdam, teknoloji üretimine ilişkin projelerini sunma zorunluluğu getirilmiştir. Ayrıca yapılan değerlendirme sonucu gerçekleştirilen ihale sonuçları İdare tarafından Kurulun onayına sunulacaktır. Bu usulle yapılacak uygulamalara ilişkin esaslar şartnamede belirtilecektir.
10. Madde 18’in sonuna eklenen fıkrayla kuruluş ita amiri, genel müdür veya bu iş için yetkisini devredebileceği genel müdür yardımcısı olarak belirlenmiştir.
11. Madde 22’nin birinci fıkrasında yapılan değişiklikle özelleştirilen kuruluşlardaki personel bilgisini İdare tarafından ilgili kuruluş atlanarak doğrudan Devlet Personel Başkanlığına gönderecektir.
12. Madde 22’de yapılan değişiklikle yeniden ataması yapılacak personelin 675 sayılı kanuna göre kazanılmış hak aylık derecesinden aşağı olmamak kaydıyla 190 sayılı KHK kapsamında bulunan kurum ve kuruluşlara nakledilmesi sağlanmıştır.
13. Madde 22’de yapılan değişiklikle atama teklif yazısının atamayı yapacak kurum/kuruluşa intikalinden itibaren 30 gün içinde atamanın yapılması zorunlu kılınmıştır.
14. Madde 22’de yapılan değişiklikle personelime işe başlamaması halinde yapılacak işlemler atandığı kurumun sorumluluğuna verilmiştir. Ayrıca kurum/kuruluş atama ve göreve başlatma işlemlerini 15 gün içinde devlet personel başkanlığına bildirmek zorundadır.
15. Madde 22’de yapılan değişiklikle istihdam fazlası bildiren kurum/kuruluşların aynı unvan, pozisyon ve görevler için yeni personel almaları engellenmiştir.

<sup>1074</sup> Özelleştirme İdaresi Başkanlığı, [http://www.oib.gov.tr/baskanlik/kanun\\_degisikligi.htm](http://www.oib.gov.tr/baskanlik/kanun_degisikligi.htm) (accessed July 23, 2006).

16. 24. Maddenin deęiştirilmesiyle çalıştıkları kuruluş programa alınmadan önce emeklilik hakkı kazananlara kuruluş programa alındıktan sonra 2 ay içinde emekli olmaları halinde % 30 fazla ikramiye alma hakkı tanınmıştır.
  17. 25. Maddede yapılan deęişiklikle ihdas edilen kadrolar 20.000 den 30.000 e çıkarılmıştır.
  18. Madde 27'nin (c) bendinde yapılan deęişiklikle sermaye artışlarında ticaret siciline tescil işlemlerine ek olarak kuruluşun devrinden önce veya sonrasına ait bölünme ve devir işlemleri her türlü vergi, resim ve harçtan muaf kılınmıştır.
  19. Ek Madde 2 ile kamu kurum ve kuruluşlarının özelleştirme ile ilgili işlemlere öncelik vermeleri sağlanmıştır.
  20. Geçici Madde 17 ile özelleştirilen, faaliyeti durdurulan, kapatılan, küçültülen veya tasfiye edilen kurum ve kuruluşlardan emeklilik, malullük ve ölüm nedeniyle ayrılan ve kendilerine veya dul ve yetimlerine T.C. Emekli Sandığına aylık bağlananlara kanun yürürlüğe girmeden önce ödenmiş bulunan emeklilik ikramiyesi vb. Lerin kanun yürürlüğe girdiği tarihten itibaren iki ay içinde Hazine tarafından faturası karşılığında T.C. Emekli Sandığı Genel Müdürlüğüne ödenmesi sağlanmıştır. Ancak özelleştirilen kuruluşlarla ilgili olarak İdare ile alıcılar arasında yapılan sözleşmenin hükümleri saklı kalır.
  21. 4046 sayılı Kanun'un ek 21. Maddesinin dördüncü fıkrasında yapılan deęişiklik ile hisse satışına ilişkin olarak Özelleştirme Fonundan karşılanan giderlerin satıştan edilecek gelire hazine tarafından fona geri ödenmesi kararlaştırılmıştır.
  22. 4971 sayılı Kanun'un Ek Madde 2'de Şanş oyunlarına dair lisans işlemlerinin başlatılmasına ilişkin karar ÖYK'ya verilmiştir.
    - Lisansın verilmesine ilişkin deęerleme ve ihale çalışmaları ÖİB başkanlığında yapılır ve sekreteryaya hizmetleri ÖİB tarafından yürütülür.
    - Karar alınabilmesi için komisyondaki 5 üyenin en az üçünün oyu gereklidir.
    - İhale şartnameleri gerek görülürse danışman/danışmalar yardımıyla İdare tarafından hazırlanır.
- 4971 sayılı Kanun'un Ek Madde 1'ine göre özelleştirme kapsamında bulunan kuruluşların kullanımında bulunan arazi ve yapılar için gerekli olan tüm işlemler ilgili kurum ve kuruluşlarca iki ay içinde sonuçlandırılır.”

Figure 36. Privatization Diagram of the PA



**3194 SAYILI KANUNA GÖRE BAKANLIĞIN YETKİSİ:**

**Madde 9** - Bakanlık gerekli görülen hallerde, kamu yapıları ile ilgili imar planı ve değişikliklerinin, umumi hayata müessir afetler dolayısıyla veya toplu konut uygulaması veya Gecekondu Kanununun uygulanması amacıyla yapılması gereken planların ve plan değişikliklerinin, birden fazla belediyeyi ilgilendiren metropoliten imar planlarının veya içerisinden veya civarından demiryolu veya karayolu geçen, hava meydanı bulunan veya havayolu veya denizyolu bağlantısı bulunan yerlerdeki imar ve yerleşme planlarının tamamını veya bir kısmını, ilgili belediyelere veya diğer idarelere bu yolda bilgi vererek ve gerektiğinde işbirliği sağlayarak yapmaya, yaptırmaya, değiştirmeye ve re'sen onaylamaya yetkilidir.

(Ek fıkra: 24/11/1994 - 4046/41 md.) Belediye hudutları ve mücavir alanlar içerisinde bulunan ve özelleştirme programına alınmış kuruluşlara ait arsa ve arazilerin, ilgili kuruluşlardan gerekli görüş, (Belediye) alınarak Çevre İmar bütünlüğünü bozmayacak (Ek ibare: 03/04/1997 - 4232/4 md.) imar tadilatları ve mevzi imar planlarının ve buna uygun imar durumlarının Başbakanlık Özelleştirme İdaresi Başkanlığına hazırlanarak Özelleştirme Yüksek Kurulunca onaylanmak suretiyle yürürlüğe girer ve ilgili Belediyeler bu arsa ve arazilerin imar fonksiyonlarını 5 yıl değiştiremezler. (Ek ibare: 03/04/1997 - 4232/4 md.) ilgili belediyeler görüşlerini onbeş gün içinde bildirir.

Bir kamu hizmetinin görülmesi maksadı ile resmi bina ve tesisler için imar planlarında yer ayrılması veya bu amaçla değişiklik yapılması gerektiği takdirde, Bakanlık, valilik kanalı ile ilgili belediyeye talimat verebilir veya gerekirse imar planının resmi bina ve tesislerle ilgili kısmını re'sen yapar ve onaylar.

Bakanlık birden fazla belediyeyi ilgilendiren imar planlarının hazırlanmasında, kabul ve onaylanması safhasında ortaya çıkabilecek ihtilafları halleder, gerektiğinde re'sen onaylar.

(Ek fıkra: 20/06/1987 - 3394/7 md.; İptal: Anayasa Mahkemesi'nin 26/09/1991 tarih ve E. 1990/38, K. 1991/32 sayılı Kararı ile.) Kesinleşen planlar ilgili belediyelere ve valiliklere tebliğ edilir. Bu planların uygulanması mecburidir.

Re'sen yapılan planlardaki değişiklikler de yukarıdaki usullere tabidir.

(Ek fıkra: 3/7/2005-5398 S.K./19.mad) 4046 sayılı Kanun kapsamında gelir ortaklığı modeli ve işin gereğine uygun sair hukuki tasarruflar yöntemine göre özelleştirme işlemleri yapılan hizmet özelleştirilmesi niteliğindeki yatırımların yapılacağı yerlerde hazırlanan veya hazırlattırılan plânları, Özelleştirme İdaresince değerlendirilmek ve sözleşmeye uygunluğu konusundaki görüşü de alınmak kaydı ile imar mevzuatındaki kısıtlamalara tâbi olmaksızın \*1\* re'sen onaylamaya Bayındırlık ve İskan Bakanlığı yetkili olup, her türlü ruhsatı ilgili belediye en geç iki ay içinde verir.

**İMAR PROGRAMLARI, KAMULAŞTIRMA VE KISITLILIK HALİ**



## LEGISLATIVE AMENDMENTS MADE BY THE ACT NUMBER 5398

In the year 2005, due to the problems in implementation, Act No: 5398 dated 21.07.2005 is accepted. The following provisions are added or amended taken from an unpublished official report of the PA is given below:

**MADDE 10.** – An additional provision is added to the Act No: 4046.

**“EK MADDE 3.** – Özelleştirme programına alınmış kuruluşlara ait veya bu kuruluşların müşterek maliki bulunduğu gayrimenkullerden varsa diğer malikler ile de anlaşarak, 634 sayılı Kat Mülkiyeti Kanunundaki şartlar aranmaksızın, İdarenin talebi üzerine yirmi gün içinde tapu sicil müdürlüklerince tapuda kat mülkiyeti kütüğüne bağımsız bölümler halinde tescil edilir. Bu işlemin yapılması sırasında kat mülkiyetine geçiş için kadastro müdürlüğüne zemindeki fiili durumu tespit eden plân, vaziyet plânı sayılır ve anılan Kanunun 12 nci maddesinin (b) bendinde yazılı fotoğrafın kuruluş temsilcisince tasdik edilmesi yeterli görülür ve başka bir belge aranmaz.

**MADDE 12.** – The following provision is added to the Act No: 3194 dated 03.05.1985.

**EK MADDE 3.** – Özelleştirme programındaki kuruluşlara ait veya kuruluş lehine irtifak/kullanım hakkı alınmış arsa ve arazilerin, 3621 sayılı Kıyı Kanunu ve 2634 sayılı Turizmi Teşvik Kanunu kapsamında bulunması halinde bu yerlerde genel ve özel kanun hükümlerine göre imar plânlarını yapmaya ve onaylamaya yetkili olan kuruluşlardan, Bayındırlık ve İskân Bakanlığının uygun görüşü ve diğer yetkili kuruluşlardan (Kültür ve Turizm Bakanlığı, Denizcilik Müsteşarlığı, belediyeler ve il özel idareleri) görüş alınarak çevre imar bütünlüğünü bozmayacak her tür ve ölçekte imar plânları ve imar tadilatları ile mevzi imar plânları Başbakanlık Özelleştirme İdaresi Başkanlığınca hazırlanarak Özelleştirme Yüksek Kurulunca onaylanmak suretiyle yürürlüğe girer. İlgili kuruluşlar bu arsa ve arazilerin imar fonksiyonlarını beş yıl süreyle değiştiremezler. İlgili kuruluşlar görüşlerini on beş gün içinde bildirir. Bu plânlara göre yapılacak yapılarda her türlü ruhsat ve diğer belgeler ile izinler ilgili mevzuat çerçevesinde ilgili kurum ve kuruluşlarca verilir.

**MADDE 13.** – 04.04.1990 tarihli ve 3621 sayılı Kıyı Kanununun 6 ncı maddesinin dördüncü fıkrasının (b) bendinden sonra gelmek üzere aşağıdaki (c) bendi eklenmiş ve maddeye bu fıkradan sonra gelmek üzere aşağıdaki fıkra eklenmiştir.

c) Organize turlar ile seyahat eden kişilerin taşındığı yolcu gemilerinin (krvaziyer gemilerin) bağlandığı, günün teknolojisine uygun yolcu gemisine hizmet vermek amacıyla liman hizmetlerinin (elektrik, jeneratör, su, telefon, internet ve benzeri teknik bağlantı noktaları ve hatlarının) sağlandığı, yolcularla ilgili gümrüklü alan hizmetlerinin görüldüğü, ülke tanıtımı ve imajını üst seviyeye çıkaracak turizm amaçlı (yeme-içme tesisleri, alışveriş merkezleri, haberleşme ve ulaştırmaya yönelik üniteler, danışma, enformasyon ve banka hizmetleri, konaklama üniteleri, ofis binalar) fonksiyonlara sahip olup, krvaziyer gemilerin yanaşmasına ve yolcuları indirmeye müsait deniz yapıları ve yan tesislerinin yer aldığı krvaziyer ve yat limanları,

Özelleştirme kapsam ve programına alınan ve sahil şeridi belirlenen veya belirlenecek olan alanlar ile kıyı ve dolgu alanlarında yapılacak yat ve krvaziyer limanlarının ihtiyacı olan yönetim birimleri, destek birimleri, bakım ve onarım birimleri, teknik ve sosyal altyapı ve konaklama birimleri ile ilgili kullanım kararları ve yapılanma şartları imar plânı ile belirlenir.

**MADDE 19.** – 3194 sayılı İmar Kanununun 9 uncu maddesinin sonuna aşağıdaki fıkra eklenmiştir.

4046 sayılı Kanun kapsamında gelir ortaklığı modeli ve işin gereğine uygun sair hukuki tasarruflar yöntemine göre özelleştirme işlemleri yapılan hizmet özelleştirilmesi niteliğindeki yatırımların yapılacağı yerlerde hazırlanan veya hazırlattırılan plânları, Özelleştirme İdaresince değerlendirilmek ve sözleşmeye uygunluğu konusundaki görüşü

de alınmak kaydı ile imar mevzuatındaki kısıtlamalara tâbi olmaksızın re'sen onaylamaya Bayındırlık ve İskan Bakanlığı yetkili olup, her türlü ruhsatı ilgili belediye en geç iki ay içinde verir.

21.07.2005 tarih ve 5398 sayılı Kanun ile değiştirilen ve eklenen maddelerden, Anayasa Mahkemesinin 05.01.2005 tarih, 2005/98 sayılı esas ve 2006/3 sayılı kararı ile 10. maddesiyle 4046 sayılı Yasa'ya eklenen **Ek madde 3**'ün Anayasaya aykırı olduğuna ve **İPTALİNE**, 19. maddesiyle 3194 sayılı Yasa'nın sonuna eklenen fıkrada yer alan "**imar mevzuatındaki kısıtlamalara tabi olmaksızın**" ibaresinin Anayasaya aykırı olduğuna ve **İPTALİNE** karar vermiştir. Diğer maddelerin iptaline gerek duyulmayarak kesinleşmiştir.

İdare koordinasyonunda Bayındırlık ve İskan Bakanlığı ile Turizm Bakanlığı arasında yürütülen çalışmalar neticesinde, 30.03.2004 tarih ve 25418 sayılı Resmi Gazete'de yayımlanan "**Kıyı Kanununun Uygulanmasına Dair Yönetmelikte Değişiklik Yapılması Hakkında Yönetmelik**" ile Kıyı Kanunu'nun Uygulanmasına Dair Yönetmeliğe "**Kruvaziyer Liman**" tanımı getirilmiştir. Bu Yönetmelik ile, sadece özelleştirme programındaki kuruluşların arazilerine yönelik kullanım kararları imar planı ile belirlenir hükmü gereğince, Ataköy'de kıyıda yer alan yapılar yasal statüye kavuşturularak, bu alanın özelleştirilmesinin önündeki en önemli engel kaldırılmıştır. Yönetmeliğin tam metni aşağıda sunulmaktadır:"

Kıyı Kanununun Uygulanmasına Dair Yönetmelikte Değişiklik Yapılması Hakkında  
Yönetmelik

MADDE 1– 3/8/1990 tarihli ve 20594 sayılı Resmî Gazete'de yayımlanan Kıyı Kanununun Uygulanmasına Dair Yönetmeliğin 4 üncü maddesindeki "Liman" tanımından sonra gelmek üzere, aşağıdaki "Kruvaziyer Liman" tanımı eklenmiş ve aynı maddedeki "Teknik ve Sosyal Altyapı" tanımı aşağıdaki şekilde değiştirilmiştir.

"Kruvaziyer Liman: Organize turlar ile seyahat eden kişilerin taşındığı yolcu gemilerinin (kruvaziyer gemilerin) bağlandığı, günün teknolojisine uygun yolcu gemisine hizmet vermek amacıyla liman hizmetlerinin (elektrik, jeneratör, su, telefon, internet ve benzeri teknik bağlantı noktaları ve hatlarının) sağlandığı, yolcularla ilgili gümrüklü alan hizmetlerinin görüldüğü, ülke tanıtımı ve imajını üst seviyeye çıkaracak turizm amaçlı (yeme-içme tesisleri, alışveriş merkezleri, haberleşme ve ulaştırmaya yönelik üniteler, danışma, enformasyon ve banka hizmetleri, konaklama üniteleri, ofis binalar) fonksiyonlara sahip olup, kruvaziyer gemilerin yanaşmasına ve yolcuları indirmeye müsait deniz yapıları ve yan tesislerinin yer aldığı limandır."

"Sosyal ve Teknik Altyapı Tesisleri: Kıyıda yapılması zorunlu olan yapı ve tesislere hizmet veren ve kıyının kamu yararına kullanılmasını sağlayan, dalgakıran, kontrol kulesi, trafo, su deposu, çekek rampası, biyolojik ve kimyevî arıtma sistemi, pis su ve sintine boşaltma istasyonu, elektrik, su, sağlık ünitesi, PTT, Fax, TV teçhizatı, yağ ve çöp toplama konteynerleri, yangın şebekesi veya itfaiye tesisi, lift sistemi, saniter üniteleri, otopark, yaya yolları, meydan, yeşil alan, çocuk bahçesi ve parktır."

MADDE 2 – Aynı Yönetmeliğin 13 üncü maddesinin birinci fıkrasının (b) bendi aşağıdaki şekilde değiştirilmiş ve aynı maddeye aşağıdaki beşinci fıkra eklenmiştir.

