THE RELATIONSHIP BETWEEN UPPER AND LOWER TIER MUNICIPALITIES IN URBAN PLANNING: THE CASE OF ISTANBUL METROPOLITAN MUNICIPALITY AND BUYUKCEKMECE MUNICIPALITY

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ABSTRACT

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Spatial planning is one of the most important tools to reach national development targets. Besides, planning is also a key tool to improve the quality of life in cities as well as to achieve urban development targets. However, an effective urban planning system that shapes and guides actual urban development is missing in Turkey. This is mainly due to the structure of current urban planning system which results in clash of authorities and responsibilities among public agencies. The urban planning legislation authorizes several public agencies at both central and local levels to prepare and approve spatial plans at various scales. Such a multicentric structure in urban planning usually ends up with lack of coordination among authorized institutions and organizations. Since the mid-2000s, we have been observing the problems of insufficient coordination and clash of authorities especially in the case

of upper and lower tier municipalities in metropolitan cities. In order to overcome the shortcomings of current urban planning system in Turkey, the experience on the relationship between upper and lower tier municipalities should be reevaluated thoroughly.

As per the current urban planning system in Turkey, “master development plans” and “implementation development plans” are the basic urban plans that guide urban development pattern. The division of labor and authorities regarding preparation and approval of these plans was for long shared accordingly between upper and lower tier municipalities in metropolitan cities. However, with the enactment of the Municipal Acts (Laws No. 5393 and 5216) in 2004, substantial changes, mostly in favor of upper tier municipalities, were made to the division of authorities regarding conduct of master and implementation development plans. In other words, urban planning system in Turkey has been centralized with the introduction of new laws on municipalities in 2004. One significant result of the recent legislation change has been approval of urban plans that take almost no account of local geographical, socio-economic, and ecological conditions in plan decisions. Contrary to expectations, accumulation of planning authorities in the hands of upper tier municipalities, or in other words centralization of urban planning, did not result in a comprehensive planning approach but rather triggered partial planning implementations and exceptional development rights and arrangements. Moreover, lower tier municipalities have become local authorities which take actions on construction-related issues without a holistic urban development vision.

In the light of this background, this study aims at examining the problems emerged out of the relations between Istanbul Metropolitan and Büyükçekmece Municipalities in conduct of urban development plans after 2004 and at developing policy recommendations to reorganize and redefine the share of planning authorities between municipalities in order to facilitate better institutional coordination.

Keywords: Metropolitan Cities, Two-Tier Municipal Systems, Centralization of Planning, Power Sharing in Planning, Clash of Authorities, Political Polarization.

ÖZ

KENT PLANLAMADA BÜYÜKŞEHİR VE İLÇE BELEDİYELERİ İLİŞKİSİ:
İSTANBUL BÜYÜKŞEHİR BELEDİYESİ VE
BÜYÜKÇEKMECE BELEDİYESİ ÖRNEĞİ

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Mekânsal planlama, ülkesel gelişme hedeflerinin gerçekleştirilmesinde önemli araçlardan birisini oluşturmaktadır. Bunun yanı sıra, kentsel yaşam kalitesinin yükseltilmesi ve kentsel gelişme hedeflerine ulaşılmasında da planlama etkili bir araçtır. Ancak mevcut planlama sisteminin yetki ve sorumluluk kargaşası yaratan yapısı nedeniyle, ülkemizde uygulamayı yönlendirecek düzeyde etkin bir planlama yapılamamaktadır. Mevzuat çok sayıda kurum ve kuruluşa parçacı bir yaklaşımla plan yapma ve onama yetkisi vermektedir. Bu da yasanın yetkili kıldığı kurumlar arasında koordinasyon eksikliği ve çok başlılık sorununun yaşanmasına neden olmaktadır. Planlamada eşgüdüm ve yetki dağılımı sorunu, 2000'lerin ortalarından itibaren özellikle büyükşehir ve ilçe belediyeleri arasında yoğun bir biçimde karşımıza çıkmaktadır. Ülkemizde sağlıklı bir planlama sistemi kurulabilmesi için büyükşehir ve ilçe belediyeleri arasındaki deneyiminin tüm boyutları ile yeniden değerlendirilmesi yaşamsal bir öneme sahiptir.

Türkiye‘de mevcut imar planlama sisteminde, kentsel gelişme desenini belirleyen temel kent planları; “Nazım İmar Planları” ile “Uygulama İmar Planları”dır. Bu planların hazırlanması, büyükşehir ve ilçe belediyeleri arasında doğal bir işbölümü olarak düzenlenmiştir. Ancak, 2004 yılında yürürlüğe giren 5393 ve 5216 sayılı belediye kanunlarıyla, nazım ve uygulama imar planlarının hazırlanmasına ilişkin yetki dağılımında büyükşehir belediyeleri lehine köklü değişiklikler yapılmıştır. Diğer bir ifadeyle, 2004 yılında çıkarılan yeni belediye yasaları ile Türkiye’de planlama sistemi merkezi bir nitelik kazanmıştır. Bu değişikliklerin ardından, yerelin coğrafi, sosyo-ekonomik ve ekolojik durumunu dikkate almayan plan ve plan değişikliklerinin ağırlık kazandığı gözlenmektedir. Sanılanın aksine, imar planlama yetkilerinin büyükşehir belediyelerinde toplanması ya da bir diğer deyişle planlama sisteminin merkezileşmesi, bütüncül bir planlama yaklaşımını değil, noktasal ve parçacı planlama uygulamaları ile istisnai mekânsal düzenlemeleri yaygınlaştırmıştır. Öte yandan ilçe belediyeleri ise, ağırlıklı olarak bütünü göremeden hareket eden ve sadece yapı sürecine yoğunlaşan yerel yönetim birimleri halini almıştır.

Bu bilgiler ışığında bu çalışmanın amacı; İstanbul Büyükşehir Belediyesi ile Büyükçekmece Belediyesi arasında nazım ve uygulama imar planlarının hazırlanması sürecinde 2004 yılı sonrasında yaşanan sorunların irdelenmesi ve kent ölçeğinde imar planlarının yapım sürecinde yetkili kurumlar arası ilişkilerin yeniden belirlenmesi ve eşgüdümün kolaylaştırılması için öneriler geliştirilmesidir.

Anahtar Kelimeler: Metropoliten Şehirler, İki Kademeli Yönetim Sistemi, Planlamada Merkezileşme, Planlamada Yetki Dağılımı, Yetki Uyuşmazlığı, Siyasi Kutuplaşma.

To my family;

Yusuf Ziya & Sema İÇYÜZ, İlksen Ece & Ferhat AY

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INTRODUCTION

1.1. Background to the Research Problem

Spatial planning is one of the important means in realizing national development goals. Spatial planning is also an effective means in increasing quality of life in cities and achieving urban development goals. However, due to the current planning system's structure, which creates authority and responsibility conflicts, effectiveness of spatial planning in directing implementation is quite weak in Turkey. Nearly one-third of the population in Turkey lives in big cities, namely Ankara, Istanbul, Izmir and Bursa. How the current problems of these cities will be solved and how and by which mechanisms these cities will be managed and planned in future are important questions that should be addressed by central and local governments.

In order to minimize economic, spatial and environmental problems of Turkish cities, particularly the larger ones, and to make them urban environments with higher quality of life in the future, an effective spatial planning system is a must. However, the related legislation in Turkey results in chaotic situation where a great number of institutions and organizations are provided with powers of plan-making and approving but without sufficient coordination. This situation creates severe problems of incoordination and disharmony in the process of spatial planning. Important problems are observed in the plan hierarchy, which is necessary for continuity of the prepared plans and integrated implementation of the decisions taken. For example, the belated completion of upper scale plans may result in breakdowns in completion and implementation of lower scale plans. Moreover, the lack of coordination among institutions, which are authorized by urban development legislation, leads to a "multi-headedness"[1] in urban planning. The planning powers, which were given to local governments with the Urban Development Law numbered 3194, were centralised by making many central institutions responsible later on upon different

[1]With the term of "multi-headedness", the diffused accountability of various public agencies that are provided with planning authorities of different sorts is referred.

legal amendments made. Turning urban planning into an activity, which is performed by such different hands, results in problems of coordination and authorization. In order to define and eliminate such problems regarding the urban planning system, thorough evaluation of the current experience between metropolitan municipalities and district municipalities is of vital importance.

The distribution of planning powers in Turkey is so imbalanced that it also conflicts with the key principles and policies of urban planning, which are accepted in the international standards (Şahin, 2012). For example, one of the most important principles of urban planning is the ***"hierarchical unity of urban plans"*** (Ersoy, 2000). The principle of hierarchical unity of urban plans admits that there should be a dynamic relationship between plans at different scales. Pursuant to this principle, the decisions of upper scale plans should be systematically reflected in the lower scale plans in accordance with the logic of transition among scales and requirements of each particular scale. Besides, the upper scale plan decisions can be reviewed and changed by considering the new conditions and circumstances observed in lower scale planning works. And all these processes must be carried out by using technical and scientific methods and in accordance with the public benefit principle. The second key principle of urban planning as a regulatory framework relates to public participation and transparency. Urban planning has to be conducted as a transparent process in which all related social groups participate. Finally, the distribution of planning powers needs to be based on the principle of subsidiarty that underlines the importance of management by the closest administrative unit to the public (Figure 1).

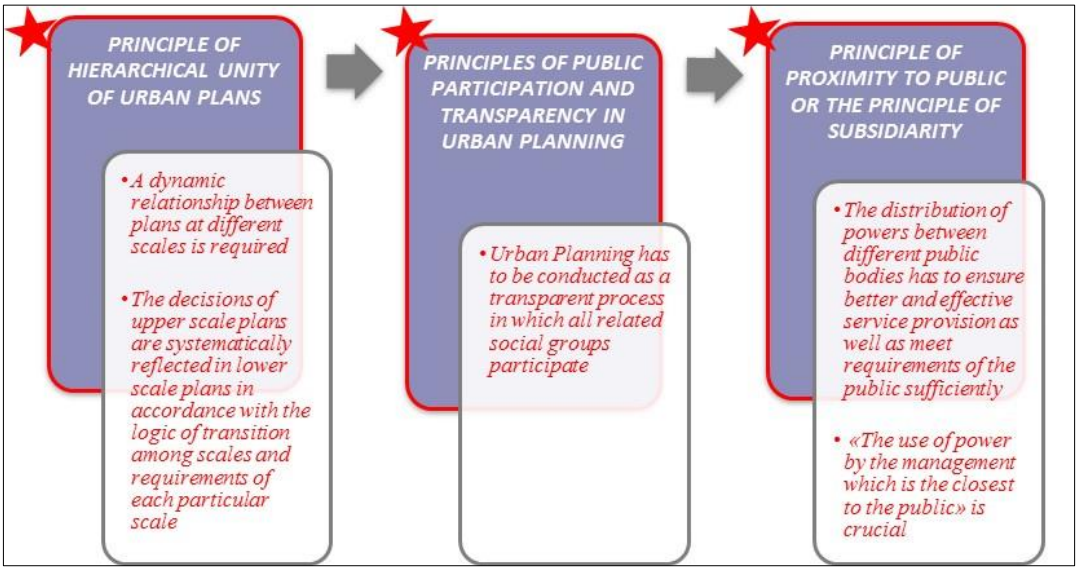


Figure 1: Key Principles of Legal and Institutional Framework for Urban Planning

In Turkey, due to the change in legislation in the mid-2000s (Law No 5216, 2004), urban planning powers are collected in the hands of metropolitan municipalities and this change has made the principle of hierarchical unity of urban plans ineffective. The upper scale plans made and approved by metropolitan municipalities have gained superiority within the plan hierarchy and the details of application have started to lose its value. It has become quite difficult to reflect the problems encountered by district municipalities at the implementation stage of urban development plans and also to suggest changes to upper scale plans based on problems of implementation. However, changes to upper and lower scale plans in practice are made by political motivations, not based on technical and scientific principles. The recent legal change was based on the idea that concentration of planning powers at the hands of metropolitan municipalities would enable these upper-tier local administrations to actually achieve the principle of hierarchical unity of plans. However, the exercise of planning powers regarding lower scale plans by metropolitan municipalities is already observed to cause the problems of ignorance of local conditions and dynamics as well as problems of participation, transparency and accountability. In this regard, one key problems of spatial planning in Turkey to address is to reorganize the ways through which spatial plans at different scales starting from spatial strategy plans to the lowest scale plans are prepared and to find

new ways in order to realize the principle of hierarchical unity between these plans.

As is known, based on Article 127 of the 1982 Constitution, a new administration system was adopted and a two-tier municipal model began to be applied in Turkish metropolitan cities after 1980. Within this scope, the Law numbered 3030, namely "Law on Changing and Accepting the Statutory Decree about the Management of Metropolitan Municipalities" was put into effect in 1984. Accordingly, Ankara, Istanbul and Izmir were given the metropolis status and district municipalities were created within the metropolitan municipality and metropolitan borders in these cities. A division of labour was brought between the new metropolitan and district municipalities in terms of making and approving the urban development plans. In Article 6 of the Law No 3030, the duties and powers of metropolitan municipalities are listed as "preparing, approving and applying master development plans, approving and auditing the application of the implementation development plans which will be prepared by district municipalities in accordance with the master development plan". Thus, the planning powers regarding master and implementation development plans were shared between metropolitan and district municipalities respectively.

Between 1984 and 2004, powers of master and implementation development planning were executed in accordance with this share of responsibilities. The Metropolitan Municipality Law numbered 5216, which took effect in 2004, has replaced the Law No 3030 and brought in important changes to the division of planning powers among upper and lower-tier municipalities (Figure 2). In Subparagraph (b) of Article 7 of the Law No 5216, the metropolitan municipalities are given the following duties regarding preparation of master development plans:

- Preparing, approving and applying master development plans at every scale ranging from 1/5.000 to 1/25.000 within the borders of metropolitan municipality and adjacent area provided being in conformity with the Territorial Development Plan[2],

[2]"Çevre Düzeni Planı" in Turkish.

- Approving as they are **or by changing** and auditing the application of the implementation development plans which will be prepared by district municipalities in accordance with the master development plans and their related amendments,
- **Preparing implementation development plans and land re-adjustment plans of district and first level municipalities,** which have not complete the preparation of these plans within one year after the approval of the master development plan.

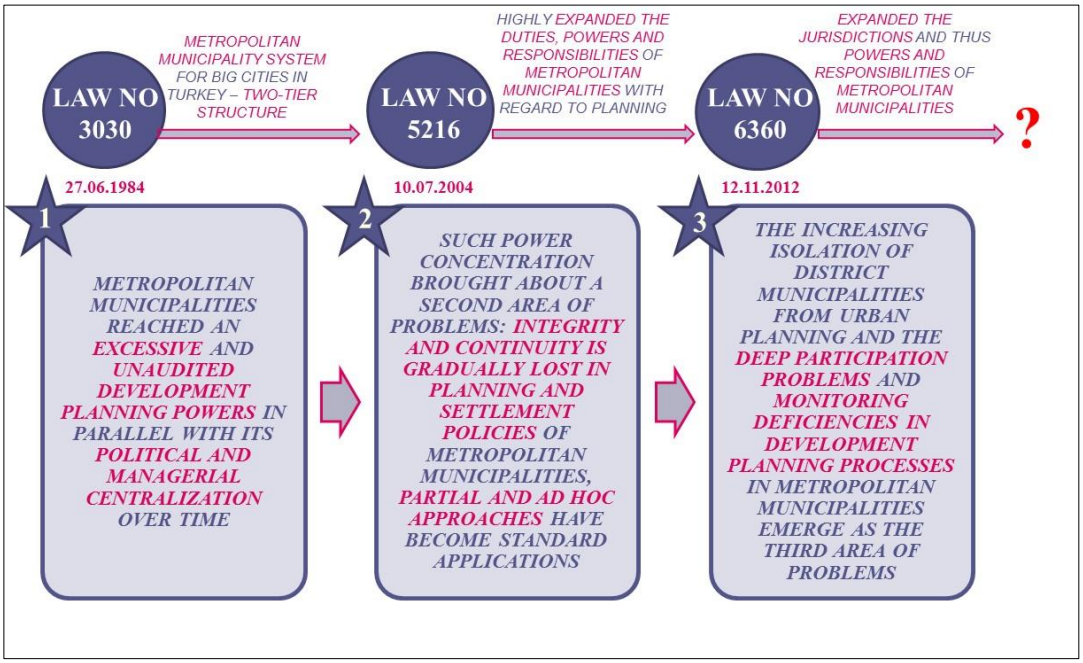


Figure 2: Evolution of Urban Planning Framework for Metropolitan Cities in Turkey

As it can be understood from the figure given above, powers of planning are taken from district municipalities although indirectly and these powers are collected at the hands of metropolitan municipalities. Thus, the division of labour brought by the Law No 3030 was removed and the position of district municipalities in the process of urban planning is weakened now.

Another recent legal amendment that influenced the relationship between metropolitan and district municipalities is the "Law on Making Amendments in Some Laws and Statutory Decrees upon Building Metropolitan Municipalities and

Twenty-Six Districts in Thirteen Cities" numbered 6360, dated 12 November 2012 (Figure 2). With this law, while 14 new metropolitan municipalities were established in addition to current 16 metropolitan municipalities, the borders of the metropolitan municipalities were expanded to the provincial borders. Another important change brought by this law is that 1022 town municipalities, which are located within the borders of 30 metropolitan municipalities, were terminated. And this resulted in decrease in the number of municipalities in metropolitan cities and therefore further strengthened metropolitan municipalities in terms of both their geographical scope and powers. It is widely argued that this new legal regulation, which led to significant changes in local governance in Turkey, will also have important effects on urban planning (Ersoy, 2013).

As obvious, the evolution of the two-tier municipal system in time resulted in the increase in planning powers and duties of the upper-tier metropolitan municipalities. In other words, the initial intention of decentralisation of planning powers evolved towards centralization over time. With the last law, the tendency towards centralization was expanded to the provincial level because metropolitan borders were extended to overlap with the provincial borders. When centralization covered provincial level upon termination of town municipalities within the provincial borders, metropolitan municipalities had the power of preparing upper scale plans directly and lower scale implementation plans indirectly.

In sum, in terms of the rationale of spatial planning, it is useful to prepare strategic plans for larger areas with aims of achieving holistic and comprehensive master plans. Therefore, expanding the metropolitan borders to provincial borders may make sense and could be regarded as a logical approach. However, the achievement of the potential benefits of such a system is highly dependent on practical aspects of share of responsibilities among local administrative bodies. At present in Turkey, all planning and development decisions from upper to lower scales in metropolitan cities are under direct control of metropolitan municipalities after the enactment of the Law No. 5216. This centralised institutional structure of planning was strengthened in two ways with the Law No 6360. First the geographical scope of planning powers of

metropolitan municipalities was expanded and second planning powers of the terminated town municipalities were left to metropolitan municipalities. This new system is prone to cause significant problems in metropolitan cities in terms of preparation and approval of spatial development plans.

The problems, which might be encountered with the new legislation, exhibit a complicated structure. The current institutional disharmony and conflict in urban planning may acquire new dimensions when taking the planning borders determined by Law No 6360 as a basis. The new legislation might also bring about conflicts in terms of upper scale plans, which will be prepared by a single metropolitan city in regions that cover multiple cities. Whether upper scale plans prepared at the regional scale will be in conformity with master development plans that are handled by metropolitan municipalities and what kind of coordination will be made in order to ensure such conformity between these plans are still ambiguous with this new legislation. Upper tier municipal bodies having a voice in preparation of upper scale plans is meaningful and lower tier municipal bodies taking responsibility when it comes to lower scale plans should be regarded a requirement of the sense of democratic management and principle of participation. The closure of town municipalities and transfer of their planning powers to metropolitan municipalities indirectly may result in narrowing of the already insufficient participation chances of local public. Besides, the principle of locality in preparation of lower scale plans may also be damaged substantially. The legal regulations, which accumulate planning powers in upper tier municipal units, should have been enacted together with other mechanisms that will secure the realization of such key principles as locality, subsidiarity and participation. However, there was no such sensitivity within the context of legal regulations made after 2004 that centralised the planning powers in favour of metropolitan municipalities.

In countries with advanced democracy, processes and mechanisms, through which local public participates in urban planning, are more important than the plans prepared (Ersoy, 2011). However, the new legislation on municipal authorities in Turkey falls behind its international counterparts, and entails the danger of isolating

the general public from local governance and urban planning processes.

Several problems stand out when we take it within the context of institutional relationships. Primarily, the large power which is obtained by metropolitan municipalities in the field of development plans against district municipalities has not put an end to the interference of metropolitan municipalities to powers of district municipalities. It is seen that district municipalities, which are mostly authorized to prepare implementation development plans, may prepare their plans in contrary to master development plans. On the other hand, it is observed that in many cases metropolitan municipalities, which are responsible for preparing master development plans, may prepare and approve master plans with detailed decisions and provision as in implementation development plans so as to reduce the flexibility of district municipalities to make decisions regarding the implementation. In other words, metropolitan municipalities may intervene into implementation plan scale and process by preparing master plans with implementation details and regulations which should be contained in lower scale plans (implementation development plans).

The second type of problems emerges while institutions are using their powers of planning. Decisions regarding large-scale investments are made through a partial approach in which opinions of related public institutions and organizations are obtained. The focus of attention in such decision-making is limited to the current use, natural structure and agricultural characteristics of the selected area. In other words, only a location specific evaluation is made to see whether the area is suitable for the investment in question. However, such large-scale projects, which have the potential to influence the development patterns and tendencies of a city (such as highway, railway, large mass-housing areas), are not thoroughly analysed and evaluated based on national and regional scale plan decisions as well as their likely negatively impacts on various aspects of urban and regional development of the wider area in which the selected area exists. Furthermore, upper scale plans are prepared without considering the regional development tendencies and potentials as well as social, cultural, natural and economic values, ethnological structure; identity and memory of the settlements and by ignoring lower-scale plan decisions. Besides, the principle of

hierarchical unity in urban planning is not taken into account, the principles and policies which can be referred to planning in lower scales are not put forth and most importantly current plan decisions are not taken into account, and this brings about troubles and difficulties in plan implementations.

Due to political pressures and speculative forces, lower-scale plans may contain profit-oriented and partial investment decisions and improper volumes of built investments, mostly as part of "urban transformation" agenda of the central government. Implementation plans with such decisions have the potential to influence urban development negatively. Therefore, legal actions may also be taken against these plans by various institutions and non-governmental organizations. In most cases, legal actions initiated against lower-scale plans result in cancelation of the plans, and significant problems in plan implementation.

In this sense, it can be said that the conflicts and disputes which are created or (re)produced by shortcomings of current municipal system originate from a) distribution of planning powers between metropolitan and district municipalities, and b) urge to increase and re-allocate urban rents through the housing policy. Emergence of many political processes from reproduction of daily life to urban design and aesthetics field as serious problems between metropolitan and district municipalities showcase the accuracy of this assumption in the context of Turkey.

The new legislation seems to have broken the link between master and implementation development plans with regard to urban spatial development in Turkey. Ad hoc and partial planning practices gained importance along with preparation and approvals of plans and plan amendments, which take no consideration of the local geographic, socio-economic and ecologic conditions. Contrary to what has been thought, the collection of development planning powers in the hands of metropolitan municipalities did not lead to integrated planning practices but partial and ad hoc planning implementations, as well as exceptional development rights and arrangements. Besides, district municipalities have become local governance units which could only focus on construction process and mainly act

without a holistic vision. Under such circumstances, large project areas and urban transformation sites mushroomed in cities as a result of ex officio planning powers given to metropolitan municipalities. In a sense, it could be said that a two-level power conflict has begun in processes of housing and development planning within metropolitan cities. As a result, district municipalities became local units, which are confined to building and construction processes with all their planning powers taken from them and facing the danger of breaking off planning in their activities. Another important problem is that the balance of planning audits between metropolitan and district municipalities was disrupted unilaterally. Plan decisions are audited top-down but no bottom-up audit exists. And this results in filling the audit mechanism, which is missing in urban planning by the jurisdiction.

Metropolitan and district municipalities improve the practice of doing politics over urban income by using their power of development all the way and making land utilization plans at a level and diversity which can address the populations which they cannot never reach. Undoubtedly, this is not a new situation and it is an approach, which inured the urban managements of our country particularly after 1980. Therefore, cities have become places where local government units with planning powers struggle with each other in legal and political terms. Besides, district municipalities experience some problems because metropolitan municipalities interfere with their own areas with development implementations made by them too much and they are deactivated. All these problems should be essentially solved in order to ensure the development of cities in Turkey in economic, spatial and environmental terms and make the national population live in quality urban environments in the future.

1.2. Aim and Significance of the Study

Mainly, three space- and scale-related problems are seen when metropolitan municipality system in Turkey is evaluated based on sharing of planning powers between metropolitan and district municipalities. The first one is that metropolitan municipalities reached an excessive and unaudited development planning powers in

parallel with its political and managerial centralization over time. And such power concentration brought about a second area of problems: integrity and continuity is gradually lost in planning and settlement policies of metropolitan municipalities, partial and *ad hoc* approaches have become standard applications. The increasing isolation of district municipalities from urban planning and the deep participation problems and monitoring deficiencies in development planning processes in metropolitan municipalities emerge as the third area of problems.

The solution of these three main problems requires a new approach to distribution of powers between different levels of local governments. Taking the following issues and points into consideration should develop this new approach;

a) Services to be fulfilled by upper-tier management (metropolitan municipality),
b) Services to be fulfilled by lower-tier management (district municipality),
c) Services to be fulfilled mutually by both management levels.

To develop this approach, the areas and scope of responsibilities of related institutions should be redefined, and regulations should be enacted in order to facilitate coordination between institutions authorised by laws.

In light of this information, it can be said that this study has two main objectives (Figure 3):

a) To examine the three main problems which we encounter within the context of power sharing in urban planning between upper and lower-tier municipalities as well as the underlying factors of these problems in the case of Istanbul Metropolitan Municipality and Municipality of Buyukcekmece,
b) To develop strategies and suggestions to solve the problems of power sharing in urban planning in metropolitan urban environments.

Figure 3: Purposes of the study

1.3. Content of the Study

In order to achieve the research objectives, this thesis is organized as follows:

Chapter 1 is the introduction to the study and provides an introductory discussion on the research problem. This chapter also describes problem definition and justification as well as purposes and methodology of the research.

In Chapter 2, the historical background of metropolitan area management is discussed along with the development of central-local government issues based on the international literature. The new trends in local governance and their implications on management of metropolitan cities are argued in the early parts of this chapter. The discussion on the evolution of the local government system in Turkey as well as on the emergence and development of metropolitan area management in Turkey are also covered in the second chapter.

Chapter 3 is devoted to the planning of metropolitan cities in the Turkish context. Evolution of planning powers of municipalities is analyzed with reference to legal regulations and relationships between central and local governments in urban planning and development activities. In the light of the latest legal changes in Turkey, transition of metropolitan and district municipalities' powers of planning from local to central level will be assessed from a historical perspective. Moreover, types of plans, which are prepared at urban scale, area also discussed in this chapter by taking current applications as a basis.

In Chapter 4, the problems that are experienced by metropolitan and district municipalities in applying urban plans are focussed on. The legal, institutional and spatial consequences of current problems of planning practice between upper and lower tier municipalities are discussed. This discussion is followed by an analysis of problems encountered by institutions and planning authorities, which are the main actors of the planning process.

Chapter 5 presents the case study analysis. Based on the data obtained from the Municipality of Buyukcekmece and the Metropolitan Municipality of Istanbul and on face-to-face interviews made with local officials, the actual planning problems emerged through the relationship between İstanbul Metropolitan and Buyukcekmece Municipalities are analysed and discussed in this chapter. The three particular planning cases analysed and presented in this chapter indicate important lessons that can be used to improve the current urban planning and development system in metropolitan cities in Turkey.

The results of the research are analyzed and discussed in the last chapter, which summarizes and discusses the conclusions of this study. It ends with recommendations for future research and also in this chapter according to the research findings, a number of strategies are recommended with regard to what kind of a legal regulation the problem in our planning system can be overcome will be scrutinized and the suggestions which are developed in this regard will be discussed. The lower scale (at urban scale) development plans specified in the Development

Law and the problematic relationships between local administrations, which are authorized to perform them (i.e. the metropolitan municipality and district municipalities), will be evaluated and suggestions will be made for more proper progress of the process.

1.4. Research Methodology

The empirical part of this study analyses the relationship between Istanbul Metropolitan Municipality and Buyukcekmece Municipality with a particular focus on urban planning issues. The case study analysis will evaluate the process of preparation of urban development plans at upper and lower scales so as to find out the key problems and their underlying causes. Büyükçekmece District is located on the west coast of the Marmara Sea, on the European bank of Istanbul city. Occupying a land area of 18.145 hectares (3.5% of the province), the district is surrounded by Çatalca and Arnavutköy districts in the north, Esenyurt district in the east, Beylikduzu district and the Marmara Sea in the south and Silivri district in the west.

Figure 4: Buyukcekmece Municipality's Location in Istanbul Metropolitan Area

After enactment of the Law No. 5747 (regarding establishment of districts within borders of metropolitan municipalities), several first level municipalities[3] (aka district municipalities), whose legal entities were removed as of 29.03.2009, joint Büyükçekmece district and became neighbourhoods of the Municipality of Buyukcekmece. As of 31 March 2014, the total number of neighbourhoods in Buyukcekmece district is 22.

Within the scope of this study, amendments to urban development plans from 2000 to date within municipal borders of Buyukcekmece district were subjected to investigation. The data is obtained through various sources including Buyukcekmece Municipality and Istanbul Metropolitan Municipality. Along with official information and documents obtained from municipalities, face-to-face interviews were also made with local officials. In addition, author's personal observations and experiences were also utilised during data collection and analysis, especially in identifying the problems experienced in preparation process of urban plans. The author of this thesis has been working as an urban planner in the Directorate of Development and Urban Planning of Buyukcekmece Municipality since June 2012.