"b) Faaliyetlerinin özelliği gereği kıyıdan başka yerde yapılmaları mümkün olmayan yapı ve tesisler: Tersane, gemi söküm yeri, su ürünlerini üretim ve yetiştirme tesisleri, yat limanı, kruvaziyer liman, balıkçı barınağı ve yat çekek yeri."

"Kıyıda kalıp 2863 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanunu uyarınca tescil edilen yapılar korunur; bu yapıların kullanım kararları ve yapılaşma şartları, Kültür ve Tabiat Varlıkları Koruma Kurulu tarafından belirlenir ve uygulama imar plânları hazırlanırken bu kararlar esas alınır."

MADDE 3 – Aynı Yönetmeliğin 17 nci maddesinin dokuzuncu fıkrasından sonra gelmek üzere aşağıdaki fıkralar ilâve edilmiştir.

"Özelleştirme kapsamına ve programına alınan ve 16 ncı maddenin (a) ve (b) bentlerine göre sahil şeridi belirlenen veya belirlenecek olan alanlar ile kıyı ve dolgu alanlarında yapılacak yat ve kruvaziyer limanlarının ihtiyacı olan yönetim birimleri, destek birimleri, bakım ve onarım birimleri teknik ve sosyal altyapı ve konaklama birimleri ile ilgili kullanım kararları ve yapılanma şartları imar plânı ile belirlenir.

Özelleştirme kapsamı ve programı içinde olsun veya olmasın, sahil şeridinde kalan resmî kurum ve kuruluşlara ait alanlar, kısmî yapılaşma tanımı içinde değerlendirilmez. Bu alanlarda, ilgili kurum ve kuruluşların olumlu görüşleri alınmak suretiyle Kanunda öngörülen kullanımlar ile birlikte toplumun faydalanması amacıyla turizm yapıları ve tesisleri yapılabilir. Bu alanlara ilişkin imar plânları, 3194 sayılı İmar Kanunu uyarınca Bakanlıkça, Valilikçe ve Belediyesince onaylanarak yürürlüğe konulur."

Yürürlük

MADDE 4 – Bu Yönetmelik yayımı tarihinde yürürlüğe girer.

Yürütme

MADDE 5 – Bu Yönetmelik hükümlerini Bayındırlık ve İskân Bakanı yürütür.

## APPENDIX T

### COMPARISON OF LAND VALUES AND SALE PRICES OF PEES

#### **EBÜ A.Ş.:**

Sixteen combines of EBK, which consisted of the 60 percent share on meat and meat products market in late 1980s, were closed down and sold to private sector for very low prices, even lower than their land price value. (TMMOB (2005:234). In the year 2006, the Government has taken the decision to restructure EBK to meet the market demand with public interest objectives<sup>1075</sup>. Twelve establishments<sup>1076</sup> of EBÜ A.Ş. with a total area of 255.0619 m2 is sold in 1995 to 369 billion TL. while their year 1992 sale price was 460.6 billion TL. and the real value in the year 1995 was 2.949,5 billion TL.. (Keskinok, 1999:17) The research of KİGEM on privatization of slaughterhouses of EBÜ A.Ş. on firm or component basis and their real land values (Cumhuriyet, 1996:13, 5) are given in **Table 28**.

Manisa EBÜ A.Ş. Slaughterhouse is sold for 1.260.000 U.S. Dollar, where as the value of only the land is 2.188.950 U.S. Dollar and second hand price of machinery was 2.000.000 U.S. Dollar. On 87.558 m2 land, there is 19.238 m2 closed area. The investor May-Et has moved or sold all the immovables just after 28.06.2004. The investor has applied to the PA for the sale of the area against the conditions of the contract for that the Organized Industrial Zone is not allowing the combine use in this area. Manisa OSB has applied the PA before the sale of the slaughterhouse and warned that the combine use will not be allowed and the tender should take care of this. This means both the investor and the PA know this situation before and there is no condition in the contract for the buyer to use the area as a combine<sup>1077</sup>.

#### **Sümer Holding A.Ş.:**

The examples can be augmented: Total area of seven establishments<sup>1078</sup> of Sümer Holding A.Ş. is 1.475.836 m2. In 1996, the sale revenue is 1.885,5 billion TL. where as the total value of only the land was 2.162,9 billion TL. (Keskinok, 1999:20-28). The establishments were 147.835 m2 in total. (Keskinok, 1999:17) **Table 29** shows a comparison of sale prices and actual land values. The reader must perceive that value of all movables and other immovable possessions on these lands are not covered by land value. If the value of these possessions is added, it is certain that all transfers have created public loss.

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<sup>1075</sup> Hürriyet, 30.08.2006.

<sup>1076</sup> KİGEM (1997:39) and TMMOB (2005:234) studies have showed that 9 out of 10 facilities of EBÜ A.Ş. has been immediately closed down in a year.

<sup>1077</sup> The PHC has later changed the tender and contract conditions after the sale and the enterprise can be resold to Klimasan A.Ş. against law. This means that May-Et has paid 513.000 U.S. Dollar and gained 2.800.000 U.S. Dollar (Ören, March 2006).

<sup>1078</sup> Out of the first seven Sümerbank facilities privatized, six were closed down.

**Table 28.** Privatization of EBÜ A.Ş. Slaughterhouses (Cumhuriyet, 1996:13,5)

Slaughter house	Investor	Area Sold (m2)	1992 Value (Billion TL.)	Real Value 1995 (Billion TL.)	Sale price (Billion TL.)	Revenue of the state (Billion TL.)	Loss of the state (Billion TL.)
Afyon	Özerler Holding	170.521	61.1	391.3	60	24.2	367.1
Ağrı	Ağrı Et Sanayi A.Ş.	187.432	45.4	290.7	25	-3.6	294.5
Bayburt	Nurtad A.Ş.	386.625	59.5	374.6	23	10.7	360.9
Elazığ	El-Et A.Ş.	46.410	55.6	356.1	40	8.5	347.6
Erzincan	Erzincan Pan. Ek. Koop.	96.664	4.1	26.2	-	-	-
Kastamonu	Etsan Ortak Girişimi	400.507	63.9	409.2	30	5.2	404
Malatya	Cuma Yiğit	361.300	45.4	297.1	31	5.3	291.8
Amasya	Amasya Pancar B.	116.903	55.2	353.5	37	-8.4	361.9
Şanlıurfa	Dem-Et Tesisleri A.Ş.	79.765	32.8	210	28	13.9	190.7
Tatvan	Etsan Tic. A.Ş.	154.262	37.6	240.8	19	-6.7	247.5
<b>Total</b>		<b>2.000.389</b>	<b>460.6</b>	<b>2.950</b>	<b>283</b>	<b>48.9</b>	<b>2.869</b>

**Table 29.** Sale Price and Land Value Comparison of Sümer Holding A.Ş. Enterprises (KİGEM, Court Case Letter of Sümerbank, 1996)

Enterprise	Sale Price	Land Value	Public Loss/Gain
Adana	480.000.000.000	655.000.000.000	-175.000.000.000
Erzincan	73.000.000.000	84.900.000.000	-11.900.000.000
Şanlıurfa	47.500.000.000	75.000.000.000	32.500.000.000
Karaman	635.000.000.000	796.000.000.000	-161.000.000.000
Eskişehir	251.000.000.000	236.000.000.000	15.000.000.000
Nevşehir	170.000.000.000	106.000.000.000	64.000.000.000
Hereke	229.000.000.000	210.000.000.000	19.000.000.000

Sümer Holding A.Ş. Manisa Pamuklu Mensucat A.Ş. is closedown on 26.08.2004 by the Decision of the PHC (2004/68). Again by the Decision of the PHC dated 31.01.2005 and No: 2005/06, the industrial area land use (on a 144.198 m2 land) is changed into Commercial Center with Special Conditions (92.228 m2) and Park and Green Area (48.110 m2). This development plan change is not reflected to the tender document and so, prevented others to enter the tender. Tesco-Kipa commercial center, hotel, conference hall, wedding hall and shops is planned (By the decision of the PA on 13.06.2005). On December 2005, Manisa Ortak Girişim Grubu has bought 92.228 m2 of the land for 3.751.000 U.S.Dollar (5 trillion TL.) and this firm has sold 55.000 m2 of the same land for 13.750.000 U.S. Dollar<sup>1079</sup> to another company. At the same time, immovables of the factory are sold for 900 billion TL.. Manisa second Court of First Instance (E: 2004/400) has made an appraisal study and determined the value of land, buildings, and facilities of the factory (before the sale) as 47.739.894.000.000 TL<sup>1080</sup>.

<sup>1079</sup> Ören (2006)

<sup>1080</sup> The municipality has determined the land value (m2) as 344 million TL., Society of Real Estate Agencies as 500-750 million TL., and the PA as 30 million TL.

Sümer Holding A.Ş. Malatya plant area is worth stressing in terms of planning studies. Malatya intervention Group bought the land in the year 2004 with the promise to continue its productivity and keep the green areas still. However, in the year 2005 the Group decided to ask for a plan amendment for a commercial center and housing area.

**SİDEMİR A.Ş.:**

310 million U.S. Dollar (77.442,5 billion TL.) of an investment was made to Sivas Demir Çelik Factory (SİDEMİR) up to 1999. The factory has a 452.600 m2 potential development area and has been sold out only for 6.6 million U.S.Dollar(1.648,7 billion TL.) on 11.03.1998 and no production has been made since than (even though production condition was apparent in the contract) (Keskinok, 1999:25).

**TOE A.Ş.:**

Türk Otomotiv Endüstrileri A.Ş. (TOE) is sold to the Uzan Group for 242 billion TL. at a time the real value of the land was 1 trillion TL. (Birleşik Metal,1995). It is privatized through block sale method and is closed down (Aysan, 13.04.2005).

**ORÜS A.Ş.:**

ORÜS A.Ş. Establishment Land Prices are given in **Table 30**.

**Table 30.** ORÜS A.Ş. Establishment Land Prices<sup>1081</sup> (Municipality market price versus the price determined by the PA) (Hayırsever Topçu: 2004:41)

Enterprise	Area (m2)	1992 Parcel Market Price determined by the Municipality (Billion TL.)	1992 Parcel Price determined by KOİ <sup>1082</sup> (Billion TL.)	1995 Parcel Market Price determined by the Municipality (Billion TL.)
<b>Antalya</b>	90.375	132.562	90.375	651.277
<b>Ayancık</b>	190.161	57.048	95.079	280.276
<b>Bafra</b>	246.293	123.147	61.573	605.021
<b>Devrek</b>	91.615	91.615	45.808	450.105
<b>Düzce</b>	95.567	143.351	71.682	704.283
<b>Pazarköy</b>	66.181	1.324	0.312	32.500
<b>Ulupınar</b>	44.250	1.106	0.089	30.000
<b>Vezirköprü</b>	205.154	41.031	8.447	201.585

<sup>1081</sup> Taken from KİGEM, Kemal Ersin, Özelleşen ORÜS, Ağaç-İş Sendikası.

<sup>1082</sup> "KOİ: Kamu Ortaklığı İdaresi Başkanlığı".

Table 31: Land Privatization Summary of ORÜS A.Ş. (Composed From KİGEM ORÜS A.Ş. Court Files)

Establishment	Province/ District	Year of Establishment	Enterprise Area (m2)	Open Area (m2)	Close Area (m2)	Enterprise Sale Value Determined by the PA - 1992 (TL./ U.S. Dollar)	Land Sale Value Determined by the PA - 1992 (TL./ U.S. Dollar)
Ulupınar	Zonguldak/Ülüz	1930	44.293	35.576	8.674	6.000.000.000	
Ardanuç	Arbin	1970	77.008	74.524	2.084	2.900.000.000	
Yeşilözgürlü	Samsun	1983	265.194	173.394	31.800	96.000.000.000	
Pazarlı	Isparta/Eğirdir	1945	66.181	58.213	7.968	6.500.000.000	
Dursunbey	Bursa	1942	115.746	104.802	10.944	18.581.000.000/1.938.164	5.767.000.000/174.108
Demirköy	Edirne	1971	96.180	90.614	13.566	15.352.000.000/1.704.506	962.000.000/112.448
Kalam	Bursa	1970	313.000	304.899	8.301	7.940.000.000/918.112	
Şeyhat	Etiler/İk	1993	38.516	36.432	2.084	260000000/182.900	
Borçka	Erzurum	1953	38.820	33.430	16.380	66.200.000.000	50.730.000.000
Ayazlık	Sivas	1929	193.160	152.136	38.023	170.700.000.000	57.000.000.000
Bafra	Samsun	1926	246.290	97.637	13.580	71.600.000.000	123.000.000.000
Devrek	Zonguldak	1953	50.515	41.837	10.378	58.800.000.000	91.800.000.000
Antalya	Antalya	1976	90.375	79.385	10.990	182.100.000.000	
Düzce	Düzce	1945	55.967	48.351	15.416		143.300.000.000
Bartın		1970	133.145	97.637	12.508	23.700.000.000/2.767.000	5.500.000.000/648.041
Establishment	Escalated Value 1995 (TL.)	Land Sale Value 1995 (TL.)	Land Sale Value 1997 (U.S. Dollar)	Land Sale Value 1998	Loss (TL.) 1998	Loss (U.S. Dollar) 1997	Loss (U.S. Dollar) 1998
Ulupınar	36.200.000.000	23.110.000.000			16.000.000.000		
Ardanuç	18.900.000.000	12.000.000.000			6.900.000.000		
Yeşilözgürlü	636.900.000.000	364.000.000.000			272.900.000.000		
Pazarlı	42.800.000.000	11.000.000.000			31.800.000.000		
Dursunbey			470.000			1.468.164	
Demirköy			750.000			1.044.506	
Kalam			300.000			428.112	
Şeyhat				535.800.160			18.125
Ayazlık	1.132.000.000.000	200.000.000.000			932.000.000.000		
Bafra	474.900.000.000	201.000.000.000			273.900.000.000		
Devrek	390.130.000.000 (Jan)	88.000.000.000			304.130.000.000 (Jan)		
Antalya	677.200.000.000	211.000.000.000			466.200.000.000		
Düzce	592.400.000.000				441.400.000.000		
Bartın			1.648.000			1.127.000	

## APPENDIX U

### PLANNING STUDIES OF THE PA BETWEEN 2004-2006<sup>1083</sup> [ÖZELLEŞTİRME İDARESİ BAŞKANLIĞININ 2004-2006 PLANLAMA ÇALIŞMALARI]

#### 1. ATAKÖY GRUBU ŞİRKETLERİ

##### Ataköy Turizm Merkezi İmar Planı

Ataköy Turizm Merkezi Yat Limanı İmar Planı, Kültür ve Turizm Bakanlığınca 30.09.2004 tarihinde onaylanmıştır.

#### 2. TÜRKİYE DENİZCİLİK İŞLETMELERİ (TDİ)

##### Salıpazarı Turizm Merkezi İmar Planı

Tophane-Salıpazarı Turizm Merkezi İmar Planı, 30.09.2004 tarihinde Kültür ve Turizm Bakanlığı tarafından onaylanmıştır.

#### 3. TÜRK HAVA YOLLARI A.O.

##### Bakırköy Uluslararası Havacılık Merkezi İmar Planı

Plan, Özelleştirme Yüksek Kurulu'nun 30.09.2004 tarih ve 2004/94 sayılı Kararı ile onaylanmıştır.

#### 4. PETKİM PETROKİMYA HOLDİNG A.Ş.

##### Kocaeli-Körfez Lojman Bölgesi

Plan, Özelleştirme Yüksek Kurulu'nun 18.10.2004 tarih ve 2004/101 sayılı Kararı ile onaylanmıştır.

#### 5. SÜMER HOLDİNG A.Ş.

##### Antalya Pamuklu Dokuma İmar Planı

Plan, Özelleştirme Yüksek Kurulu'nun 31.01.2005 tarih ve 2005/07 sayılı Kararı ile onaylanmıştır.

#### 6. TÜRKİYE GÜBRE SANAYİİ A.Ş. (TÜGSAŞ)

##### KARADENİZ BAKIR İŞLETMELERİ A.Ş. (KBİ)

##### Samsun Tekkeköy İmar Planı

İmar planı Özelleştirme Yüksek Kurulu'nun 30.12.2004 tarih ve 2004/130 sayılı Kararı ile onaylanmıştır.

#### 7. PETKİM PETROKİMYA HOLDİNG A.Ş.

##### Çanakkale İmar Planı

İmar planı Özelleştirme Yüksek Kurulu'nun 26.04.2004 tarih ve 2004/42 sayılı Kararı ile onaylanmış olup, söz konusu alan Petkim Petrokimya Holding A.Ş. tarafından 1.600.000 USD bedel karşılığında satılmıştır.

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<sup>1083</sup> (From 02.07.2004 onwards) Haluk Bilgin, the PA. (July 31, 2006, personal communication). Taken from an unpublished official report of the PA Real Estate Works Unit.



**8. SÜMER HOLDİNG A.Ş.**

**Manisa Pamuklu Dokuma İmar Planı**

İmar planı, Özelleştirme Yüksek Kurulu'nun 31.01.2005 tarih ve 2005/06 sayılı Kararı ile onanmıştır.

**9. TÜRKİYE SELÜLOZ VE KAĞIT FABRİKALARI (SEKA) A.Ş.**

**Çaycuma Sosyal Tesisleri İmar Planı**

İmar planı Özelleştirme Yüksek Kurulu'nun 27.05.2004 tarih ve 2004/43 sayılı Kararı ile onanmıştır.

**10. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş.**

**ANKARA İKİZKULELER "KENTSEL SERVİS ALANI"**

İmar planı, Özelleştirme Yüksek Kurulu'nun 21.07.2005 tarih ve 2005/82 sayılı Kararı ile onanmıştır.

**11. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş. (ZMİR BERGAMA TURİZM MERKEZİ İMAR PLANI)**

**İZMİR BERGAMA "TURİZM TESİSİ VE TİCARET ALANI"**

İmar planı, Özelleştirme Yüksek Kurulu'nun 04.07.2005 tarih ve 2005/75 sayılı Kararı ile onanmıştır.

**12. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş. (İZMİR BUCA TİCARET MERKEZİ İMAR PLANI) İZMİR BUCA "TİCARET ALANI"**

İmar planı, Özelleştirme Yüksek Kurulu'nun 09.09.2005 tarih ve 2005/112 sayılı Kararı ile onanmıştır.