[3] Namely Mimarsinan, Kumburgaz, Celaliye, Kamiloba, Tepecik, Muratbey, Gürpınar, Pınartepe and Kıraç first level municipalities.

CHAPTER 2

MANAGEMENT OF METROPOLITAN CITIES

2.1. The International Context

2.1.1. The Historical Background of Metropolitan Urban Development

In order to fully evaluate the problems in share of urban planning powers among upper and lower-tiers of municipalities in metropolitan areas, emergence and development of metropolitan area management and its implications on share of planning powers should be discussed. This discussion will be made based on the international literature, as the two-tier municipality system is not a product of specific conditions in Turkey but a model being implemented worldwide.

The process of globalization has come in parallel with a rapid change in the 21st century. In parallel with changes occurring in technology, economic, social and political domains, most aspects of spatial organization are also changing significantly. The world's population, which slowly increased until the industrialization revolution, has rapidly increased after that and it has gradually gathered in urban areas. Today slight more than half of the world's total population is located in cities. The urbanization process has started to occur in today's developed countries in parallel with development of industrial sector. The spread of urbanization throughout the world has occurred after the World War II. In that period, significant changes occurred in technological, spatial, economic, political and all other domains of social life. "Globalization" was developed as a response to the problems of the post-war economic system based on concentration of industry and dominance of nation states by the mid-1970s. The process of globalization has brought key changes to general structure of economic and political organization worldwide. Neoliberal economic restructuring has been one of the main impacts of globalization on national economies. In line with the new economic agenda, national and local governments have also undergone serious adjustments in terms of their role

in socio-economic organization. On the other hand, the spatial organization under the era of globalization cannot be identified without considering the technological advancements. Money and capital flows have gained speed with advancement in technology. Through the spread of information-based automation systems and communication opportunities, almost each of parts of a product (goods and commodities) has started to be manufactured in different countries, also identified as a transformation in Fordist industry. Through this transformation, the dependency of production or capital on space has become minimum, and the spatial preference became more flexible. While the new control centers of the global system were downscaled into a few world cities (New York, London, Tokyo) in conceptual studies in 1980s, it has been revealed in 1990s that there was higher number of them, and that they covered entire world as networks in hierarchic and hegemonic structure. (Castells, 1996; Sassen, 2001; Keating, 2001)

Through removal of borders, spaces that were articulated into the global economic system (particularly metropolitan cities) have come to the fore at the expense of others that remain distant to the new system. Taking the issue to a step forward, Castells (2000) asserted that a space type different than 'the known city' had emerged. This advancement increased the role of space in communication networks, while decreasing the role of spaces, which have not been added into the network. The lower the status of space (city) within the network is, the harder it can be articulated into the new system. Hence, the structural pattern of the non-articulated spaces (cities) remains such traditional, and it is quite difficult to restructure those spaces. Authors such as Castells assert that the pre-globalization "space of place" structure, where cities are considered individually, was replaced with post-globalization "space of flows" where cities are considered within networks ((Demir & Çabuk, 2010). Hence, they argue that the cities on their own have no meaning through individual data such as population, employment, exportation, importation, and etc. It is stated that the fixed world standards of cold war period were insufficient in explaining the new world order and the global spaces. In classifying the spaces, the new methods passing behind the traditional ones are needed. At this point, it is seen that the works of identifying the cities' "urban power" or "urban effect" levels according to their

positions within global flows and networks are becoming widespread in millennium. But the opinions that globalization is not a new process and a new phase of capitalism are becoming more widespread as well. The hypotheses regarding that changes led by globalization are ending the space ("non – place", "non – space", "placelessness", "the end of the city", and such concepts) have not been confirmed. The situation today is that the cities articulated into the global network come to the fore, and others keep their traditional structure. Considering the cities coming to the fore, it is seen that they are especially the metropolitan cities. Also, the drivers of the economy during globalization are the metropolitan cities.

The metropolitan city is an important city not only with its role in economic, social and cultural life, but also its effects on its wide hinterland. The main factors influencing the establishment process and size of metropolitan cities are economy, industrialization, migration movements, culture, historical importance, governmental support, being the capital-city, regional ethnic structure, and etc. (Demir & Çabuk, 2010). The term "metropolitan" is of course not the product of the globalization era. The term has been used before the names of local institutions firstly in London in the middle of 19th century ("Metropolitan Board of Works" in 1855), and then large cities of USA at the end of 19th century (such as "Boston Metropolitan Park Commission" in 1898). Again in USA, the term "metropolitan district" has been used in general population census in 1910. Even if it is not in harmony with physical texture of the city and its social reality, it has been concluded for the population standard that the central city population must be 10,000 and the population density (together with neighboring environment) must be 150 persons/mile^2. Rabson and Regan (1972), in their book titled "Large Cities", have criticized the smallness of USA metropolitan population size and the limitedness of the function-based definition. That standard has changed during USA population censuses in time. Again, this approach is the first important step into officially identifying the metropolitan city according to population standard. From the aspect that it represents that the new phase in urban development has been considered in early periods, it has a different place. On the other hand, in 3rd International Cities Congress in Paris in year 1925, one of the three main topics was the "Integrative Management of

Metropolitan Regions" (Demir & Çabuk, 2010). The concept of "Metropolitan city statistics" is used in USA, Canada, and almost all of Latin America countries. But, on the other hand, the use of the concept of "metropolitan" in European countries is in conflict with the American metropolitan concept. Despite that, the metropolitan city concept and the metropolitan city population standard are frequently used tools in scientific researches on urbanization in many countries such as Europe, Latin America, and Eastern Asia (Demir & Çabuk, 2010). The role of that the metropolization became a universal concepts observed everywhere from western world to developing countries in 20th century is very important. Hence, in their work titled "Metropolitan Era", Dogan and Kasarda (1988) have emphasized that the importance of the world's metropolitan cities was higher than it had been before. Given the historical development of metropolitan cities in the world, there has never been a city having population higher than 1 million in pre-industrialization agriculture-oriented cities. As a result of the industrial revolution, the population of London has exceeded the million for the first time in the world. Then Paris, New York, and Wien have followed London in years 1853, 1857, and 1870, respectively, and they have become million-population cities. In early periods of the 20th century, the populations of Berlin, Moscow, Chicago, Tokyo and Calcutta have exceeded the million. The number of cities having the population higher than 1 million was 51 in 1940, 80 in 1961, and 126 in mid 1980s. It has shown a rapid increase between 1980 and 2000, and reached at 388. According to UN's data about the year 2005, there are 430 metropolitan cities around the world having population higher than 1 million. A total of 1.2 billion people live in these 430 metropolises (Çabuk, 2007). The number of metropolitan cities is estimated to reach 541 in year 2015. Hence, it would not be inappropriate to estimate that the economic and social concentration in new century will occur in metropolitan regions.

The concept of "metropolization" unavoidably brings the hypothesis of Lewis Mumford (Demir & Çabuk, 2010). The hypothesis of Mumford about the metropolitan city is based on "enlargement" and "collapse". According to his opinion, transitions will be experienced initially from city (polis) to metropolitan city (metropolis), then to mega city (megalopolis), and finally to necropolis, and when the

advancement from metropolis will reach at peak point, if the problems will not be solved appropriately and the development will not be directed suitably, the collapse is unavoidable.

It can be argued that municipal government models emerged and developed along with the phenomenon of "metropolitan cities" in the world (Şahin, 2012). Along with the population increase in cities, the boom in housing industry, making it one of the dominant industries in economy, the increase in workplace-house travelling distances owing to increased use of automobiles and advanced public transportation facilities, and emergence of suburbanization have paved the way to "metropolitan cities" and "metropolitan city-regions" (Şahin, 2012). Metropolitan city scale made existing urban infrastructure unsustainable and also resulted in serious problems in service provision in city-regions where cities are extremely spread and dispersed over a large area. "Metropolitan Area Management" phenomenon emerged as a solution to such problems; particularly in the Anglo Saxon experience, which was deeply influenced by suburbanization and unsupervised urban spreading processes (Şahin, 2012). However, metropolitan area management models were put into practice by several countries without being adequately discussed or without being tailored into the local context with no consideration to spatial dynamics, which are created by the subsequently experienced urban development pattern.

It is also remarkable that widespread implementations of metropolitan area management models historically coincided immediately after the global economic crisis in 1970s and the period when globalization started and neo-liberal policies started to be applied. In parallel to the reduction of central funds transferred to local governments in the face of economic crisis, local governments have gone through reform processes (Şahin, 2012). Today, spreading of the metropolitan area management models, which constitute the foundation of the metropolitan municipality systems, could also be regarded as an output of neo-liberal policies and a reflection of the tendencies towards entrepreneuralist local governments. Particularly, special regulations regarding metropolitan area management in Thatcher's era in the UK and Ozal's era in Turkey can be regarded as examples of

such tendencies. Yet, metropolitan municipality systems are known to eventually turn into centralised management models in which powers are accumulated in upper-tier (Hamel and Jouve, 2008). Among the neo-liberal public policies, metropolitan area management models were regarded as indispensable factors for implementation of big infrastructure and urban projects in time. For example, London Metropolitan Urban Management evolved into a local government unit with upper coordination functions to develop and implement large urban projects (Şahin, 2012).

In the era of globalization that is characterized by neo-liberal policies, the major role of local governments in service provision has shifted from a manageralist structure to an entrepreneurial one (Harvey, 1989). The entrepreneurial model enables local governments to focus on income and profit generation rather than working for effective provision of means of collective consumption. Since the late-1970s, local governments started to cooperate with private sector in provision of public services in cities with the aim of generating income for the municipal budget and opening new investment opportunities for private sector. This has led to commercialization of various fields of public and urban services including real estate, transportation and housing sectors. In other words, local services have increasingly been privatized and many service fields have been commercialized in countries, which were integrated with neoliberal transformation including Turkey. The entrepreneurial climate in local governance has influenced the approach of local governments to urban planning as well as the relationships among different local government units. Urban planning has been turned into an activity that aims to increase the potential of urban space to generate and distribute urban rents. Metropolitan municipalities, in some cases, resemble service companies rather than public entities. Besides, metropolitan municipalities tend to reward lower tier municipal units, which cooperated with them in commercializing urban space, enhancing opportunities to benefit from urban rents and opening new channels of investments to private sector. Variants of this situation can be seen in Turkey. Since the early-1980s, local governmens in Turkey have been pursuing an urban planning and development policy that prioritize investments and services aiming to generate and distribute urban rents, and to turn urban areas into attractive centers for capital.

Commercialization of urban space and increasing use and control of high financial resources by local government units has led municipal governments to become politicized. In many contexts including Turkey the influence of local governments over national politics and central governments has increased. Therefore, the political balance tended to be disrupted in favour of the highest level in metropolitan municipality systems with several tiers of administrative units. This disruption emerged in different ways. Sometimes, powers were collected in the hands of metropolitan municipality, and sometimes privatization and deregulation policies that weaken the municipal authorities became widespread (Şahin, 2012). As a result, powers in the hands of district municipalities gradually decreased. There are different experiences in this regard in different countries. Naturally, while powers of lower-tier units, which are qualified as "local", decreased, powers of metropolitan municipalities increased and they became "metropolitan governments" (Şahin, 2012). The implementations that best reflect the structure of this highly politicized and centralized local government unit (i.e. metropolitan municipalities) contain spatial regulations. Metropolitan municipalities' powers regarding spatial planning have gradually become more centralized. This largely applies to unitary and centralized political systems, where local governments are historically weak.

In the US, on the other hand, local governments are the main means of public service provision in an effective manner and they have a very important place in management structures of the states (Ayhan, 2008). They are quite high in number, and their structure, function, status, power and responsibilities differ from state to state. Therefore, the chance to make a comprehensive comparison between local management system of the US and other countries and meanwhile the local management system of Turkey is substantially difficult. However, despite having differences and a very rich diversity, the US local government model constitutes one of the most important models in the world due to their powerful democratic characteristics and their activities in providing services; and therefore, they involve important lessons for other countries.

In the US, local governments mostly continue their activities in relationship with the

state governments, and they have limited relationship with the federal government. In fact, there is no central recipe or "one size fits all solution" about responsibilities and authorities of local governments, where duties and powers of local administrations increase or decrease based on the political room provided to them by the national governmetns. Likewise, the financial capacities and staff profiles of local governments also change based on the states' policies, and they are managed either by people who are directly elected or managers appointed by elected persons.

In the US, establishment of special districts for some services gave very useful results for municipalities which ignore some services in new dimensions gained by urbanization in order to get rid of such loads and provision of services effectively. Adopting such a flexible model and creating special structures for special requirements can provide important opportunities to meet expectations of the public, which constantly increase and diversify (Ayhan, 2008). Such structures can also be taken as example for new initiatives to be made in local management system of Turkey. The governance system in the US exhibits a dynamic structure, which can constantly change based on the needs of the society and conditions of the time, and necessary corrections and adjustments are made in time in order to meet new requirements and to eliminate rules which become irrelevant over time. Thus, the steps that should be taken for providing local services more effectively are not blocked by the legislation, which has become static and irrelevant given current conditions (Moak, 1977).

In light of this international background, new initiatives are needed in Turkey in order to improve the current situation with regard to the relationships between central and local governments as well as among different units of local governments. Such new initiatives should reconsider a) the positions of local governments in their jurisdictions, b) the flexibility of their management structures, c) the means and mechanisms of public participation in local governance. In this regard, the contemporary principles of governance based on international experiences, including the US, EU and etc. could provide significant guidance and lessons. The following section discusses the contemporary principles of governance.

2.1.2. Contemporary Principles of Governance: Local and Central Relations

In modern sense, ***decentralization*** is a principle that eases the provision of public services through transfer of central government's workload to administrative organizations other than the central ones with aim of making central government bodies involved more into national and international issues of policymaking (Eryılmaz, 1999). In decentralised systems that mostly belong to the unitary state tradition some powers of the center are left to local bodies in order to ensure effectiveness and efficiency in services and participation of the local public in decision-making. ***Local governments*** are equipping the management organs, which are formed by law with political and financial powers for their identity so that they can fulfil the duties that are determined by laws (Keleş & Yavuz, 1983). Local government is part of the public administration system and their powers are left by the state to different communities and executed by selected organs (Sergent, 1996).

The ***"Principle of Proximity to Public in Service Provision"*** or ***"Principle of Subsidiarity"*** based on other sources contains the priority of movement of every public level which is closer to citizens within shaping of the constitutional law. Subsidiarity was used for the first time in the "Europe of Regions" Conference, which was gathered in Munich in 19 October 1989 with the participation of state, region and community representatives of the member states of the European Community. In service provision, it was argued that local governments would receive assistance from an upper-level administration only if it was necessary about the services which can be overcome by its own power and regulations. Subsidiarity principle shows the characteristics of a social configuration that facilitates two times limitation of the state which is based on the vertical hierarchical powers and meets the horizontal power sharing of different levels and it also functions as a regulating principle which transfers the society purpose relationships of the individual constantly to upper formations with social sub divisions (Keleş, 1995). Therefore, none of the groups' power of regulation about the works, which can be performed by their own power, should be taken from them.

The importance of the subsidiarity principle could be understood by considering the current situation in Turkey. Today, central government has reached a blockage point in terms of public services in Turkey. The most important reason of this blockage can be explained as the collection of almost all duties, powers and responsibilities regarding public services in the center to cover almost the whole geographical area of the country. Despite the "locality" feature of some services, collection of necessary and unnecessary information in the center leads to execution of all kinds of works in the centre and thus delays in service provision become likely. The public services, which also include spatial planning related works, are, in many cases, carried out without considering local environmental conditions and requirements. Despite the local government reforms made after 2004 based on the New Public Administration Approach, not much progress seem to be achieved, especially in urban spatial planning.

The importance of local governments can be argued concretely with reference to some aspects. First of all, the elected organs of local governments may better be aware of the priorities of the region because they are elected among the region's people and therefore they may ensure more effective and efficient provision of services when compared to central government. Secondly, local governments, which are assigned duties from central government, ease the workload of central government. Local governments may have a more dynamic and entrepreneurial structure when compared to central governments in provision of public services. Third, local governments are of great importance in eliminating the problems, which are caused by extreme centralization. In this respect, it can be said that local governments are not against central government but more of a supportive units to the central governments (Yurttaş & Köseoğlu, 2005). Another aspect that makes local governments important is that they are the closest governmental units to the public. As the closest units to public, local governments are more successful in ensuring public participation in decision-making and implementation processes when compared to central governments. Many scholars argue that empowering of local governments would make countries more democratic.

In Turkey, distribution of responsibilities among governmental units is not made based on objective, and scientific criteria to increase effectiveness and enhance democracy. Many reforms have been made so far and several legal regulations have been prepared with regard to both public administration system and local governments until today. Although some of them have been implemented, the problematic structure of the central-local government issues still continues and is likely to deepen in future. It might be useful to assess ***the principles of locality and subsidiarity*** in the new model of sharing duties, powers and responsibilities in public administration in order to put an end to these discussions and eliminate the current problems. Here, ***the principle of subsidiarity*** is explained as follows without stating its content in A***rticle 3/B of the Convention of European Union, which was signed in Maastricht, Holland***. As a principle which is a basis for distribution of powers between different management levels which are created to meet public requirements, it is defined as the "use of power by the management which is the closest to the public requirements which need to be fulfilled; the assignment of the lower level's power to the upper level only when absolutely necessary and when the service has to be fulfilled better". Fulfillment of the service by the management, which is closest to the service, is a requirement of democratic mentality. The management, which is closest to service, is also the management which is closest to the public. This way, the public's most effective participation in management of services and the most effective audit of service provision by the general public may become possible. The principle's involvement in this agreement aims to protect and increase the autonomies of the local and regional administrations against upper-level authorities.

Being liable to provide the society with public services in an effective and efficient manner, public administration has to make changes in its own structure and service mentality and keep up with developments in order to answer the social requirements whose quality and quantity are differing in parallel with the social developments and changes. In this context, central government needs to bring a solution to which public service will be fulfilled when, how and at what percentage; which duties will be left to other public organizations/local governments how and at what percentage in the light of "society benefit" criteria. Locality and subsidiarity principles can play

an active role in restructuring of public administration systems.

Autonomy, which is considered as an administrative means to remove the inconveniences of centralization, is an important principle in relation to development of democratic participation mechanisms. Moreover, it is also an element which takes institutions which leads to inconvenience in services and delays in execution, collects the powers in a single hand, provides speed, effectiveness and efficiency in the fulfilment of the decisions on behalf of the upper level central organs and can act more flexibly as basis (Saran, 1995). Contrary to what is supposed, local autonomy principle does not lead to negative relationships between central and local governments but instead it makes the functioning of this process more effective.

Local autonomy principle gained validity throughout the world for the first time concretely with an international agreement. Although there is drawback in some articles of our country, ***European Charter of Local Self-Government*** constitutes assurance for the protection of the rights of local governments, which have a fundamental position in ensuring effectiveness in development of democracy and effectiveness in its management. The Charter forces the party countries to ensure the independencies of local governments in political, managerial and financial terms (Keleş, 1995). Turkey signed the Charter on 21 November 1988 but it took effect on 3 October 1992 upon being published in the Official Gazette due to the extension of the approval process of the Council of Ministers (Karaman, 1995).

In the first part of the ***European Charter of Local Self-Government***, it is emphasized that autonomous local governments have to be settled on a constitutional and legal basis. The criteria that will be abided by in determination of duties and areas of power of local governments are also specified in this article. Turkey accepted the 3rd subparagraph of Article 4 of the Charter although not obligatory and it contains the ***principle of subsidiarity***. Accordingly, it is specified that the scope and quality of the duty and effectiveness and the requirements of economy should be taken into consideration in fulfilment of public responsibilities, generally and preferably by administrative units which are closest to the public and giving the duty

to another management (Keleş, 1995).

In the 3rd subparagraph of Article 4 of the Charter, several criteria have been brought for distribution of duties between central and local governments and the most important ones are quality and limits of the duties. Within this framework, it is obvious that local autonomy principle serves three main purposes. The first one is providing local governments with power and flexibility in order to meet the gradually increasing local service demands; second one is facilitating local governments' determination of the most suitable management structure for its own conditions and requirements; and third one is protecting local governments from interventions of central governments and not making the central government the object of demands and pressures of local governments in order to meet its current or new requirements.

In light of the discussions on local autonomy, one of the main problems of Turkish public administration system today is the strong administrative tutelage of the central government on local governments. In other words, local autonomy given to local governments is limited and it could be diminished by the central government any time. Therefore, strengthening of local governments by central authorities is prevented and the concept of autonomy becomes ineffective in implementation. In local communities, which are autonomous, powerful and democratic, local government institutions are provided with the power of decision-making and of creating resources and becoming organized and freely managing themselves. Another problem related to this in Turkey is that local governments do not have a sufficient institutional capacity, which is in conformity with their powers, duties and responsibilities (technical and financial means, manpower, etc.). In metropolitan cities, centralization manifests itself in the relationship between upper- and lower-tier municipal authorities, implying that most of the key powers for urban development are concentrated in the hands of the upper-tier. Details of the centralization issue in metropolitan cities will be discussed in the following section.

2.2. Metropolitan Area Management and Urban Spatial Planning in Turkey

2.2.1. Historical Development of Local Governments in Turkey

This section discusses the historical development of local governments in Turkey with reference to the relationship between central and local governments. The roots of contemporary local governments and municipalities in Turkey date back to the mid-19th century. Since then, throughout the development of the Turkish public administration system, the relationship between central and local governments maintained its centrist and authoritarian structure, albeit with varying levels.

The first municipality organization in modern sense was founded after reforms in the Ottoman State. Municipalities, which were founded in this period, acted as the extensions of the central administration in the rural region. Local government organizations, which were perceived as part of the central administration, operated as a consulting parliament without getting rid of the influence of the center even though they were qualified as local management parliament (Ersoy, 2011). The 1876 Constitution has led to foundation of municipality organization in each city and town.

The central influence over local governments continued during the Republican era. In the wake of the Republican era, local governments were subjected to the pressure of the central government. One of the main reasons for that was the intention to build a nation state from the inheritance of the empire management and this could only be possible by building a centralist state in the first instance. Within this context, local governments of the Republican era were supposed as organizations assisting and supporting the central administration.

Local governments in Turkey are Constitutional organizations, which are defined as public legal entities. They are established by law primarily with the aim of meeting the common and local needs of human communities settled within their borders. They are autonomous administrative units, which are not connected to the center in

matters such as decision-making, implementation and use of budget. Article 123 of the 1982 Constitution expresses that the foundation and duties of public administration is based on the principles of ***"decentralization"*** and ***"local administration"***. Likewise, Article 126 of the Constitution stipulates that the central management will be divided into sections based on geographical position, economic conditions and requirements of public service provision. The Constitution also explains the reason for presence of local governments in the first subparagraph of Article 127, according to which; "local governments are public legal entities which are created by being elected by the electors whose decision organs and foundation principles are shown under the law to meet the common requirements of the province, municipality or village people". And in the second subparagraph of the same article, it is stipulated that law will regulate foundation, duties and powers of local governments. Also, in Article 127, it is emphasized that the central administration has the administrative power of tutelage within the framework of principles and procedures which are specified in the law for the purpose of executing local services in accordance with the principle of the integration of the administration, ensuring unity in public duties, protecting society benefit and meeting local requirements as necessary.

2.2.1.1. Local Governments in Constitutions

Both constitutions and associated laws should be analysed in an historical manner in order to understand the development of local governments. In the Turkish context, local governments have been involved in public administration system since late 19th century, starting with the 1876 Constitution (also known as the Ottoman Basic Law), which is the first constitution of the Ottoman State. The principles regarding local governments in the Ottoman Basic Law were practically different than the constitutions introduced in the Republican Era. Consisting of 119 articles, the Ottoman Basic Law regulated local governments as constitutional institutions for the first time. Articles 108-112 which are grouped under the "province title", discussed the relationship between central and local governments (Kırışık and Sezer, 2006). The 1876 Ottoman Basic Law included the principle that municipal works would be

fulfilled by parliaments to be determined by elections and this provision was a first within our public administration system to contain regulations in relation to municipalities (Tortop, 2006).

The transfer of responsibilities with regard to some services from central government to local governments and establishment of the municipal parliaments by election are considered as significant steps towards decentralisation by the centralist Ottoman State. This constitution, which could be regarded democratic in terms of these two characteristics, unfortunately failed to define local governments as public legal entities. However, in 1877, Golden Door Law (Dersaadet Kanunu) was introduced for Istanbul municipality, and Provincial Municipality Law was introduced for rural provinces and with the new laws, municipalities were not only considered as administrative entities but also accepted as legal entities. Besides having many deficiencies, the 1876 Constitution provided local governments with constitutional assurance. Being considered as autonomous structures by several laws, local governments continued their duties as an extension (agent) of the center until the declaration of the modern republic, mainly due to the centralist structure of the Ottoman State.

While the 1921 Constitution, which was prepared during the period of the War of Independence, did not involve any provision regarding municipalities, the principles of decentralization and deconcentration was mentioned and adopted. Besides, regulations that are close to contemporary norms were stated for local governments. It was stated in the constitution that provinces will have legal entity and autonomy in local works and the parliaments will be elected by the local public. The 1921 Constitution was a legal document, which included the terms of “central administration”, “rural organization” and “local management” in most of its articles. Although the 1921 Constitution included regulations to improve local governance and democracy, these regulations remained unapplied due to the conditions of war environment.

The 1924 Constitution is the first official Constitution of the Republic of Turkey.

This constitution did not include several specific provisions regarding local governments. Contrary to the democratic and autonomous local government concept drawn by the 1921 Constitution, the 1924 Constitution revealed a centralist nature by bringing the concept of tutelage rather than decentralization. Contrary to the previous constitution, duties and powers of local governments were not explicitly specified, instead only some minor principles were mentioned. The legislative and institutional vacuum created by the 1924 constitution was later filled by two significant developments: the establishment of Ankara Metropolitan Municipality in 1924 and the introduction of the Municipality Law (No.1580) in 1930. Based on the new legislation, the municipalities in Ankara and Istanbul were regarded as "municipalities with special status", whereas the rest was accepted to have equal status.

The 1961 Constitution was made and enacted after the 1960 Military intervention. Unlike other constitutions, "decentralization in service (*hizmette yerinden yönetim*)" application was included and the principle of "decentralization" gained a constitutional nature. In the 1961 Constitution, it was mentioned that the general decision organs of local governments would be elected by single round election by the public. In the constitution, the administrative tutelage on local governments was eased and the audit of the elected organs in case of loss of their capacities was left to the judiciary (Özmen, 2012). Another important development in the period of the 1961 Constitution with regard to local governments was the "democratic municipality movement", which has been effective as of 1973. Particularly due to the rise of democratization and local participation mechanisms, this period was also called as "democratic municipal work", "socialist municipal work" or "new municipal work" (Öner, 2006).

The 1982 Constitution is another constitution made after a military intervention, specifically the military coup in 12 September 1980. The 1982 Constitution includes a provision stating that the "administration's foundation and duties are based on the principles of centralization and decentralization" (art.123/2) in parallel with the 1961 Constitution. Likewise, the principle of deconcentration was also included in Article

126, which states that the “administration of the provinces is based on the principle of deconcentration” (art.126/2). A detailed regulation on local governments was made in Article 127 of the 1982 Constitution, which defines local governments as autonomous public legal entities. On the other hand, this constitution also includes provisions that put strict control over local governments by the central governments through heavy audits and administrative tutelage.

In the 1982 Constitution, local government units are divided into three types, which are Private Provincial Administrations, Municipalities and Villages. The Article 127 states that special administrative systems can be created for large settlements. Pursuant to this provision, Metropolitan Municipalities were founded in cities, which exceeded the population size specified in Law No. 3030.

As a conclusion, the influence of the centralist approach to public administration since the Ottoman period has continued during the republican era, starting from the first constitution to the final one. Regulations, which make local governments highly dependent to the center, have always been included in constitutions. Not all constitutions gave the local unit the power of decision-making in many matters, and even if given, the decisions were subjected to audits, and questioned if necessary. In almost every constitution, local governments were considered as the extension of the central administration. Local governments’ principles of service, duties and powers were not explicitly specified in the constitutions, and this frequently led to conflict of duties between local units.

2.2.2. The Contemporary Situation in Metropolitan Area Management in Turkey

Urban population increase brought with it areal expansion of cities as well as increase in population density. It was proved to be impossible to manage sprawled and highliy populated cities through classical methods. In response to rapid urban growth, the terms “metropolitan city” and “metropolitan area management” have started to be used more frequently.

The municipality is the “public corporate entity” that is responsible for satisfying the common needs of the local society. But when cities grow geographically and demographically, the diversity of the common local needs increases, and satisfaction of such needs requires larger-scale investments. However, the difference between metropolitan cities and others is not limited to service provision to and management of larger areas. Metropolitan cities differ from other cities also by economic, social and cultural aspects. First of all, since metropolitan cities spread over larger areas, they consist of several small settlements and residential quarters as big as small towns. For this reason, in cases where each of such settlements has their own local administrations, the city unity and integration required for services cannot be ensured.

Turkey’s population started to concentrate in urban areas especially after 1950. While only 24.2% of total population was living in urban areas in year 1927, this rate reached at 25% in year 1950, 43.9% in year 1980, and 75.5% in year 2010 (Demir & Çabuk, 2010). Hence, with its rapidly increasing urban population, Turkey has become one of the leading countries in its region.

The first attempts to classify (urban) settlements in Turkey date back to the early periods of the Republic. In these legal definitions, the population size was used as the only criteria. Within this context, the oldest code classifying settlements according to their population sizes is the Village Law (No. 442 dated 1924). In first paragraph, it is stated, “residential areas having population lower than 2.000 are named “village”, the ones having population between 2.000 and 20.000 are named town, and the ones with a population of higher than 20.000 are named city. Even if their population is lower than 2.000, the boroughs and central settlements of districts or provinces are accepted as towns, and they are subjected to the municipal law and organization. The minimum population limit defining the city was determined to be 20.000 people. The Village Law has not put forward another standard classifying the settlements inter se. But, in justification of this law, it is stated that “by considering that it is required to classify our municipalities into 4 levels, each of these levels are named Village,

Town, City, and Large City, and it is estimated to make independent codes for each of them". With the Municipal Law (No 1580 dated 3 April 1930), all settlements with a population of higher than 2.000 were considered as urban areas and taken into the scope of this law. But the Municipal Law did not realize the principle stated in justification statements of the Village Law.

After 1980 the Greater Municipality Law (No 3030) was introduced in order to provide the legal basis of metropolitan administration in Turkey. With this law, the metropolitan area management entered into implementation for the first time in Turkey and the term "metropolitan" was used to define cities "having multiple districts within the borders of a municipality, including the central district". Moreover, in Metropolitan Municipalities Law (No 5216 entered into force in 2004), the definition of metropolitan municipality was transformed into "public corporate entity involving at least 3 district municipalities or first-level municipalities, ensuring the coordination among these municipalities, fulfilling its tasks and responsibilities given through the law, using its authorities, having financial and administrative independency, and established by voters through elections". In order for a city to be able to be metropolitan municipality, there is not any agreed population standard in the literature. But, in general, the definition of a metropolitan city or a large city is used for cities having a population over 1 million. The recent laws on municipalities, namely the Municipal Law (No. 5393 dated 07.03.2005) and the Metropolitan Municipalities Law (No. 5216), cities are classified based on population standard. In 4th article of Law No. 5216, it is stated that "municipalities of cities having a population over 750.000 in the most recent population census involving the population within municipal borders and districts at most 10.000 meters away from these borders can be changed to metropolitan municipalities by considering their physical establishment conditions and economic wealth levels". Thus, the lower population limit of being a metropolitan city has been determined as 750.000 people. As it is clear, settlements having a population between 20.000 and 750.000 are considered as "city", and the ones having population over 750.000 are considered as "metropolitan city". But the populations of some of the current municipalities are significantly lower than these limits since there was not such a population provision

in Law No. 3030.

Considering the scientific studies on metropolitan city concept in Turkey, and the attempts to plan these cities, it is seen that the initial attempts started in the late 1960s. In those years, the metropolitan planning works have started with the Cabinet Decree No 6/4970 dated 07.20.1965. Through this decision, the Master Plan Offices were established in Istanbul, Ankara, and Izmir under the control of the Ministry of Public Works and Settlement. On the other hand, in the 2nd 5-year Development Plan covering the period of 1968-1972, policies supporting large cities were explicitly adopted. Moreover, in the "1st National Physical Plan Seminar" in 1968 and in the "Conference on Urbanization Problems in Large Municipalities" same year, the reports on the issue and process of metropolization have been presented.

Many studies on establishment of metropolitan administrations were carried out in Turkey between 1965 and 1984, but none of them was turned into specific legislations. Until 1984, the metropolitan cities were treated indifferently from other cities in Turkish public administration system. The Article 127 of the 1982 Constitution, which states "special administration methods can be put into practice for large settlements", has constituted the first legal base for metropolitan administration system. Through the authorization given by the 127th article of the 1982 Constitution, the national government introduced a special law (Law No. 3030) to establish metropolitan municipalities in central settlements of large cities (Tekeli, 2000).

The Law on Local Government Elections (11.18.1984/2972), the Decree Law on Administration of Metropolitan Municipalities (03.23.1984/195), and the Law No. 3030 made in parallel with the previous one have brought the basic and regulative rules for the metropolitan administration system in that period (Erdumlu, 1993). Through the Law on Local Government Elections (01.18.1984/2972), which was made after general elections in 1983, it was decided to establish metropolitan municipality councils for municipalities involving multiple districts, to establish district municipality councils in districts, and to elect different mayors for

metropolitan and district municipalities (Tokman, 1988). Through the Law No. 3030, by dividing the “large cities” into “district municipalities”, a new hierarchic structure among municipalities has been established. Local public services in large cities were divided into two parts after these regulations. It was estimated for metropolitan municipalities to ensure one part of them, and for district municipalities to ensure the other part. The tasks of metropolitan municipalities have been defined as the tasks requiring to be considered at top level. It has been decided that metropolitan municipalities must ensure the balance among district municipalities within its borders while fulfilling its tasks. It has been decided to establish two coordination units in metropolitan municipalities as infrastructure (AYKOME) and transportation (UKOME) coordination units. In 2000s, Turkish public administration system has entered into a significant restructuring period. The changes in public administration system necessitated the change in metropolitan municipality system, and restructuring the administrative structure of metropolitan municipalities. The Metropolitan Municipality Law No. 5216 dated 07.10.2004 reidentified the tasks, authorities and responsibilities of metropolitan municipalities.

Table 1: Studies and Legal Regulations on Establishment of Metropolitan Administrations

1965	Establishment of the "Master Development Plan Offices" in İstanbul, Ankara and İzmir upon the Cabinet decree
1972	Establishment of "Inter-Ministery Zoning Coordination Council"
1972	The "Metropolitan Service Union Law Draft" prepared by Ministry of Internal Affairs
1975	The "İstanbul Metropolitan Service Union Law Draft" prepared by Ministry of Internal Affairs
1979	Establishment of "Planning and Coordination Council" by the Cabinet
1980	The "Large City Union Law Draft" prepared by Ministry of Internal Affairs
1980	The law on "Affiliating the Residential Areas around the Metropolitans to Main Municipalities"
1982	Adding the statement of "Special Administrations for Metropolitans" into Article 127 of the Constitution of 1982
1984	Acceptance of the Decree Law Concerning the Administration of Metropolitan Municipalities
1984	The Law Concerning the Change and Acceptance of the Decree Law Concerning the Administration of Metropolitan Municipalities (Law Nr:3030)
2004	Acceptance of the Law on Metropolitan Municipalities Nr:5216 (07.10.2004)
From: Erdumlu, G., 1993	

The Law No. 5216 concluded the continuation of the double-layered organizational structure, to ensure the provision of local common services in jurisdictions of metropolitan municipalities. The law stated that the local common services and tasks, which can be provided within the borders of district or first level municipalities or of which effects don't pass beyond the borders of these municipalities, will be provided by the lower-tier municipalities. Likewise metropolitan municipalities were decided to fulfill the tasks and services requiring metropolis-wide planning and coordination or which must be provided by the upper-tier municipality based on the quality of the related task. Moreover, it has been decided that services, which can be provided by district or first level municipalities but it may result in conflicts in practice, will be

provided by metropolitan municipality. Another change brought by the law is that the metropolitan municipality council is authorized for making directional and regulative decisions about solutions of conflicts among metropolitan municipality, district municipalities and first level municipalities.

Although later than its international counterparts, the metropolitan area management system has been brought to the agenda of Turkey and become widespread since 1980. Metropolitan urban development has shown advancement in parallel with rapid urbanization, which continued during the post-1980 period. Istanbul became the first metropolitan city of Turkey with a population of over 1 million in 1955, based on the population criteria, and later on followed by Ankara and Izmir. The metropolization movement has involved Ankara in 1970s and İzmir in 1980s. Metropolization of Adana occurred in the mid-1990s, yet Adana has lost the chance of being 4th biggest metropolis of the country to Bursa in 2000. According to the borders determined by the Law No. 5216; the populations of Kocaeli, Gaziantep and Konya have exceeded the million threshold and these cities have become metropolises. Thus, as of 2010, Turkey was characterized with a population of 27,5 million people in 8 metropolises. Even if it was a belated arrangement, the renewal of the Metropolitan Municipality Law in 2004 has led to a more realistic definition of metropolitan area borders and a more accurate population data.

In justification statements of the Metropolitan Municipality Law (No. 5216), it has been explained why the metropolitan municipality system was introduced as follows:

> "The problems occurring in large cities are getting harder gradually, and it is also becoming harder to solve them. The most important problem is the lack of administration in these domains. Although problems arise from the entire metropolitan region, the authority and financial resources for solving the problems are distributed among many local administration units. Population growth, industrialization, transportation, environmental problems, and the advances in technology have enlarged the scope and dimensions of public services. This situation makes it impossible to solve the problems with organizational structure, service capacity, and inadequate financial resources of many uncoordinated local administration units established within the metropolitan regions. It

> destroys the efficiency and productivity of the management. Authorisation of many units authorized for providing services that should normally be served at the metropolitan level diminishes the effectiveness and coordinated planning of urban services, and thus leading to waste of resources."

When it comes to the advantages of the metropolitan administration system brought with the Metropolitan Municipality Law, first of all, it should be mentioned that the integration must be ensured in public works and economic domains, especially in planning, infrastructure, and transportation, and such integration of public services requires an administration unit responsible for the whole metropolitan region. Another reason of the necessity of the metropolitan administration system is that investments such as transportation and infrastructure in metropolises necessitate high technology and large financial resources, which small local units usually lack. Therefore, it is widely argued that interruptions and insufficiencies in service provision due to lack of institutional capacity of lower-level municipalities could be eliminated by means of a strong metropolitan municipal organization.

Despite expectations from the metropolitan administration system clearly stated in justification of the law, it has been observed that new problems emerged after the introduction of the system. First of all, the search for macro-scale planning of cities by metropolitan municipalities resulted in centralization in service provision since metropolitan municipalities were provided with authorities other than the ones required for accomplishing the investments. The narrowing of the authorities of district municipalities with the Metropolitan Municipality Law No.5216 is in fact in conflict with the subsidiarity principle. Most of the authorities, especially the superior ones were given to metropolitan municipalities, not to district municipalities, which are closer to citizens. For example, the population of Istanbul is approximately 13 million, larger than several countries in Europe. There are hundreds of municipalities in many countries having populations lower than Istanbul, but performing functions same as Istanbul Metropolitan Municipality based on the principle of provision of services at closest points to citizens. With the adjustments brought by the Law No.5216 a new version of centralization is created at the local

level; district municipalities are turned into branches of metropolitan municipalities rather than autonomous local government units. This also diminishes the chance of participation of citizens due to largeness of the municipal area and the population.

2.2.3. Critical Evaluation of the Current Metropolitan Administration System in Turkey

Today, the metropolitan administration system in Turkey is executed in accordance with the Metropolitan Municipality Law No. 5216 enacted in 2004. The law has been grounded on the concept of "metropolitan governance", which is based on institutional consistency and coherence. In metropolitan governance, in case there are several local administration units in the region, coordination between local administration units in service provision, planning, and management gains importance. However, there is not a single model of metropolitan governance. In re-organization process of the metropolitan municipality system in Turkey, the main objectives have been set as efficiency, transparency, accountability, and participation. The objective of the law was stated as "arranging the legal status of metropolitan municipality, and ensuring the efficient, productive, and harmonic provision of services.

What we observe today is that metropolitan municipalities are not very eager for providing the distant district municipalities with service, that the coordination with metropolitan municipality in service provision, planning and administration cannot be well ensured, and that the tendency of metropolitan municipalities for overusing their authorities has increased with the new metropolitan administration system. The system is also open to political influences. For instance, mayors from the same political party within the metropolitan region seem to work in coordination. District municipalities representing the same political party with the metropolitan municipality are usually provided with required zoning regulations and infrastructure services timely, and in case they lack the resources and trained personnel to act, the metropolitan municipality acts on their behalf.

Metropolitan governance necessitates the effective utilization of financial, human, and information resources, and strengthening of the coordination between local administrations and central administration as well as among local administrations. Besides, better finance management, efficient information sharing and balanced share of authorities and resources between local administrations in the metropolitan region are also important aspects of metropolitan governance. When the actual metropolitan administration system in Turkey is evaluated based on the concept of metropolitan governance, it is seen that no balance can be ensured about the task, authority and resource sharing between local administrations within the metropolitan region and that the responsibility in metropolitan region is deteriorated against district and first-level municipalities. While authorities and duties of metropolitan municipalities were increased with Law No. 5126, those of district and first-level municipalities were decreased. According to the Law No. 5216, the numbers of district and first-level municipalities within the borders of metropolitan areas were also decreased, leading to problems in service provision and coordination in planning and management. The presence of multipartite local administration structure in metropolitan region and completely different political views of local administrations bring many problems in service provision and coordination. Besides, district municipalities strictly dominated by the metropolitan municipalities conflicting with the principle of decentralization. In the new legal regulations, there are no sufficient mechanisms to ensure public participation and involvement of citizens in decision-making processes. It is also not very clear how the coordination between metropolitan and district municipalities from different political parties would be ensured. Metropolitan municipalities seem to have bias against district municipalities from different political tendencies, and they tend to restrict their actions. Services that metropolitan municipalities have to provide are usually not provided in sufficient ways.

It is not enough only to increase the duties, authorities and responsibilities of local governments to address the problems experienced in metropolitan regions. In order for metropolitan municipalities to be able to fulfill their duties and responsibilities, they need to be provided with appropriate capacity and resources, as well as

institutional structures within the frame of administrative efficiency concept based on the principles of transparency, accountability, and participation.

The Law No. 6030, as the most recent law changing the metropolitan system in Turkey, has been subjected to various criticisms. In justification of the law, it is stated that the law was designed according to the principles of efficiency and cost-effectiveness in service provision. But, the new legal regulations seem to have damaged the principle of service provision by the closest local unit to citizens, and increased the bureaucracy of municipal works. The new law (No.6360) removed the protection on regional differences and diversity. The legal entities of approximately 16.000 villages are removed, and they are transformed into neighborhoods. Given the processes of participation into decision-making mechanisms of metropolitan municipalities in our country, it will be difficult for these small societies and units, of which legal entities were removed, to participate into decision-making. As a result of enlargement of metropolitan municipalities' borders to provincial borders, the unities constituted by these small units will be removed too. This situation means the violation of the subsidiarity principle which is the basic principle of EU society. Thus, it can be seen that the new law does not comply with participation principle, and it has inconsistent attitude towards determining the geographical region (Aksu, 2012). The new structure coming with new law (No. 6360) dramatizes the problem of optimal scale. While the efficiency and productivity of existing metropolitan municipalities in service provision in proportion to used resources is still controversial, the enlargement of their duty borders to the provincial boundaries brings new problems from the aspect of efficiency and productivity conceptions of optimal municipality approach.

The metropolitan municipalities have penetrated into relatively narrower urban areas in 1984-2004 period. But, on the other hand, in the new period starting from 2004, this area has been widened. The most distinct characteristic of this second period is the process of integration of new urban areas emerging around the metropolises with the metropolises. Within this context, the borders of metropolises have been enlarged in 2004, and radical changes have been made in metropolitan municipalities about

lower levels in 2008 (Law No. 5747) and many small municipalities have been closed within this context. This legal disposal towards the first level municipalities has been seen to be a fictional action towards removing the negative effects of enlargement in year 2004. The borders of metropolitan municipalities have been enlarged to administrative borders in 2 cities, and through the radius calculation of 20, 30 and 50 km in resting 14 cities. After these regulations, the populations of the metropolises have increased, as well as the increasing weight of metropolitan municipalities in our local administration system. Metropolitan municipalities cover 46% of total population of the country, and 55% of the municipalized population. Again, the proportion of metropolitan municipality population in city population has also increased.

One of the important disputes is towards the relationships between the levels and the authority and resource sharing. From the aspect of the characteristic of the relationships between the levels, there are various extreme proposals. As well as there are people thinking that continuing the actual system would be beneficial, there are also expressions that the district municipalities possess the real responsibilities, the metropolitan municipalities should only act as coordinators, or that there should be only 1 municipality in metropolises and district municipalities should be removed or transformed into branch offices of metropolitan municipalities. But the important point in these disputes is the parallelism between the model's fiction and the space of implementation. Hence, it has been observed that there was a close relationship between the characteristics of relationships between levels and the population size of metropolitan municipality and the number of district municipalities.

It has been observed that the authority and resource sharing disputes, the aspect of actual structure bestowing a privilege on metropolitan municipality, the disputes arising from main branch-secondary branch discrimination, the criticisms about the unfairness of metropolitan municipality among district municipalities in service procurement and investments, criticisms on metropolitan municipality about taking the requests and priorities of district municipalities into account, and the problems occurring due to the lack of coordination and dialog between the district

municipalities lead to deep differentiation and significant unrests.

About the city of Istanbul, the disputes similar with relationships between the levels in metropolitan administration model have been brought to the agenda. The attitudes of metropolitan municipality and the self-ordained character of metropolitan municipality that does not pay attention to districts have been criticized. But the main issue emphasized as solution of the problem was the higher level of dialog, rather than a structural change. It has been emphasized that if the parties metropolitan and district municipalities) show courtesy of listening to each other, then the problems might be solved easily. On the other hand, it is thought that establishment of units for coordination between the metropolitan and district municipalities and/or the meetings would be beneficial from the aspect of coordination between the levels.

CHAPTER 3

PLANNING OF METROPOLITAN CITIES IN TURKEY

In this section, evolution of planning powers of municipalities will be analyzed with reference to legal regulations and central-local governments' relationships in urban planning and development activities.

3.1 Urban Spatial Planning in Turkey

3.1.1. Historical Development of Urban Planning in Turkey

The history of spatial planning starts with the reforms era in the Ottoman Empire. The first comprehensive legal document in the field of planning was the Buildings Regulation, which was enacted in 1848. This regulation was then followed by the Construction and Roads Regulation dated 1864. This latter regulation, on the other hand, is important in terms of being the first, integrated and comprehensive legal regulation on urban development in the Ottoman Era. When provisions of the regulation are examined, it is seen that the regulation attempted to give a direction to the city by a series of rules, which were identified by several articles (Ersoy, 1989). Here, the purpose was rather to beautify the city and make it resemble the contemporary European cities (Türksoy, 1988). Ortaylı (1974) argues that this regulation was a kind of master plan. According to the provisions of the regulation, streets were divided into different classes based on their widths, a relationship was set between the widths of streets and height of nearby buildings, free abandonment rule was applied although limitedly.

In 1882, Development Law was introduced and the regulation dated 1864 was abolished with this law. According to some researchers, this law was a "turning point within Turkish urbanization history, which constitutes a highly comprehensive and quality framework for urban development" (Türksoy, 1988). On the other hand, as per some others, the law was not much different that the former regulations, "except

for some new attributes it has brought" (Vardar, 1978). With this law, regulations were brought about squares and public areas, road widths were determined, a certain rate was brought between road widths and building heights, detailed provisions were brought in relation to land shapes and buildings.

Efforts in planning of cities were enriched after the foundation of the Turkish Republic. In 1930s, a new law was introduced in the field of urban development as in many fields that concern municipalities as part of the new republic's perspective to "create a western image". The centralist approach dominant at the time was influential in development of that law, namely the Construction and Roads Laws. The Law, which took effect in 1933, "provides a complete continuity with the Buildings Law in terms of the matters it covers and the provisions it includes" (Akçura, 1982). The law was prepared based on the development regulation of a city in Germany (Tekeli, 1978) and it provided a highly detailed structuring decisions and contained strict provisions that influenced the plan decisions. The provisions aimed to recommend a single valid pattern for all settlements and bring them to a condition in conformity with the "ideal city" model. This uniformity and strict provisions brought serious problems even in the very limited urban housing conditions of 1930s and 1940s and thereby led to the enactment of a new development law (numbered 6785) in 1956 after a long preparation period. The Law No. 6785 was justified by the fact that the previous law, which was in effect since 1933, was a development regulation rather than a law.

With the new Law No. 6785, which was developed as a reaction to the Construction and Roads Law, many provisions in the former law were left to the regulations, and planners were given substantial flexibilities so that they can develop recommendations in line with the local conditions. The new law did not include any details about housing and construction conditions, and attempted to solve such details by following associated regulations. Article 25 of the new law provided the municipalities with the flexibility of preparing regulations based on their own conditions and applying them accordingly.

The “type regulations” prepared by the Ministry of Public Works as a general framework containing 70 articles established a basis for municipalities to prepare their own regulations by considering the local conditions and characteristics in their area. In sum, local conditions that may bring new additional provisions based on area-based requirements deemed necessary and expected to be compiled by municipalities (Duyguluer, 1989). Along with the wide flexibility given to municipalities the new legal regulation also introduced the “plan note” concept in an article added to the type regulation. Accordingly, legal grounds was created for plan notes by stating that the provisions in the regulations prepared would be applied in case no contrary provision is found as the plan note in the development plan. This matter, which had been specified in the regulation with a wrong approach in terms of law technique, was later included within the article of the law with an amendment which was made in 1972 and legal support was provided for staging. Thus, a very important means was provided in order to produce a plan decision based on the characteristics of the region planned for the planners within the general and flexible framework of the law.

However, a limitation, which was brought with the Article 43 of the development regulation against all these approaches (1957), has negatively influenced the urbanization experience in Turkey. Specifically, it was stated that “the land piece on which only a building can be built in line with the development legislation was called a parcel”. Thus, “a single building on a single parcel” approach was brought, subdivision works have increased, and small parcelling was instigated. The applications took a fixed form and apartment-type housing became dominant, while architects and city planners could not bring different building designs (Duyguluer, 1989).

All in all, the development law which was introduced in 1956 brought a flexible development institution concept in general but subsequently introduced regulations and applications tended to freeze the contents and shape of the development plans instead of dealing with major problems; and limit the powers of local governments in preparation of plans. The reason behind this tendency should not be sought in law but

in political factors on one hand and in management and authorized bureaucrats and technocrats on the other (Akçura, 1982). Likewise, 1/2.000 and 1/5.000 scale plans were mentioned for the first time in our history of planning and a step was taken about staging between the plans. Also, there was a single plan type called "prospective city plan" between 1933 and 1957. Local governments were the only organizations responsible for spatial planning, and central administration came into play in approval process.

The Development Law No. 6785, which was enacted in 1957, was strengthened by the Law No. 1605 in 1972. This former law was the most comprehensive legal document of our spatial planning history (Ersoy, 2013). This law made explicit for the first time that urban planning was not a framework limited to buildings and roads, and the concepts of Master and Development Plans were developed. With the Law No. 1605, the planning responsibility of adjacent areas of a city was given to municipalities that were no longer an administrative unit disconnected from the surroundings of the city. They took one step further with this legal regulation and preparation of the metropolitan development plans that concern multiple municipalities was brought into the agenda and the authorization to prepare and approve these plans was given to the Ministry of Public Works and Housing. Thus, while plan types were diversified on one hand, central administration started to exercise the power and responsibility of making plans on the other.

The main law that regulates urban planning and development in Turkey at present is the "Development Law" numbered 3194, which was enacted in 1985. However, urban planning is a multi-dimensional activity that relates to many other disciplines as well as socio-spatial issues. Therefore, along with the Development Law, there are other laws, regulations, circulars, etc., with regard to urban and regional areas that influence the process of spatial planning. Development Legislation is thus an umbrella term including all related legal documents of urban spatial planning and development. The preceding Development Law No. 6785, which was in effect for 29 years, was amended by such motivations as "making fundamental changes based on today's and tomorrow's requirements" and "providing urban planning with a

systematic framework", and replaced by the Development Law No. 3194 (Ersoy, 1989). The most important provision of the new law compared the previous one are as follows:

- Planning powers with regard to urban development plans were given to municipalities,
- Minimum green area standard ($7m^2$/person) was included in the regulation, not the law,
- Allowing of construction of multiple buildings in a single parcel,
- Increasing of the development readjustment ratio from 25% to 35%.

Over time, the current development law and its associated by-laws and regulations have proven to be insufficient for protecting natural, historical and cultural values, as well as creating healthy urban environments and ensuring public participation. Besides, there are problems with regard to share of planning powers among public bodies that originate from the law. Most of the problems and shortcomings in urban planning practice outlined in the development law usually result from the provisions of the law in relation to building licensing and land arrangement.

3.1.2. Central-Local Government Relations in Current Urban Development Legislation

It is important from the perspective of this thesis to discuss whether or not the urban development legislation and particularly the development law takes local conditions and requirements into account in planning and construction related issues as well as the level of flexibility given to urban planners. The preceding law (No. 6785) not only gave the municipalities the power to prepare regulations in line with local conditions but also provided a broad flexibility to planners by means of the plan note. However, the new law brought a very strict application in terms of the flexibility of regulation when compared to the old one. In other words, Law No. 3194 limited the flexibilities, which were given to both local managements, and planners based on Law No. 6785. All municipalities were obligated to follow the

rules and principles on planning and construction specified in development law and regulations prepared by the central government. Duyguluer (1989) states that as new regulations seemed not to take any lessons from our development history, the new era after 1980 is likely to be remembered as the period with most restrictions and limitations within the development legislation.

On the other hand, the laws and regulations introduced after 1980 decentralised the power of plan-making and approval. Local governments were provided with various authorities and responsibilities with regard to planning at the urban scale. It is a fact that the centralist structure of planning was broken, and local authorities were strengthened. The interest of both the state and the capital in production of urban built environment has increased greatly after 1980 in Turkey (Şengül, 2001; Balaban, 2008). In this respect, decentralization of planning powers in the early 1980s was associated with the policy of the national government to promote urban infrastructure and construction investments (Balaban, 2011). However, it is also necessary to note that the decentralized situation in urban planning was later reversed and the tendency of recentralization accelerated especially after 2000. Particularly, with the legal amendments made step by step after 2002, the powers of planning were transferred from local governments to sectoral ministries or institutions at the national level "to guarantee a fast-track planning process for sectoral investments like housing and tourism investments" in cities (Balaban, 2012).

Therefore, it is plausible to say that the relationship between central and local governments in urban planning and development has mostly been in a centralist and authoritarian manner. Although there have been slight differences in different periods, the general approach to central-local governments relations was mostly in favour of the center; local governments were not allowed to create independent policies and regulations but were under strict audit of the center. Some recent developments in spatial planning system in Turkey may worsen this situation.

The Development Law No. 3194 substantially completed the stages of development planning hierarchy by bringing two more upper stage plan types such as "Regional

Plan" and "Territorial Development Plan". Besides, the law authorised State Planning Organization and the Ministry of Public Works and Settlement for urban planning along with municipalities. In 1973, the Ministry of Forestry was given the power of approving plans limited to National Parks, and in 1983, the Ministry of Tourism was given the power of approving plans limited to Tourism Areas and Centres. Thus, the number of central administrations with planning power has increased to four, implying that the Ministry of Public Works and Settlement gradually lost its position as the sole institution, which is responsible and authorized for all planning processes before 1985.

In sum, we see that planning is centralized more than past now despite the increase in types and number of plans as of 2011 in Turkey. The solution to this problem may be the introduction of a new law, namely "Development and Urbanization Law", draft of which has already been discussed in the public opinion. This new law is believed to put an end to power conflicts. Ersoy (2011) provides a summary of the planning situation in Turkey in the following table.

Table 2: Urban Planning Process in Turkey

PERIOD	COMPRISED AREA OF PLAN	AUTHORIZED INSTITUTIONS	NUMBER OF THE AUTHORIZED INSTITUTIONS	TYPES & HIERARCHY OF PLANS	DEVELOPMENT LAW
1848-1933	PARTIAL / UNDER THE LOCAL	MUNICIPALITIES	1	SETTLEMENT PLAN	BUILDINGS REGULATION / CONSTRUCTION AND ROADS REGULATION
1933-1957	CITY / LOCAL	MUNICIPALITIES	1	PROSPECTIVE CITY PLAN	CONSTRUCTION AND ROADS LAW
1957-1985	METROPOLITAN AREA / OVER THE LOCAL	MUNICIPALITIES, CENTRAL ADMINISTRATION (MINISTRY OF PUBLIC WORKS AND SETTLEMENT, MINISTRY OF FORESTRY, MINISTRY OF TOURISM)	4	MASTER AND IMPLEMENTATION DEVELOPMENT PLANS	DEVELOPMENT LAW (6785/1605)
1985	REGION / OVER THE LOCAL	LOCAL ADMINISTRATIONS (MUNICIPALITIES & PRIVATE PROVINCIAL ADMINISTRATIONS) CENTRAL ADMINISTRATION (MINISTRY OF PUBLIC WORKS AND SETTLENMENT, MINISTRY OF FORESTRY, MINISTRY OF TOURISM AND STATE PLANNING ORGANIZATION)	7	REGIONAL PLAN, TERRITORIAL DEVELOPMENT PLAN, MASTER AND IMPLEMENTATION DEVELOPMENT PLANS	URBAN DEVELOPMENT LAW (3194)
2011	NATIONAL-REGIONAL / NATION / REGION	LOCAL AND CENTRAL ADMINISTRATIONS	19	AT THE TOP; NATIONAL AND REGIONAL STRATEGY PLANS - AT THE BOTTOM; IMPLEMENTATION DEVELOPMENT PLAN - TOTAL: 6 STAGES	URBAN DEVELOPMENT LAW (3194)

Legislation on municipal governments covers important legal and policy frameworks that establish the institutional basis of urban planning and identify the relationship between different governmental units in urban planning and development process. Among the most important of such legislations are Municipality Law and Metropolitan Municipality Law. Table 2 presents the Municipality Laws enacted during the Republican Era.

Table 3: The Municipality Laws in Turkey

LAW NAME	LAW NO	GNAT[4] ACCEPTANCE DATE	OFFICAL NEWSPAPER DATE	OFFICAL NEWSPAPER NO
MUNICIPALITY LAW	5393	03.07.2005	13.07.2005	25874
	5272	07.12.2004	24.12.2004	25680
	5215	09.07.2004		
	1580	03.04.1930	14.04.1930	1471

Based on Article 14 of the current Municipality Law No. 5393; the duties and responsibilities of municipalities are listed as development, water and sewage, transportation, urban infrastructure, geographical and urban information systems, environment and environmental health, cleaning, municipal police, fire station, introduction, youth and sports, social services and assistance, wedding, occupation and skill gaining, economy and trade development, city traffic, funerals and graveyards, forestation, parks and green areas, housing, cultural and artistic activities are the execution of the services. It is stated that municipalities will also perform local and common duties, which are not given to other institutions by laws. Municipality Law involves quite important articles in terms of both regulating the duties and responsibilities of municipalities and regulating the rights and privileges so that citizens can prioritize and keep up with the changing world order. The law

[4] GNAT - GRAND NATIONAL ASSEMBLY OF TURKEY "TBMM - TÜRKİYE BÜYÜK MİLLET MECLİSİ" in Turkish

gives all kinds of initiative and operating right to municipalities in order to meet the local common requirements of the townspeople. In order to determine the opinions and thoughts of the public, public opinion polls are allowed. Therefore, when it is considered that the public's chance to participate is also enabled, it can be supposed that the provisions of this law are in parallel with the local management opinion.