**13. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş.**

**MUĞLA BODRUM "TİCARET ALANI" (MUĞLA BODRUM TİCARET MERKEZİ İMAR PLANI)**

İmar planı, Özelleştirme Yüksek Kurulu'nun 09.09.2005 tarih ve 2005/112 sayılı Kararı ile onanmıştır.

**14. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş. (MUĞLA MARMARİS TİCARET İMAR PLANI) MUĞLA MARMARİS "TİCARET ALANI"**

İmar planı, Özelleştirme Yüksek Kurulu'nun 07.11.2005 tarih ve 2005/123 sayılı Kararı ile onanmıştır.

**15. TÜTÜN, TÜTÜN MAMÜLLERİ, TUZ VE ALKOL İŞLETMELERİ A.Ş. (KIRŞEHİR KENTSEL İŞ MERKEZİ İMAR PLANI) KIRŞEHİR MERKEZ "KENTSEL İŞ MERKEZİ ALANI"**

İmar planı, Özelleştirme Yüksek Kurulu'nun 11.08.2005 tarih ve 2005/94 sayılı Kararı ile onanmıştır.

**16. SÜMER HOLDİNG A.Ş. MALATYA MERKEZ "OTEL ALANI" (MALATYA SÜMER HOLDİNG OTEL ALANI İMAR PLANI)**

İmar planı, Özelleştirme Yüksek Kurulu'nun 01.12.2005 tarih ve 2005/138 sayılı Kararı ile onanmıştır.

**17. SÜMER HOLDİNG A.Ş.**

**MALATYA MERKEZ "KONUT+TİCARET ALANI"**

**(MALATYA SÜMER HOLDİNG KONUT+TİCARET MERKEZİ İMAR PLANI)**

İmar planı, Özelleştirme Yüksek Kurulu'nun 01.12.2005 tarih ve 2005/138 sayılı Kararı ile onanmıştır.

**18. SÜMER HOLDİNG A.Ş.**

**MALATYA MERKEZ “KONUT ALANI”**

**MALATYA SÜMER HOLDİNG KONUT ALANI İMAR PLANI**

İmar planı, Özelleştirme Yüksek Kurulu'nun 01.12.2005 tarih ve 2005/138 sayılı Kararı ile onanmıştır.

**19. TÜRKİYE ŞEKER FABRİKALARI A.Ş.**

**AFYON MERKEZ “TARIM ALANI” (AFYON ŞEKER TARIM ALANI İMAR PLANI)**

İmar planı, Özelleştirme Yüksek Kurulu'nun 07.11.2005 tarih ve 2005/126 sayılı Kararı ile onanmıştır.

## APPENDIX V

### DEFINITION AND DUTIES OF THE PA REAL ESTATE WORKS UNIT<sup>1084</sup>

The Privatization Administration Organization and Duties of the Project Group By-law defines the duties of the Group as follows:

- To report and to coordinate those works related to the transfer, subdivision, right of easement, right of enjoyment, management and transfer of rights of renting and liquidation as well as transfer of immovables with compensation of the Public enterprises in the Privatization Portfolio or in between other public institutions.
- To determine the conditions and problems of public institutions in the Privatization program and provide information to the related units of the PA.
- Till the public share in public institutions in the Privatization Program with Joint Stock Status decreases under 50 percent, and in the others till the date of transfer; subdivision and unification organizations of immovable property and related actions, and organization of development plans, take the opinions of the related institutions and prepare plan reports and Council decisions,
- To participate to Value Appraisal Commissions' works,
- Do the other works given by the administration.
  
- Within this framework, for the problems about the immovables of the enterprises in the program during, the Unit does several works such as;
  - Research Studies: Scaled cadastral map showing the property boundaries taken from Cadastrate offices or an example of dimension sketch, site plan showing the buildings and facilities on the property, and development plans from which institution that has the competence of preparation (Municipalities, Provincial Directorates, the Ministry of Tourism and Culture, Greater Municipalities or District Municipalities, Special Environment Protection Institutions, Bosphorus Development Directorate and else) are taken and searched for.
  - Intersecting cadastre maps and development plans and determining the exact boundaries (determination of island and parcel numbers),
  - Determination of the property owner,
  - Determination of the reasons for not registering the parcels' property ownership in the name of the enterprise of those immovables determined on the cadastral map,
  - Determination of the characteristic (coastal area, meadow, forest area, winter lands, pasture lands, etc.) of those areas under state's governance and saving,
  - Determination of savings on property (mortgage, sequestration, precautionary measure, wakf, historical monument, and else) and finding out the related documents,

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<sup>1084</sup> Haluk Bilgin. the PA (July 31, 2006, personal communication).

- If there is a commentary like Historical Heritage that must be conserved, the reason of declaration is searched from the Regional Board (Council) of Conservation and the Ministry of Tourism and Culture.
- Finding out if the enterprise has any contract for the use of and right to easement of the lands in use of the enterprise and the related contract documents,
- Search for permissions of construction, habitation and management of the buildings and the facilities,
- Existing situation of the real-estate and determination of the alternative models,
- Search of any specification for domestic and foreign investors to invest,
  
- In addition, the unit gives its opinions to the related units of the PA. In addition to this;
  
- Except those lands used by the public institutions in the Privatization Program and public share is over 50 percent and the lands that cannot be registered due to their special legislation, the transfer of the areas under state's governance and saving and/or establishing right of easement, right of use on behalf of these institutions, turning these rights of easement and use to without compensation,
- Till the public share in public institutions in the Privatization Program with Joint Stock Status decreases under 50 percent, and in the others till the date of transfer; if deemed necessary, subdivision and unification organizations of these immovable property (schools, mosques, and others) are done,
- Preparation of development plans of the lands and parcels of the public enterprises in the Privatization Program located in municipality or adjacent area boundaries, taking the opinion of the related municipalities and preparation of the reports and the Council decisions,
- Participation to Value Appraisal Commissions,
- Helping written correspondence of the other Project Groups related to real estate,
- are made by the Real Estate Works Unit.

APPENDIX Y

RESEARCH AND PLANNING STUDIES MADE BY THE ABOLISHED GENERAL DIRECTORATE OF LAND OFFICE, BETWEEN 1995-2002

Table 32. Research and Planning Studies made by the Abolished General Directorate of Land Office, between 1995-2002

PROVINCE/ DISTRICT (or Village)	BLOCK/ PARCEL	OWNER	AREA (hec.)	LAND USE BEFORE PRIVATIZATION	PROPOSAL	LANDUSE AFTER PRIVATIZATION	ACTIVITY		EXPLANATIONS
							PRELIMINARY RESEARCH	CONSULTANCY	
1 ADANA/Karataş - İskele Mah.	11 Parcels	Ministry of Finance (Treasury)	6,0191	The Ministry of Finance, Education and Rehabilitation Complex.	Tourism Complex Area	Unknown	Land Office (07.09.1995)	1/1.000 development plan modifications Gen. D. of Land Office	The area can be used as a tourism complex without any repair or change on the existing immovable.
2 ADANA/Karataş - İskele Mah.	3867 parcel, 1617 parcel	Ministry of Finance (Treasury)	2,5709	Gen. D. of State Water Works Training and Rehabilitation Complex	Tourism Complex Area	Unknown	Land Office (07.09.1995)		The area can be used as a tourism complex without any repair or change on the existing immovables
3 ANKARA / Çankaya- Lodumlu	27030/1	TESTİAŞ	5,75	Urban Service Area (1/5000)	Urban Service Area	Urban Service Area (owned by METU)	Land Office (16.01.1995)	TESTİAŞ (1/1.000)	1/1.000 scale plan modification being prepared by TESTİAŞ is evaluated by the Land Office and it has submitted its decision to the PA
4 ANKARA / Yenimahalle	16023/2	Sümer Holding A.Ş.	14,68	Public Institution Area and Park	Commercial and Recreation Area	Public Institution Area and Park (owned by Hacettepe University)		1/5.000 and 1/1.000 scale development plan modifications and plan report have been prepared by the Gen. D. of Land Office (31.01.1995)	PA has tried several times but was unable to realize a plan modification due to the over capacity of commercial uses in that region and archaeological site neighboring the area.
5 ANKARA / Haymana Kajabası	128/10	Gen. D. of Petrol Ofisi	1,37	Housing, Gas Station and Park	Housing, Gas Station and Park	Unknown	Land Office (24.03.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
6 ANKARA / Gölpazarı- Karamükürkü	59, 60, 61, 62, 537, 1147	Gen. D. of Petrol Ofisi	2,60	Public Institution Area	Daily Tourism Complex Area	Unknown		1/5.000 and 1/1.000 scale Plan modifications and plan report have been prepared by Land Office (17.04.1995)	
7 AYDIN / Kuşadası Hacı Fevziülan	201/1, 781/4	Sümer Holding A.Ş.	4,69 (22800, 24129)	Tourism Complex Area	Tourism Complex Area	Unknown	Land Office (17.01.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
8 AYDIN / Yenişehir Güllüdam	12662	Ministry of Finance (Treasury)	49,71	Training and Recreational Facilities Complex of Gen. D. of Village Works (real estate property)	Park, Daily Tourism, Holiday Village	Unknown		1/5.000 and 1/1.000 scale Plan Modifications and plan report have been prepared by Land Office (03.02.1995)	

Table 32 (continued)

9	AYDIN / Yenihisar	421/4	Gen. D. of Petrol Ofisi	15,00	Area where Agricultural Character will be Protected	Tourism and Second Housing Area	Unknown			1/25,000 Territorial Plan Modification and plan report have been prepared by Land Office (09.02.1995)	
10	AYDIN / Kuşadasi - Türkmen Mahallesi	134/10, 31	Ministry of Finance (Treasury)	1,8	Unknown	Unknown	Unknown			1/1.000 development plan modification and plan report have been prepared by Land Office (26.10.1995)	
11	AYDIN / Yenihisar - Akköy	969 parcel	Ministry of Finance (Treasury)	343,50	Agricultural Character of the area will be protected Wild vegetation (real estate property with Buildings)	Tourism Complex and Second Housing Area	Unknown			1/25,000 Territorial Plan Modification and plan report have been prepared by Land Office (09.02.1995)	
12	BALIKESİR / Edremit- Zeytinli Mah.	6957, 6958	Turban Turizm A.Ş.	4,8	Unknown	Unknown	Unknown	Land Office		Partial Planning (07.01.1998) 13. hec. Researches 1/1.000 scale development plan for 3.5. hec.	
13	DEMİZLİ / Merkez Karahayıt	457, 458	Ministry of Finance (Treasury)	6,22	Public Institution (Real estate property with recreational facilities)	Tourism Area	Unknown	Land Office		1/1.000 scale Plan Modifications and plan report have been prepared by Land Office (26.01.1995)	
14	İÇEL / Silifke- Atayurt	1330	Ministry of Finance (Treasury)	5,87	Public institution Training and Recreational Facilities Complex	-	Unknown	Land Office (23.01.1995)		The Office has given its opinion to the PA about the research studies	
15	İÇEL / Silifke Olukbaşı	1332, 1334, 1338 and 1450 parcels	Ministry of Finance (Treasury)	22,50	Public institution Training and Recreational Facilities Complex	-	Unknown	Land Office (05.07.1995)		The Office has given its opinion to the PA about the research studies	
16	İÇEL / Silifke- Kocapınar	489 parcel	Ministry of Finance (Treasury)	0,69	Municipality Tourism Hotel	Accommodation Complex - Tourist Hotel	Unknown			1/1.000 scale Plan Modifications and plan report have been prepared by Land Office (05.07.1995)	
17	İÇEL / Silifke Tazıcıu-SEKA	5610, (7566, 7564, 7565) 6592	SEKA A.Ş.	213,5	(Active) Industrial Area+Port+Vacant Area+Customs	Dockyard, a port, customs, social recreation, service and development area of the port	Unknown	Land Office and the PA	All related public institutions	Land Office (31.10.2001)	At the stage of approval, Plans subject to public discussion The PA regained the area but achieved no revenue The land use is for public interest but against social interest

Table 32 (continued)

18	ISTANBUL / Sanyer-Yeniköy	304/1, 3, 286/ 1	Turban Turizm A.Ş.	0,42	Tourism Accommodation	Tourism Accommodation	Unknown	Land Office (16.02.1995)	Land Office	Keeping the existing land use still is found proper and necessary information is provided to the PA
19	ISTANBUL / Sanyer- İstinye	380/17, 18, 38, 32	Turban Turizm A.Ş., Gen. D. of Petrol Ofisi	6,69	Tourism Accommodation	Tourism Accommodation	Unknown	Land Office (22.02.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
20	ISTANBUL / Sanyer İstinye	360/3, 52, 54, 57, 64	Turban Turizm A.Ş.	10,33	Tourism Accommodation	Tourism Accommodation	Unknown	Land Office (22.02.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
21	ISTANBUL / Sanyer İstinye	28 parcels	T.Geml San. A.Ş.	3,54	Tourism Accommodation	Tourism Accommodation	Unknown	Land Office (24.03.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
22	ISTANBUL / Sanyer Mirgün	179/9	Gen. D. of Petrol Ofisi	0,24	Public Open Swimming Pool and Water Sports	Public Open Swimming Pool and Water Sports	Unknown	Land Office (17.04.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
23	ISTANBUL / Sanyer Yeniköy	317/19, 35, 36, 37, 49	Gen. D. of Petrol Ofisi	0,12	Car park	Housing and Park	Unknown		1/1.000 scale Plan Modifications and plan report have been prepared by Land Office (26.01.1995)	
24	ISTANBUL / Sanyer Yeniköy	296/21	Turban Turizm A.Ş.	0,24	Tourism Accommodation	Tourism Accommodation	Unknown	Land Office (12.07.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
25	ISTANBUL / Üsküdar Kandilli	932/1	Turban Turizm A.Ş.	2,50	First Class Picnic Area with and without trees	First Class Picnic Area with and without trees	Unknown	Land Office (22.02.1995)		Keeping the existing land use still is found proper and necessary information is provided to the PA
26	ISTANBUL / Üsküdar Altunizade	11/122, 123, 124, 148, 150	Sümer Holding A.Ş.	2,94	Housing, Administrative Centre, Car park and Park	- Administrative Centre - Hospital	Unknown	Land Office	Two alternatives of 1/5.000 and 1/1.000 scale Plan Modifications and plan report have been prepared by Land Office (17.07.1995)	
27	ISTANBUL / Şişli Harbiye	777/38	Türk Petrolleri A.Ş. (TUPRAS)	0,08 (794, 86)	4 Flats	4 Flats	Unknown	Land Office (24.03.1995)		2 flats were in bad condition and 2 flats were used as offices. Keeping the existing use still is found proper and necessary information is provided to the PA
28	ISTANBUL / Beşiktaş	511/59	Gen. D. of T. Denizcilik	1,22	Car park, Park and Resting Areas		Unknown	Land Office (24.03.1995)		Information on research studies is provided to the PA

Table 32 (continued)

29	Građan İSTANBUL / Beşiktaş Kurtuluşme A.Ş.	1343 /69	İşletmeleri Gen. D. of Petrol Ofisi	0,37	Housing and Green Area	-	Unknown	Land Office (17.04.1995)	Information on research studies is provided to the PA
30	İSTANBUL / Gaziosmanpaşa	940 parcel	Sümer Holding A.Ş.	0,50	Housing	Housing	Unknown	Land Office (05.07.1995)	Keeping the existing land use still is found proper and necessary information is provided to the PA
31	İSTANBUL / Beykoz Dereseği	210, 212, 213 parcels	Sümer Holding A.Ş.	16,98	Forest Area	Forest Area	Unknown	Land Office (12.07.1995)	Information on research studies is provided to the PA
32	İSTANBUL / Beykoz Yalıköy	441/2	Sümer Holding A.Ş.	18,27	Tourism Accommodation and Green Area	Tourism Accommodation and Green Area	Unknown	Land Office (12.07.1995)	Keeping the existing land use still is found proper and necessary information is provided to the PA
33	İSTANBUL / Büyükdemece Kumburgaz	443 parcel	Gen. D. of Petrol Ofisi	0,27	Commerce	Commerce	Unknown	Land Office (18.07.1995)	Keeping the existing land use still is found proper and necessary information is provided to the PA
34	İSTANBUL / Pendik Doğu Mahallesi	849, 854 blocks (112 parcels)	T.Gemi San. A.Ş.	2,0	Sports and Recreation Area	Sports and Recreation Area	Unknown	1/1000 and 1/5000 Plan Modifications and plan report have been prepared by Land Office (09.01.1997)	Information on research studies is provided to the PA
35	İSTANBUL / Bakırköy Sakızağacı	1/1, 6/1, 7/2	Sümer Holding A.Ş.	9,7	Recreational Facilities (Tourism, park, green areas) and Hippodrome Complex	Recreational Facilities (Tourism, park, green areas) and Hippodrome Complex	Unknown	Land Office (13.02.1996)	Existing land use will be kept still and necessary information is provided to the PA
36	İSTANBUL / Beşiktaş Yıldız (Atık Alı Paşa Yalısı Turizm Merkezi)	575/18, 19,33, 35, 40	Ministry of Finance (Treasury)- Turban Turizm A.Ş.	1,7	Housing	Tourism Commerce and Accommodation	Tourism Area	1/5000 and 1/1000 scale Plan Modifications and plan report have been prepared by Land Office (04.02.1999)	1/5000 scale plan is approved by the Ministry of Public Works and Settlement on, 1/1000 scale plans have been approved by the Ministry of Tourism
37	İZMİR / Konak	2939/182 3169/177, 179, 234	Sümer Holding A.Ş.	1,59	Industry	Education	Unknown	1/5000 and 1/1000 scale Plan Modifications and plan report have been prepared by Land Office (2001)	Information for research studies is provided to the PA
38	İZMİR / Alağa Sahil evleri	3331 parcel	Türk Petrol Rafinerisi A.Ş.	15,40				Land Office (03.02.1995)	Information for research studies is provided to the PA



## APPENDIX Z

### PROBLEMS FACED BY THE PA DURING REAL-ESTATE AND PLANNING WORKS

Problems faced by the PA during the privatization of an immovable<sup>1085</sup>:

- Inconformity to legislation in the structural formation level: PEEs have been existing since the Ottoman period and most of them, especially, the navigation sector, have property problems;
  - a. Formations against “Temporary Articles” of the Coastal Act (administrations even missed exemptions),
  - b. Actions against the related legislations in meadow, forest, cultural and natural preservation areas.
- Location of the investment,
- Planned/unplanned development investments of the country,
- Legislative problems,
- Transfer demand for overcoming administrative mistakes, and
- Objections to transfers.