With the enactment of the Law No. 5393, the principle of "appropriateness" has been brought to local governance in Turkey. The expression "municipality services are offered to citizens in the closest places and by the most suitable methods" at the end of Article 14 supports this issue. The principle of "appropriateness" appeared in the agenda of Maastricht Agreement, which was signed in 1992. With this principle, local governance structure in EU is expressed by the terms such as "power sharing, closeness to public in service provision and appropriateness in service provision". This principle aims to reach public as close as possible in provision of public services. That is to say, public services will be fulfilled by administrative units, which are closest to the public. Thus, local governments, as closest administrative units to the public, are the most appropriate units for provision of many public services.

In 1960s, planning and development, use of urban soils, housing and municipality services, growth in demand for transportation and urban infrastructure and environmental protection have become important problems of the country as a result of rapid urbanization. Such problems have led to the need for systematic planning and development in metropolitan cities. To this aim, Metropolitan Planning Bureaus were established under the Ministry of Public Works and Settlement in order to prepare metropolitan development plans. These bureaus have been quite influential and successful in planning of big cities until the end of 1970s. The establishment of these bureaus could be accepted as the initial attempts in planning and management of metropolitan cities. However, the legal basis of metropolitan area management was missing at that period. The first law on metropolitan municipal organization, namely the Metropolitan Municipality Law was enacted in 1984.

The Metropolitan Municipality Law No. 3030 was enacted in order to introduce the metropolitan municipality system for big cities, which are Istanbul, Ankara and Izmir. In December 1984, the regulation that outlined the details of the application of Law No. 3030 was introduced. The main reason for the introduction of the metropolitan system and law was the insufficiencies and shortcomings of the Municipality Law No. 1580, which concluded the establishment of municipal authorities in towns with a population of more than 2000 people. Law No. 1580 was not enough to solve rapidly growing urban problems in metropolitan areas with a population of more than a million. With the new law, it was assumed to bring new ways of municipal organization to address the complicated problems of big cities. The first metropolitan municipalities were founded in Istanbul, Ankara and Izmir provinces in 1984.

Table 4: Metropolitan Municipality Laws in Turkey

LAW NAME	LAW NO	GNAT ACCEPTANCE DATE	OFFICAL NEWSPAPER DATE	OFFICAL NEWSPAPER NO
METROPOLITAN MUNICIPALITY LAW	5216	10.07.2004	23.07.2004	25531
	3030	27.06.1984	12.12.1984	18603

After enactment of the Metropolitan Municipality Law (No. 3030) in 1984, metropolitan planning bureaus were connected to metropolitan municipalities along with the power to prepare metropolitan development plans. However, soon after, upon the court decision concluding that metropolitan municipalities were unauthorized to prepare metropolitan development plans, these plans remained ineffective. Therefore, big cities were deprived of upper level spatial plans.

When the provisions of Law No. 3030 with regard to infrastructure investments and service provision were analysed, it is seen that the Metropolitan Municipality Law (No. 3030) is more advanced than the Municipality Law No. 1580. Article 6 of Law No. 3030 titled “Duties of Metropolitan and District Municipalities” includes the

duty of “making metropolitan investment plans and programs”. In the same article, metropolitan municipalities were also charged for “making, implementing and approving metropolitan master development plans, approving and auditing the implementation of the implementation development plans prepared by the district municipalities in line with the master development plan”. As clear in this article, metropolitan municipalities had to either accept or reject the implementation development plans prepared by district municipalities. Besides, based on Article 7 of Law No. 3030, it is specified that an “Infrastructure Coordination Centre” and a “Transportation Coordination Centre” would be established in which representatives of related public institutions and organizations participate. These centers aimed to carry out infrastructure works and land and marine transportation services in coordination, and to prepare work programs in line with the Development Plan and Annual Programs (Karabilgin, 1998).

According to Güler (1988), all necessary principles for fulfilment of planning function in metropolitan municipalities were included in the law but no detailed legal regulations regarding the organizational matters that were required to carry out the actual work. Metropolitan municipalities were deprived of a comprehensive planning and a planning organization commissioned for that work. It was difficult for local governments with growing and complicated problems to find out solutions for even simple and daily issues. Through studies, which would be done in conformity with the targets and principles of the plans and programs at the national level, local governments should connect their long-term services to a certain system. Local governments are also known to have failed to provide sustainability and applicability in planning approach (Tamer, 1992).

Soon after the application of Law No. 3030, several serious problems were encountered. It became obvious that there were no objective criteria in sharing of duties and powers, and no sufficient mechanisms to build cooperation between different levels of administration. Besides, the law brought the absolute dominance of metropolitan municipalities and led to lack of planning and coordination within the metropolitan area. The Law dated 10.07.2004 and numbered 5216 on

management of metropolitan cities were introduced in order to remove deficiencies and shortcomings of the previous law (Tuzcuoğlu, 2005).

The new Metropolitan Municipality Law defines a metropolitan municipality as a "public legal entity which covers minimum three districts and the first level municipality, makes coordination between these municipalities; fulfils the duties and responsibilities and exercises the powers which are given by the laws; which has administrative and financial autonomy and whose decision organ is created by being elected by the electors". With Law No. 5216, duties, powers and responsibilities of metropolitan municipalities were re-regulated. With the law, in addition to the powers and duties which were listed in Law No. 3030 in relation to spatial planning; the following new powers and duties were also given to metropolitan municipalities:

- Preparing the implementation development plans on behalf of the district and first level municipalities which could not complete them within two years after approval of master development plans,
- Making and licensing all kinds of development implementations in relation to duties and services given to metropolitan municipalities by laws.

With the new duties mentioned above, the power distribution between district and metropolitan municipalities is severely disrupted against the district and first level municipalities. Many powers performed by district and first level municipalities including planning powers were given to the metropolitan municipality (Torlak & Sezer, 2005).

The Metropolitan Municipality Law No.5216 brought important changes to duties and responsibilities of metropolitan municipalities in relation to development plans. Provisional Article 1 of Law No.5216 states that "metropolitan municipalities shall make 1/25.000 scale master development plans within two years at the latest as of the date when this law takes effect". Based on Article 7/b of the Law, duties, powers and responsibilities of metropolitan municipalities include the following:

> "making, approving and implementing master development plans at every scale between 1/5000 and 1/25000 within the borders of the metropolitan area and adjacent areas provided being in conformity with the territorial development plan; approving and auditing the implementation of the implementation development plans prepared in line with the master plan of municipalities within the metropolitan area, the amendments to be made in these plans, parcelling plans and development and improvement plans as they are or by modification; making the implementation development plans and parcelling plans of the district and first level municipalities who have not made their implementation development plans and parcelling plans within one year as of the date when the master plan takes effect."

As clear, the new law has highly expanded the duties, powers and responsibilities of metropolitan municipalities with regard to planning. Besides, unlike Law No. 3030, metropolitan municipalities' power to "accept or reject" the implementation development plans was transformed into the power to "approve as they are or by modification". And this means that metropolitan municipalities are now free to implement their development plans in line with their own desires. The approval the implementation development plans as they are or by modification can also be criticized in terms of turning it into a hierarchical audit power by exceeding the power of administrative tutelage, which is regulated by the constitution for independent local government units.

In Article 7/c of the Law, the provision reads as "making and licensing development plans, parcelling plans at every scale and all kinds of development implementations in relation to project, construction, maintenance and repair works which are required for the duties and services given to the metropolitan municipalities by laws, exercising the powers granted to the municipalities in Prevention of Squatters Law dated 20.07.1966 and numbered 775". Here, it is seen that metropolitan municipalities can implement some of their powers in relation to development planning within the framework of the fields of duty and service. The new law also brought the provision that metropolitan municipalities can exercise the powers, which are defined in Articles 69 and 73 of the Municipality Law No. 5393. These

powers are the ones which are granted to the municipalities under the title “Land and House Production” and “Urban Transformation and Area of Improvement” of the same law.

When the new municipality laws (No. 5393 and 5216) are compared, following issues appear:

- The civil administration’s power to approve the decisions of the municipality council was removed. (5393/23)
- The metropolitan municipalities’ tutelage in relation to budget and development on the decisions of the district ministry council were expanded for all decisions. (5216/14)
- The power of direct correspondence with other institutions was given. (5393/78)
- Court of accounts audit was started but the tutelage was extended because the Ministry of Internal Affairs audit was not removed.(5393/55)
- Several institutions have total 125 tutelage audits on the municipalities.

The problems of administrative tutelage of central administration over local governments continue with the new municipality laws. It seems that the central administration still has distrust on elected local bodies, as tutelage mechanisms still exist in the laws. However, the opinion that local governments do not have enough maturity and strength to fulfil the requirements of autonomy lost its validity. The assumption that local governments are politicized and abuse their powers may also apply to the central administration. Central administration can exercise the power of tutelage as a means of political pressure particularly for the local governments, which are members of different political parties. Various examples of such pressures have been observed in Turkey.

The most recent legal arrangement that changed the relationship among government units in provision of public services and urban planning and development is the Law No. 6360, which is also known as the new Metropolitan Municipality Law. As

already mentioned, metropolitan municipality system in Turkey has a two-tier structure. The metropolitan municipality, as the upper-tier unit, includes several other municipalities within its borders and the district municipalities, which are the lower-tier units, are connected to them. At the beginning of the metropolitan municipality system, the municipalities of Istanbul, Ankara and Izmir were given a specific status and designated as metropolitan municipalities as per Law No. 3030 in 1983. In the subsequent years, the number of metropolitan municipalities has increased to sixteen. The Law No.3030 was terminated in 2004, and replaced with the Metropolitan Municipality Law numbered 5216. In November 2012, the Metropolitan Municipality Law No.5216 was amended with the Law No. 6360 and significant changes were made to the metropolitan municipality system.

The Law No. 6360 has led to establishment of metropolitan municipalities in 14 more provinces in addition to 16 existing ones as well as expanded the borders of metropolitan municipalities to provincial borders. By the Law, a metropolitan municipality is defined as follows:

> "Public legal entity with provincial borders which provides coordination between district municipalities within its borders; has administrative and financial autonomy and fulfils the duties and responsibilities which are granted to it by laws, exercises the powers; and whose decision organ is created by being elected by the electors."

With the Law, borders of 30 metropolitan municipalities tallied with the provincial borders and legal entities of the Private Provincial Administrations were terminated in these 30 provinces. Thus, the municipality borders were expanded as provincial borders and metropolitan municipalities were given new duties and powers within this scope. It is undoubted that this regulation marks quite a radical change in many aspects including spatial planning.

Another important change in terms of spatial planning is that all town municipalities within the provincial borders are terminated and connected to district municipalities with the status of neighbourhood. Accordingly, in total 1022 town municipalities

were closed in settlements with metropolitan municipalities and the planning powers of these town municipalities were given to district and metropolitan municipalities (Ersoy, 2013). Then, only metropolitan municipalities and district municipalities are left as local government units at provincial level.

With the last legal regulations, all powers of planning within the metropolitan municipal borders (the entire province) are collected in a single hand, more specifically in the hands of metropolitan municipalities. Primarily, with the planning powers granted to metropolitan municipalities by Law No. 6360, it has become possible to carry out the planning and development works of a province by a single authority. However, this should not mean that provincial borders overlap the metropolitan borders and they are the most suitable planning area. In some cases, provincial borders may be narrow as planning borders for settlements whose relationship network exceeds administrative borders. It should be mentioned that ideal planning borders may vary from context to context, and therefore no particular criterion can be defined as "ideal" even in any time range.

The potential problems to be experienced with the new legal regulations exhibit a more complicated structure. With the Law No.5216, all planning and development implementation decisions from upper scale to parcel level within the borders of metropolitan areas would be given by metropolitan municipalities directly or indirectly. This makes sense, as the benefits of a plan prepared for a wider area may increase, considering that better links could be set among various aspects and economies of scale could be achieved in such wide planning areas. However, achievement of such benefits requires certain conditions such as effective public participation and democratic management. Upon the closure of town municipalities and transfer of their planning powers to metropolitan municipalities via the district municipalities, chances of participation of the local public, which are already insufficient in preparation of lower scale plans, are thoroughly narrowed and the principle of locality is substantially damaged. In countries with advanced democracy; the processes through which urban plans are obtained and mechanisms through which local people participate in urban planning process are more important than the

plans prepared. Yet, the new legal regulations fell much behind this situation observed in advanced countries and they entail the dangers of alienating the public to public administration and policy-making and weakening the local democratic institutions and procedures.

3.1.3. Principles and General Classification of Urban Development Planning in Turkey

Spatial planning is in fact a process, which aims to achieve certain goals and address certain problems. In this respect, the first step of a planning process is the analytical studies that aim to find out the reasons and causal relationships behind the problems. After the analysis of the current relationships among social and spatial agencies, efforts are spent to develop strategies and policies to direct and reshape these relationships. Bademli (2005) mentions that in urban planning, it is essential to determine the current conditions, functioning and tendencies of a locality and then evaluate them within the context of major problems and facilities. Transformation of the proposed socio-spatial model into a concrete design is the "plan", and the whole implementation process of the "plan" is "planning" (Bademli, 2005). Its success in implementation depends on how well the concrete that is built on the abstract represents the external reality. Unfortunately, the complex structure of the real life and the difference of the value systems and political power balances make it compulsory to substantially reshape the prepared plans in the implementation process. Within this context, it is important build relationships between plans, which are prepared at different scales and plans in one upper and one lower level. The principle of "hierarchical unity of the plans" can contribute to reducing the problems encountered in the implementation process of the entire planning process.

The conformity of physical plans prepared at different abstraction levels (or scales) is defined as the principle of the hierarchical unity of plans. According to this principle, in case the plan decisions that are taken in one lower scale do not conflict with the plan decisions in one upper scale, and in case it is found that the implementation of the upper scale plan decisions in the lower scale is impossible or problematic, it is

essential to review the upper scale plan decision again. In this process, the route followed goes from general and abstract rules (upper scale plans), which are produced for relatively large areas, to special and concrete decisions (lower scale plans), which are produced for narrower areas depending on these rules (Ersoy, 2000). Here, what is important is to ensure dynamism that prevents the potential deviations which will be created by the constantly unforeseen developments and relationships by the method of feedback between the scales rather than making a focus which only changes the plan scales with a static planning concept (Ersoy, 2000).

With a more explicit expression, "upper scale plans are documents with high abstraction level to give the main development decisions of the city and ways of land use in accordance with main targets developed, policies and principles created … while the main decisions specified in one upper scale are transferred to the lower scale, decisions which are not detailed in the upper scale therefore can be reconsidered" (Ersoy, 2000). However, in all circumstances, they are the upper scale plans which audit, direct and draw the flexibility framework of the lower scale plans. Therefore, the decisions of the upper scales are highly important in terms of ensuring the plans at the lower scales will speak the same language.

Today, although urban planning legislation is dispersed and related to various work fields of a great number of institutions and organizations, the main law in this field is the Development Law No. 3194. In these laws and regulations, powers and responsibilities regarding the preparation and approval of urban and regional plans are determined as per plan hierarchy. Plans are prepared as "Regional Plans" in terms of areas and purposes they cover and as "Development Plans" in terms of "Master Development Plans" and "Implementation Development Plans" according to the 6th Article of the Development Law, titled "Principles and Planning Stages in relation to Development Plans". In other words, spatial plans are defined in two main scales. Upper Scale Plans (Regional Plans) and Lower Scale Plans (Development Plans). Another plan type, which is given in the 5th Article, is the "Territorial Development Plan". This plan type should be considered as an upper scale plan type because it is

not included in the content given in definition of “development plans”. In summary, when evaluated together with the articles of the Development Law, it could be mentioned that there are three main plan scales and types of plans, which are a) Regional Plans, b) Territorial Development Plans and c) Development Plans. With a recent regulation on preparation of spatial plans, “spatial strategy plan” was also included in the category of upper scale or regional plans in Turkey.

Development Plans, which constitute the third level in plan hierarchy, are divided into two categories; Master and Implementation Plans. In 2004, when new legal regulations were enacted, Territorial Development Plan was followed by the Master Development Plan, which is prepared at 1/25.000 or 1/5.000 scales and then by the Implementation Development Plan, which is prepared at 1/1.000 and a lower scale. Metropolitan and district municipalities are in charge of preparing master and implementation development plans within their jurisdictions in conformity with the upper scale plans. Metropolitan municipalities can now prepare 1/5.000 and 1/25.000 master development plans for the whole province and modify 1/1.000 scale implementation development plans of district municipalities on their behalf. In short, starting with the territorial development plan, all planning powers in metropolitan cities are not collected in a single hand that is the metropolitan municipality.

Certain concerns and questions might be raised regarding master development plans after the enactment of the recent legal changes. For instance; how the contents of the plans will be affected upon defining 1/25.000 scale as a likely scale of “master” plans; how much difference there will be in terms of scope and content between master plans on 1/25.000 scale and master plans on 1/5.000 scale; is it required to have an upper scale territorial development plan for the area prior to preparation of the master plan on 1/25.000 scale, etc.

In sum, considering the recent legal amendments and regulations, it could be asserted that the current planning system consists of 3 main stages. Within the framework of the principle of “hierarchical unity” of plans, “it is expected that each lower scale plan contains more information and detail than the upper scale plan, but at the same

time it is a plan on its own which covers the relevant data and information is required by its scale, while protecting the main decisions of the upper scale plan" (Ersoy, 2000). Therefore, territorial development plans are not the enlarged copies of the regional plans, like master development plans not being the enlarged copies of the territorial plans, and implementation development plans not being the enlarged copies of the master development plans. However, all these plans have to be legal documents that contain plan decisions with different features and details from a more abstract level to a concrete one.

In Turkey, along with the centralization of planning from national to local level, there is also a standardization of planning process from the highest scale to the lowest. In other words, plans prepared at various scales are usually handled by the comprehensive planning approach, and regardless of their types, plans are prepared as physical plan documents whose features such as construction processes, techniques used, demonstration languages and detail levels are more or less the same. In comprehensive planning, the purpose is to produce a master plan to identify the major role of the city within its region, to improve its social and economic structure, and to outline the major land use decisions. Besides, the major objective of a comprehensive plan is to achieve the "public benefit" and take into account all related dimensions of societal interest in the preparation process of the plan (Ersoy, 2010).

Strategy plans have been developed as a response to the shortcomings of comprehensive planning approach. Strategy plans that are based on long-term visions usually come into prominence in upper scale planning. Project suggestions can be developed with reference to this vision, that is to say, the time limit varies based on the content of the proposed projects. However, long term target is to develop the major development decisions to increase life quality in the urban area by protecting environmental and local values without compromising the principle of sustainability (Faludi, 2000; Friedman, 2004; Albrechts, 2004).

Although they do not have to be physical plans, strategic plans consist of a general

physical development scheme, which shows the main strategies of socio-spatial development. The main purpose is related to both physical and non-physical development. Since what is essential is the plan report, the demonstration and plan language is highly schematic and the main decisions regarding orientations and tendencies are shown in schemes without the worry of scale (Gedikli, 2010). In these plans, all strategy suggestions and action plans developed are handled in detail in plan reports including the increase in urban competitiveness with regard to providing communication, information and transportation infrastructures and promoting domestic and foreign capital and explained to serve as a basis to lower scale plans. Although recently added to urban development legislation, widespread implementation of strategy plans is still missing in Turkey.

In case of Turkey, Regional Plans and Territorial Development Plans, as per the previous legal regulations, are defined as “upper scale plans”, and these plans are different from the “lower scale” development plans as being spatial strategic plans. However, such definition was missing in urban development legislation for long time. Therefore, upper scale plans have been defined and conducted as comprehensive plans with reduced details in pratice. The regulation on preparation of spatial plans, which was introduced in 2011, provided the concept of “spatial strategy plan” as well as its definition and content. It is now possible to prepare these plans as strategy plans. However, our past experience contains the danger of converting all spatial plans into standardized physical plans with different scale at the end.

Unfortunately, the condition in the implementation also supports this understanding. There is almost no difference between the territorial development plans and master development plans which are prepared at different scales in terms of either demonstration language or content and the concepts of hierarchy in planning and hierarchical unity are not meaningful any more (Ersoy, 2000). It should be specified that there are no significant differences in terms of the method followed in preparation of these plans, techniques used and plan reports and notes. Both of the plans are prepared in line with the comprehensive planning concept and they are highly far from structural strategy plans in terms of their demonstration techniques

and language.

In Turkey, although master development plans have different scales as documents, which are prepared at demonstration and detail level, they are in fact qualified as repetitions of each other in larger scales as documents with the same scope and contents. Therefore, in one sense, it can be said that the only important difference between them is the institution preparing the plans. While upper scale plans are prepared by central institutions, development plans are prepared at the local level without much conceptual difference than upper scale plans. In this case, plan decisions could be reached at parcel level by utilizing the facilities offered by computer technology over a numerical plan, which is prepared in the highest scale. Besides, none of the interim stages of the plan hierarchy are needed any more. We encounter with plans, which are not differentiated from national to local scales. Thus, although the number and types of plans increase, offering of standardized plans that are almost identical to each other in qualitative terms makes planning meaningless and worthless as a whole.

Starting from the end of 1980, the number of public institutions and organizations, which are granted the power of making physical plans rapidly increased. This further increased after 2002, and many investment organizations were granted the power of making and approving plans. What is expected here from each institution is to reflect its professional knowledge and expertise to the spatial dimension in line with its own corporate targets and strategies. However, the plans prepared by all these different institutions and organizations rather remained plans prepared with development planning and language instead of being documents in which knowledge, experience and values of their own areas of specialization are reflected. This also led to the spread of partial plans and implementation in planning process.

In sum, our planning history has been a process in which preparation of plans was centralized step by step. The peak point in this process seemed to have been achieved after the recent legal regulations. With the new regulations, in addition to the powers of planning which have already been given to a great number of central institutions and organizations, the planning powers of the Ministry of Environment and

Urbanisation are highly increased. The Ministry was equipped with powers which were not experienced in our planning history such as making, approving plans, parcelling at local level and even providing license and utility permits in addition to all upper scale plans. This approach will also substantially damage the powers and strengths of planning of local governments. While planning areas of local governments are restricted, the land use balance created in plans prepared by local governments can be disrupted by some decisions taken by the Ministry without considering the unity of plans.

The centralized planning system in Turkey is also a standardized process from upper scale to lower scale plans. Despite a great number of upper scale plans, which cover large areas, the methods of preparation, contents, quality, plan language and demonstration techniques of these plans are completely prepared with a comprehensive plan understanding and language as in the lower scale development plans. In this case, plans which do not have any differences other than their scales and approval agencies are prepared, the reasons for existence of lower scale plans are eliminated, and the power of planning at local level is actually transferred to the central institutions. Furthermore, the plans are standardized from upper scale to lower scale. Due to reasons originating from both the legislation and localized planning habits, no significant difference can be created between plans at different scales. In this case, while there are ironically a great number of plans at different scales more than ever in our country, planning is seen to have substantially lost its meaning and function because there are no severe quality differences between these plans.

3.1.4. Types of Urban Development Planning in Turkey

Urban plans are legal documents at various spatial scales prepared to determine land use decisions and spatial strategies in line with the principles and targets based on demographic, socioeconomic, cultural and natural conditions specific to the subject settlement. The main purpose of urban planning is to ensure healthy, safe and aesthetic living environments for people. Urban development plan can be defined as

a legal document that shows the spatial distribution of major components of a city as well as the conditions and purposes of land use in order to protect people's health, meet social, economic and cultural requirements, and ensure good living and working conditions and security. Urban development plans have to be followed by any related party in order to find the best way to achieve a balance between such key urban functions as living, working, recreation and transportation.

In general, we can define a "plan" as a framework of regulations decided to ensure the realization of a series of purposes developed accordingly with a main target. Plan should have determined the targeted purpose and the ways, strategies and means to reach this purpose (Bettleheim, 1967). Planning assumes that a planned system can be directed by human will rather than its own laws. In other words, planning represent the understanding that structural obligation can be replaced by free human will, and human beings can intervene and dominate life. While predictions are a bunch of insights which follow passive and non-audit development, planning expresses effective unity of activities which direct development (Ersoy, 1997).

According to one categorization, plans are divided into two categories as "Upper Scale Plans" and "Lower Scale Plans". In this respect, National Development Plan, Regional Plan, Metropolitan Development Plan, Spatial Strategy Plan and Territorial Development Plan are the upper scale plans in Turkey. Among upper scale plans, territorial development plans and spatial strategy plans are quite important in terms of their potential influences over development planning at lower scales. Development plans as the lower scale plans prepared at urban level are composed of six major types, which area) Master Development Plan, b) Implementation Development Plan, c) Revision Development Plan, d) Additional Development Plan, e) Partial Development Plan and f) Amendment to Development Plan (Plan Modification). Among these six plan types, master and implementation development plans are the most important ones and constitute the main subject of this thesis. In what follows; brief information on definitions and contents of all of development plans as well as the two key upper scale plans are given.

First of all, the "**Spatial Strategy Plan**" is classified as one of the regional plans, which follow the policies and strategies drawn in national development plans and regional development policy and strategies in order to link such national and regional policies with spatial processes and development. Spatial strategy plans are prepared to provide spatial strategies for city regions by considering the economic and social potential, transportation relationships and physical thresholds, underground resources as well as historical and cultural values of the regions. It is also stated on the regulation that spatial strategy plans could be prepared on 1/250.000, 1/500.000 or higher scales by means of a schematic language.

"**Territorial Development Plans**" are prepared to link spatial strategy plans with the development planning at the urban level. These plans are defined to be prepared on 1/50.000 or 1/100.000 scales with the general purpose of formulating spatial and sectoral policies and decisions to manage development of cities, towns and rural settlements within city regions by considering the land use situations and requirements, natural, cultural and historical assets, as well as sectorial development tendencies.

Based on Article 5/2 of Law No.3194, a "**Master Development Plan"** "is a plan which is drawn on the ready-made maps in accordance with the regional and territorial development plans if any and as its cadastral status written if any and regulated as a basis to show the matters such as the general ways of land use, major types of urban quarters, prospective population densities of the city and its major quarters, building densities when necessary, improvement direction sizes and principles of several settlement areas, transportation systems and solutions of problems and as a basis to prepare implementation development plans, explained with a detailed report and is a whole with its report". This plan does not contain the details of implementation but shows the future shape and development of the city. Metropolitan Municipalities are the major authorized institutions to prepare and approve master development plans.

"Implementation Development Plan", which is regulated in Article 5 of Law No.

3194, is defined as a “plan which is prepared and drawn based on the principles of the master development plan as its cadastral status written on the ready-made certified maps and which shows in detail the city blocks of several urban quarters, their densities and hierarchy of roads and implementation phases and other information that will be a basis for actions required for implementation, and which is a whole with the detailed report and issued in 1/1000 scale”. Although district municipalities are authorized to prepare these plans, in metropolitan cities metropolitan municipalities have the power to approve them. Metropolitan municipalities could also either prepare or change these plans before approval.

“Revision Development Plan” is defined as the “plan which is obtained in case any kind and scale plan does not meet the current needs and cannot be implemented or poses problems in implementation, as a result of the renewal of the whole plan or a part of it in a way to influence the main decisions of the original plan without losing the match with upper scale plan decisions”. Besides, **“Additional Development Plan”** is another plan type, which is defined as the “plan which is adjacent to the current plan and prepared to ensure continuity, integrity and conformity with the general land use decisions of the current plan in case the plan in effect does not meet the current requirements”.

“**Partial Development Plan”** is defined as the “plan which can be prepared provided abiding by the plan construction rules of the regulation in case the current plans remain insufficient for the settled population and new settlement areas need to be opened for use and its borders are determined by the related administration, provides within itself social and technical infrastructure requirements which are in a position which is not integrated with the plan, and is a whole with its report”.

Finally, “**Amendment to Development Plans”** are the plans, which bring partial difference and not to disrupt the integrity of the continuity of the main decisions of the development plan and the balance of social and technical infrastructure in the size, position, intensity of the land utilities or the transportation system within the borders of the certified development plan.

3.2. Existing Legal and Organizational Context of Planning in Turkish Cities

The Development Law outlines the general framework of preparation, approval and implementation of development plans. Besides, the Metropolitan Municipality Law assigns the power of making, approving and implementing the master development plans at every scale between 1/5.000 and 1/25.000 to Metropolitan Municipalities. Therefore, metropolitan municipalities are the sole responsible institutions in metropolitan cities for development planning at the upper scale. On the other hand, implementation development plans are under the responsibility of district municipalities, and yet metropolitan municipalities have the power to amend them before approval. This latter mentioned power could be accepted as an indirect authorization of metropolitan municipalities to prepare implementation plans along with their direct power with regard to master plans. Moreover, in case district municipalities cannot complete the preparation of implementation plans one year after the approval of the master plan, the power of preparing implementation plans is transferred to metropolitan municipalities. Thus, with the recent legislation, the power of district municipalities in development planning in highly limited and restricted.

In practice, several problems are already observed. In some cases, municipalities, which prepare implementation development plans, make decisions in contrary to or exceeding the decisions of master development plans. In other cases, metropolitan municipalities prepare master development plans in such details as if they are implementation development plans. Likewise, there are disputes due to amendments made to master development plans by metropolitan municipalities and to current implementation development plans by district municipalities. There are also legal cases about plans prepared by public agencies by abuse of their power and at irrelevant scales. Despite the broad area of planning powers obtained by metropolitan municipalities, the intervention of metropolitan municipalities into the fields of action and responsibility of district municipalities has not come to an end.

Based on Article 8 of the development law; master and implementation development plans take effect upon being approved by the municipality councils. Approved plans are then declared to public for a month as of the date of approval in order to receive objections of social organizations, groups and individuals. At the end of the declaration process, objections and approved plans are sent by the mayor to the municipality council to be reviewed within 15 days. The councils make final decisions by stating the reasons behind the decisions. The announcement procedure of the completed plans and collection of objections can be partially effective in planning process, if sufficient announcement is made and public's participation is ensured. However, it is mostly executed as a procedure required only for completion of a legal process. The reasons why this application cannot be fully effective can be listed as:

- Insufficient announcement of the planning process to the related community,
- Plans may cover large areas and thus generate less public interest due to broadness of effects,
- Plans might be exhibited within a limited time and a remote location,
- The inability of non-property owners to object in the planned area,
- The wider belief that the objection will not be really taken into account seriously.

The development law promotes to notify the public about the plan by copying and distributing it. The approved development plans need to be published on web pages of municipalities and applications of this have also started to be observed so far (Aydoğan, 2005). Likewise, another step that facilitates the citizens' access to information has been the enactment of the "Law on the Right to Obtain Information" as part of the process of European Union accession (dated 09.10.2003 and numbered 4982). The by-law (dated 27.05.2004 and numbered 25445), which was prepared for the application of this law, constituted a legal basis not only for the planning process but also for making the whole public administration transparent.

There are no laws and regulations aim to ensure direct participation of public in the

processes of planning. The development law and its associated legislation do not even include the expression of "public participation". When evaluated as a whole; it is observed that the legal legislation in our country does not force public agencies to ensure direct participation of the public but designed in a way not to hide information from the public when requested.

According to the development legislation, there are certain steps to be taken in the course of preparation of development plans. These steps have to be followed by the governmental agencies that are responsible and authorized for preparation of the plans. First of all the updated base maps have to be prepared or obtained in order to initiate the preparation process of the development plans. After obtaining the approved base maps, geological and geotechnical surveys have to be made and data and information along with institutional opinions of the related public agencies have to be collected. Based on the data and information collected, the plans are prepared and submitted to the municipality council for approval. After the plans are approved, the approved plans are declared to the public in order to get the objections of individuals and NGOs. The municipality council evaluates the objections and finalizes the decisions as the last step of the entire process.

In case of preparing a brand new plan, the opinions of as well as data and information from the following institutions need to be taken:

A. Units within the metropolitan municipality
    - Department of Transportation Directorate of Transportation Coordination,
    - Department of Environmental Protection and Development Directorate of Environmental Protection and Control,
    - Department of Technical Works Directorate of Construction Affairs,
    - Department of Planning and Development Directorate of Urban Planning,
    - Department of Environmental Protection and Development Directorate of Parks and Gardens,
    - Department of Projects Branch Directorate of Projects,
    - Directorate of Soil and Earthquake Survey,

- Department of Real Estate and Expropriation Directorate of Real Estate,
- Directorate of Residence and Squatter affairs

B. Central Government Units
   - Ministry of Agriculture and Rural Affairs,
   - Ministry of Public Works and Settlement General Directorate for Highways,
   - Ministry of Environment General Directorate of Environmental Impact Assessment and Planning,
   - Ministry of Forestry Regional Directorate of Forestry,
   - Ministry of Energy and Natural Resources General Directorate of Mining Affairs,
   - Ministry of Culture General Directorate of Cultural and Natural Heritage Preservation

If partial or revision development plan is to be made, the opinions of the institutions in relation to the area, which is the subject of the plan, are taken. The opinions play a key role in understanding whether or not there are any substantial issues to be considered while formulating the decisions of the plan. Along with the necessary opinions, data and information as well as related official documents are collected by contacting the related organizations in order to complete the knowledge base on which the plan decisions will be constructed. The preliminary work stage is thus completed upon the collection of all such information and documents.

The next phase after the preliminary step is the research and assessment stage in which data and information collected are analyzed. This phase is a transition to plan preparation. At this phase, “Research and Analytical Studies” are made as a direct knowledge base for the planning step. After compiling of the analyses and opinions of the institutions obtained in the preliminary stage (geologic, soil capability, irrigation-flood, forest, archaeological site etc., highway, energy transmit line etc.) in a correct and complete manner, the spatial information obtained during the field work is assessed and the research report, land use maps, synthesis, threshold synthesis and planning decision maps are prepared. The plan explanation report

covers several characteristics of the planning area such as amendments to the plan region, possession status, geological condition zoning status of the region, etc. The plan preperation phase is carried out by making population and sectorial projections and density calculations and planning area requirements calculation. The research report, which is prepared in the form of a book, is also supported by visual materials and pictures of the settlement. A well-done research assessment work facilitates the formulation of accurate and relevant decisions, and thereby an appropriate development plan, which could easily be implemented, can be achieved. This is because all spatial and non-spatial data regarding the settlement are collected and the population projection of the settlement is determined, planning decisions are produced, the utility areas, technical and social infrastructure requirements in future are determined in accordance with the standards given in related development regulation at this phase. And then spatial planning is carried out in the light of this data.

We can summarize the Research and Analytical Studies under three titles in short:

1. Information collection and analytical assessment of the information collected
2. Combining and interpreting all information and assessing and synthesizing the results
3. Developing plan options and creating plan decisions.

The Master Development Plan, which is prepared in 1/2.000 or 1/5.000 scale, is the plan, which does not contain the implementation details and determines different land utilities, and region planning and intensity distribution decisions. The Implementation Development Plans, which are prepared at 1/1.000 scale in line with the master development plan decisions, contains adjustments at the city blocks scale. Moreover, a plan explanation report is prepared to contain the detailed information regarding implementation.

As a concluding remark to this chapter, it can be stated that the conflicts and disputes, which are created and reproduced within the metropolitan municipal

system, originate from the distribution of institutional powers that shape land use decisions, affect the distribution of urban rents and guide building construction and licensing. Many political processes from reproduction of daily life to adjustment of urban aesthetics are important in this regard in terms of being turned into crucial problem areas between metropolitan and district municipalities. The recent legal amendments both in municipality and urban development legislations seem to carry these conflicts to the peak point. The solution of these conflicts and problems is one of the most important and urgent requirements of achieving sustainable and healthy urban environments in future in Turkey.

CHAPTER 4

PROBLEMS OF CONTEMPORARY URBAN PLANNING IN TURKEY: Clash of Authorities in Metropolitan Cities

4.1. Problems between Metropolitan and District Municipalities in Planning Process

The number of public institutions and organizations which are granted the power of preparing and approving urban plans rapidly increased since the late 1980s. Today, 19 public institutions and organizations have the power of making plans in areas regarding their interests. This corporate chaos brings about new problems when planning borders determined by the Law No. 6360 are taken as basis. This chapter will discuss the problems experienced by metropolitan municipalities and district municipalities which are the authorized institutions as per the current legislation on preparation and approval processes development plans at urban scale.

Disarrangement of powers is one of the most important problems in urban planning and development system in Turkey. The increasing number of institutions at local or central levels with planning powers and the failure to ensure coordination between them makes it difficult to achieve the planned and proper development and management of urban settlements. Some of these problems occur between metropolitan municipalities, which prepare master development plans, and district municipalities, which are in charge of making implementation development plans in accordance with the master plan.

If a general assessment is to be made, it can be said that the relations between central and local governments should be based on cooperation, coordination and mutual assistance. Creating such base might not be easy in every country due to different historical, political and social conditions. However, it is possible to create a functional public administration system by adopting the principles of democracy, ensuring effectiveness in public services and mutual assistance between the state and

the citizens. “Appropriateness” and “locality” as well as “execution of services by the closest administration” are the key principles that are followed by countries which pursue a democratic and efficient collaboration between different units of public administration.

“Distribution of duties and powers” is a very important criterion which has to come first in analysis of central and local government relations. The distribution of duties and powers which is also called division of labour between managements is a selective concept as it sets forth the way of such relationship. While stating that the main factor which determines the division of labour between central and local management systems, the two organic parts of the state is the nature of the secondary division relationships which are in effect in a certain society and the principle of division of labour is determined by these relationships, that every change in the division of labour originated from the structural change in these relationships, Güler (1998) drew the attention to the essence of the social, political and economic structures. In reality, central-local relationships are in the position of a dependent variable which is determined by these structures.

The purpose of division of duties is the fulfilment of services by organizations which can provide them to public in the best manner. The criterion for that is choosing the organization which can ensure effectiveness and efficiency in performing the services (Ulusoy & Akdemir, 2001). The division of duties is specified and secured in the constitution in federal states. However, in many unitary states’ constitutions, -also in our 1982 Constitution- division of duties and provision of suitable income could not be secured to one extent and the provisions brought remained general and abstract (Tortop, 1999).

As is known, based on Article 127 of the 1982 Constitution, a new administration system was adopted and a two-tier municipal model began to be applied in Turkish metropolitan cities after 1980. The evolution of our two-tier local management system in time occurred in the form of increasing the planning powers and duties of metropolitan municipalities. In other words, the intention of the system towards

localization evolved into centralization over time. With the final law, the tendency of centralization was expanded to the provincial level because the metropolitan borders tallied with the provincial borders. When town municipalities within provincial borders were closed and centralization covered the provincial level, there is no explainable technical justification for why the metropolises have the power to correct and approve even the upper scales up to 135 km semi diameter areas from the centre in some provinces as well as lower scale implemetation plans or the power to fulfil it in case it is not fulfilled by the district related municipality within a certain time.

Metropolitan and district municipalities “develop the practice of making politics over urban rents by exercising their power of development to the full extent and making land utility plans in a level and diversity to address the populations which they can almost never reach” (Alver, 2012). Therefore, cities have become areas in which these institutions, which are authorized in planning, struggle. Besides, district municipalities experience a number of problems which are justified by reasons that metropolitan municipalities intervened with their areas much and disabled them through the development applications they make.

In summary, the broad area covered by strategic plans which will be prepared in the upper scale in terms of spatial planning is useful because it prevents the preparation of disconnected, partial plans within the whole area. Within this framework, it is also a defendable approach to expand the metropolitan borders to provincial borders. However, even all planning and development application decisions from upper scale to single plot level within metropolitan borders became amendable by metropolitan municipalities is open to discussion. Metropolitan municipalities’ exercise of their powers arbitrarily and district municipalities’ inattentive attitude in preparation of plans and deficiencies in plans which are sent for approval constitute the basis of these problems. And when we add the long process until the development plans take effect in Turkey, we see that urban planning is generally a very problematic process. In our country the master development plans which the metropolitan municipalities are authorized to prepare are comprehended and regarded as implementation development plans with reduced details. In case different plan decisions are taken for

same areas in these plans, the problems can become more inextricable. In this regard, a strict cooperation should be made between the related institutions which have the power of making plans at provincial level and the quality and contents of the plan types should be explicitly specified. What is essential in terms of planning principles is that implementation development plans and parcelling plans are prepared in the local units like other local services. In case such prepared implementation plans have nonconformity with the upper scale plan, the district municipalities should be warned by the metropolitan municipalities, and judicial audit should be sought in case this warning is not taken into account.

With regard to spatial planning, the effective legal legislation authorizes local governments as well as many public institutions and organizations about development planning (Ersoy, 1999). This corporate diversity brings about a very complicated legislation. With this legislation chaos, corporate multihead and authority disputes lead to a serious chaos in legal level, even the main things such as which institution is authorized in which areas, at which scales, what kind of an implementation will be taken in case the powers conflict with each other are attempted to be solved in implementation. It can be asserted that special planning areas which require different specialization will require different planning approaches, but what is difficult to be understood is that no coordination mechanism has been created between these different units which have the power in terms of physical planning at different levels and scales. Coordination and cooperation are not provided and a serious fight of power is experienced between these institutions.

One of the main principles in spatial planning is the principle of “hierarchical unity” between plans at different scales. Accordingly, upper scale plans such as regional plans contain provisions which direct and audit lower scale plans at the settlement level. Master and implementation development plans which are prepared at urban scale remain the area of power of the local managements, and the lower scale studies are supposed to stay out of the planning profession.

Physcial development planning approach dominant in Turkey, which sees the city as

a solid and homogenous physical local unit consisting of plots and buildings, prevented the city from developing different planning attitudes with regard to different featured areas of the city. Besides the areas which demonstrate protection, disaster, environment etc. features, the differences which should be observed in the whole city at the sectoral level such as industry, trade, city centre, housing, recreation etc. were even ignored, and the difference between these areas was minimized to a single parameter, which is density variation. Now, planning should not focus only on areas which will be opened to new development, but new policies should also be developed for the current building stock in the city. The new regulations in this area, on the other hand, unfortunately handle the matter of transformation and renewal in the existing built up areas of cities with an unintegrated understanding and as a means to create new economic profits only. In summary, the current legislation generously offers all means which are required at legal level in order to shatter the urban identity.

One of the main problems of our current planning system is that audit and participation mechanisms are almost never included in the plan preparation process. In Turkey, development plans are made by local governments directly or by means of tender method and approved by the Metropolitan Councils. There are no organizations which perform the technical audit of such prepared plans. Even whether the plan is in conformity with the conditions which are stipulated by the law is not analyzed by any authorities. Most of the Municipality Council members allegedly “analyze and put in political audit” a development plan certificate which they have almost never seen before in their lives after the suggestions of the commission and others’ explanations. What is made in reality is usually the interest audit on parcel basis.

The situation is worse in plan amendments process. Each property owner who thinks he is a victim of the implementation phase after the plan takes effect ends up in the mayor’s office to ask for amendtments. It even becomes impossible to follow what is left from the original plan after a certain time as a result of the personal pressures and constant amendments made in any part of the plan. The number of amendments

made in development plans within one year can reach up to thousands even in medium size cities and most of the amendments are made in the form of compromising public areas and utility for individual interests. (Ersoy, 2000)

A single audit mechanism is left in this model. It is the judicial audit which is made by means of actions filed to the administrative courts by citizens or NGOs who have the eligibility to sue. This audit is expensive and the courts behave highly reluctant to make the decision to stop the actual implementation. The court duration takes quite a long time together with the appeals phase, and meanwhile actual conditions are created and circumstances which make the court's decisions meaningless may emerge. Since the competences of the experts are not tested in any way, the judicial decisions, which take the reports which are prepared by these persons as basis, cannot always function as a real audit.

Participation mechanisms are not included at the preparation phase of the plans, either. It is assumed that participation in information is provided through the decleration processes which are made for a short while in a random place of the Municipality building with a few lines of announcement in one of the rarely read newspapers of the city. This is unfortunately the only application contrary to the discussion and information processes which take months in western countries. In the application, the public is informed only when the process in relation to its own parcel is completed in the parcelling phase, and even reaching approved plan documents require risking making serious efforts. In the local management laws which have just taken effect, there are some new provisions on preparation of upper scale plans although it is stated that they are highly limited. (Ersoy, 2004)

Planning process is a dynamic system. However our development planning system which is in effect is strict and static. Planning and implementation processes should be handled as a whole. It is necessary to take actions in accordance with constantly changing conditions and to follow strategies which are projected for realization of the plan. In circumstances which suddenly emerges and are not projected in the plan, as well as the inadequacy of technical staff to respond to problems usually cause the

plans to become unrecognizable after a while as we mentioned above. However, action plans should be prepared for realization of the approved plans and mechanisms should be prepared to ensure their constant audit and observation and these should be made the inseperable part of the development plans.

Within this framework, it will be highly useful to prepare an implementation oriented calendar and prepare a detailed action plan about which works to be carried out by which institutions and organizations within how much time and by which sources. Planning is a process which requires a large team work and requires compiling opinions and suggestions of the different parts of the society with a detailed, comprehensive research, well absorbing the problems of settlement, and developing solution suggestions by participant methods.

In addition to these, while the city's people do not participate in the preparation process of the plans, the power focuses in the city are able to interfere with the planner and the plan by means of the municipality directors. Urban planners generally tend to compromise when it comes to such requests in order to keep their relationships with the municipality which is in the position of the employer. As we have already mentioned above, since there are no units which audit the plans made, sometimes the minimum area sizes which is obligated by the regulations are not conformed to. After the approval of the plan, the situation can become more desperate and it is witnessed that all things done were not audited as a result of the pressures.

4.1.1. Power-related Problems Experienced

It can be said that the solution of the problems of power between local and central administrations and between local government units have caused a bunch of difficult problems (Canbazoğlu & Ayaydın, 2011). Such problems necessitate the following questions to be answered: which administrations or bodies perform the major transactions regarding city planning; which will's product are these transactions? It could be supposed that the Development Law brings explicit answers to these

questions and solutions to the associated problems.

Like every administrative transaction, the preparation, approval and implementation phases of the development plans should also be performed in accordance with the rules of administrative law. Administrative transaction's element of power shows by which administrative body and organ this administrative transaction can be made. In other words, there will be a healthy administration explanation if an administrative saving is only made by the body which can legally make it (Günday, 2003).

In preparation of development plans, determination of the authorized administration is quite important in terms of the development plans. The authority in terms of determination of bodies which are authorized to allocate an administrative transaction appears under several sub titles as the authority in terms of person, time, matter and place. Power in terms of place refers to the geographical area in which the administrative bodies can use the power they have. The administration which is authorized to make the development plans in terms of place and the distribution of power in this area are actually determined in the laws regarding administrative organization and local management. In these laws which regulate power in terms of place, some definitions which determine the area of power also gain importance. In this context, the concepts Municipality Law and Metropolitan Municipality Law, border of the municipality, border of the Metropolitan municipality and provincial border are particularly determinant. This complex structure explicitly puts forth the fact that power in terms of place will be a matter of discussion in case they appear before the judicial authority in terms of almost every development plan.

Power in terms of subject is one of the most important problem areas within the subject of analysis together with power in terms of place. The concept expresses the power of making development plans in the broad sense and making a development plan which has a certain purpose and scale in the narrow sense. Administrative bodies' completion and interpretation of the provisions of law which regulate their powers in terms of subject in such a way to sometimes intersect with each other can cause problems of power in terms of subject within the same legal entity or between

different legal entities. Accordingly, subordinate's taking decision on behalf of superior or superior's taking decision on behalf of the subordinate will be against law in terms of subject, and it can also result in power conflicts in terms of subject between several organs of the administration which are authorized in different subjects.

Metropolitan municipalities have become a local management unit which covers larger area and is equipped with broader powers as a result of the process which is called "a centralized localization" and are now questioning the existence of the local management units which are in the lower levels.

The justification to execute the processes such as "urban transformation", "transportation investments", "housing production", "urban planning" on which these claims are based, from one hand and properly resulted in the gradual decrease in the powers of district municipalities regarding spatial planning and housing or directly placing them under a heavy tutelage of a metropolitan municipality within years. This transformation process is directly reflected on the district municipalities' powers of planning. Urban planning services became one of the main means of the metropolitan municipalities whose politicization gradually increases and metropolitan managements influenced central politics over planning, and this resulted in the gradual decrease and even disappearance of the district municipalities' powers of planning.

Along with the amendments in legislation which were particularly made in 2000s in Turkey, metropolitan municipalities became political units with the authority to regulate the powers of the local management in the national level. With the new regulations which were made after 2004, district municipalities' urban planning and other spatial powers were placed under a heavy tutelage besides the powers which can be exercised ex officio by metropolitan municipalities. For example, in article 7 of the Metropolitan Municipality Law (No. 5216), which took effect in 2004, the following provisions were brought:

- Making, tendering and approving and implementing master development plans at every scale between 1/5.000 and 1/25.000 within the borders of the metropolitan municipality and adjacent area provided being in conformity with the environmental plan;
- Approving and auditing the implementation of the implementation development plans which will be prepared by the metropolitan municipalities in accordance with the master plan, amendments to be made in these plans, parcelling plans and development and improvement plans as they are and by modification;
- Making and tendering the implementation development plans and parcelling plans of the district and first level municipalities which have not made their implementation development plans and parcelling plans within one year as of the date when the master development plan takes effect;
- Making and licensing implementation development plans at every scale, parcelling plans and all kinds of development implementations in relation to project, construction, maintenance and repair works, exercising the powers which are granted to the municipalities in Anti-squatting Law dated 20.07.1966 and No. 775;
- Exercising the powers which are specified in articles 69 and 73 of the Municipality Law.

Besides, all powers regarding all phases of development planning, building, licensing and even urban transformation were given to the metropolitan municipalities. In one sense, the external borders of the development powers were determined based on the dominance of the metropolis in the settlements where metropolitan municipality system is applied.

The distribution of these powers is so unbalanced that they conflict with the main principles and rules which are accepted in the international standards. For example, one of the most important principles of development planning is the “hierarchical unity of the plans”. When appropriate, the highest scale plan can be changed in line with a decision which is taken in the lowest scale plan; and the lowest scale plan can

be changed in line with a decision which is taken in the highest scale plan by means of scientific methods. It is admitted that there should be a dynamic relationship between the plans. However, this principle has become ineffective upon the collection of the development planning powers under the responsibility of the metropolitan municipalities so much. The upper scale plans which are made by the metropolitan municipalities gained superiority while the details in the implementation lost value in city planning. Even if district municipalities make a lower scale development implementation, its reflection in the upper scale plans which are within the power of the metropolitan municipality are left to a political process. Besides, even if it is assumed that the metropolitan municipality which has the power of planning at every scale can ensure the hierarchical unity of the plans within its own power, replacement of the planning processes of the district municipality which are created by the lower scale plans by local dynamics with the lower scale planning dynamics which are made ex officio by the metropolitan municipalities results in the emergence of a planning practice with participation and accountability problems (Şahin, 2012).

Another important problem is that the balance of planning audit between the metropolitan municipality and district municipality is unilaterally disrupted. Plan decisions are audited top-down but there is no down-top audit process in question. And this results in the deficient audit mechanism in urban planning to be filled in by the judiciary. In urban planning, the conflict of power between the metropolitan and district municipalities is attempted to be audited by means of a complicated mechanism which consists of the specialization regulations and judicial precedents.

As it can be seen when a historical reading of the metropolitan municipality is made over the district municipalities' powers of development planning in Turkey, there are mainly three location and scale problems. The first one is that metropolitan municipalities have achieved an audited power of planning in parallel with the political and managerial centralization of the metropolitan municipalities. The direct result is a second problem area: the integrity and continuity are lost in planning and structuring of metropolitan areas and daily approaches have become the standard

implementation. And as a result of the district municipalities' disconnection with the development planning process, a third problem area emerges. In the metropolitan municipalities whose areas of power and borders are expanded, participation in the development planning processes and audit deficiencies become deeper.

Development plans are made in line with the requirements of the citizens, institutions and organizations and municipalities. Municipalities take the opinions of other institutions as well while evaluating these requests. After this phase, development plans are approved pursuant to the provision of article 14 of the Law No. 5216 which reads as "the decisions regarding development which are taken by the district and first level municipalities within the scope of the metropolitan municipalities shall be analyzed by the metropolitan municipality council in terms of their conformity with the master development plan within three months as of the arrival of the decision and sent to the metropolitan mayor as they are or upon acceptance by modification".

The problems between the metropolitan municipalities and district municipalities start just at this point. The approval phase is the most problematic phase in the process of implementation of development plans. There are plans which have not been currently completed and which take years to take effect. As a result of these problems, plans lose their up-to-datedness and the requirements of the city or the region which is the subject of the plan change. As a result, it becomes impossible to talk about an effective planning.

On the other hand, the development plans which are prepared by metropolitan municipalities remain insufficient to meet the requirements of the city. This problem is based on the failure of metropolitan municipalities to comprehend the requirements of district municipalities and the failure to ensure coordination between district municipalities.

When we take a look at the implementations, metropolitan municipalities are not contented to determine the borders of these areas; make the implementation plans and disable district municipalities. Besides, implementations which do not give

importance to the social consequences, disrupt the principle of equality are made to obtain rents thereby only increasing construction precedent generally in the areas which belong to certain persons in the empty areas with development plans which are prepared based on Law No. 3194 which do not require urban transformation. When considered in this context, planning loses its purpose in all aspects and irregular urbanization becomes legal when the political authority tolerates out-of-plan implementations. Even though the power of approval by modification which is brought by the Law No. 5216 seems to have the purpose to audit and eliminate the deficiencies of the plans of the district municipalities, it expanded its dimensions beyond solving the disputes with the district municipalities.

In fact, some activities are performed with regard to the solution of the problems of coordination between institutions. There are some ways of coordination and collaboration in which horizontal relationships are established between local governments in the provincial scale. We see them in the provincial coordination board, provincial local environment board and transportation coordination centre and infrastructure coordination centre boards (Fidan, 1999). However, there is no structuring in relation to ensuring coordination between the institutions which are authorized in urban planning.

4.1.2. Problems Regarding Urban Planning Vision

The vision is the ultimate goal which the related public agency expects from or wants to reach through a public action such as urban planning. The major purpose of public actions and decisions is to maximize public and social interest by allocating social resources and providing public services in more efficient ways. On the other hand, public actions or administrative transactions may have more special purposes, especially on sectoral bases but the final purpose should be to ensure public benefit. Likewise, urban planning as a public action also aims to maximize public benefit by following the appropriate planning and urban development principles. The related regulation (by-law) of urban development legislation in Turkey also states the purpose of development plans as utilization of planning and urbanization principles

in order to achieve public benefit.

In order to achieve public benefit, development plans should be prepared by considering the data and information on the current situation of the planning area gathered through analytical studies as well as by taking official views declared by the related institutions into account. Besides, different alternative solutions to current urban problems should be formulated as part of development planning and the best or the most suitable among the alternatives should be selected. In the audit of development planning process, the conduct of all necessary preparatory actions as well as evaluation of the alternatives have to be taken into account. The related administration should make a research that it should be able to present the only eligible alternative that can carry out public benefit in every aspect. Therefore, every research not being made for presenting the alternative disables the alternative in question both in terms of reason and purpose.

In Council of State decisions, some concepts are emphasized while evaluating the development plans in terms of planning vision and purpose. Among such concepts are "urbanization principles", "planning principles", "conformity with public benefit" and "superior public benefit". In judicial audit of development plans, it is imperative to pursue the phenomena such as "unity of development plans", "general structure", "qualifications of the comprised area" and "environmental protection"[5].

The 6th division of the Council of State has reached a conclusion that the amendment to the development plan on the premises matter in dispute did not fit the purpose of urbanization and planning principles and public benefit, and thus cancelled the amendment to the plan on the ground that "making several amendments to the development plan in the area of premises matter in dispute reverses the main judgment and damages the continuity principle requisite in planning, and the decision was approved". In another example, Council of State gave a rule for protecting expedience instead of urbanization principles and public benefit while

[5] Please see the following decisions in which these concepts are refered to:
D.6.D.E:2004/422,K:2005/5127, T:26.10.2005, D.6.D.E:1998/6752,K:2000/4201,T:22.06.2000, D.6.D.E:1996/5362,K:1997/3020,T:17.06.1997

making the plan is against urbanization principles.[6] Again, Council of State finds implementing development plans for some buildings and not implementing for some buildings incongruous with urbanization principles and development principles.

4.1.3. Legal Legislation-Related Problems

The key laws that lay the legal basis for urban planning in Turkey are the Development Law (No. 3194), the Municipality Law (No. 5393) and the Metropolitan Municipality Law (No. 5216). However the legal framework in effect seems to be insufficient for finding solutions for structural and complicated urban problems being brought to agenda after 1980. Besides, the negative effects of implementation of development plans on urban form and built environment are clearly obvious. Today, taking into account the fact that development level and welfare standards of countries are directly proportional with such standards of cities, in our country which is in EU pre accession process, it is inevitable that the current legislation in Turkey, which is an EU candidate country, should be revised by considering the EU legislation.

The main problem in implementation of the Law No. 3194 is downgrading spatial planning to the purpose of obtaining a physical layout plan. Nevertheless, discussions on structural planning–strategic planning and the principle of hierarchical unity of plans have deepened and raised attention in planning literature and practice after 1980. It is widely accepted that urban plans should be identified with sub regional plans, basin plans, metropolitan area and land use plan in integration with national development plans; physical plans should be made in a strong sense aware of protection and disaster sensitive, referenced with a strategy main plan presenting social and economical solution considering socio economic and socio cultural data. The main strategy plan should be a structural plan providing principle of hierarchical unity, having well identified purposes, objectives, tools and actors and integrated with an administrative plan.

[6] Please see the following decision in which these concepts are refered to:
D.6.D.E:1991/771,K:1992/3571,T:13.10.1992

In Turkey, planning sector in the last years has suffered deeply from the legal and institutional problems mentioned above, and from speculative pressures, rent-related concerns and political pressures. Greater cities being in the first place, all cities have come up against permanent urbanization problems. Unfortunately, in the planning works mentioned, data bases about the spatial, social, economical, cultural values of the regions and cities enclosed have not been formed, sectoral problem definitions have not been made, the probability of development and identities of the cities have not been considered, principle of hierarchical unity has not been considered, the principles and bases referring to subscale planning and more importantly current plan judgments have not considered. Therefore, it causes presenting plans which are without required analytic research and synthesis works being made, and purposes and objectives are not clear; far from strategic planning approach, and revives a planning process which is adopting a part- planning approach, incredibly promoting development rents that are gained with our law in effect on upper scale, or ignoring and taking any notice of the development rights, letting river basins zone for construction and ignoring the social, economical and cultural values of the areas included.

In urban scale planning there are similar problems. Subscale implementation development plans that should be made referring to approved master plans are evaluated with diverse judgments of usage and density due to political and speculative suppressions, reviving part planning implementations which are aiming to gain rents under the name urban renewal, this affects the urban macroform judgments negatively. Therefore, against many of the mentioned plans are taken legal action by several individuals, firms and corporations, judicial process gets started for the action for nullity of the plans, and there occurs disruptions on implementation of plans.