Problems of real-estate and planning works<sup>1086</sup> within the content of Privatization Act No: 4046 are given in an unpublished report of the PA:

1. Transfer of immoveable property owned by the Treasury, but used by those PEEs taken into the privatization program according to Article 19/B and public share is over 50 percent and immovables under state’s governance and saving are asked from the General Directorate of National Real-Estate. The plan making process takes a long time as the General Directorate asks several procedures and documents from its locality such as;

- For what reason the immovables are gained,
- Either they are within the content of Protection of Cultural and Natural Possessions,
- Allocated to the Ministry of National Defense,
- Located within the Forest limitation area or not,
- Agricultural area or not and under the order of the General Directorate of Agricultural Reform,
- If taken out of the forest area borders, it is given to the ownership of the Ministry of Agriculture and Village Works,
- Area that should be allocated to the Ministry of Tourism according to the development plan,
- Areas subject to Squatter Act No: 775,
- Area that is allocated to the Ministry of Public Works and Settlement due to natural disasters,
- To which institution it is allocated to,

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<sup>1085</sup> Ömer Ardalı, the PA (Sept. 07, 2001, personal communication).

<sup>1086</sup> Taken and translated from an unpublished official report of the PA dated 2005.

- To whom the right of easement is given,
- The land is within the planning area boundaries or not and the planning decisions (plan functions, construction area, possibility to construct, etc.),
- The location of the land in terms of administrative boundaries (inside or outside of municipal area boundary, adjacent area boundary, village area boundary or other forms),
- If there is newly created parts on the land and whom does this belongs,
- The characteristic of the construction,
- Located in the areas subject to Coastal Act,
- If there is any commentary in the Title Deed registry,
- The latest land use and use typology,
- Distance of the land to the settlement area and information about the possibility of infrastructure services,
- The latest Title Deed Registry,
- Calibrated Possession Document and Title Deed Registry paper,
- If it is within the development area boundaries ; municipally approved plan or approved development plan example where cadastre or development parcel is marked [belediyesince onaylı imar durum belgesi veya üzerinde kadastro yahut imar parseli işaretlenerek yeri belirlenmiş onaylı imar planı örneği] ; if it is outside this area boundaries; location marked on a 1/25.000 scale sketch with coordinate values,
- Sketch or determination document prepared at its locality defining the use typology and structures on the immovable property.

2. Even though the plan approval competence of those areas of the institutions in the Privatization program according to the Act No: 4046 Article 41 is with the PHC; the municipalities can also make development plans for these areas. The functions proposed with these plans decrease the value of these lands. Intervention to the municipal actions and bringing the action to the court cause the Administration time loss. In general, the municipalities use these areas as social service areas. In cases where the real persons get these lands, they ask for land use change. The municipality, being unaware of the competence of the PA, deletes the plan and tries to be in conformity with the municipality.

3. Lands and parcels of the PEEs in the privatization portfolio have the functions like public institution area, social service area or termed by the name of the institution. When these areas are taken to the privatization content, for both compensating the investors' demands and efficient and effective use of public resources; development plans are amended. Within this framework, development plans that will not distort the unity of the urban plans are prepared by taking the opinion of the related municipalities. Development plans made sensitive to the views of the municipalities are forwarded to the PHC. Plans are approved ex-officio according to the provision added to the Act No: 3194 Article 9 by the Act No: 4046. However, in several special areas (like tourism centers, coastal areas, protection areas), plan approval competence is with other institutions, plan preparation and approval processes are long. The Act No: 5398 solves this problem:

4. The process of transfer of meadows starting by the application to the Ministry of Agriculture and Village Works is long and this causes a delay in the procedures. Determination of the meadows on land is followed by mapping of these lands. Determinations of the officials of the Provincial Directorate of the Ministry of Agriculture, reporting of the existing situation, calculation of grass compensation of 20 years and payment of this to Meadow fund, and registry of this in the name of Treasury needs an efficient follow up. The problems occur from the legislation of other public

institutions and missing equipments. After the registry of the meadows in the name of Treasury, the legislation of the Ministry of Finance is applied.

5. During the application to the Ministry of Culture and Tourism for the permissions that have to be taken according to the Act No: 2863 Articles 13 and 14 for the lands that belongs to PEEs in the Portfolio and have a protection area character, the biggest problem is the process of gathering all the related actors and putting the demand of the PA to the agenda. On the other side, as the protection area character is not stated in the title deed registries, a detailed study have to be made by the PA. During the research studies, it is determined that there is no healthy registry in the Title-Deed Offices.

6. In terms of the lands owned by the General Directorate of Wakfs but used by the PEE, the basic problem is the reliable registry. Although the area is not determined as a Wakf area during cadastre studies, but the land can be a Wakf property according to the General Directorate inventory. There may be cases continuing for 50 years and the PEE may be unaware of this, which causes a time loss. The lands, declared as Wakf ownership, are valued by the value appraisal commission and 20 percent of the value is paid to the Wakfs Fund and the land is left free.

7. The forest area of the PEEs is hard to transfer due to the Forest Act. Their privatization could only be through the left time over the existing declaration document. The area does not have a well-prepared map in general and the area used is not parallel to the area declared in the documents. The PA cannot change the allocation aims and the allowance by the Ministry for the transfer to the third persons takes a long time. In such cases the PA makes various official writings and land measurements.

8. Facilities of many PEEs in the privatization program are on the coasts. According to the Article 43 of the Constitution and the Coastal Act No: 3621; if these facilities are not one of the "facilities that should be located on the coast" (port, marine, dockyard, ship dismantle areas, pumping stations, etc.), legal status cannot be given to these areas. (Areas built before 11.07.1992 and permission is given keep their legality). In this situation, the PA cannot use social facilities built by the public worth million dollars. Legal status can be given to these facilities through special provisions in the related legislation and by temporary permission. Many of these facilities are left idle.

9. PEEs do not have construction permits or habitation permits. Even though they are taken they are not present in the institutions' achieves.

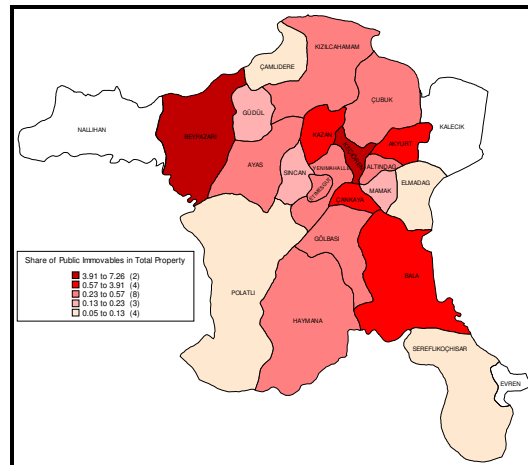
10. Transferring to flat ownership is impossible if development, permission and property procedures of the property of PEEs are unfinished. Sale through flat by flat cannot be made. Flat Ownership Act No: 634 has been amended, but the Supreme Court decision dated 2005/98 and numbered 2006/3 has omitted this. New legislative studies are kept going by the PA.

11. Facilities belonging to the Enterprises in the Privatization Portfolio cannot satisfy the requirements of the legislation diverted to the use type. For example, according to the related regulation of the Tourism Act No: 2634; characteristics of tourism facility types are explained. Public institutions cannot satisfy these requirements.

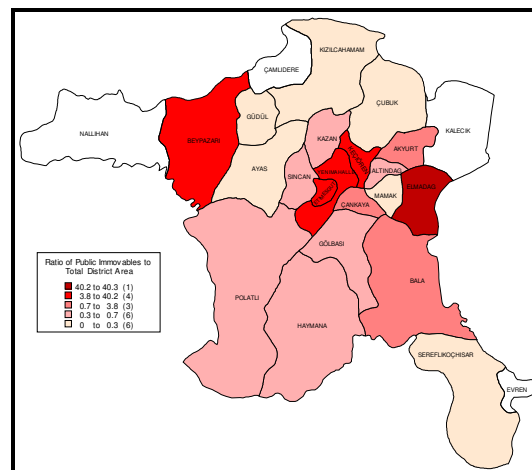
12. Heating, water, electricity demands of those facilities of the PEEs are bound to the main unit or service units. For this reason, privatization of these large complexes division of the existing infrastructure system is impossible and if divided, the cost may be very high.

## APPENDIX AA

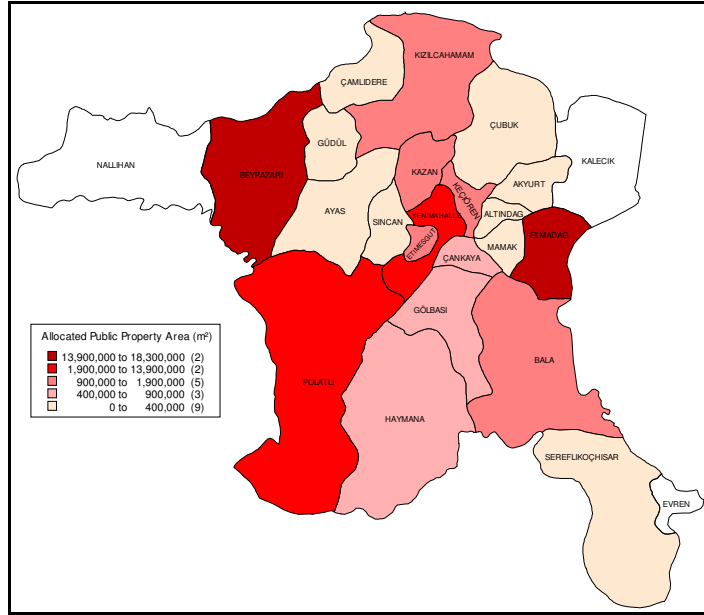
### SPATIAL DISTRIBUTION OF PUBLIC LANDS IN ANKARA



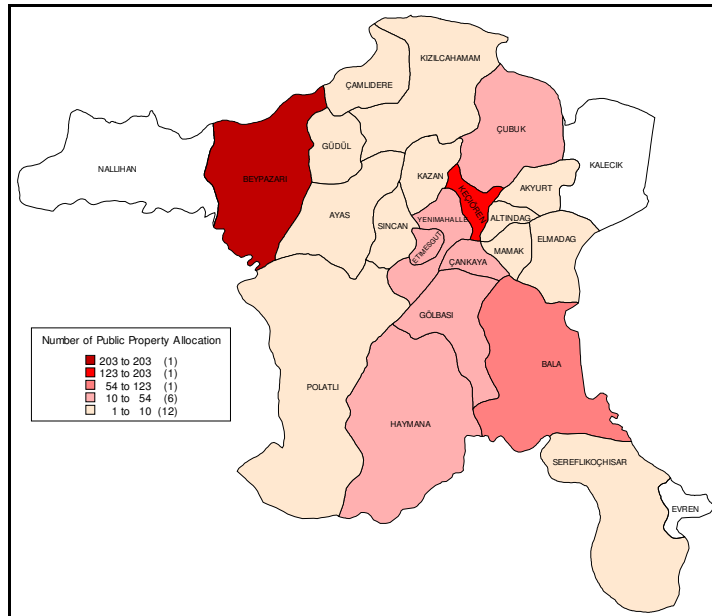
**Figure 37.** Share of Public Immovables in Total Property of Ankara (2006)  
(Interpreted from the data of the GDNRE by 18.07.2006)



**Figure 38.** Ratio of Public Immovables to Total District Area of Ankara (2006)  
(Interpreted from the data of the GDNRE by 18.07.2006):



**Figure 39.** Allocated Public Property Area in Ankara (2006)  
(Interpreted from the data of the GDNRE by 18.07.2006)



**Figure 40.** The Number of Public Property Allocation in Ankara (2006)  
(Interpreted from the data of the GDNRE by 18.07.2006)

Table 33. Distribution of the Allocated Public Immovables in Ankara(2005)

DISTRICT	Number of Allocation	Ratio to the Total Number of Immovables in the District (%) *	Allocation Area (m <sup>2</sup> )	Ratio to the Total Immovable Areas in the District (%) **
Altındağ	8	0,25	60.470,50	0,42
Çankaya	27	0,98	414.433,75	0,74
Etimesgut	15	0,48	1.539.608,15	4,31
Gölbasi	11	0,34	476.475,00	0,44
Keçiören	123	3,91	1.471.255,00	6,01
Mamak	5	0,13	34.437,00	0,08
Sincan	5	0,16	153.392,00	0,4
Yenimahalle	10	0,36	1.943.746,00	5,28
Akyurt	6	0,58	135.688,00	1,64
Ayaş	3	0,24	26.930,00	0,06
Bala	54	1,25	1.328.064,00	0,85
Beypazarı	203	7,26	13.952.207,80	3,87
Çamlıdere	1	0,05	16.432,00	
Çubuk	12	0,27	45.781,00	0,06
Elmadağ	4	0,09	18.280.282,44	40,23
Evren				
Güdül	2	0,13	4.893,00	0,06
Haymana	19	0,34	408.734,00	0,39
Kalecik	0			
Kazan	8	0,59	964.940,00	0,39
Kızılcahamam	5	0,23	1.340.856,00	0,06
Nallıhan	0			
Polatlı	8	0,08	2.296.804,44	0,54
Şerefli Koçhisar	3	0,09	113.771,42	0,11
<b>TOTAL</b>	<b>532</b>	<b>0,72</b>	<b>45.009.201,50</b>	<b>0,85</b>
* Ratio of allocated land in the district to the total number of immovable property in the province.				
** Ratio of the area of the allocated lands to the area of all immovables in the province.				

## APPENDIX BB

### ANKARA CBD PLANNING DECISIONS

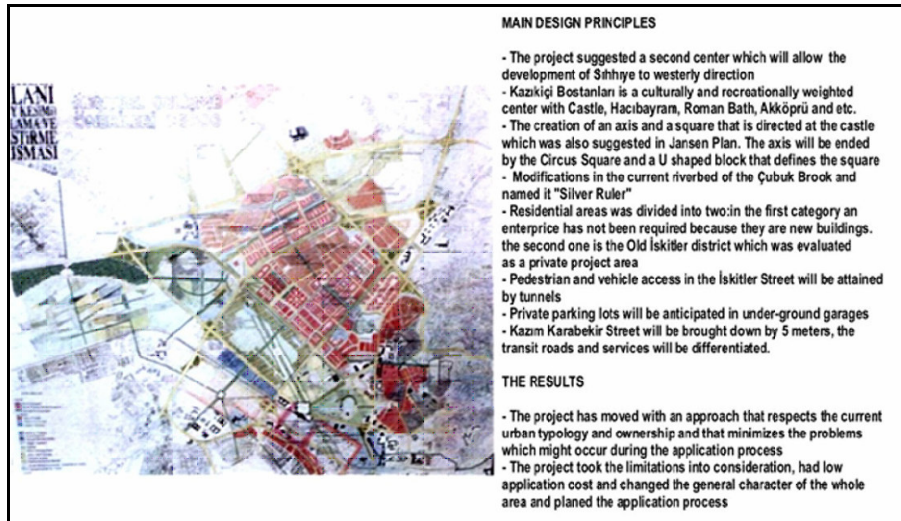


Figure 41. Ankara CBD (Northern Section) Planning and Development Competition (1993) (Çakan, 2004:88)

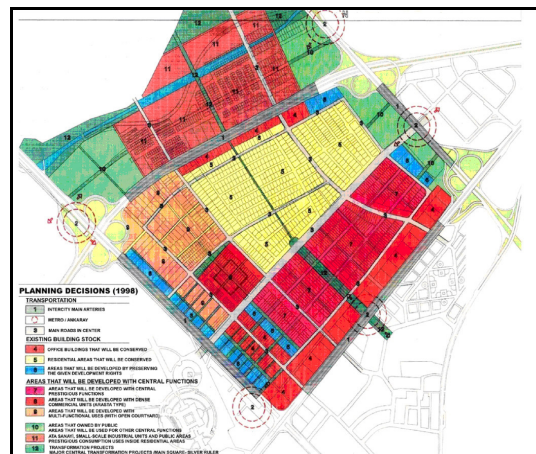


Figure 42. 1998 CBD (Kazıkçı Bostanları-İskitler) Planning Decisions (Çakan, 2004:98)



Figure 43. 1/5.000 Scale Master Plan of Kazıkıçı Bostanları (Metin Aygün, 2006)  
(Reduced in form)



APPENDIX CC

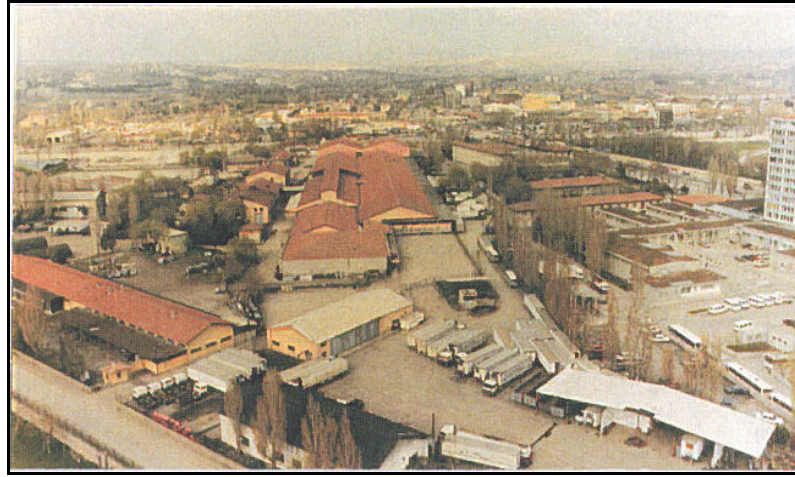
DEVELOPMENT PLANS AND THE STATUS OF GİMAT

Table 34. Summary of Development Plans and the Status of GİMAT

Plan/ Document	Year	Construction Co-efficient (E)	Land Use	Plan Making Body	Planned Area (m2)
Development Plan 1/1.000	1993	E=1.5 (KAKS) Hmax: Free	Urban Service Area	Greater Municipality of Ankara	171.336
Privatization Tender Document	1993	E=1.5 Hmax: free	Urban Working Area	The Privatization Administration	100.725
Development Plan 1/1.000	1994	-	Junction	Greater Municipality of Ankara	-
At the date of the sale	1995	No information available	EBK Factory area (3 undeveloped land + 1 parcel)	--	168.829 9433/1 parcel (31.854 m2, cadastrate parcels of 2035/12 (5170 m2), 2035/13 (122.670 m2), and 2034/3 (8605 m2).
Master Plan 1/5.000	1996	E=1.5, hmax: free but if a building of 50 stories will be constructed E= 3 with Hmax:free	Urban Service Area	Greater Municipality of Ankara	171.336
Development Plan 1/1.000	1997	I. E=1.5 Hmax: =free II. Stage: E=1.5 and Hmax=free. If a building of 50 stories will be constructed E=3 with Hmax: free	I. Stage II. 5 functions hypermarket, shops of commercial use, recreation centre, fast food, and department stores II. Stage (not made) high technology equipped Business center, Apart Hotel and housing complex	Yenimahalle Municipality	171.336 m2 - (168.829 m2 in GİMAT possession)) 9433/1, 2035/12-13, 2034/3 100.725 m2 iis created for GİMAT ownership
Master Plan 1/5.000	2004	E: 1.5, but if a building of 50 stories will be constructed; the construction co-efficient will be "3" with hmax: free	urban service area	Greater Municipality of Ankara	100.725
Development Plan 1/1.000	2005	I.Stage E=1.5 Hmax:free II. Stage E: 3 Hmax=free If a building of 50 stories will be constructed E=3 with hmax free	I. Stage 5 Concepts II. Stage 4 functions shops of commercial use, hotel, department store, fastfood	Yenimahalle Municipality	100.725 The green area and the passage in between two GİMAT parcels
STATUS	2007	E=2	I and II Stages	Yeni GİMAT A.Ş.	293.724.83 m2

## APPENDIX DD

### EBÜ A.Ş. AREA AND THE RELATED PLANS



Picture 3. EBK Ankara Headquarters and Slaughterhouse Area, 28.10.1996  
(Yeni GİMAT A.Ş., 2001)



Picture 4. EBK Ankara Headquarters and Slaughterhouse Area, 28.10.1996  
(Bekir Ünüvar, 30.03.2007)

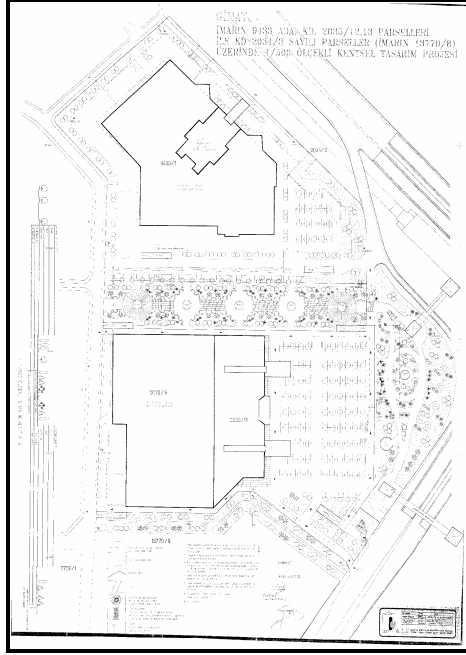


Figure 44. 1/500 Scale Urban Design Project (1996) (Yeni GİMAT A.Ş., 2001)

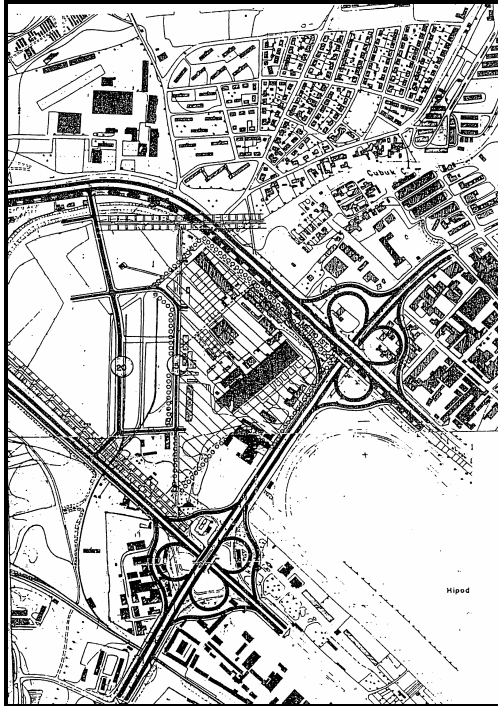


Figure 45. 1/5.000 scale Master Plan (1997) (Reduced in form) (Bekir Ünüvar, 30.03.2007)





Picture 5. Second Stage of ANKA Mall - Southeastern Perspective  
(Yeni GİMAT A.Ş., 2006)



Picture 6. Southwestern Perspective (Yeni GİMAT A.Ş., 2006)

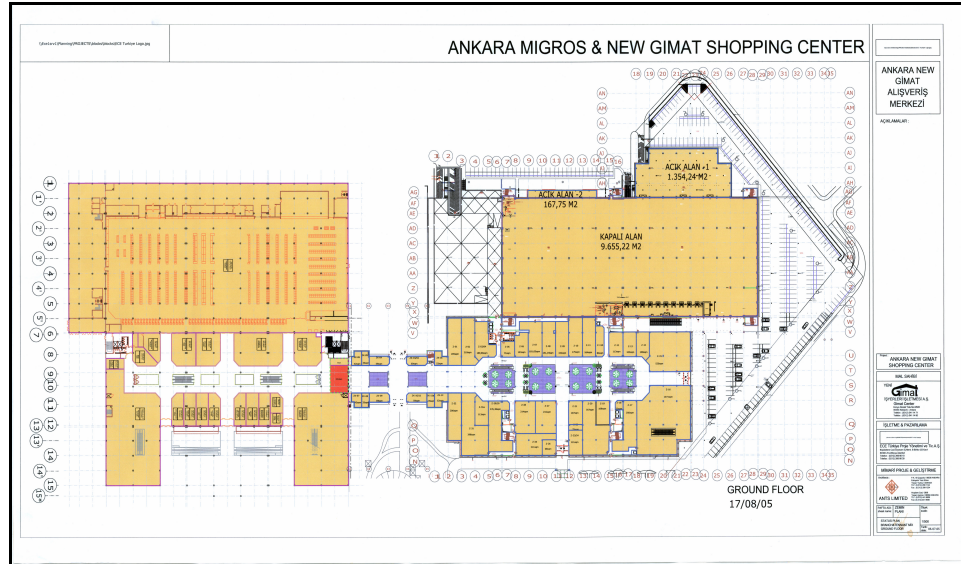


Figure 47. The Ground Floor Plan (Yeni GİMAT A.Ş., 2006)

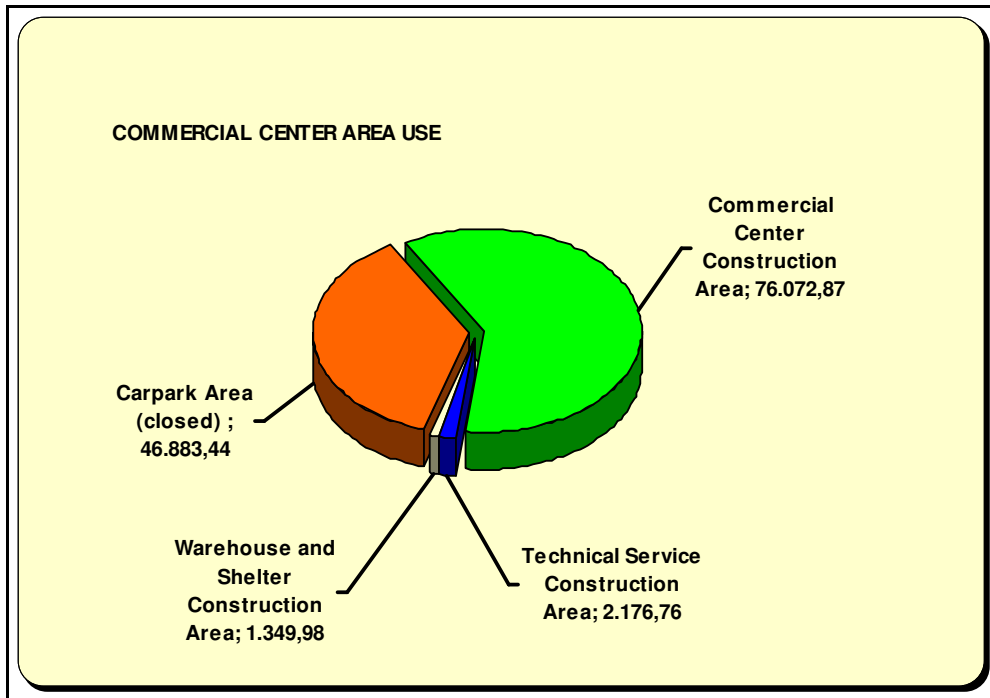


Figure 48. Commercial Center Area Use

## APPENDIX EE

### DUALISMS OF (RE) PRODUCTION OF URBAN SPACE

#### ADMINISTRATIVE PRACTICE (Content of the Administrative Actions)

- Public authority competence chaos

One of the impacts of privatization on urbanization appeared as an intervention of the central authority to the competence area of local authorities. From 1985 onwards, Development Legislation had given planning autonomy to local authorities. At the same time, through privatization legislation the intervention of the central authority to the (re) production of urban space and the management processes of the local authorities has emerged. *De jure-privatization* process became an intervention mechanism of the central authority to the local authority competence area. In other words, the central authority has interrupted plan preparation, approval and implementation processes of nodal urban projects. This means besides urban space formation process, urbanization process is also affected. The implementation of the plans through which the local authority tries to direct the local economy and urban space, to set necessary balances in between and to direct the property market is made either by the investor or the central authority with revenue objectives.

The decision anarchy between the plan making and implementing local institutions and privatizing public institutions may have various reasons: The privatizing administrations' national perspective may contradict with local objectives or investment priorities of the central authority or the investor may be different than those of the local authorities. For example, in SEKA Mersin Taşucu case, the compactness of the factory and the demand of the municipality for the sustainability of the urban area have contradicted. The army required a part of the factory land for constructing a dockyard with national defense objectives and the municipality proposed an urban transportation route combining different parts of the city. Necessary urban studies of the new proposed land use decisions, in terms of urban economics or urbanization before the transfer, are also lacking in the PA or in the local authority. It must be noted that central authority leaves the process of reproduction of space to the control of the local authority and than the investor and the local authority are face to face. Intervention of the central authority is certain, but the local authority may block the privatization process. The local authority cannot fully express its role in terms of creating public interest, if not satisfied and can block<sup>1091</sup> privatization before or after the act of transfer. Investors or the PA can be affected from the actions of the local authority when these authorities;

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<sup>1091</sup> In addition to the actions of the local authorities, other actors of the comprehensive planning and may have attempts to block privatization. For example, Letters of Chamber of City Planners dated 27.01.1995 and No: 95/444 and Chamber of Architects dated 13.01.1995 and No: 011/79 for 16023 Parcel of Sümer Holding A.Ş. in AOÇ junction in Ankara. Decision of Izmir First Regional Board of Conservation of Cultural and Natural Heritage dated 29.03.2001-598 and No: 29.03.2001-9212 for Sümer Holding A.Ş. (2939 Island and 182 parcel and 3169 island and 177 and 179 parcels) Izmir Basma Sanayi Establishment Area.

- First, take the establishment area into adjacent area boundary (meadow areas or several ORÜS A.Ş. establishments<sup>1092</sup>),
- Open the close surrounding of the privatized land to residential growth,
- Ask for the transfer of this land to the municipality (Bursa Sümer Holding A.Ş. Merinos Factory),
- And if the establishment area is not allocated to them, then try every method to take this establishment out of the city or do not give necessary construction or occupancy permissions (Manisa EBÜ A:Ş. Combine area<sup>1093</sup>).
- Approve development plans of public lands that will be privatized as social recreation or green areas , and
- Bring the plan approvals in front of the courts and delay the process of transfer.

The local authorities may aim;

- to increase or balance development rights in other zones of the city by keeping the privatized area for social services or as green areas (Bursa Merinos factory )<sup>1094</sup> (to compensate the demand for urbanization),
- to compensate the demand of the local inhabitants (Akköprü Ankamall),
- to preserve the last vacant areas in the urban centers or transition zones (SEKA İzmit Factory Area),
- to achieve the ownership of public lands and use it for commercial objectives (16023 Parcel of Sümer Holding A.Ş. in Ankara, Malatya Sümer Holding A.Ş.),
- to direct urban growth by realizing plan objectives (SEKA Taşucu Factory Area).

- **Urban Planning practice versus urban planning understanding**

The evaluation of the GİMAT Ankara case proved that the privatizing administration is irrespective of planning, its processes, and the responsible actors and their competence areas. Although the administration does not have a certain consciousness level, several planning works are finalized with good quality. In any way, the planning processes in *de jure-privatization* could not perform a standard procedure and planning principles in a unity<sup>1095</sup>. If privatization creates special areas and proposes development by parts, then this breaks the dialectical relation between urban parts and the whole. When the intervention of the investor and the responsible administration from privatization having market-led planning understanding are compared; the intention of the investor are better defined and the investor is more successful in structuring the market relations and urban space. The administration responsible from both privatization and planning has no consciousness of comprehensive planning<sup>1096</sup>. Several actors of the planning process defined by the Development legislation are not cooperated and not allowed to participate to the planning stages. The planning consciousness differs relative to the administration making plans (i.e. abolished Land Office or the PA).

<sup>1092</sup> Haluk Bilgin, the PA (July 31, 2006, personal communication).

<sup>1093</sup> There is a difference between the privatization document and the letters send to the PA.

<sup>1094</sup> The PA could not decide to whom or how to privatize Bursa Merinos factory as the establishment was functioning monopoly and scarce good. There was no private investor willing to have that establishment. To balance its missing urban standards in the inner city, the municipality demanded the land. There are high objection levels to privatization and the local administration's urban development intentions. Bursa Merinos factory is not the only example. Antalya-Pamuklu, SEKA İzmit Woodland and MKE-Battery Factory are some other cases. Here, the municipalities try to get these state owned lands to compensate their development standard required by the Development Act. In other words, local authorities demand privatization in several cases.

<sup>1095</sup> As long as this administration does not define planning principles and standards within market mechanisms, any act for the market mechanisms cannot reach its predetermined objectives.

<sup>1096</sup> Haluk Bilgin, the PA (July 31, 2006, personal communication).



- **Contradiction of central authority policies**

Central authority policies of development and privatization may differ. The State may distort public movables and/or immovables during privatization: A dockyard could not be privatized as it is close to Dalaman Special Environmental Protection Area. However, a dockyard will be constructed close to Göksu Delta by another central authority regional development decision. Black Sea Coastal Highway has destroyed several ports in the Privatization Program.

## **ECONOMIC TERMS**

- **Liquidation oriented Privatization (Socialization versus Privatization)**

Public immovable property transfers are subject to public undertaking transfer legislation that is controlled by a central authority (The Ministry of Finance). The administration responsible from liquidation of PEEs is not also the decision-making authority during the liquidation activities made under the privatization act. *De jure-privatization* legislation changed this understanding. It covers liquidation and privatization actions at the same time<sup>1097</sup>. In the *de jure-privatization* process, public production spaces and public undertakings are liquidated and closed down. Even though the PA has been bound to the responsible body with a presidency decision after the year 2003, there is still no legislative arrangement or interaction between these central administrative bodies. During *de jure-privatization* process, the method of transfer of liquidation is the transfer without compensation method. By this method, the public lands are transferred again to central authorities or local authorities. This proves that economic development and social development are exercised until the year 2005.

- **Development objectives versus market objectives (National interest versus local interest)**

PEE investments have been made within a national development planning approach and were planned in national, regional and local scales. Some of the PEEs can be necessary for the continuity of the urban area. If the PEE, the small sized city is dependant upon closes down, the side sectors will close and socio-economic and cultural depressions will be exercised. These will be followed by high amounts of migration, and the fiscal crisis of the authorities leading to inequalities. For public health and community benefit, some PEEs are necessary in urban areas or sectors to promote social goals and objectives. In spatial terms, several PEE lands and the continuity of PEE production functions can be necessary for urbanization. The privatization of a PEE can be a necessity, whereas their immovables may not be. The PEE, once created the city, may also be against urban development. In this situation, compactness of the establishment versus needs of the urban development and urban planning should regain this area. The question here is that who will decide the necessity for the continuity of the facility or its privatization in terms of urbanization and development? There are several limits for determining the necessity of transfer. Urban state lands owned by a PEE privatization can be classified as:

- The provision to the urban land market can be a must,
- The immovable is an urban lost space, but has the potential of development, and
- The provision of which is not demanded by the land market and useless for the privatization administration.

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<sup>1097</sup> Privatization activities do not generate the same results everywhere. The privatization of urban state owned lands has proved that the activities have no efficient commercial construct. If to point once more, the high amount of transfer without compensation strengthens the discussion that transfer of those immovables of the PEEs is cheap and achieved less revenue.

The limits of privatization should be same for the society and the public administration. Monopole, scarce goods and goods for national defense, public health and safety should not be privatized. These are also privatized today.

- **Use value of land versus exchange value**

It is known that public administration take up economic slacks and convert it into lower prices and higher production quality. Public enterprises are often expected to fulfill at least some special objectives. If they are owned by the private sector, “elevated profits” through higher prices and lower quality will be the outcomes.

What Starr (1988:17) has stated in terms of the relationship between mode of public sector control depending on the structure of political administrative relationships and private property ownership, seems to be proved by GİMAT case. Performance is contingent on political culture, the structure of the state, and public policy toward enterprises. Consumption spaces are preferred for higher exchange interests.

Case study and other examples of *de jure-privatization* showed that higher profits lead to higher investment costs. Higher investments also lead to higher qualities of construction, but low urban qualities as they are structured for the benefit of the investor<sup>1098</sup>. For this reason, use value replaced by exchange interest has dual reflections: The land as a commodity can be exchanged with higher costs. Investor also structured the area according to exchange interest by the land use applied to increase its commercial value. Land use may create use interest for the public, but this is a defining factor for the decision of the investor.