In the last years some block based implementations specifically adopted in Istanbul, and coming up in the other greater cities and being involved in our planning literature rapidly, big shopping malls and planning works about projecting these together have been taken in a part planning approach without making the required

technical and social infrastructure work and have become widespread rapidly. Living in a good urban environment, is the main right of every person, however, without taking into account the important data such as environment plan judgments and judgments about the urban usage and density, transportation system, topography, silhouette, cultural values; the concept of city centre have been put out of sight, and there occurs parts of a city in diverse development levels

4.2. Practical Implications of Problems between Metropolitan and District Municipalities

4.2.1. The State of the Previous Plan in case of Suspension of the Development Plans

The issue whether previous plan being automatically taken into effect or not in the case of abolishment of development plans by court decision is an important debate which is to be examined within the context of legal conclusions of annulment decision. Uler states this issue as: "When judicial organ determines the invalidity in the process, this determination is valid from the start of invalidity. With the abolishment which is a sanction of determining the invalidity, the process will be declared null and void from the start. (...) After the abolishment, the state will be corrected according to the principle that with annulment decision the previous valid state before the invalid process comes back and the voided process will be taken into account as it was never made." (Uler, 1970).

Thus, from the point of the determination Uler has made, if a reversed development plan is erased from rule of law, whether the previous development plan being abolished by this plan will automatically be taken into effect or not is an important issue. It cannot be said that there is one single answer to this problem of administration law in the divisions of Council of State. For instance, the decision of 5th division of Council of State is within the frame that the previous legal state takes effect as a result of annulment decision; the previous regulatory acts will automatically take effect after the annulment of the regulatory act. (Tekinsoy, 2008)

Though, the 6th division of Council of State who examines the subject in terms of development law, evaluating the legal state after the annulment of development plans which it consider as a regulatory act, in opposition to the decisions of 5th division on the other regulatory acts, it adopts the opinion that the previous plan will not automatically take effect after the annulment of development plan.

Depending upon this acceptance, it is required to mention some decisions on some cases that the division has given. Council of state has determined that the previous plan will not take effect after the annulment of the development plan, for this reason related administration is to make a new development plan and new implementations based on this plan and issue licence.[7] Similarly, after the annulment of development plan, for the proceedings on the processes of the administrations beginning to constitute individual processes within the previous plan without making a new plan, it is against law for the administrations to constitute processes without making a development plan within the areas lacking plans after the annulment.[8]

4.2.2. The case of Abolishment or Suspension of the Development Plan and The Validity of Lower Scale Development Plans based on it

In the case of abolishment of an upper scale plan, it is a matter to be determined by the administration whether to amend the lower scale plans or totally repeal them. Authorized administration can reverse the judgment and revise the plan due ruling necessities and principles for planning (Kalabalık, 2009).

According to the decision of 1st division of Council of State dated 2007, in accordance with the Development Law No. 3194 as there is a hierarchical relation between development plans, lower scale plans should be conformed to upper scale plans. Considering that, in the case of abolishment of an upper scale plan, it is a matter to be determined by the administration whether to amend the lower scale

[7] Please see the following decision in which these concepts are refered to: D.6.D.E:1998/1639,K:1991/404,T.13.03.1991

[8] Please see the following decision in which these concepts are refered to: D.6.D.E:1999/539,K:2000/1247,T:02.03.2000.

plans or totally repeal them in lieu of the principles of planning.

If seen necessary, administration may repeal the lower scale plans and revise the plans according to the necessities of ruling and planning principles. The division, as the Law No. 3194 article 8/b and master development plan and implementation development plan are to be comply with the environmental plan if applicable, 1/25000 and 1/1000 scale plans may be formed, if environmental plan is repealed, even if there is no upper scale plan, as the administrations are authorized to make master development plans and implementation development plans, by evaluating the reasons on annulment decision and obeying the planning principles, 1/5000 and 1/1000 scale plans may be formed.

A last important determination in the decisions of the division is that, the decisions of administrative courts for abolishment or suspension of the development plans on parcel basis, would not repeal the development plan totally or would not lead to the repeal of the whole plan, as a result of evaluation of public benefit and planning principles according to the reasons of court decision, revision can be made in the repealed parts of the plan.

A decision of the 6th division of Council of State in 2007 who emphasizes on this subject, 'It is untellable that a development plan of 1/1000 scale and it's regulatory acts will automatically be repealed without being repealed by administration or court decision, due to losing their validity by the reversal of 1/25000 and 1/5000 scale plans and be abolished.'[9]

4.2.3. The Matter of Validity of the Processes Based on the Repealed Plan after Suspension of the Development Plan and Acquired Rights

According to the opinions of Uler mentioned above, it is obvious that the abolishment of the development plans will affect the legal entity of the acts based on this plan, however it should not be expected that this state would be arbitrary and

[9] Please see the following decision in which these concepts are refered to:
D.6.D.E:2005/3669,K:2007/5774, T:24/10/2007

involve all the legal conclusions resulting from these individual processes. On that sense, due to the subjects being linked to the validity of the acts which are based on the acts that are repealed, the subject gets to the point of acquired rights. Principle of acquired rights is in essence related to private law embedded for protecting the rights and benefits of individuals in judicial justice implementations.

Taken as general regulatory acts, individual acts made based on the amendments to the development plans, rights can be acquired according to the previous regulation. In this case, development law's forming basis to the executive administrative acts requires respect to obtaining rights (Oğurlu, 2003). Council of State has determined that repeal of the development plan will not lead to the individual acts based on this plan be automatically void.[10]

Council of State mentions the acquired rights on disputes arising from construction permits. Yet in the implementations of Council of State, it is determined that in repeal of the development plan, the construction permits based on the plan should be decertificated. At this point, as the buildings constructed based on the permits should be destroyed, it can be expected to bring the pretension of acquired rights into question by the people having constructed the buildings.

According to the criteria formed due to these pretensions, Council of State judge whether acquired rights originate or not while determining the existence of the acquired rights by considering processes such as construction permit, occupancy permit, having started the construction, whether it is completed or not, if not completed the level of the construction and their dates in order, and by the characteristics of each event. In other words, Council of State reaches diverse conclusions considering the substantial characteristics of each event and acts.

For instance, in a decision of the 6th Division of Council of State dated 2004, it is determined that: 'As it is understood that the construction was started according to the construction permit (inşaat ruhsatı) based on the amendment to the development

[10] Please see the following decision in which these concepts are refered to:
D.6.D.E:2002/4645,K:2004/685,T:11.02.2004

plan, however with the repeal of the amendment to the development plan by the court, no acts were taken into effect in order to carry out the abolishment, the construction permit was decertificated about 2 years after the new plan and the act for red tagging and destroying the building was established; the completed part of the construction in the period till the recertification of the construction permit should be preserved.'[11] (Ergen, 2009).

As a result it should be determined that, forming a construction permit based on the repealed development plan will not lead to have acquired rights, but in the case of having started a construction based on this permit, considering the criteria above, the actual state will be taken in hand, in other words preserved.

In the case of development plans in dispute the probabilities are evaluated in cases of taking the development plan directly in dispute, taking the development plan in dispute after an objection, taking a development plan which is in effect with the implication of implementation in dispute, although the development plan have not taken in dispute in the period stated by the law, the refusal of the demand of implementation process or amendment to the development plan due to a reason and being taken in dispute.

Besides development plans being subject to dispute and being subjected to administrative judicial audit technically in substantial examination, another part of our work is comprised of other legal problems caused by the decisions as a result of judicial audit. Development plans are, due to their nature, the processes causing many administrative acts based on them, and the usage of the authorizations given those concerned as a result of the acts based on them are not only remaining in world of law but they do have reflections on physical life as well, in case they are against law, suspension or dispute decisions about them may be causing conflicts that are filed. An abolishment about a development plan has some legal consequences in terms of hierarchy of plans, and the acts based on the repealed plan.

[11] Please see the following decision in which these concepts are refered to:
D.6.D.E:2003/6430,K:2004/948,T:20/2/2004

In case of the abolishment of the development plan, it is the situated practice of Council of State that the previous plan will not be automatically takes effect. Once more, the upper scale development plans' being repealed will not mean the lower scale plan will be automatically baseless, but burden the related local administration or ministry the debt for making the necessary regulations considering the altered situation.

The abolishment of the development plan has some consequences in terms of the acts based on it when it was in effect as well. It should be shortly mentioned that, having a construction permit formed based on the repealed development plan will not be cause acquired rights for those concerned, however in the case of having a construction based on this permit, considering the criteria above, the actual state being taken in hand, in other words preserved.

In the examples to be analyzed in the following chapter, how the problems being debated in this chapter arise in practice, how the consequences are interpreted in our country and how it reflects to urban planning will be discussed.

CHAPTER 5

THE CASE STUDY OF ISTANBUL METROPOLITAN AND BUYUKCEKMECE MUNICIPALITIES

5.1. Information on Institutional and Planning Background of Büyükçekmece Municipality

Büyükçekmece District is located in the west side of Istanbul province, along the coasts of Marmara Sea over an area of 18.145 hectares. The district is surrounded by Çatalca ve Arnavutköy districts in the north, Esenyurt district on the east, Silivri district on the west, and Beylikdüzü district and Marmara Sea on the south. Being in this location, the district takes up almost 4% of land area in Istanbul province.

Figure 5: Location of Büyükçekmece Municipality within Istanbul European Side

The Municipality of Büyükçekmece has been established on 19th of February 1958 as a township. While it was established as an agriculture and countryside town, Büyükçekmece has gone through a rapid restructuring and, in parallel with this development; its population has increased substantially. After its designation as a district on 4th of July in 1987, Büyükçekmece has reached at its current urban fabric,

including seweage and rain water systems, wastewater treatment facilities, parks and landscaping, energy and communication lines under the ground, lightening works, etc.

With the Law No. 5216 (Metropolitan Municipality Law), enacted in July 2004, the municipality of Büyükçekmece has become a "Metropolitan District Municipality" within the jurisdiction of Istanbul Metropolitan Municipality. The borders of Büyükçekmece District have been widened over time due to connection of new settlements to the district. The Law No. 5747, which was enacted in 2008, concluded that several neighbourhoods and "first-tier municipalities" including Mimarsinan, Kumburgaz, Celaliye, Kamiloba, Tepecik, Muratbey, Pınartepe and parts of Çakmaklı Neighbourhood would join to Büyükçekmece District. Similarly, as of 31st March 2014, Muratbey Neighbourhood was connected to Çatalca Municipality, reducing the number of neighbourhoods in Büyükçekmece District to 22.

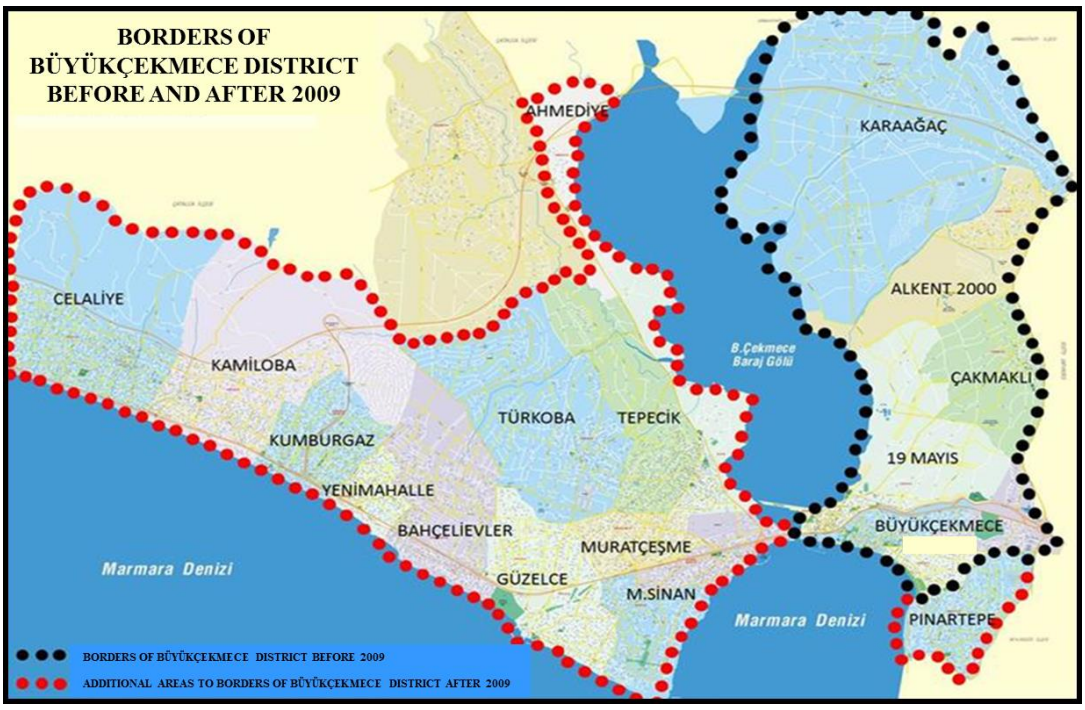


Figure 6: Borders of Büyükçekmece District before and after 2009

Before enactment of the Law No. 5747, there were four urban development plans of Büyükçekmece District, two of them being master development plans (on 1/5000

scale) and the other two being implementation development plans (on 1/1000 scale). The 2003 Master and Implementation Development Plans covered Karaağaç, Çakmaklı, Alkent 2000 and a part of 19 Mayıs neighbourhoods (within the Büyükçekmece Lake Basin). On the other hand, the 2004 Büyükçekmece Master and Implementation Development Plans covered the neighbourhoods of Atatürk, Fatih, Cumhuriyet, Dizdariye, and parts of 19 Mayıs neighbourhoods, located outside of the lake basin.

85% of the current land area of Büyükçekmece District is categorized as planned area. Of the unplanned area, 495 hectares is cultivated land and 295 hectares is included within the Protection Border of Büyükçekmece Lake Basin, and thus they were left out of the scope of urban development plans (Annual Report of Büyükçekmece Municipality, 2010). Apart from the 2003 and 2004 master and implementation development plans, Istanbul Metropolitan Municipality prepared and approved Master Development Plans on 1/5000 scale after 2009 based on the Laws No. 5747 and 5216. Among these recent planning processes, three of them have been selected as case studies of this research. The titles of the three cases are as follows: (1) Pınartepe Neighbourhood Plan, (2) Kumburgaz Neighbourhood Plan and (3) Mimarsinan Neighbourhood Plan (See Figure 7).

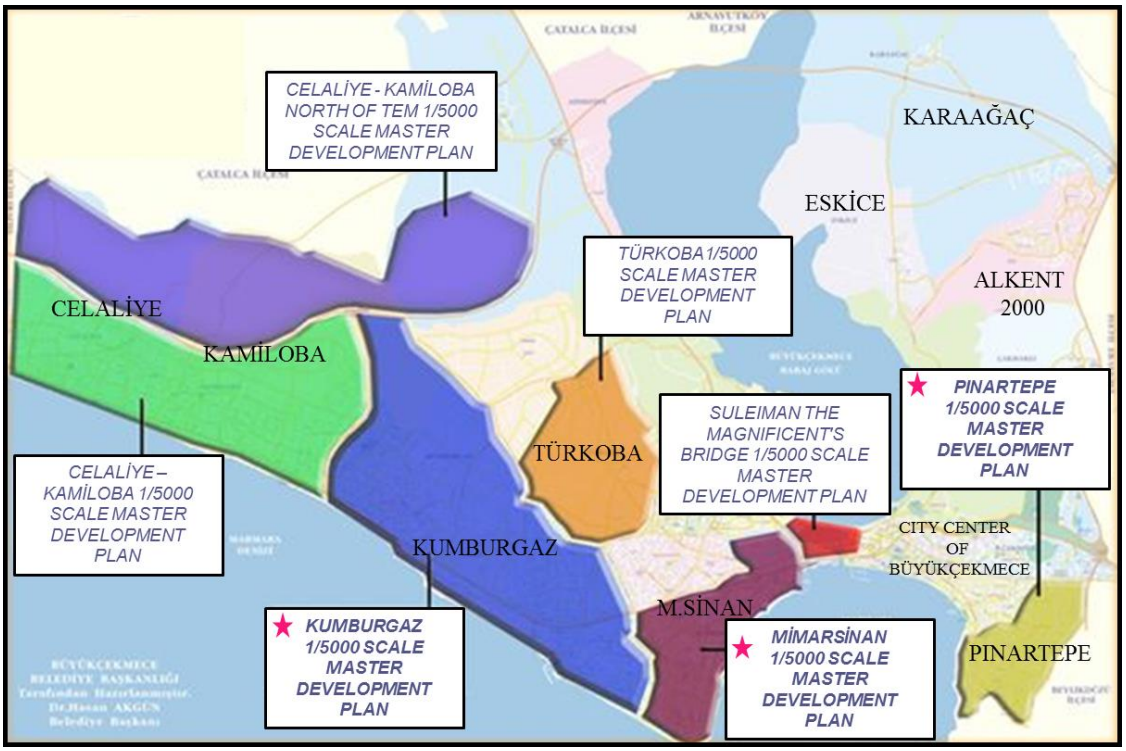


Figure 7: Büyükçekmece Municipality, Master Development Plan on 1/5000 scale prepared by Istanbul Metropolitan Municipality

5.2. Key Information on Case Studies

Being located between Beylikdüzü and Silivri districts, Büyükçekmece District expands around Büyükçekmece Lake and grows linearly towards the west. There are three case study areas, each of which is located in different parts of the district and characterised by different urban planning narratives. Table 5 provides key information on each case.

The first planning case to be explored in this study belongs to Pınartepe Neighbourhood, which constitutes the southeast border of Büyükçekmece District. Pınartepe Neighbourhood covers a heterogenous residential pattern; residential areas being transformed from secondary housing in the coastal area, traditional housing areas in Gürpınar region and mass housing sites expanding around the main axis in the east direction which forms the administrative border with Beylikdüzü District. The coastal area of the neighbourhood along the Marmara Sea is used for recreational purposes during summers. In this respect, the neighbourhood differs

from the neighbourhoods in the north as being close to the sea and supporting coastal usage.

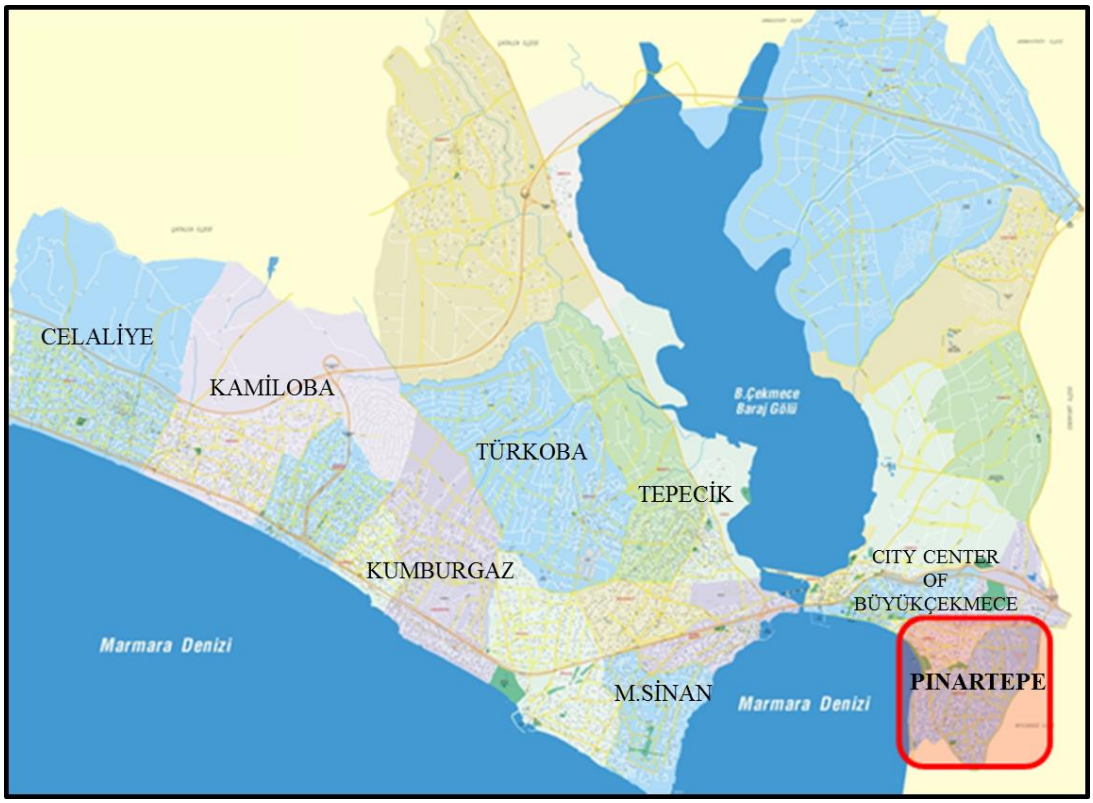


Figure 8: Location of Pınartepe Neighbourhood in Büyükçekmece District

Tablo 5: Case Study Planning Processes

PLANNING AREA	SITUATION OF EXISTING 1/5000 SCALE MASTER DEVELOPMENT PLAN	SITUATION OF EXISTING 1/1000 SCALE IMPLEMENTATION DEVELOPMENT PLAN	ACTORS PARTICIPATING INTO PLANNING PROCESS	APPROVAL DATE OF NEW 1/5000 SCALE MASTER DEVELOPMENT PLAN PREPARED BY IMM	SUBJECTS OF GENERAL OBJECTIONS AGAINST TO NEW MASTER DEVELOPMENT PLAN	RESULTS OF 1/5000 SCALE MASTER DEVELOPMENT PLAN
PINARTEPE NEIGHBOURHOOD	3 EXISTING 1/5000 SCALE PARTIAL MASTER DEVELOPMENT PLANS	3 EXISTING 1/1000 SCALE PARTIAL IMPLEMENTATION DEVELOPMENT PLANS	* İSTANBUL METROPOLITAN MUNICIPALITY * BÜYÜKÇEKMECE MUNICIPALITY *PARTIES OF PLAN (BENEFICIARIES)	03.06.2011	* OBJECTIONS ABOUT THE CONTENT OF PLAN - PROBLEM OF POWER EXCEEDING, GRADUAL INTEGRITY OF THE PLANS, DISCONGRUITY WITH PROPRIETY AND LOCALITY PRINCIPLES * OBJECTIONS ABOUT THE PLANNING PROCESS - PROBLEM OF POWER EXCEEDING * OBJECTIONS DUE TO POLITICAL REASONS – THE PROBLEM OF LACK OF EQUALITY, INTERINSTITUTIONAL COORDINATION DURING PLANNING	AS A RESULT OF THE ANNULMENT ACTION FILED BY A RELEVANT PARTY; THE ADMINISTRATIVE COURT HAS NULLIFIED DUE TO * It is contrary to law from procedural aspect, * The relevant plan notes eliminate the **district municipality's authortity to implement *de facto*,** ** The plan notes are contrary to **urban development criteria*** **It is contrary to law and regulations to inhibit the plans in effect even partially by adding plan notes into upper-level plan.*
KUMBURGAZ-TEM LINKING ROAD' EAST AND THE KARTALTEPE REGION	8 EXISTING 1/5000 SCALE MASTER DEVELOPMENT PLANS NOT INTEGRATING WITH EACH OTHER AND MODIFICATIONS IN MANY POINTS AND UNPLANNED ZONES	17 EXISTING 1/1000 SCALE PARTIAL IMPLEMENTATION DEVELOPMENT PLANS AND MANY AMENDMENTS TO PLAN WHICH APPROVED ON DIFFERENT DATES	* İSTANBUL METROPOLITAN MUNICIPALITY * BÜYÜKÇEKMECE MUNICIPALITY *PARTIES OF PLAN (BENEFICIARIES)	10.12.2012	* OBJECTIONS ABOUT THE APPLICABILITY OF THE PLAN * OBJECTIONS ABOUT THE ACQUIRED RIGHTS * OBJECTIONS ABOUT THE PLANNING PROCESS * OBJECTIONS ABOUT THE CONTENT OF THE PLAN	AS A RESULT OF OBJECTIONS OF IMM MUNICIPAL COUNCIL; THE PLAN HAS WITHDRAWN BY THE RELEVANT INSTITUTION *by deciding to **make implementations in direction of actual 1/1000 scale plans until the 1/5000 scale plan will be revized, and to re-assess and revize the 1/5000 scale plan** by considering the actual structuring in the region and the existing plan decisions.*
MİMARSİNAN MERKEZ AND BATIKÖY NEIGHBOURHOODS	2 EXISTING 1/5000 SCALE MASTER DEVELOPMENT PLANS	4 EXISTING 1/1000 SCALE IMPLEMENTATION DEVELOPMENT PLANS	* İSTANBUL METROPOLITAN MUNICIPALITY * BÜYÜKÇEKMECE MUNICIPALITY *PARTIES OF PLAN (BENEFICIARIES)	15.02.2013	* OBJECTIONS ABOUT THE APPLICABILITY OF THE PLAN * OBJECTIONS ABOUT THE ACQUIRED RIGHTS	AS A RESULT OF OBJECTIONS OF IMM MUNICIPAL COUNCIL; THE PLANNING PROCESS HAS LENGTHENED OUT, AND LED TO STATIONARY AND INAPPROPRIATE PROCESSES TO ARISE due to *"..gathering information about the existing status of real estates subjected to the objection, and rewriting the objections to the Council in this parallel....*

The Law No. 5747 concluded the establishments of new districts in Istanbul province. As a result of the law, Pınartepe Neighbourhood of former Gürpınar First-Level Municipality was connected to Büyükçekmece District Municipality. In order to overcome the chaotic situation emerged after the abovementioned law, Istanbul Metropoltian Municipality has initiated a planning process to prepare a master development plan on 1/5000 scale.

In order to control rapid urbanization and population increase, it was highly important in Pınartepe Neighbourhood to rehabilitate and reorganize the heavily populated and disordered housing areas. Besides, risks originating from former development plans prepared without considering the geological structure of the area had to be avoided too. Thus, in order to overcome such planning and development challenges, the municipality aimed to prepare a master plan in line with upper scale plans and considering the geological and soil structure of the region. Risk mitigation and preventing of likely earthquake damages via proper land use decisions was one of the main targets of the mentioned planning work.

What makes Pınartepe case special is the conflict of interest between metropolitan and districy municipalities in planning process and the impacts of judicial processes on actual development situation. The chaos arising from varying interpretations of court decisions by district and metropolitan municipalities, and the consequences of this situation are worth discussing.

The second case study of this research is Kumburgaz town located along the Marmara coasts of the district. Kumburgaz is 13 kilometres to Büyükçekmece District, 20 kilometres to Silivri District, and 50 kilometres to Istanbul. Old parts of Kumburgaz and Güzelce are located on a plain area parallel to the shore, whereas new developments took place towards the tops along with the increase in population in time. The neighbourhood has been developed over high quality agricultural lands.

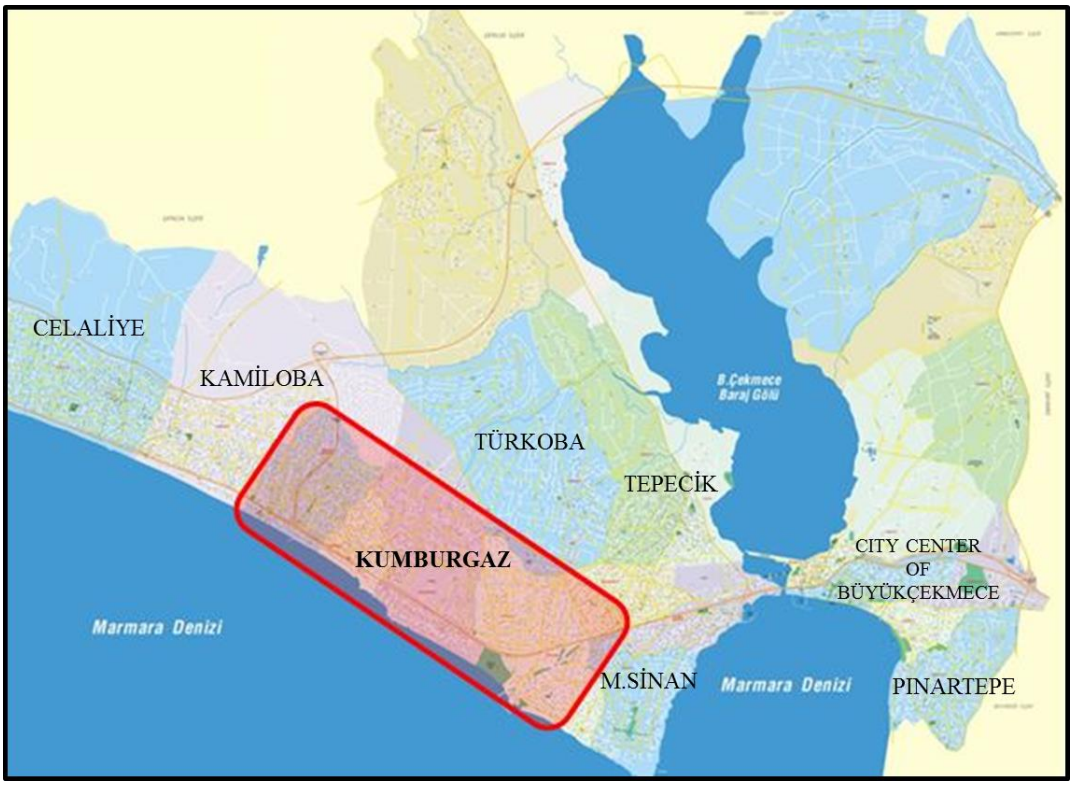


Figure 9: Kumburgaz Neighbourhood's position in Büyükçekmece District

Kumburgaz case is special with the existence of various plans on various scales inherited from Kumburgaz and Celaliye-Kamiloba First-Tier Municipalities whose legal entities were terminated with the Law No. 5747. There were 8 master development plans on 1/5000 scale, many plan amendments approved on different dates, and 17 implementation development plans on 1/1000 scale. All these plans were not in good conformity with each other and thus did not constitute a unity. In about half of the region, there were development plans that were approved between 1991 and 2000. In addition to the planned areas, there are 1/5000 scale plans in some part (total 229 hectares) of Güzelce and Bahçelievler Neighbourhoods.