- **Land value as a function of land use in time**

In the first years of the development of the Republic, land allocation for PEEs has decreased the value of land and its close environs. The central authority through its national development policies and investment decisions has raised the land values<sup>1099</sup> through *de facto-privatization* and the emergence of rent economy is exercised. The local authorities also exercise similar actions. In *de jure-* and *de facto-privatization* processes, the administration has not omitted or limited rent, and allowed the value shift from one urban area to another. PEE lands became degraded areas in time. The pressures for transformation of these areas and their surrounding had risen. The privatizing administration while privatizing these lands took account the value of the land at the time of transfer, but lacked to take into account the value that can be created after the area is developed. That is why; the revenue gains are low during privatization, and criticized. Land use type is a function of land value. The investor in GİMAT first aimed to create warehouses for its members appropriate to the macro and micro plan decisions. However, later changed decision and constructed a facility for the city that will generate the highest revenue shares to its members. Therefore, the privatization value of the land for creating warehouses is different from the value of the developed land as a commercial center. Land uses are determined relative to the value they generate.

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<sup>1098</sup> On the same line, Tomaskovic-Devey and Miller (1984:64) states that, “investments are based on short-term private exchange value for the investor, not on national use value to counter the internationalization of the market or deindustrialization”: Short-term expectations versus long-term planning.

<sup>1099</sup> See: Kılıç (1993). The ingredients led to an increase in Plot Values Chart. P.40.

## **PUBLIC INTEREST**

When the processes are structured by rent expectations and private interests and/or governor's interests and are far away from production, there is no expectation for actions aiming public interest. Public and private notions are tied to each other in a symbiotic relationship. Therefore, neither of them can prosper while the other is weakening. The prosperity of both is linked in a mutually beneficial relationship. The contradiction between public interest (in terms of social interest and institutional benefit) and private interest takes its roots from private/public property dilemma. Due to the transfer of rights to property by *de jure-privatization*, several dualisms emerge:

- **Social benefit versus private interest(profit maximization versus social welfare)**

*De jure-privatization* is made for public interest is the official statement. However, Turkish *de jure-privatization* practice changed the meaning of the public interest concept (Duyguler and Altaban (2004) have stated the same for general use). The public or a section of it uses spaces produced by privatization. Therefore, there are claims that the space is not produced for the private interest, but also for public interest. The interest emerged is public interest and if the public production were kept still and there was no privatization, the land use could be for social benefit. In GİMAT case, there emerged "planning for private benefit" which transformed in time to "planning for public interest and private benefit".

- **Interest notion changes by plan hierarchies**

Tensions appear because of the methods of transfer in the *de jure-privatization* process. Implementing regulatory principles and setting standard, stagnant measures for social benefit and spatial control become harder. As a result, privatization plans are nodal interventions against upper scale plans and urban growth tendencies, the impacts and expectations of which are national. If the plan modification takes into account the existing macro plans, then the development in the privatized land has positive impacts to the urbanization tendencies and the urban macroform. This nodal intervention can be a chance for realizing the plan principles and targets. GİMAT land use decision and investment location selection was successful, as the land use had been proposed after 1970s for Ankara. It is also determined that investments not obeying the macroform and unbound to urban systems, will not be as successful as GİMAT.

On the contrary, GİMAT investment did not obey the development principles of its close surrounding. For this reason, it had negative impacts at this micro scale. Whereas the same land use and development rights can have negative impacts to the close environs in the micro scale, if this nodal intervention is against the existing plans and zoning principles. Negative effects to the planning process and the urban development of its close environment are observed in the second stage development. In other words, through pure market-led approaches, impacts on investment and its close environs is inevitable. As these areas gain strength in the urban system in the micro level (not being against the macro plan but by achieving high development rights); they allow degradation of their close surrounding and these neighboring areas lose their competitive character. During the planning process of these areas, if the consumption spaces are (re) produced in accordance with the comprehensive planning approach and intervention of the related actors are allowed; the investment will become successful and interact with the urban layout. This success will increase the competitive character of these spaces.

- **Development through fragile spaces (Development as a project area versus development by parts)**

The transfer cost of areas allocated to common use according to urban development legislation is high and the fragile property pattern generates difficulty in realization of

urban transformation projects. This situation accelerates the importance of state's private properties located in urban city centers and transition zones (in block form). As stated before, through corporatist planning, parts eccentric to the whole, not targeting public interest is created. Through *de jure-privatization* they acted against comprehensive planning that is already under attack of *de facto-privatization*. Urban planning mentality is lowered in *de jure-privatization* to partial development plan decisions lacking the unity of the whole and is against public interest. As a result, "Individual and dispersed location selection of capital, achievement of low cost public land, and demand for a change in development rights by the private sector" contradicts with the "development achieved by a comprehensive planning process". Through market-led objectives, PEE parcels and lands became single rent projects. Development through (re) producing fragile spaces is demanded for two reasons: Firstly, when the privatized land is planned piece by piece then each successive or separate investment generates more rent and revenue and is for the benefit of the investor. For example, GİMAT second stage development (creating parcels in one island and development by stages) has generated more revenue to the investor when compared to the first stage. The second stage development has also increased the actual market value of the total investment. If it is planned as a whole, it could generate benefit for the city whole. Secondly fragile spaces formed by partial development plans or urban design projects on privatized public lands generate less public access (public access denying approach). When compared, the design and development of the land as one unique project area allows public access and the relations with the rest of the urban area could be set (public access supporting approach).

- **Intervention capacity of the related actors (Request for intervention versus denial of participation)**

Capitalism needs a level of planning to survive. The major actors of the planning institution are excluded by an accelerating effort in the *de jure-privatization* process. The withdrawal of the regulative authorities and/or institutions like planning from the process opened "a new way for the accumulated capital in the most valuable parts of the cities" (Ülkenli, 1999:90). Neo-liberal economic understanding and privatization philosophy of the privatizing administration have the objective to keep away every public administration related to planning that can set barriers and limits with public interest concerns out of the process. Not every actor within the preparation and approval processes has the level of consciousness necessary to act in unity and for public interest. When the withdrawal actions came to be frequently exercised, the struggle between national, central and local interests of local and central authorities, NGOs, and professionals to be active in the planning process had risen.

Although the reasons for exclusion can be various, the actors having market-critical planning approaches want to interfere into the processes of (re) production of urban space. How these actors can interfere to the process of (re) production of urban space and the related planning processes where they are unwanted by the others? Withdrawing the major actors of the comprehensive planning processes may also cause delay in achieving the targeted objectives. Especially the local authorities bring the plans before the courts. The typology of the major actors' aims represent another dualism: Some of the actors want to interfere to the process for regulation and the rest neglects the process and let it continue. The other sort of actors is the proponents of market-led approaches. Their strength increases due to their level of activity in the process in the line of the market demands. Three different lines of movements emerge;

- Activating within the general unity and with a comprehensive planning understanding,
- Having and comprehensive planning understanding but have no reaction, and
- Actors moving individually and separate from the whole.

- **Reliability of the actors (Truth versus changing claims)**

Another dualism results from the changing opinion of the related actors aiming to regulate the market institution for social benefit. For example in Istanbul, NGOs were asked for the removal of TDI port quays, but later the same organizations declared that Istanbul transportation problem should be solved through sea transportation. There is no standard statement of these actors for public interest.

#### (RE) PRODUCTION OF URBAN SPACE

- **Property typology as a function of urban development**

In *de facto-privatization*, all public property typologies are subject to transfer. The object of *de jure-privatization* is the private property of the state. Recently, other forms of public property became the subjects of privatization. In an accelerating manner, public property has been treated as the endless, primary and continuous source for the redistribution of property in the society. That is why, even though *de jure-privatization* and *de facto-privatization* are separate approaches, they show similar attitudes of land transfers<sup>1100</sup>. Both *de jure-* and *de facto-privatization* processes injected to the society by the market institution the common understanding that every public land is transferable<sup>1101</sup> and can be planned according to the demands of the market institution.

If any provision stating that project based development can be possible in *de jure-privatization*, then both the market and the planning institutions will try to transform every public land available. The pressure over the public lands for transfer will continue. In short, there is the danger of transfer of every public land through projects. In addition, if in practice, the central authority does not transfer a public immovable property, it is for sure that it will be owned after sometime. This situation will accelerate the focus on PEE lands or public lands in urban centers or transition zones. When all public lands are treated as transferable, they can be taken immediately to privatization content or they can be left vacant for future commercial or housing developments, not for public goods and services. In the globalization process, by the privatization of all forms of public goods and service production the demand for public land for future investments of the public sector for production and provision has declined. In this process as properties owned by the citizens of a nation are declining on the national territory, it is natural that the level of public property diminishes in urban areas. Then the main question is; “What will be the tool of the administrations to implement the plans to regulate the market when there is not much public land left and the financial resources are not available for expropriation?”

- **Public land as the tool for regulation versus public land as a marketable commodity**

Capital and property have been spread to the community through privatization, but to certain groups. Public lands having private property character after transfers are gathered in the hands of certain public institutions, individuals or a community section after *de jure-privatization*. The exact amounts and locations of land transferred are indefinite and cannot be perceived from the central authority declarations. This study has proved that the public (administrative) good owned by the administration for production and regulation of the market and reserved by urban plans becomes a “private good” for consumption as a marketable commodity in the real estate market.

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<sup>1100</sup> Esenboğa road urban transformation project, Eryaman TOKİ/KC Group partnership, Türkkonut Eryaman housing projects in Ankara are some of the examples that intervenes urbanization like *de jure-privatization* cases.

<sup>1101</sup> As privatization implementations gain success, project based urban development on a parcel or a building block will increase in *de facto-privatization* through PPP method.

This happens when the public administration transfers a public good by changing the development rights through development plans or plan modifications as the characteristics of the good is changed. Privatization through plan modifications aims the registration of rent generating land-uses that enable immediate transfer

- **Role of the investor in restructuring land use typology and development rights**

In foreign countries, public lands subject to privatization are generally in rural areas cultivated with agricultural purposes. In addition, if they are the subjects of privatization, ownership is not transferred and the right to easement is established from the actual value (Transfer of real estate component is frozen during the transfer). The property in urban areas is in the form of condominiums (not urban parcels) and sitting tenants are given priority during ownership transfer. The transfer is made on real value and the use purpose is unchanged. Therefore, there is no demand for amending planning decisions or zoning principles. While transferring, the rights and limits to property for citizens and foreigners are made according to national needs and realities. In Turkey, ownership is transferred and privatization is generally in urban areas. The Administration privatizes public lands and transfers ownership by changing land use typology and the development rights.

On the contrary, there are cases where the investor in a short time can make what the privatization administration could not realize for 5-6 years (especially in meadows). In terms of determination of development rights and changing land uses [just after the transfer of the public land], this is exercised. This is because; private sector has better economic and social relations with public authorities. Capital also pays no attention to administrative boundaries. The decision-making bureaucrats' self-interest is not legally limited. Article 2/d of the Privatization Act defines the aim of privatization as "to prevent negative outcomes of a monopolistic structure". In practice, new property owners or monopoly sectors owners have emerged. Their power is strengthened by land use changes.

- **Urban development sensitive zones**

The planners and decision makers of the market-critical approaches treat public lands as sacred lands and untouchable. Therefore, the development potential of these areas, if any, had been neglected. Comprehensive planning approaches have been treating these areas as if they have no potential of development. When the decision to privatize is given, the development potential of the area is determined by the administration only with the actors allowed by the administration. Market-critical approaches opposed the decision of transfer during privatization and planning processes. The related actors even miss to control the process during and after privatization. Today, local and central planning administrations are also unable to control the process of *de jure-privatization* activities neither before nor after the transfer<sup>1102</sup>. These authorities have also insufficient intervention and regulatory tools for *de facto-privatization*<sup>1103</sup>.

- **Consumption spaces versus the legitimacy of the market institution**

The expansion of the market over public (or private) lands is as follows;

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<sup>1102</sup> Milli Emlak, [www.milliemlak.com.tr](http://www.milliemlak.com.tr) (accessed March 24, 2007). (It is stated here that "Today, there are no efficient central administrative mechanisms to prevent such developments.")

<sup>1103</sup> These actions support the formation of the informal economy, while limiting the targeted exercise of power and regulation of administrations (Reduced urban management). In some instances, administrations even provide necessary aids and tools to activate the process faster as a part of their populist policies.

a. **Phase I: Expansion of the market over public production areas (Spaces of consumption versus spaces of production):** This is the development of consumption spaces through privatization (after public production functions are over). Privatization and plan preparation stage is the stage where the investor and the PA develop a consumption space. Here, the administration gets its direct revenue from these transfers and leaves the process. However, the buyer is still in the process and tries to increase its gains from the area.

b. **Phase II: Expansion of the market over public lands (Spaces of consumption versus other typologies of space):** The differing actors and relationships produce different processes and have different spatial results. A space produced through *de jure-privatization* process can later be subject to *de facto-privatization* (i.e. Second stage development of GİMAT). The investor after some time develops the same parcel according to the market demand with higher development rights and different land uses and gets the permission from local authority. In the *de jure-privatization* process, market-led approaches are structured through planning and privatization. In the following process, pure market conditions are present as exercised in *de facto-privatization* processes.

c. **Phase III: External growth through spiral effect (Growth on the neighboring areas or development of similar land uses in the surrounding areas):** With its spiral effect, the newly produced consumption space will accelerate the violence and pressure of this action over the neighboring zones. Besides the expansion will of GİMAT investor, trying to take the advantage of the spiral effect, the local authority also develops investment project proposals in the close surrounding. *De jure-privatization* development did not accelerate the transformation in these areas, but later at the second stage, *de facto*-development had spiral affected and transformed the close environs. When these consumption spaces gain success in terms of revenue and urban use, investors and/or local authorities on the privatized land, in the close environs, neglecting the existing land use decisions and urban development principles and targets, propose same or similar urban functions. However, it does not mean that every consumption space will bring the same satisfaction level for a better liberalization of movement of capital.

Urban transformation exercised by the privatization case in GİMAT showed that privatization did not create a value for its close surrounding. Separate urban development projects should be implemented to add value to these areas. Capital attacks to urban space and duplicates consumption spaces in order to increase the rent gains. As consumption spaces create revenue and rent for the investors, investors prefer to produce these spaces in every possible location through privatization<sup>1104</sup>. This spiral inevitable movement of the capital will be followed by a chaos ended by regulation and will start its spiral effect all over again. By producing only consumption spaces on public lands at every possible location, capital omits the legitimacy of the market institution in the middle or long run. Same or similar consumption spaces decreases the competitive character of these spaces and both institutions lose their legitimacy. As long as capital has losses from (re) production of consumption spaces it will attack stronger to the legitimacy of the planning institution, the urban space for the creation of more consumption spaces, and will exclude the actors with social interest objectives. This means acceleration of the speed of urban transformation without regulatory interventions and market-critical approach.

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<sup>1104</sup> The interesting example is the commercial center proposal on an historical possession, Sümer Holding A.Ş. Parcel 16023/1 in Yenimahalle district in Ankara. Parcel 16023/1 case defines a development plan modification for public interest prepared by the PA. The plan proposal is criticized as it aims developing personal economies against the existing urban build-up and historical possession.

- **Private property rights over common spaces (public spaces of urban planning versus spaces of the market institution)**

The zoning principles and public-private property distinction is clearly set in legislative and spatial terms. For example, the development rights in New York Manhattan island is the highest of all human settlements. The capital has transformed private property till its last limits, but the settlement layout and these development rights are strictly controlled by the local authorities. There is no pressure for the transformation of public lands such as parks, roads, public buildings, vacant lands. Preventing this pressure and limiting development rights and transformation are impossible in developing countries having unclear conceptual definitions. Property is equal to ownership of land. On the same line, in Turkey, public - private property and rights to property distinctions are unclear on space, and the legislation contradicts to practice. Public interest distinction is unclear like the difference between property and rights to property in the Turkish case. This creates a chaos in terms of (re) production processes as meanings of property, right to property and public interest concepts are not reflected to the related legislation.

The problem may be in the definition and interpretation of public interest and social benefit concepts, but the dualism is in their reflections in implementation during (re) production of urban space. By such interventions for (re) production of space, the tensions and contradictions in between public and private spaces accelerate. The private property owner has to leave some space for the public in development plans according to the related legislation. However, the private property owner wants to control public spaces in their project area boundaries and act as the owner of these areas. There is a pedestrian axis<sup>1105</sup> between two GIMAT structures. This axis defined by the development plan of the *de jure-privatization* process is for public interest. This common space is omitted and another space is created for the use of the public for satisfying the objectives of the investor. Another passage between two buildings is constructed and these buildings have become as one. The public can use this space, but what is created is an unauthorized structure against the development legislation. The property owner decides on the use of public areas. Here, public space is against the public space of the market institution. The question is; which space formation ideology the planning institution will accept? In addition, how (re) production of urban space will be controlled? An example can be given from tourism investments on the coasts, which are abandoning the public to use the coastal zones. According to the Constitution they can be owned only for public use. The transfer of meadows and cultural possession areas are the other examples.

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<sup>1105</sup> The axis is proposed by the 1993 competition first runner up project.



APPENDIX FF

PRIVATIZATION ACTIVITIES BY URBAN CHARACTERISTICS

Table 35: Privatization Activities by Urban Characteristics

Urban Characteristic / Planning	Transfer Method	Interest Typology (Public interest, Social interest, Private interest, Administrative interest)	Policy and Decision Mechanism	Factors of Limitation	Reaction against Market Process	Body Responsible from Planning	Body Responsible from Plan Approval	Landuse (Before)	Landuse (After)	RESULTS
<b>A. Economic Activity Area</b>										
* Sumer Holding A.Ş. İzmir Basma Sanayi İşletmesi /Konak-İzmir	Transfer with compensation (+ sales)	Public Interest (Social interest)	Public demand sensitive	Historical industrial and natural protection area	Against market demand- negotiable regulative	The PA and the Land Office	PHC- The Municipality	(Active) Industrial Area	Education (proposed) Historical Industrial Area (Registered)	<ul style="list-style-type: none"> <li>Plans subject to public discussion</li> <li>The PA gained revenue</li> <li>Social interest verses public interest</li> </ul>
* SEKA A.Ş. Akdeniz İşletmesi /Taşucu İçel	Privatization incomplete- A part of the are is privatized through Transfer without compensation	Public Interest	Interventionist (against social interest) + Anti- environmental	Closeness to national and international registered environmental protection area / National security	Regulative	The PA and the Land Office	MPVS	(Active) Industrial Area + Port + Vacant Area + Customs	Dockyard and a Port, Customs, Social recreation, commercial service and service and development area of the port	<ul style="list-style-type: none"> <li>Plans subject to public discussion</li> <li>The PA regained the area but achieved no revenue</li> <li>The landuse is for public interest but against social interest</li> </ul>
<b>B. Marginal Areas</b>										
* Turban Atik Ali Paşa İstinye-İstanbul	Transfer of easement right for 49 years	Private Interest	Corporatist	Tourism Centre /Different administrations responsible from planning	Regulative - Private Management	The PA and the investor	MPVS (1/5000) and the Ministry of Tourism (1/1000)	State Guest House	Tourism complex	<ul style="list-style-type: none"> <li>The PA gained revenue</li> <li>Private interest is exercised with a limited public interest</li> </ul>

Table 35 (continued)

C. Vacant Areas										
	Transfer without any compensation	Public Interest (social interest + private interest + administrative interest)	Technical sides cannot agree and privatization policies cannot be applied. Therefore, public demand sensitive	Historical area and protection boundaries Resistance of bodies responsible from regulative planning Missing market analysis	Anti-corporatist	The PA and the Land Office	Greater Municipality of Ankara and Yenimahalle Municipality	Public Institution, Sports and Park	Vacant (Given to Hacettepe University. Even for education land use, there is a need of master and development plan modification)	<ul style="list-style-type: none"> <li>The area is still vacant.</li> <li>Social interest versus public and private interest.</li> <li>The PA achieved no revenue</li> </ul>
* <b>Sümerbank A.Ş. Parcel 16023/1 Yenimahalle - Ankara</b>				<ul style="list-style-type: none"> <li>Historical area and protection boundaries</li> <li>Resistance of bodies responsible from regulative planning</li> <li>Missing market analysis</li> </ul>	Anti-corporatist	The PA and the Land Office	Greater Municipality of Ankara and Yenimahalle Municipality	Public Institution, Sports and Park	Vacant (Given to Hacettepe University. Even for education land use, there is a need of master and development plan modification)	<ul style="list-style-type: none"> <li>The area is still vacant.</li> <li>Social interest versus public and private interest.</li> <li>The PA achieved no revenue</li> </ul>
D. Areas with Urban Growth Potential										
	Sales	Private Interest (Social interest + Public interest)	Agreement of technical and political sides	3 years of production condition	Trend planning	Investor	Greater Municipality of Ankara and Yenimahalle Municipality	Public Institution Area (Industrial Area)	Commercial and Recreational Complex	<ul style="list-style-type: none"> <li>Plans subject to public discussion</li> <li>The PA regained the area to the city</li> <li>The PA gained revenue</li> <li>Private interest + Public interest</li> <li>Active industry</li> <li>The area should be preserved with the actual use with the required investment</li> <li>The PA gained no revenue</li> </ul>
* <b>EBK A.Ş. General Directorate and Head Quarters and Slaughterhouse Area/ - Akköprü - Ankara</b>				3 years of production condition	Trend planning	Investor	Greater Municipality of Ankara and Yenimahalle Municipality	Public Institution Area (Industrial Area)	Commercial and Recreational Complex	<ul style="list-style-type: none"> <li>Plans subject to public discussion</li> <li>The PA regained the area to the city</li> <li>The PA gained revenue</li> <li>Private interest + Public interest</li> <li>Active industry</li> <li>The area should be preserved with the actual use with the required investment</li> <li>The PA gained no revenue</li> </ul>
* <b>Sümerbank/ Bursa-Merinos</b>	Privatization in Complete (2 parcels are transferred with and without compensation)	Social interest (Administrative interest + Public interest)	Administrative sides cannot negotiate. Development agreement without Privatization without market analysis	<ul style="list-style-type: none"> <li>Objections of the unions, chambers and the local press.</li> <li>Natural protection area</li> </ul>	Controversia	Greater Municipality	Greater Municipality (and Osmangazi Municipality)	Industrial Area	Prototype development centre, textile research centre, museum and exposition, and park and green areas (Proposed)	<ul style="list-style-type: none"> <li>Plans subject to public discussion</li> <li>The PA regained the area to the city</li> <li>The PA gained revenue</li> <li>Private interest + Public interest</li> <li>Active industry</li> <li>The area should be preserved with the actual use with the required investment</li> <li>The PA gained no revenue</li> </ul>

## APPENDIX GG

### LIST OF PERSONAL COMMUNICATIONS

- **Remzi Sönmez**, 1999.
- **Dr. Haldun Özen**, 1999.
- **Yücel Özlem**, General Director. The (abolished) Prime Ministry the Undersecretary of Housing, the General Directorate of Land Office. February 2002.
- **Meltem Kılıç**, City Planner, The (abolished) Prime Ministry the Undersecretariat of Housing the General Directorate of Land Office (Currently working at the Ministry of Public Works and Settlement). February-March 2002.
- **Cemalettin Aldemir** (Former Head of the Department) Sales and Allocation [Satış ve Tahsis Daire Başkanlığı]. (Abolished) The Prime Ministry the Undersecretariat of Housing, the General Directorate of Land Office. 06.09.2001 and February 2002.
- **Avni Caner** (Former Head of Branch), The Prime Ministry the Undersecretariat of Housing, the General Directorate of Land Office. 06.09.2001.
- **Center for Developing Public Enterprises Officers [KİGEM]**, 07.09.2001. May-June 2006. 09.02.2007.
- **Gökhan Özok**, The Ministry of Tourism, 31.10.2001.
- **Hülya Günaydın**, The Prime Ministry, the Privatization Administration, (Former) Counsellor of the Minister. 07.09.2001.
- **İlhan Baytan**, The Prime Ministry, the Privatization Administration, (Former) Counsellor of the Minister. 07.09.2001.
- **Ömer Ardalı**, The Prime Ministry, the Privatization Administration, Head of the Real Estate Activities Group [Gayrimenkul İşlemleri Grup Başkanlığı], 07.09.2001.
- **Necla Güven**, The Ministry of Finance, the General Directorate of National Real Estate, (former) Head of a Department (Responsible from Special Sales and Transfer without Compensation Sections). 21.11.2001.
- **Ahmet Ermiş**, The Ministry of Finance, the GDNRE, Information Processing Center, Former Head of the Department.
- **Fahrettin Mehter**, Head of a Branch, The Ministry of Finance, the General Directorate of National Real Estate, 30.07.2002.

- Yusuf Yalçın, Former Head of Yenimahalle Second Regional Branch of Land Registry Administration. January, August 2002.
- Koray Çakan, February-March 2002. the Ministry of Public Works and Settlement.
- Ahmet Erdoğan, Yeni Gimat A.Ş., Accountant Member. 29.11.2001. 17.01.2006. 01.05.2006.
- Fethi Aslan, Director, Merinos Yünlü Sanayii İşletmesi, Bursa, 03.04.2002.
- Esin Mihçı, Greater Municipality of Bursa, the Department of Research, Planning and Coordination, 03.04.2002.
- Umay Güvener, Greater Municipality of Bursa, the Department of Research, Planning and Coordination, 03.04.2002.
- Ahmet Öner Köse, Yenimahalle Municipality, Deputy Head of Development Department, 10.11.2005/18.11.2005.
- Sedvan Teber, Bilkent University, 1993 MİA Competition, First runner up, Planner, 14.11.2005.
- Yavuz Soncul, 29.11.2005. (Altındağ Municipality, former head of Mapping Branch). MPWS. (Currently working at the Ministry of Public Works and Settlement).
- Ferhat Ertürk, 30.11.2005. Housing Development- Metropolitan Municipality Construction Real Estate Architecture and Project Joint Stock Company (TOBAŞ) General Director.
- Metin Aygün, Architect, 08.11.2005/13.03.2006. Chamber of Architects.
- Ebru Oz, LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., 25.06.2006 and 18.07.2006.
- Eda Oz, LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., 16.05.2006.
- Edward Scherlock, LÂL Gayrimenkul Değerleme Müş. Ltd. Şti., 16.05.2006.
- Eray Büyükvelioğlu (City Planner) (July-August 2006).
- Dr. Haluk Bilgin. The Prime Ministry, The Privatization Administration. Real Estate Works Unit. 31.07.2006.
- İlter Ertuğrul (Counselor, Turkish National Parliament) 30.01.2007
- Ali Kılıç (Counselor, Turkish National Parliament) 30.01.2007.
- Hasan Can (Counselor, Turkish National Parliament) 30.01.2007
- Hasan Ören (Manisa Parliamentary, Turkish National Parliament) 30.01.2007.
- Bekir Ünüvar, Architect. (A.B.Ü. Mimarklık Mühendislik Şehir Planlama) 30.03.2007.
- Erdal Kurttaş, City Planner. Çankaya Municipality, Head of Department of Planning. 04-05.2007.
- Prof. Dr. Ali Türel, METU Department of City and Regional Planning (May 2006).

## CURRICULUM VITAE

### **Eren, Şirin Gülçen**

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### **EDUCATION**

<b>Degree</b>	<b>Institution</b>	<b>Year of Graduation</b>
M.C.P.	METU City Planning	1995
B.C.P.	METU City Planning	1991
High school	Adana Anadolu Lisesi, Adana	1987

### **EMPLOYMENT**

<b>Year</b>	<b>Place</b>	<b>Enrollment</b>
04.12.2006-Present	The Ministry of Public Works and Settlement The General Directorate of Disaster Affairs	City Planner
03.10.2006-01.12.2006	The Ministry of Public Works and Settlement The General Directorate of TRI, Department of External Affairs and Vocational Training	City Planner
18.12.2003-02.10.2006	The Ministry of Public Works and Settlement The General Directorate of TRI, Department of External Affairs Acting Head of International Institutions Branch	
1999-02.10.2006	The Ministry of Public Works and Settlement World Bank MEER Project [A.3.1. Sub-component]	Project Coordinator

01/2006-05.05/2006	The Ministry of Public Works and Settlement The General Directorate of TRI	General Coordinator of EU issues
01.11.2003-14.08.2004	Şahinderesi Urban Design Project, I. Stage Altınoluk Municipality, Balıkesir.	Urban Designer and Project Coordinator
2001-2003	Şahinderesi Urban Design Project Altınoluk Municipality, Balıkesir	Urban Designer
02/2003-03/2003	Gymnastic Saloon Modeling (Alternative Project I and II), 1/100 Provincial Directorate of the General Directorate of Youth and Sports	Model Maker
21.01.2000-17.12.2003	The Ministry of Public Works and Settlement The General Directorate of TRI Department of External Affairs and Vocational Training	City Planner
15.06.2000-31.10.2000	The Ministry of Public Works and Settlement European Relations Unit	Coordinator
01.06.1994-19.02.2000	The Ministry of Public Works and Settlement The General Directorate of TRI Department of Physical Planning	City Planner
01/92 to 06/94	METU Faculty of Architecture Department of City and Regional Planning	Research and Teaching Assistant
10/91 to 05/92	Center for Metropolitan Activities on the Land of Ankara Etimesgut Sugar Plant: 1/5.000 scale Master Plan Proposal (Haluk Alatan and Assoc.Prof.Dr.Özcan Altaban)	Urban Designer
09/95-10/95	Ankara Etimesgut Sugar Plant Urban Redevelopment Project Proposal- (1/5.000 scale master plan) (Haluk Alatan, Assoc.Prof.Dr. Özcan Altaban, Kunt Kuntasal, Oral Ünal)	Urban Designer and Model Maker
06/91 to 10/91	H. Oğuz Aldan City Planning Bureau Marmaris and Gaziantep Development Plans and Urban Design Projects	City Planner
04/90 to 05/90	Modeling of the Ankara Anittepe Swimming Pool	Model Maker

#### **FOREIGN LANGUAGES**

Advanced English, medium level German.

## PUBLICATIONS

- Eren, Ş.G., *Role of the Urban Block in the Formation of Urban Form: Dialectical Relations between Wholes and Parts*. Unpublished Master Thesis, METU. C.P. February, Ankara. (1995)
- Eren, Ş.G.; Kovancı, P., and Karabay, I., *Kent ve Bölge Planlama Slayt Kataloğu [City and Regional Planning Slide Catalogue]*, ODTÜ Mimarlık Fakültesi Olağan Yazıları, Bl.01.95. ISBN 975-429-079-2. (1995)
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- Alatan, H.; Duyguluer, F., and Eren, Ş.G., “Göç ve Planlamanın Sorumlulukları”, 32. International ISOcARP Conference; Göç ve Küresel Ekonomi, Jerusalem, Israel, 13-16 October , Unpublished paper (1996)
- Eren, Ş.G., "On Public Lands and Parcels", *Bayındırlık ve İskan Bakanlığı ile Belediyeler*, Bayındırlık ve İskan Bakanlığı Yayınları, 29 (10), No: 90 (1996)
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- Eren, Ş.G., 1996. "Bir Dünya Konferansı Habitat II'den İzlenimler", *Bayındırlık ve İskan Bakanlığı ile Belediyeler*, Bayındırlık ve İskan Bakanlığı Yayınları, 31 (10), No:92. HABITAT II Commission Report (1996) “What are to be questioned through Habitat II?” *Planning (Planlama)*, Journal of the Chamber of City Planners, June 1996, Special Edition 2, pp.4-6.
- Eren, Ş.G., "Düşük Gelirlilerin Konut Sorunu", *Bayındırlık ve İskan Bakanlığı ile Belediyeler*, Bayındırlık ve İskan Bakanlığı Yayınları, 33 (11), No: 95, pp.7-13. (1997)
- Yıldız, D., and Eren, Ş.G., “GATS Müzakerelerinde Mühendislik ve Mimarlık Hizmetleri [Engineering and Architectural Services in GATS Negotiations]” *TMMOB Mimarlar Odası Ankara Şube Yayını*, August, (2002)
- EREN, Ş.G., *Mimarlık Haberler*, *TMMOB Mimarlar Odası Haber Bülteni*, Mart, No: 90 (2002)
- EREN, Ş.G., “GATS”, *TMMOB Mimarlar Odası Ankara Şubesi Bülteni*. Ekim (2002)
- Eren, Ş.G., “GATS”, *TMMOB Mimarlar Odası Ankara Şubesi Bülteni*. Şubat, pp.46-47. (2003)
- Eren, Ş.G., “AB ve GATS Sürecinin Ülkemiz Mimarlığı ve Mimarlarına Etkileri”, Bilgilendirme Toplantısı (05 Ekim 2002), Yıldız Dış Karakol Binası, Eğitim ve Kültür Araştırmaları Mesleki Bilimsel Çalışma Kurulu (EKA-MBÇK) Uluslararası

- Politika ve Kavramlar Dizisi*, TMMOB Mimarlar Odası İstanbul Büyükkent Şubesi. (2003)
- Eren, Ş.G., “Hizmet Ticareti Genel Anlaşması (GATS) ve Mühendislik Hizmetleri”, *TMMOB İnşaat Mühendisleri Odası İstanbul Şubesi Paneli (28.12.2002) Kitapçığı*. (2004)
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- Eren, Ş.G., “Ülke Sanayi Yapısını Şekillendiren Mühendislik Hizmet Ticaretini Etkileyen Oluşumlar”, *Sanayi Kongresi (2003) Kitabı* (2004).
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- Eren, Ş.G., “Hizmetlerin Serbest Dolaşımı Konusundaki Son Gelişmeler”, TMMOB Mimarlar Odası, *İstanbul Büyükkent Şubesi Bilgilendirme Toplantısı (24.03.2004) Sonuç Kitapçığı* (2004).
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- Eren, Ş.G., “Mimarın Mesleki İkilemi - İnsanın Yeniden Yapılandırılmasındaki Rolü”, Utopias, Anti-Utopias. *Mimar.ist*, Yıl 5 No: 18. pp. 19-22 (2005).
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- Eren, Ş.G., “Mimarlar Odasının Hizmetler Boyutu ve Değişim Dinamikleri”, 4. Oturum. *TMMOB Mimarlar Odası Ankara Şubesi 50. Yıl Etkinlikleri*, TMMOB Mimarlar Odası Ankara Şubesi Yayını, Aralık (2005) (ISBN 9944-89-054-5)
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### **Special thanks for the contributions to:**

Greater Municipality of Ankara, Department of Planning (1990) Karakusunlar-Çukuranbar Master Plan Revision Book.

Türel, A. (1994) Housing Survey Center (KAM), A Project for the Mass Housing Administration.

Altaban, Ö. (1997) Doctorate Thesis (Survey analysis and mapping process).

INURA, (1998) Possible Urban Worlds, Urban Strategies at the End of the 20<sup>th</sup> Century.

Kubra, S. (1998) Noise Pollution, National Environment Action Plan Commission Report, State Planning Organization (SPO), March 1998. ISBN 975-19-1918-0.

Rural Development Report (2001) Ministry of Agriculture - EU Secretariat General.

Yıldız, D. (2003) Akdeniz Havzası'nda Su Sorunları ve Türkiye. TMMOB Chamber of Civil Engineers, Ankara Branch Publication.

AK-TEL Engineering, (2005) For the contribution to Environmental Management in Turkey in the EU Accession Process. 12 March 2005.

SPO (2006) IX.National Development Plan Architecture, Engineering, Consultancy, and Construction Sector Report.

SPO (2006) IX.National Development Plan Services Trade Sector Report.