Some factors have triggered the need to prepare a new master development plan for Kumburgaz town. One factor was that the development plans in force were not up to date and also lacked the capacity to deal with rapid urbanization and population increase in the region. Plus the 1/100.000 scale Istanbul Territorial Development Plan brought new decisions to the region. Thus, the need to prepare an updated and integrated master development plan on 1/5000 scale, which covers Kumburgaz

region, particularly the east of Kumburgaz TEM link road and Kartaltepe region has become obvious. Therefore, Istanbul Metropolitan Municipality has initiated the works for preparing the "1/5000 Büyükçekmece District the east of Kumburgaz TEM Link Road and Kartaltepe Master Development Plan" based on Development Law (No. 3194), Metropolitan Municipality Law (No. 5216) and other related laws and regulations.

The interesting aspect of the planning process of Kumburgaz is the outcomes of lack of coordination between upper and lower tiers of municipal authorities. The case also highlights the importance of local knowledge and information in urban planning, which might be ignored by metropolitan municipalities. Istanbul Metropolitan Municipality had to withdraw the 1/5000 master development plan of Kumburgaz town due to the rejections made by Büyükçekmece Municipality and local residents. The objections emphasized that the plan prepared by metropolitan municipality had failed to analyse and consider effectively the actual housing situation in the region and previous plan decisions. This case is important to show that lack of coordination and cooperation between municipal authorties in urban planning process may result in ignorance of current conditions in the planning area as well as its specific, local features in formulation of plan decisions.

The third case study area is Mimarsinan, which is 5 kilometres to Büyükçekmece District Centre, 25 kilometres to Silivri District and 45 kilometres to Istanbul (Figure 18). The planning area covers the new centre of Mimarsinan and Batıköy Neighbourhoods as a whole (700 ha), which were within borders of former Mimarsinan First-Level Municipality. Besides, some parts of Muratçeşme (11,3 ha) and Ulus (30,8 ha) Neighbourhoods are also included in the planning area. Muratçeşme Neighbourhood was part of Mimarsinan First-Level Municipality, whereas Ulus Neighbourhood was part of Tepecik First-Level Municipality before enactment of the Law No. 5747 in 2009.

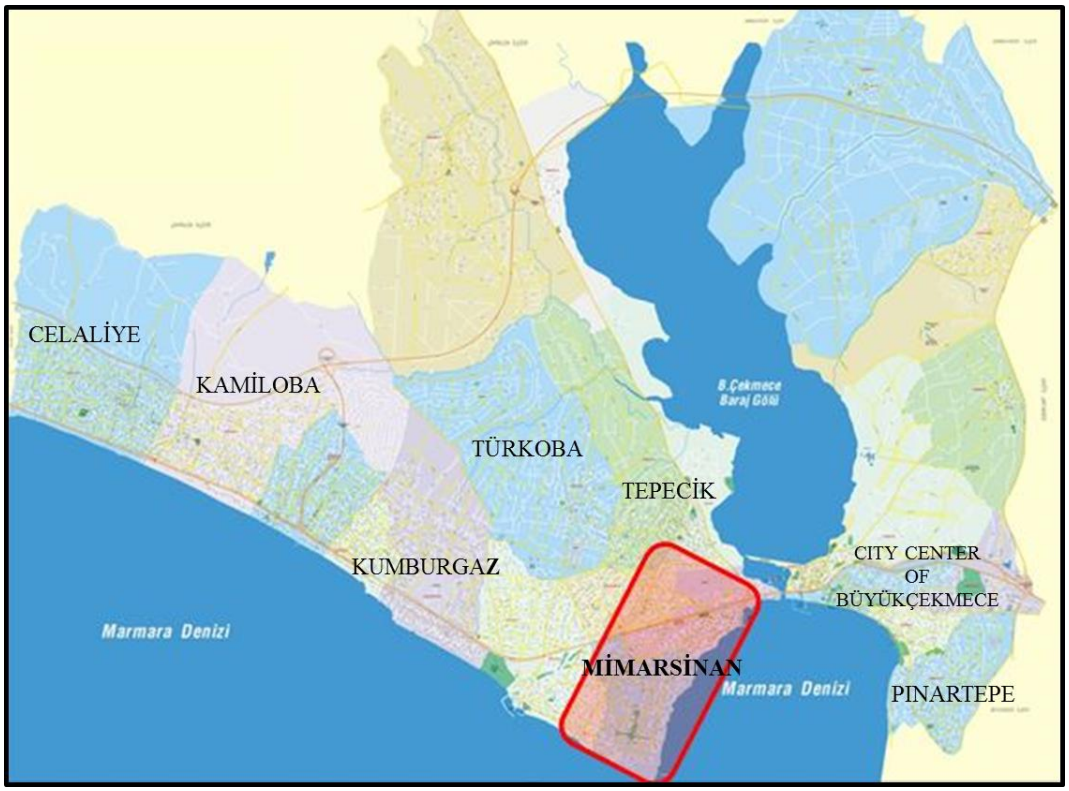


Figure 10: Location of Mimarsinan Centre and Batıköy Neighbourhoods in Büyükçekmece District

Mimarsinan was previously a First-Level Municipality. However, after enactment of the Law No. 5747, legal status of Mimarsinan as a municipality was terminated and the town was connected to Büyükçekmece District Municipality. Mimarsinan had a master development plan on 1/5000 scale, which was approved on 05.10.2000 and covered some parts of the town including Batıköy and Muratçeşme Neighbourhoods. On the other hand, another 1/5000 scale master development plan was prepared and approved on May 2011, covering some part of Mimarsinan town. As both plans do not cover the same parts of the town, both plans are now in effect in different parts. For instance, the plan approved in 2000 now applies to Batıköy and Mimarsinan Central Neighbourhoods which are not covered by the master development plan approved in 2011. Futhermore, there is also another plan, namely 1/5000 scale Tepecik Revision Master Development Plan, which was prepared and approved by the former Tepecik First-Level Municipality on 19.07.2004. This plan applies to Batıköy and Mimarsinan Central Neighbourhoods along with some parts of Ulus Neighbourhood (outside Mimarsinan Region). Therefore, there are 2 master

development plans on 1/5000 scale that do not constitute integrity with each other, as well as many plan amendments approved on different dates, 2 implementation development plans on 1/1000 scale and development plans approved before 2000 in many parts of the town.

Since Mimarsinan First-Level Municipality was connected to Büyükçekmece District Municipality by the Law No. 5747, the efforts to combine the current development plans of Mimarsinan area and those of Büyükçekmece District Municipality have shown serious flaws and shortcomings with regard to preparation and approval of former plans. Some of these problems originated from plan notes, plan plots, development commission reports and minutes of decisions, etc. The inconsistencies of former plans with reference to urban development legislation were found to have resulted in violation of public benefit with regard to such matters as green areas, schools, etc.

Moreover, as development plans in force have lost their validity as an updated guide due to rapid urbanization and population increase, no sufficient social and technical infrastructure were provided in plans in line with current level of urban development. The 1/100.000 Scale Istanbul Territorial Development Plan has brought new decisions to Mimarsinan area, leading to the need to make an integrated and updated master development plan on 1/5000 scale to cover Mimarsinan Central and Batıköy Neighbourhoods as a whole and some parts of Muratçeşme and Ulus Neighbourhoods. In this regard, "1/5000 Scale Büyükçekmece District Mimarsinan Centre and Batıköy Neighbourhoods Master Development Plan" preparations were initiated by Istanbul Metropolitan Municipality in line with Istanbul Territorial Development Plan, the Development Law (No. 3194), the Metropolitan Municipality Law (No. 5216) and other applicable laws and regulations.

5.3. Upper Scale Plan Decisions Concerning the Case Study Areas

1/100.000 Scale Istanbul Territorial Development Plan (approved in 2009) is the major upper scale plan to which Büyükçekmece District is subjected to. This plan

aims to protect the historical, cultural and natural assets of Istanbul city, make Istanbul as a world city in line with its historical and cultural identity and to achieve an urban development pattern in harmony with the concept of sustainable and integrated planning.

Pınartepe area, the first case study area of this research, is mainly classified as "Residential Area" in the Territorial Development Plan of Istanbul. On the other hand, the north west of the neighbourhood and the coastal parts along Büyükçekmece Lake remain in "Geologically Inconvenient Areas for Housing" and "Urban and Regional Green and Sports Area" and areas close to Neighbourhoods' border to Beylikdüzü District are classified as "Urban and Regional Services Area". According to the 1/100.000 scale territorial development plan;

- "Residential Areas" are areas that are highly occupied or will be occupied by housing units. Moreover, there could also be mixed-uses such as commercial, social, cultural and technical premises and small industrial estates serving residences in these areas.
- "Geologically Inconvenient Areas for Housing" are areas in which residential development might be prohibited. Precise borders of these areas and associated land uses will be clarified in lower scale plans based on reports of related institutions.
- "Urban and Regional Green and Sports Area" includes active and passive green areas and sports areas serving to the entire urban area and fulfilling the need for recreation.
- "Urban and Regional Services Area" is designated for provision of any kind of social and public services including primary, secondary and higher level schools, other educational institutions, health premises, social and cultural institutions. Besides, these areas also include utilities for technical infrastructure.

Figure 11: Pınartepe Neighbourhood and its Environs in 1/100.000 Scale Territorial Development Plan

Kumburgaz region is also classified as “Residential Area”, “Extension Area”, “Urban and Regional Greens and Sports Area” and “Area of which Natural and Rural Character will be Protected” in the territorial development plan. Besides, in southern parts of Kumburgaz, there are areas designated as “Nature Based Tourism Area” and pointed with a “Port” symbol. In the east-west axis of the area, there is a “Railway Route” which passes parallel to E-5 Highway. Moreover, “Water Collection Basin Border” also passes within the area. According to the 1/100.000 scale territorial development plan;

- “Extension Areas” are likely places for further residential development. Detailed decisions for these areas will be determined in lower scale plans by considering density distribution, population projections and opinions of related institutions.
- “Nature Based Tourism Areas” are areas for recreation and touristic facilities, which aim to protect, enhance and improve the natural values of Istanbul, ensure protection-utility balance, is in conformity with the ecologic structure, integrates with the surroundings and meets the entertainment and holiday

requirements of the population. These areas will serve to marine tourism, water sports, camping area and other natural sports potential; and there also might be hotels and other accommodation facilities, camping areas, food and beverage facilities, socio-cultural facilities and recreation areas based on assessments to be made in lower scale plans.

- "Ports and Marinas" are obvious by the name. There might be restaurants, cafes, sales places, offices, maintenance and repair places and other facilities which are required within ports and marinas.
- "Areas of which Natural and Rural Character will be protected" are protection zones in which rural style buildings like vineyard and farm houses, hobby gardens could be built. Building conditions in such areas will be determined in lower scale plans.
- "Railway Route" involves suburban train and rail system lines (metro, trolley, light rail system etc.) which will serve to freight and passenger transportation.
- "Water Collection Basin Areas" are water catchment areas within provincial borders where the city's potable and domestic water needs are met. Provisions of legislation regarding the protection and control of water basins apply in these areas.

Figure 12: Kumburgaz Region and its Environs in 1/100.000 Scale Territorial Development Plan

Last but not the least, Mimarsinan and Batıköy areas are classified largely as "Residential Area" in 1/100.000 Scale Territorial Development plan. The area is also partially classified as "Extension Area", "Urban and Regional Green and Sports Area", "Absolute Basin Shelter Belt", "In-Basin Construction Forbidden Zone" and "Geologically Inconvenient Areas for Housing". Besides, in northeast of Mimarsinan, there are areas designated as "Nature Based Tourism Area", "Urban and Regional Services Area", "Marina" with a "Port" symbol. There is also a "Railway Route" in east-west axis passing parallel to E-5 highway.

Figure 13: Mimarsinan Region and its Environs in 1/100.000 Scale Territorial Development Plan

5.4. The Decision-Making and Planning Processes in Case Study Areas

5.4.1. The Case of Master Development Planning in Pınartepe Neighbourhood

There are three approved 1/5000 scale Master Development Plans on different dates in Pınartepe Neighbourhood as shown in Figure 14.

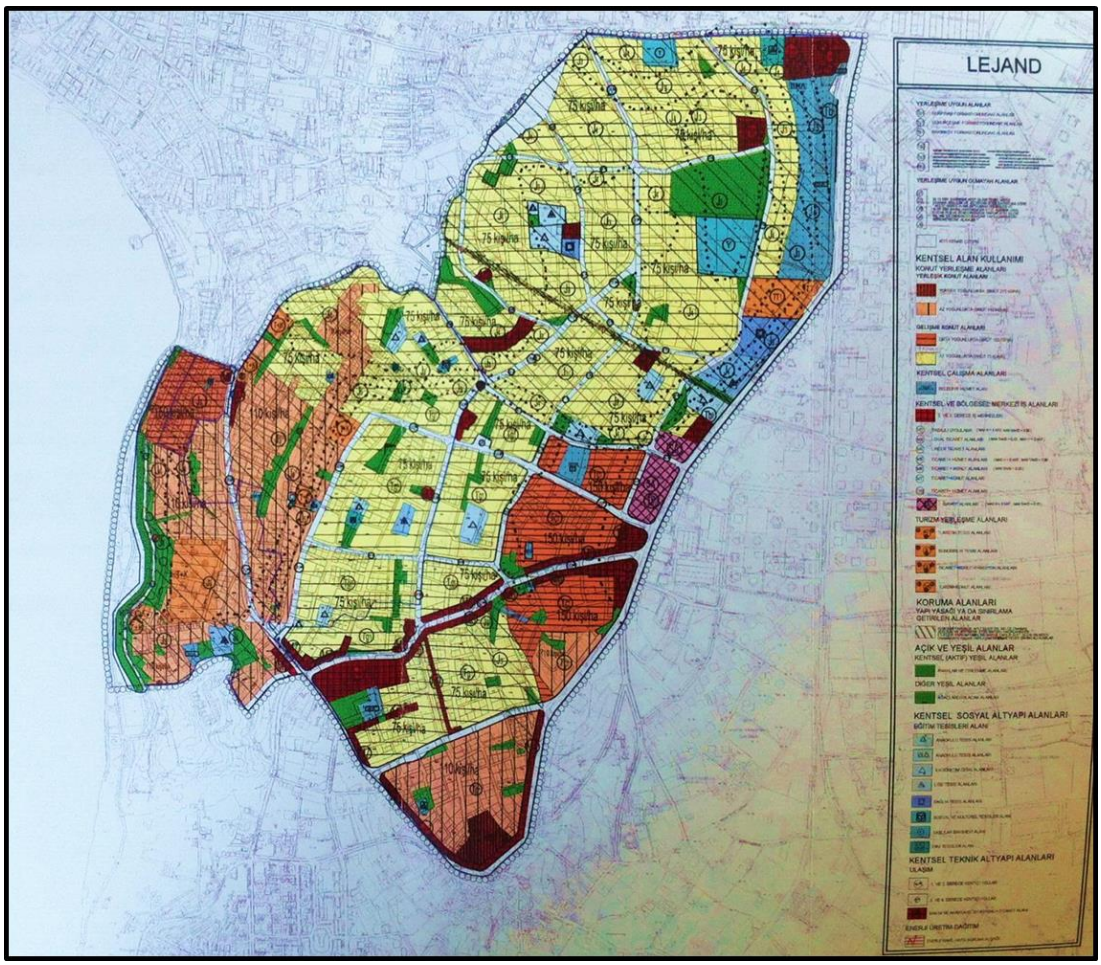


Figure 14: Compilation of Existing 1/5000 Pınartepe Master Development Plan

In 2011, the Metropolitan Municipality of Istanbul has approved the 1/5000 Scale Pınartepe Neighbourhood Master Development Plan which aimed solve major urban development challenges in the area. According to the report of the above-mentioned plan, the municipality was intended to formulate holistic decisions and strategies to meet local requirements and shape future urban development effectively by

considering socioeconomic and sociocultural situation as well as natural conditions in the planning area. In particular, the plan was set out to meet the following objectives:

- Selecting the most appropriate land for key urban functions by taking into account the natural hazards and associated risk factors,
- Creating a high quality urban living environment by means of improved provision of technical and social infrastuture facilities as well as rich open and green spaces,
- Ensuring a balanced urban development by considering upper scale plan decisions and current natural and artificial thresholds in the planning area
- Suggesting sub-centres, including such uses as commerce, education facilities, open and green areas, cultural and religious facilities, etc.,
- Encouraging future development around sub-centres in order to avoid over-congestion caused by trade and service functions already congested in the traditional centre.

The most important factors which influenced the planning approach and decisions were specified as thresholds, which can only be partially exceeded. Among such thresholds is the geological threshold that identifies areas characterized by earthquake risks. The plan divides the planning area into two sub-regions based on geological situation and suitability for urban development.

The first sub-region constitutes urbanization control areas where there are high risks of earthquake and landslide. These parts of the planning area are classified as “not appropriate for settlement in geological terms. In plan notes, the following decision was expressed for these areas: The areas which are risky in geological and topographical terms in the planning area and dangerous to be opened for settlement due to reasons such as landslide involve potential landslide areas and they are shown as “Risky Areas in Terms of Geological Structure and Landslide” in the plan.

The second sub-region comprises areas that are currently occupied by housing and

suitable for further urban development when artificial and natural thresholds are considered. In these urbanization promotion areas, the plan concludes that two neighbourhood units would be developed. The first one, namely Tepebağlar Mevkii, is approximately 75 hectares and located in the northwest of the planning area, and the second one is approximately 35 hectares and located in the south of Turgut Özal Street. Besides, 12 hectares of the second neighbourhood unit is located on Istanbul Street (See Figures 15 and 16).

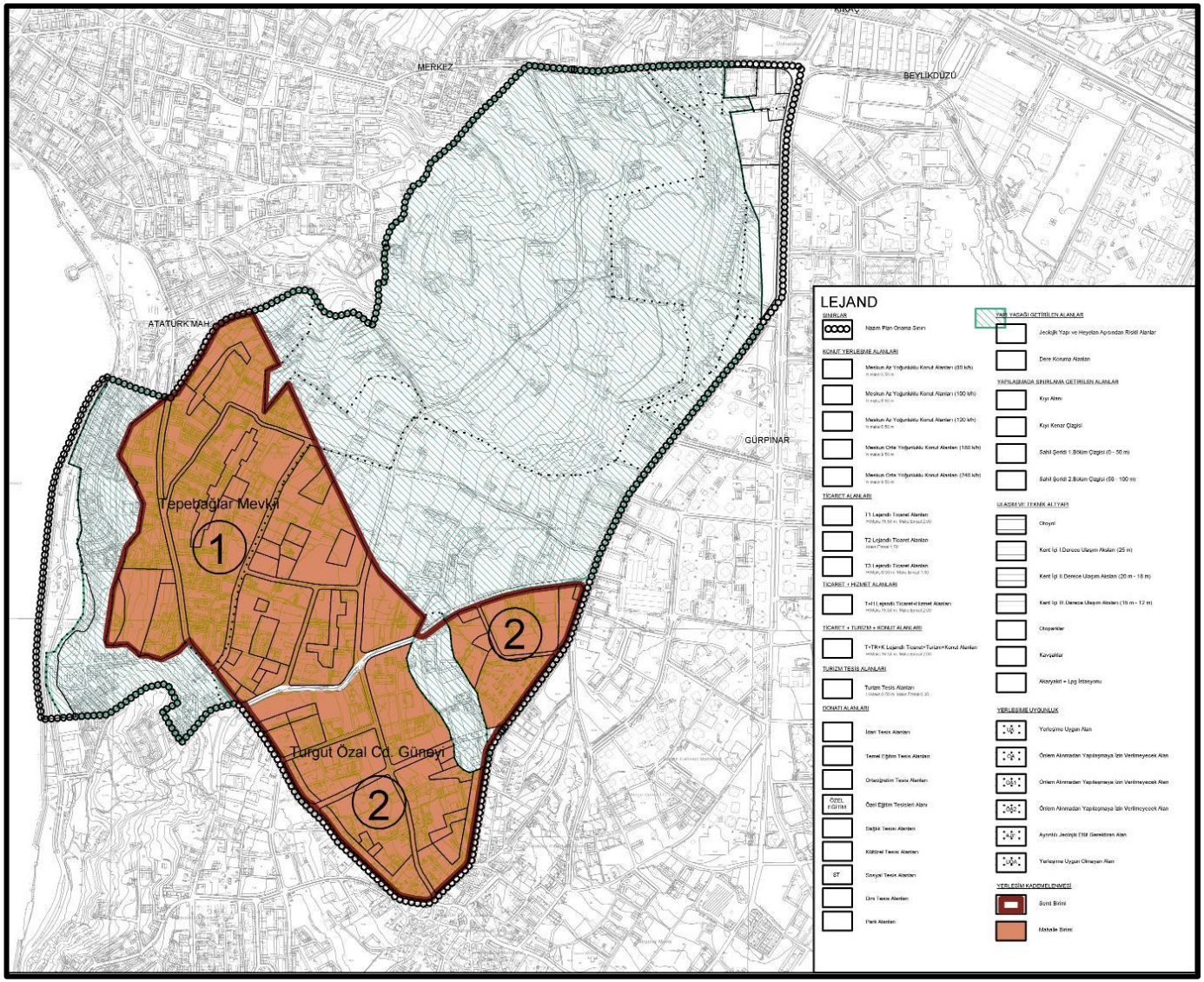


Figure 15: 1/5000 Pınartepe Neighbourhood Master Development Plan: Locality and Neighbourhood Scheme

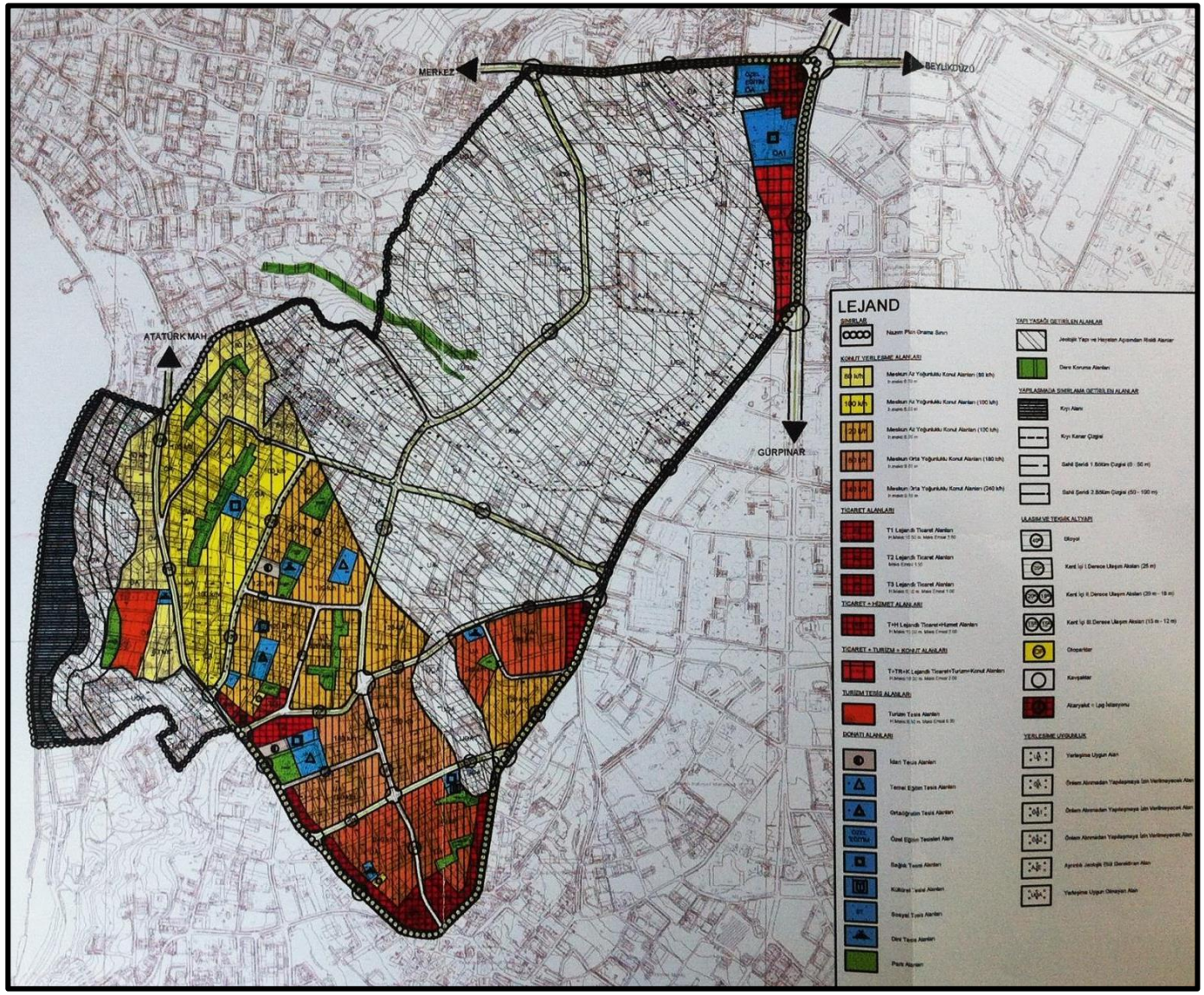


Figure 16: 1/5000 Scale Pınartepe Neighbourhood Master Development Plan

5.4.2 The Case of Master Development Planning in Kumburgaz Neighbourhood

Kumburgaz case is known for existence of various plans prepared and approved on different scales and in different dates (Figure 17 and 18). Therefore, there was a chaotic situation in the neighbourhood in terms of urban planning prior to development of the master development plan that constitutes the second case study in this thesis. The planning area of Kumburgaz case covers the eastern part of the TEM Link Road of former Kumburgaz First-Level Municipality (including Güzelce, Yenimahalle, Bahçelievler neighbourhoods and half of Kumburgaz central neighbourhood) as well as Kartaltepe, which was part of former Celaliye-Kamiloba First-Level Municipality (Figure 19). The planning area covers about 1900 hectares land.