### **MEMBERSHIP IN ASSOCIATION**

- |       |   |
|-------|---|
| 1991- | Union of Chamber of Turkish Engineers and Architects<br>Chamber of City Planners, Ankara Branch.  |
| 2001- | Association of Saving, Preserving and Rehabilitating<br>the Antique City of Antandros<br>[Tarihi Antandros Kentini Koruma, Yaşatma ve Kurtarma Derneği] |
| 2005- | Nature Society [Doğa Derneği]   |
| 1995- | Society of Modern Life Supporters [Çağdaş Yaşamı Destekleme Derneği]<br>Ankara Branch, Ankara.  |

### **COURSES**

- Ankara University, European Community Research Center (ATAUM), Sectoral English, 2005 (Certificate excellent) (British Council).
- Ankara University, European Community Research Center (ATAUM), European Union Course, 27<sup>th</sup> Term, 2001.
- Ankara University, European Community Research Center (ATAUM), International Relations Course, 21<sup>st</sup> Term, 2003.
- World Bank Procurement Seminar, 12-14 May 2004, WB-Undersecretary of Treasury
- WTO, TBT Seminar, 27-28 September 2004.

- WTO Services Trade and Domestic Regulations Seminar. 2006.
- Modern Human Resources Management and Problem Solving Techniques in Administration, March 2005. Ankara University Continuing Education Center.
- Self Development Course [Kişisel Gelişim Kursu], Vocational Training, Ministry of Public Works and Settlement, 16-18 January 2006.

## LECTURES

CP 101-102 Middle East Technical University, Department of City and Regional Planning. 1992-1994.

Visiting Lecturer (1 day), 15.12.1997. Middle East Technical University, Department of City and Regional Planning. CP 479, "Property Understanding of the Ottoman and Turkish Republic and the Role of the Planners within the Process of Property Transformation", Spring 1996-1997.

## AWARDS

Academic honor in Spring'91 as Senior, Middle East Technical University, 1991.

State Medal, Jerusalem City of David, for the contribution to the ISoCaRP Young Planners Workshop, Jerusalem, 1996.

Mansion, "Liveability and Ankara Project", Habitat II Student Competition on "Liveable Space", 11 July 1996 (with E. Alarşlan). The Mass Housing Administration.

Certificate for participation and contribution to the November 8<sup>th</sup> World Planners Day 21. Colloquium: "Urban Politics". November 6<sup>th</sup>, 1997.

Certificate for the efforts through the reconstruction activities of the Ministry of Public Works and Settlement after the Eastern Marmara Earthquakes by the Minister Koray Aydın, 2000.

Award - 1<sup>st</sup> Runner up, Ankara University, European Community Research Center (ATAUM), International Relations Course, 2003, "Geopolitic, Politic and Economic Discussion of Middle East and Caucasus Centered Oil and Natural Gas Projects and the Position of Turkey".

Award, Chamber of Civil Engineers Istanbul Branch, 2002.

Certificate, for the participation and contribution to Chamber of Mechanical Engineers, Industry Congress, November 2003.

Certificate, Chamber of Architects Ankara Branch, for the contribution to 2003 works.

Certificate, Chamber of Architects Ankara Branch, for the contribution to 2002-2004 works.

Certificate, Chamber of Architects Ankara Branch, for the contribution to 2005 works, February 06, 2006.

Certificate, for participation and contribution to Electric and Electronics-Computer Engineering 11<sup>th</sup> National Congress and Fair (EMO,TUBİTAK,YTÜ), September 22-25, 2005.

Certificate, for participation and contribution to Chamber of Architects Ankara Branch, Public and Private Sector Workplace Representatives Inkumu 2. Regional Meeting. 2005.

Certificate, Chamber of Architects, Architecture and Education Congress III, December 07-09, 2005.

Certificate, for participation and contribution to Chamber of Architects Ankara Branch, Istanbul Greater City Branch and İTÜ Building Center, "Free Movement and Change in EU Architectural Professional Legislation," May 04, 2005.

Certificate, for participation and contribution to Impacts of EU-GATS on Engineering Sectors Panel, Chamber of Electrical Engineers, Istanbul Branch, 2005.

#### **OTHER AWARDS**

Certificate, TEMA Foundation.

Certificate and award for contribution and studies on oil painting by Hikmet Çetinkaya Painting Studio and Gallery. 1998.

Award for contribution to 7<sup>th</sup> Altınoluk Antandros "Respect to Life" Culture and Arts Festival, August 10-12, 2001, for the participation to Joined Painting Exhibition.

Award for contribution to 8<sup>th</sup> Altınoluk Antandros "Respect to Life" Culture and Arts Festival, August 15-17, 2002. For the Opening Speech.

Certificate, Society of Modern Life Supporters, Ankara Branch Office 2005.

#### **DOMESTIC MEETINGS**

1993 TRT 3, A radio conversation with the (former) head of Greater Municipality of Ankara, Murat Karayağın on behalf of METU Dept. of City and Regional Planning.

2000 European Union Internal Coordination Committee Meetings, Member of the Ministry of Public Works and Settlement Delegation.

October-November 2000 Negotiations on Draft EU Decision NO. X/XXXX of the EC-Turkey Association Council on the Liberalization of Services and Public Procurement.

2002-2006 WTO Coordination Council of Turkey, Member of Ministerial Delegation.

2001-2006 Negotiations on General Agreement on Trade in Services (GATS), Architecture, Engineering and Construction Service Sectors. Undersecretary of Treasury.

## INTERNATIONAL MEETINGS

- United Nations Economic Commission for Europe (UNECE), Committee on Human Settlements. June 1996, The Fourth Session of the Working Party on “Housing Development, Modernization and Management”, UN Geneva Office.
- Ministerial Delegation, meetings in London with the British Earthquake Consortium for Turkey, May 08-12, 2000.
- World Trade Organization (WTO), Working Part on Domestic Regulations (WPDR), Geneva Office, Representative of the Ministry of Public Works and Settlement. *July 2002. October 2002. October 2003. June 2004, September 2005.*
- World Trade Organization (WTO), GATS Services in Trade 2<sup>nd</sup> Round Negotiations. Representative of the Ministry of Public Works and Settlement (2001-2006).
- Undersecretary of Treasury. Kazakistan- Turkey WTO Trade Negotiations, January 2005. Turkish Delegation member.
- United Nations, Committee on Sustainable Development 13<sup>th</sup> session (UN/CSD-13), New York, April 11-22, 2005.
- World Trade Organization (WTO), Services Trade Negotiations on Engineering, Architectural, and Construction Services (2006)

## CONFERENCES (AS A SPEAKER)

- 13.12.1996 “İsrail ve Kudüs İzlenimleri [Israel and Jerusalem Impressions]”, The Ministry of Public Works and Settlement, the General Directorate of Technical Research and Implementation Conference Hall.
- 08.11.1997. “Arsa ve Arazi Politikaları Üzerine... Kamu ve Vakıf Arazilerinin Özelleştirilmesi, Özelleşmesi ve Bireyselleşmesi [Privatization, Privation and Individualization of Public and Wakf Lands],”, World Planners Day, 21<sup>st</sup> Colloquium, Urban Policies, November 06-08, 1997, Middle East Technical University, Faculty of Architecture. Ankara.
- 14.01.1998. “İsrail ve Kudüs İzlenimleri [Israel and Jerusalem Impressions]”, Chamber of City Planners Conference Saloon.
- 15.08.2002. 8<sup>th</sup> Altınoluk / Antandros “Yaşam Saygı [Respect to Life]” Kültür ve Sanat Festivali Açılış Konuşması, “Kent ve Yaşam - Geçmişten Bugüne Kültür [City and Life - Culture From Past to Future]”.
- 19.10.2001 “Hizmetlerinin Serbest Dolaşımının Mühendislik ve Mimarlık Alanlarına Etkileri”, Mühendislik Mimarlık Haftası Etkinlikleri Paneli (15-20 Ekim 2001), Çankaya Belediyesi, Çağdaş Sanatlar Merkezi, Ankara.

- 17.02.2002. "Mimarların Çalışma Koşullarında Değişim Süreci ve Örgütlenme". TMMOB, Mimarlar Odası, Ankara Şubesi, İşyeri Temsilcilikleri Eşgüdüm Komitesi (İTEK) Yuvarlak Masa Toplantısı.
- 18.04.2002. "Mesleki Hizmetlerin Serbest Dolaşımı ve ilgili Müzakereler (AB, OECD ve GATS)", Küreselleşme, Ülkemizde Yasal-Yönetmelik Süreç, Kamusal Alan, Mesleki Hizmetler ve Sorunlar, Peyzaj Mimarlığı Hizmetleri Fuarı 2002, Panel-Forum. TMMOB Peyza Mimarları Odası.
- 05.10.2002. "Hizmet Ticareti Genel Anlaşması (GATS) Müzakere Sürecinde Mimarlık Hizmetleri ve Müzakere Süreci". AB ve GATS Sürecinin Ülkemiz Mimarlığı ve Mimarlarına Etkileri konulu Bilgilendirme Toplantısı. TMMOB Mimarlar Odası, İstanbul Büyükşehir Şubesi, Yıldız Dış Karakol Binası.
- 28.12.2002. "Hizmet Ticareti Genel Anlaşması (GATS) ve Mühendislik Hizmetleri", TMMOB İnşaat Mühendisleri Odası İstanbul Şubesi Toplantısı. İTÜ Maçka Social Facilities Conference Hall.
- 03.04.2003. "DTÖ ile yapılan GATS Müzakereleri Kapsamında Mimarlık ve Mühendislik Hizmetleri ve Bayındırlık ve İskan Bakanlığı'nca yapılan Çalışmalar" (Türk Mühendis ve Mimarları Açısından GATS), 9. Türkiye Harita Bilimsel ve Teknik Kurultayı, XII. Oturum. Bilkent Otel, Sakarya Salonu, Ankara.
- 20.11.2003. "Mühendislik Hizmetlerini Etkileyen Oluşumlar", TMMOB Sanayi Kongresi, TMMOB Makina Mühendisleri Odası.Milli Kütüphane, Ankara.
- 24.03.2004. "Hizmetlerin Serbest Dolaşımı Konusundaki Son Gelişmeler" Konulu Bilgilendirme Toplantısı, TMMOB Mimarlar Odası İstanbul Büyükşehir Şubesi,
- 08.05.2004. "Hizmet Ticareti Genel Anlaşması (GATS) II. Tur Müzakereleri Kapsamında Mimarlık ve Mühendislik Hizmetleri", Yapı Fuarı, TMMOB İnşaat Mühendisleri Odası İstanbul Şubesi. İstanbul.
- 17.12.2004. "Hizmetlerin Ticareti Genel Anlaşması (GATS) ve Mühendislik Hizmetlerine Etkileri" TMMOB İnşaat Mühendisleri Odası Adana Şubesi.
- 26.03.2005. "Hizmetlerin Serbest Dolaşımı ve Mühendislik Hizmetleri- Hizmet Ticaretini Şekillendiren Oluşumlar", TMMOB Elektrik Mühendisleri Odası İstanbul Şubesi. Tülin Aydın Eğitim Merkezi.
- 04.05.2005. "Hizmet Ticareti Genel Anlaşması (GATS) ve 2. Tur Hizmet Ticareti Müzakereleri" Serbest Dolaşım ve Avrupa Birliği Mimarlık Meslek Hukukunun Değişimi Paneli. TMMOB Mimarlar Odası İstanbul Büyükşehir Şubesi ve İTÜ Yapı Araştırma Merkezi. İTÜ Taşkışla 127 no.lu Salon.
- 05.05.2005. "Hizmet Ticareti ve Çalışma İzinleri", Uluslar arası Meslek Politikaları ve Uygulamaları Yuvarlak Masa Toplantısı. TMMOB Mimarlar Odası Yıldız Şubesi.

- 26.05.2005. Symposium on Privatization in Turkey in its 20<sup>th</sup> year [20. Yılında Türkiye’de Özelleştirme Gerçeği Sempozyumu]. Ekin Art Center. Ankara (on behalf of the Chamber of City Planners).
- 03-04.06.2005, “AB-GATS Süreçlerinin Mühendislik Sektörüne Etkileri”, TMMOB Elektrik Mühendisleri Odası İstanbul Şubesi. İTÜ Maçka Mustafa Kemal Anfisi.
- 24.06.2005, “Bayındırlık ve İskan Bakanlığı Uygulamaları”, TMMOB Yabancı Mühendis-Mimar ve Şehir Plancılarının Çalışma İzinleri ve Geçici Üyelik Uygulamaları Eğitim Programı, Maden Mühendisleri Odası Toplantı Salonu.
- 25.06.2005, "AB Süreci Hizmetlerin Serbest Dolaşımı ve Şehir Plancılarının Geleceği", Forum, TMMOB Şehir Plancıları Odası İstanbul Şubesi. İstanbul. Princess Hotel. Ortaköy.
- 22.09.2005. “Hizmet Ticareti Genel Anlaşması (GATS) ve Mühendislik Hizmetlerine Etkisi” Elektrik-Elektronik-Bilgisayar Mühendisliği, 11.Ulusal Kongre ve Fuarı. TMMOB Elektrik Mühendisleri Odası İstanbul Şubesi. Grand Cevahir Hotel and Congress Center. İstanbul.
- 17.09.2005. “Hizmet Ticareti Genel Anlaşması (GATS) ve Mimarlık Hizmetlerine Etkileri” TMMOB Mimarlar Odası Ankara Şubesi, Kamu ve Özel Sektör İşyeri Temsilcileri İnkumu Buluşması 2. Bölgesel Toplantısı. Bartın.
- 09.12.2005. Mimarlık ve Eğitim Kurultayı III, “Mimarlık Hizmetlerinin Uygulanması ve Mimarın Mesleki Yeterliliği”, TMMOB Mimarlar Odası. İTÜ Taşkışla.
- 24.12.2005. “Mimarlar Odasının Hizmet Ticareti Boyutu ve Değişim Dinamikleri” (4. Oturum) TMMOB Mimarlar Odası Ankara Şubesi, 50. Yıl Aktiviteleri TUBİTAK, Ankara.
- 24.03.2007. “Ticaret Rüzgarları ve Mimarlık Hizmetleri [Trade Winds and Architectural Services]”, Architectural Movement of Services in the World/Europe/ Free Market (Session 11). 19<sup>th</sup> International Building and Life Congress: Future of Architecture-Architecture for Future. Bursa International Fair Center.
- 23.06.2007. “Mimarlık Hizmetleri ve Çalışma Koşullarını Etkileyen Etmenler”, İTEK Buluşma Toplantısı I, Değişen Türkiye Dönüşen Mimarlık/Çalışma ve Mimarlık Meslek Hukukuna Bakışlar, TMMOB Mimarlar Odası, Kocaeli.

### **WORKSHOPS**

October 09-12, 1996	ISoCaRP Young Planners Workshop, Jerusalem.
December 2002	EU/TAIEX Workshop on Rural Development.
13-15 February 2004	Urban Development Draft Act, Kızılcahamam
21-23 February 2004	Urban Reconstruction Draft Act, Abant

29 September- 01 October 2004 Earthquake Council  
July 2005 UIA 2005 Istanbul Congress(Utopias workshop)

### COMMISSIONS

1995-1996 Habitat II Commission, Chamber of City Planners, Ankara.  
1996 Commission of Noise Pollution, State Planning Organization (SPO).  
1997-1998 Tourism, Culture, Transportation and Environment Sub-Committee, A  
Commission of the Ministry of Tourism on behalf of the MPWS.  
2002-2003 Chamber of Architect Ankara Branch Building Inspection Commission  
2004 First Environment and Forestry Council, Environmental Management  
through the Sustainable Development Process, Air and Noise Pollution  
2005 Commission of Services Trade, State Planning Organization (SPO).  
2005 Chamber of Architects Advisory Board (19-20 November 2005, Antalya)  
2006 Preliminary studies of the Chamber of City and Regional Planners 30<sup>th</sup>  
World City Planning Day Colloquium [(on behalf of MPWS)  
2006 Union of Chambers of Engineers and Architects (TMMOB) Disinvestments  
Conference Advisory Panel  
2007 Chamber of Architects, Architecture and Education Council IV  
preliminary studies.

### EXHIBITIONS

- Joined Painting Exhibition, January 24-31, 1997. Hikmet Çetinkaya Painting Studio and Gallery.
- Joined Painting Exhibition, April 15-27, 1997. Hikmet Çetinkaya Painting Studio and Gallery.
- Joined Painting Exhibition, September 27, 1997. Hikmet Çetinkaya Painting Studio and Gallery.
- Joined Painting Exhibition, December 16-26, 1998. The Ministry of Public Works and Settlement Conference Hall.
- Joined Open Air Painting Exhibition, August 10-12, 2001, 7<sup>th</sup> Altınoluk Antandros “Respect to Life” Culture and Arts Festival.
- Joined Painting Exhibition, 14 August-02 September, 2001, The Ministry of Culture, Abdullah Efendi Konağı, Çam Mahallesi, Altınoluk, Edremit/Balıkesir.
- Painting Collection Exhibition, September 05-22, 2002, The Ministry of Culture, Abdullah Efendi Konağı, Çam Mahallesi, Altınoluk, Edremit/Balıkesir.
- Joined Painting Exhibition, August-September, 2003, Bozcaada Sanat Galerisi.

## **Scholarship**

A scholarship from Izmir Institute of Technology on behalf of the Higher Education Council

[She has won a national exam and has been awarded with a post-graduate study in overseas countries within a Staff Training Project for Turkish State Universities (the Act No: 2547, Article 33) in 1995. Due to several reasons, the author could not have the advantage of it.]

## **SUBJECTS OF INTEREST AND ACTIVITIES**

Privatization, Urban Design, Design Theory, Basic Design, Urban Design Standards, Urbanization History, Housing in Developing Countries, Housing Cooperatives, Plan notes (1/25.000-1/100.000 scale) and development regulations, Privatization Issues, Public and Private Property and transfer mechanisms, WTO-General Agreement on Service Trade, and Domestic Regulations, Work permits for foreign architects and engineers, WB procurement methods and project coordination.

## **OTHER ACHIEVEMENTS AND ACTIVITIES**

- 1976-1989      Sportswoman in Adana Çukobirlik Swimming Team (national awards)
- 1989-1990      Sportswoman in Ankara DSİ Waterpolo Team
- 07/1990-08/1990      A city planning study tour to Europe  
(Bulgaria, Czechoslovakia, Yugoslavia, Austria, Germany, Italy, Hungary)
- 1991-1995      Classic Couple Dancer
- 1994- 07.2000      Union of Chamber of Turkish Engineers and Architects  
Representative of Chamber of City Planners in the Ministry of Public  
Works and Settlement, Ankara.

## **HOBIES**

Model Making; Oil-painting.Sketch Drawing. Amateur Photographer, Philatelist.