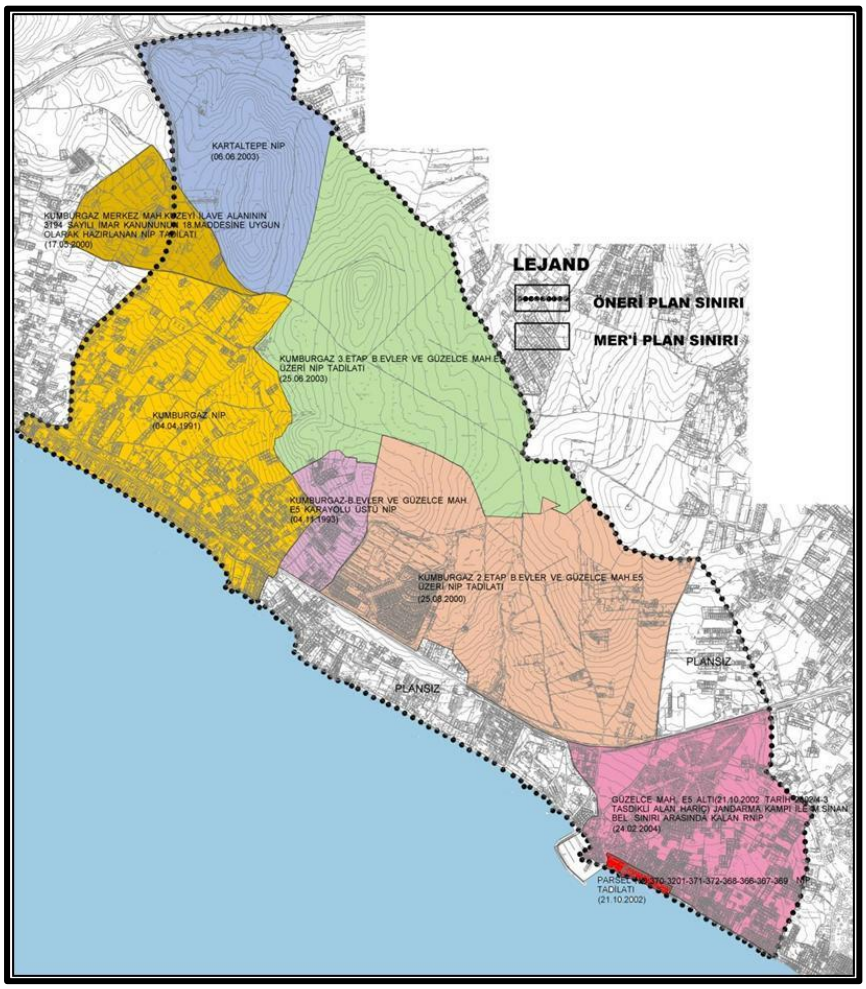


Figure 17: Approved Master Plans on 1/5000 Scale in Case Study Area

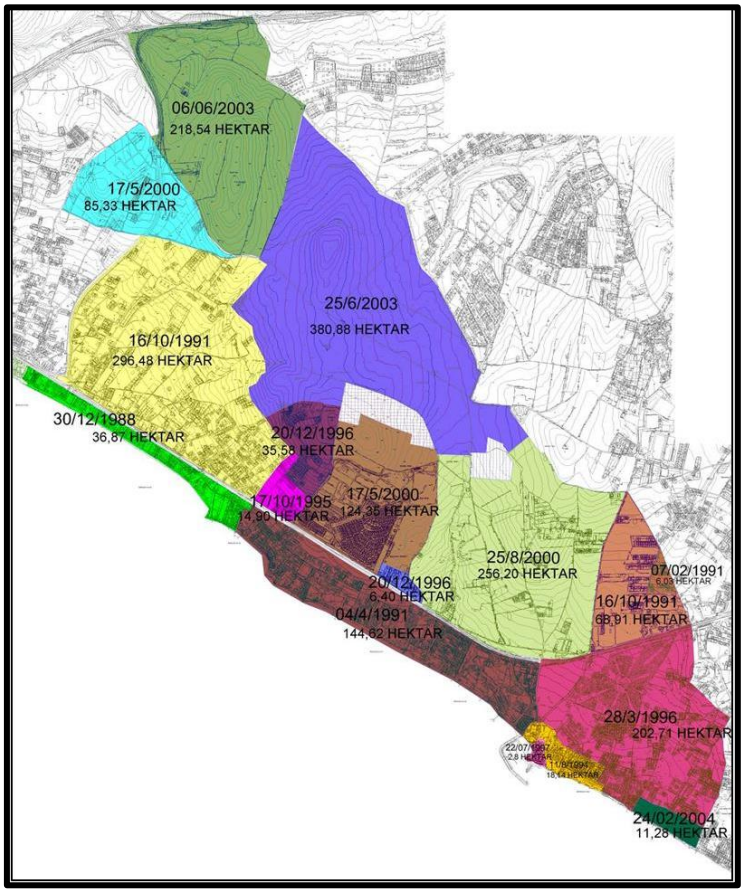


Figure 18: Approved Implementation Plans on 1/1000 Scale in Case Study Area

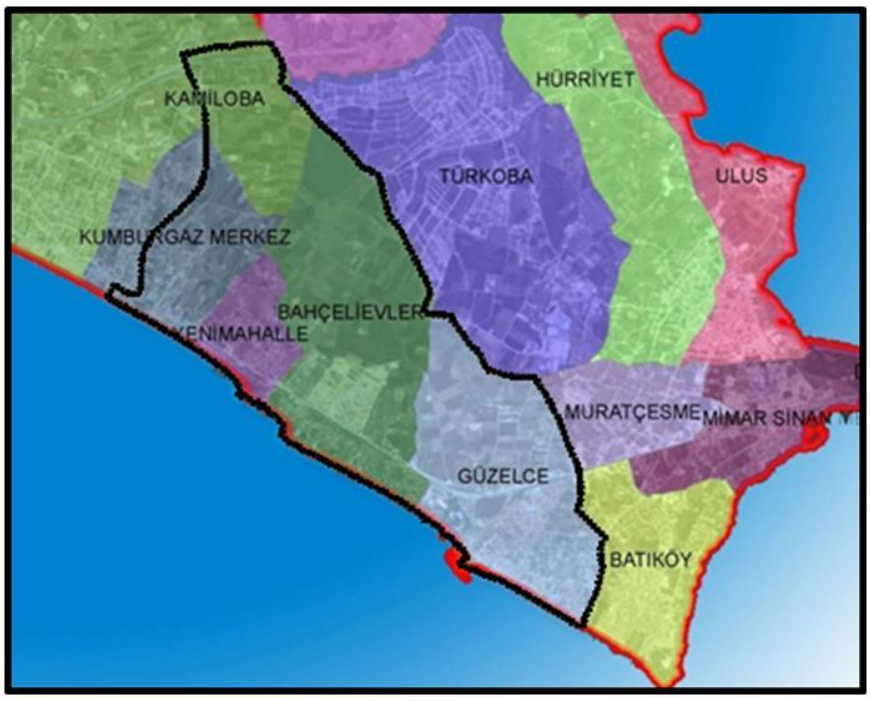


Figure 19: Planning Area in Kumburgaz Region

Thirty-eight institutions and organizations have provided reports including information and institutional views to constitute a knowledge-base for preparation of the master development plan. In light of these institutional views and information, the analytical studies were conducted and completed by Bimtaş Company in 2005. The data and information provided by related institutions highlighted the existence of various natural thresholds and sensitive zones in planning area and suggested that thresholds should be considered and natural assets such as high quality agricultural lands and coastal resources should be preserved.

The "1/5000 Scale Büyükçekmece District East of Kumburgaz Tem Link Road and Kartaltepe Master Development Plan" has been prepared in line with the Territorial Development Plan of Istanbul on 1/100.000 scale in order to

a) create a self-sufficient city with a sub-center, which is vibrant throughout the year and provides all necessary social and technical infrastructure to its residents,
b) create coastal uses that are open to public,
c) provide the planning area with necessary transportation and infrastructure facilities to better connect settlements within Kumburgaz area and its environs.

The analytical studies not only provided key information and insights regarding socio-economic structure in planning area but also estimated the potential demand for urban development and building construction in future along with problems in realization of this demand. Based on the outputs of the analytical studies, the plan concluded that current tendency for secondary housing outside the centre in coastal region would continue, but the new tendency for transformation from secondary to primary housing could be encouraged by providing the necessary social and technical infrastructure facilities. However, it was also noted that the transformation to primary housing would stay within the existing building density and stock volume. The plan also highlighted the fact that the coastal zone cannot be utilized very efficiently in future urban development mainly due to infrastructure deficiencies and

environmental pollution caused by secondary houses.

Based on the need to overcome the problems in coastal area and also to increase the accessibility of the public to coastal uses, strategies were formulated in the plan in order to enhance the capacity of the coastal region to be sufficient enough to serve for a larger population. One of the strategies, which was in line with strategies of the 1/100.000 scale territorial development plan, has been to increase the provision of such uses as tourism activities and daily recreational areas. Moreover, it was aimed to ensure the connection between recreational areas and inner parts of the settlement and other green areas, to make inner settlement transportation network more efficient, to ensure integration of Kumburgaz with other settlements and to provide the required infrastructure utilities by considering the decisions of the upper scale plan.

As part of the planning approach, transfer of development rights was attempted to be implemented as an application instrument of the plan. Thus the plan identified areas which would be evacuated by transfer of the development rights acquired in these areas to other areas that are classified as “reserve areas”. With transfer of development rights from coastal areas to inner areas, the plan aimed to create vacant lands in the coastal region which would later be designated for public uses. Besides, the plan also concluded evictions along river beds by considering flood risks and other related natural hazards. Therefore, areas in the vicinity of rivers constituted another potential region from which development rights would be transferred. To these ends, three intervention zones were identified in the plan:

a) areas that are not suitable for urban development and thus to be evacuated,
b) reserve areas to which development rights from evacuation zones would be transferred,
c) areas which should be made healthier in terms of transportation opportunities and social infrastructure facilities.

In other words, following special intervention areas are determined by the plan based

on different application instruments: a) article 18 implementation areas, b) areas to be evacuated, and c) transfer areas (Figure 20).

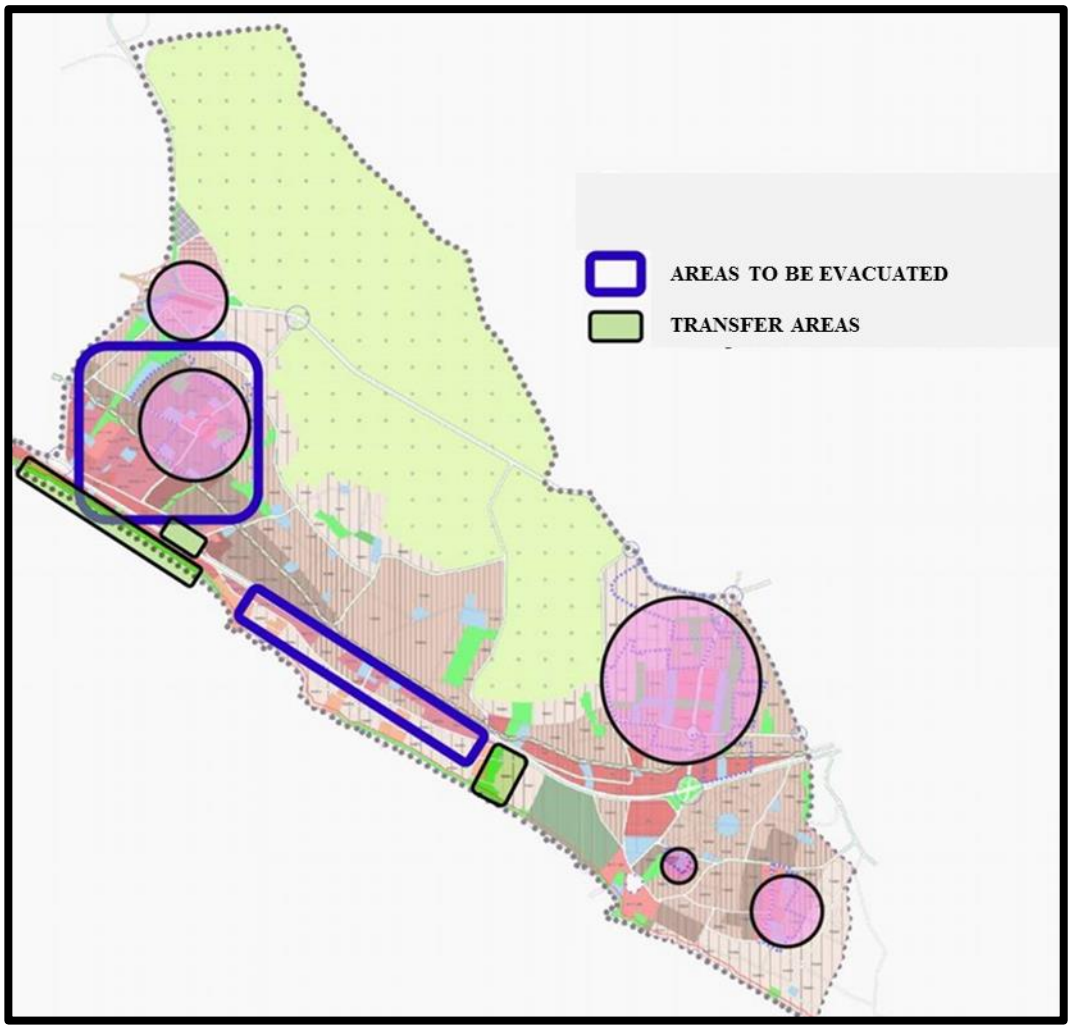


Figure 20: Intervention Areas of Different Sorts

In line with upper scale plan decisions, local center (sub-center) of planning area was suggested at the point where Kumburgaz TEM link road formed a junction with the E-5 Highway. Likewise, commercial areas around Güzelce junction was also suggested as a sub-center in good conformity with commercial areas designated in other master plans in force. Besides, tourism areas were suggested in some places in the coastal parts of the Marmara Sea in south of E-5 Highway. In order to ensure public accessibility to the sea; green spaces ranging from 20 meters to 100 meters from the coast were suggested in areas where E-5 Highway approaches to the Marmara Sea about 100 meters.

Upon density analysis of housing areas; high density was given around the local center, and medium density housing areas were suggested in south of the E-5 Highway and for areas near the northern parts of the highway. Low density housing areas were suggested in areas next to high-quality agricultural lands (Figure 21).

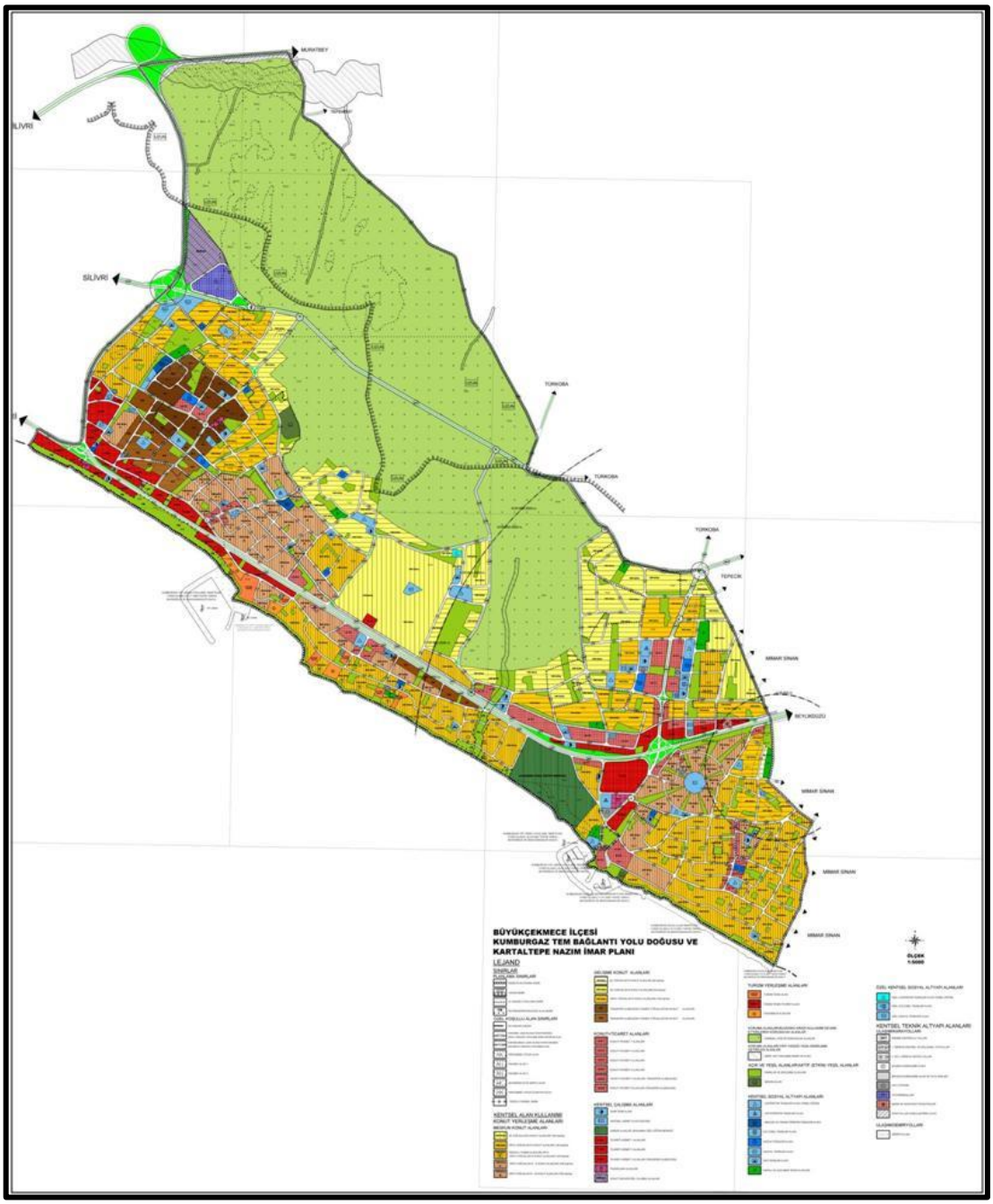


Figure 21: Master Development Plan of Kumburgaz

5.4.3 The Case of Master Development Planning in Mimarsinan and Batıköy Neighbourhoods

There are two 1/5000 scale Master Development Plans which was approved by the former Mimarsinan First Level Municipality on different dates in Mimarsinan Neighbourhood as shown in Figure 22.

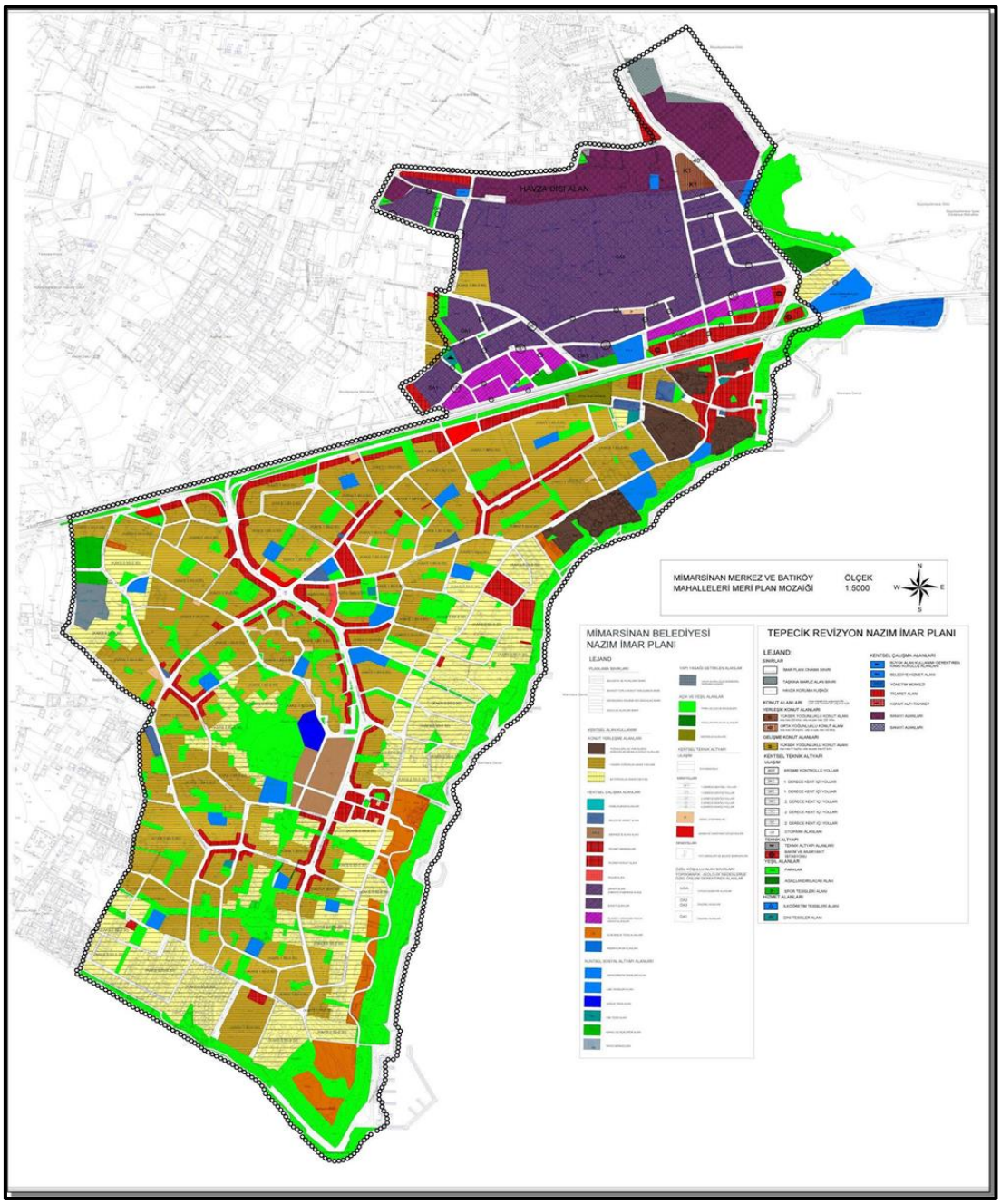


Figure 22: Compilation of Existing 1/5000 Mimarsinan Master Development Plan

The planning area covers Mimarsinan Central and Batıköy Neighbourhoods as a whole and some part of Muratçeşme Neighbourhood and some part of Ulus Neighbourhood as shown in Figure 23.

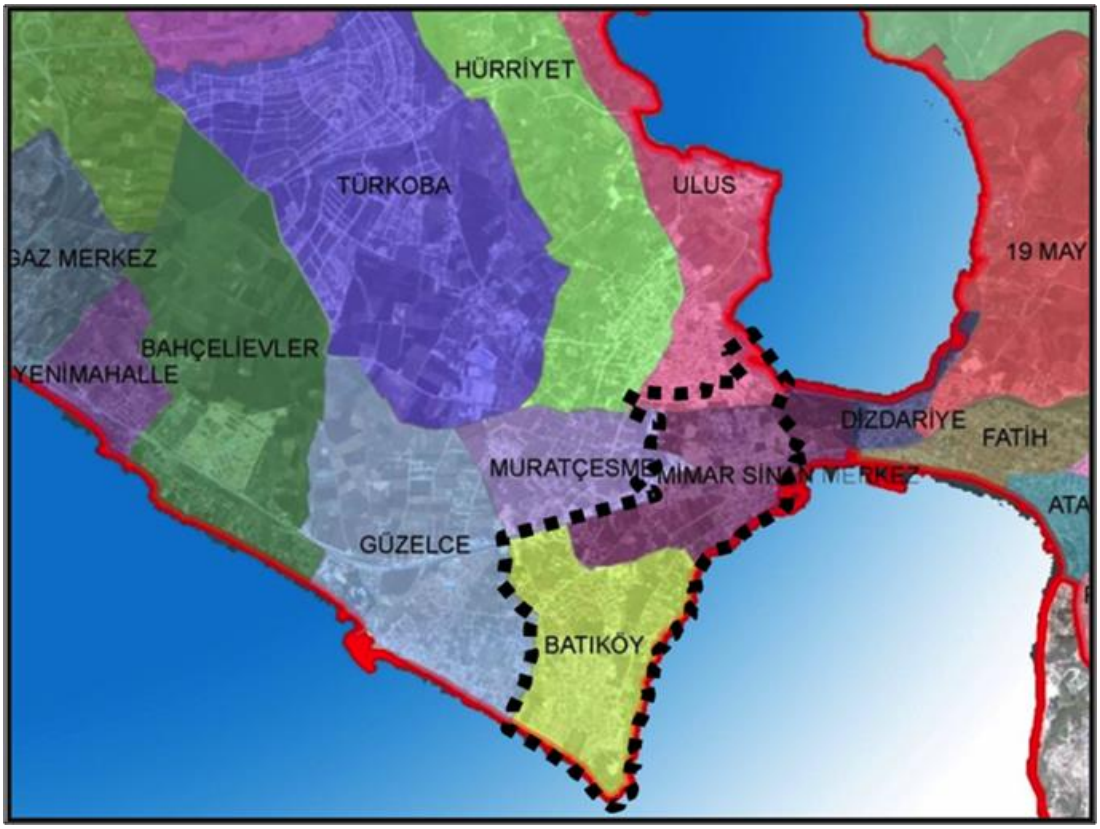


Figure 23: 1/5000 Scale Mimarsinan Centre ve Batıköy Neighbourhood M.D.P. Neighbourhood Scheme

Mimarsinan and Batıköy Neighbourhoods are also coastal settlements, which are occupied by coastal uses such as secondary housing. Prior to the master development plan that is examined as a case study in this research, there are several master and implementation development plans approved in different dates for different areas of coverage. As the previous plans did not constitute a unity and also lost their up-to-dateness, the metropolitan municipality has initiated a planning process to prepare a new master development plan for the area.

Secondary housing areas that were developed and intensified since 1970s remain unused in most part of the year, although they lost their importance as a summer house due to sea contamination. Therefore, the housing stock in the region remains inactive and is not used effectively. However, it was not easy to transform secondary housing areas into new uses due to problems in ownership patterns and infrastructure provision. The mixed structure of the region including both old and new constructions also added up to the problem. In terms of infrastructure, lack of technical infrastructure, parking spaces and green areas especially in heavily populated areas was obvious. Besides, public transportation links between central Istanbul and Büyükçekmece District was not strong enough, and the transportation links within the planning area as well as road capacities were not sufficient too.

Some parts of Bababurnu area, which is located in south of the neighbourhood and areas near the coastal region were evaluated as unsuitable for development due to earthquake risk. Furthermore, one of the most important problems in Mimarsinan Centre and Batıköy neighbourhoods was decentralization of industrial areas and uneven distribution of commercial and housing areas within the regions. Since there is an imbalance in terms of central hierarchy and distribution in the area, the plan concluded to create sub-centres and provide ranking of centers in line with provisions of upper scale plans.

The planning area has a rich potential in terms of natural assets due to its location. It has a coast to the Marmara Sea and Büyükçekmece Lake. Moreover, Suleyman the Magnificent Bridge is one of the important historical values of the planning area being a work of Mimarsinan at the point where Büyükçekmece Centre and the D-100 Highway are divided by these two coasts. The region could also benefit from its tourism potential; therefore it was suggested in the plan to decentralize industrial activities which negatively influence the environment in the area.

The access of pedestrians to the coast would gain importance after transformation of coastal secondary housing to low-density primary residences. When it is considered that Büyükçekmece District will reach a population of 650.000 persons, it becomes a

must to open coastal areas for public use in recreational terms. It was regarded essential to develop and implement such policies in the planning phase.

The analytical studies that were conducted by Bimtaş Company based on reports and institutional views of 38 institutions and organizations have provided significant inputs to planning decisions. Besides determination of the current socio-economic structure in planning area, the potential demand for future urban development and building construction as well as key barriers to realize this potential was also identified in the analyses.

Based on such analytical insights, the plan suggested to turn industrial areas into major sub-centre of Büyükçekmece District and encouraged transformation of secondary housing to primary housing by providing the necessary technical and social infrastructure facilities (Figure 24). Application of the Article 18 of the Development Act has been selected as the major implementation instrument of the plan, especially to realize the transformation of industrial areas to center functions.

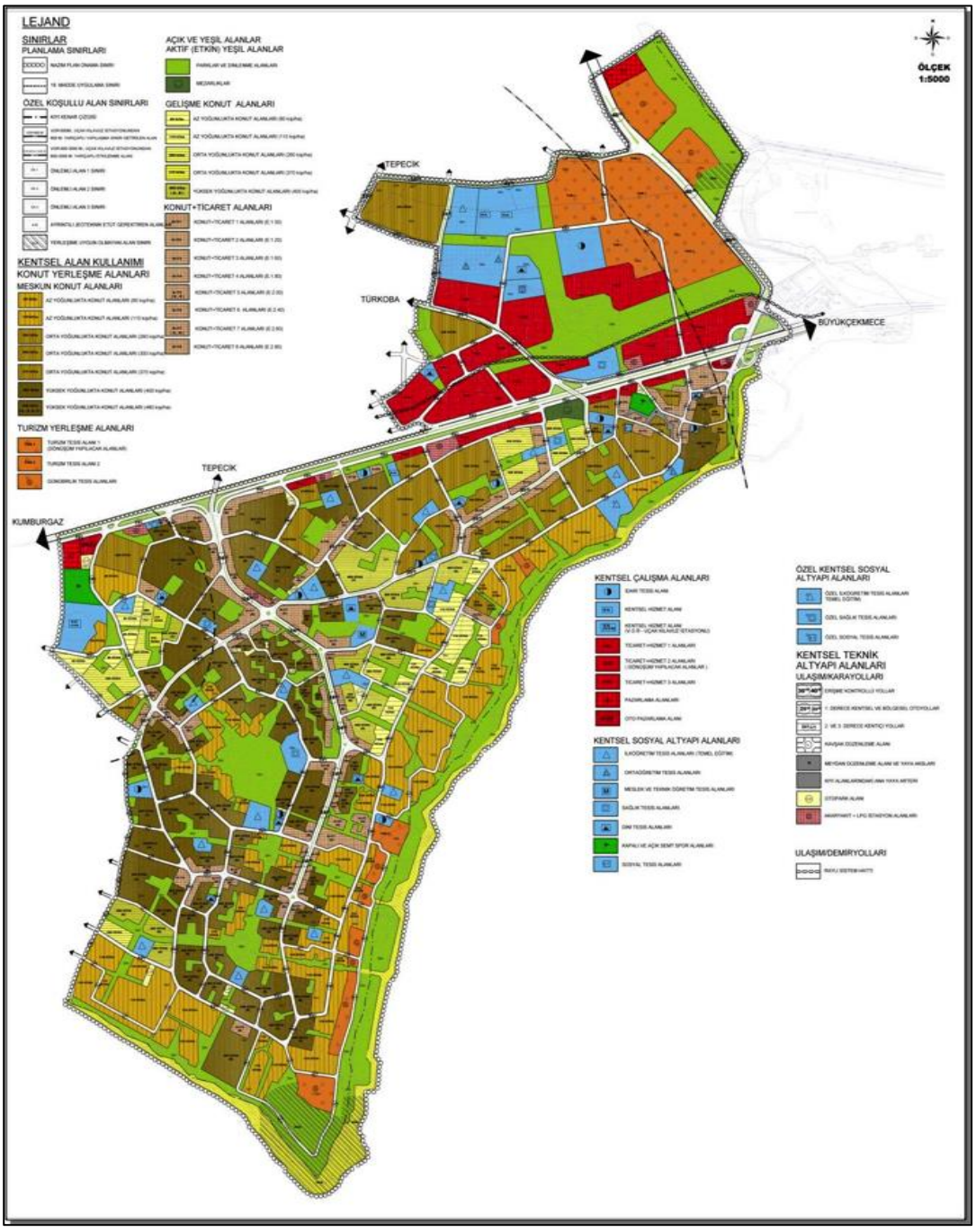


Figure 24: 1/5000 Scale Mimarsinan Centre and Batıköy Neighbourhoods Master Development Plan

5.5. Critical Evaluation of the Cases

In this section, based on the case studies, the problems in the relationship between district and metropolitan municipalities, which are the authorized institutions of

urban-scale planning, will be discussed. Despite each case has different spatial characteristics, thus may lead to different problems, here the common problems observed in three cases will be mentioned.

5.5.1. The Lack of Coordination between Local Government Units

First of all, the Pınartepe case reveals substantial lessons on planning problems that occur due to lack of coordination between upper and lower tiers of the municipal system. When the process of 1/5000 scale Master Development Plan of Pınartepe Neighborhood is evaluated, it can be understood that the dispute between district and metropolitan municipalities centered around the building densities. District municipality raised serious objections during the announcement period of the plan with regard to plan decisions on densities and density distribution. The objections of Büyükçekmece Municipality emerged mainly as a result of the uncoordination and disconnection between municipal authrorities during the planning process. The district municipality as the closest local unit that provides service to the planning area had almost no say over the planning process. This has led to dissatisfaction from the plan by the lower-tier municipal unit, which would be directly affected from the plan. Büyükçekmece Municipality highlighted the deficiencies in the plan as well as the planning process. Within this context, it can be stated that the problems experienced during approval and implementation of the plan prepared for Pınartepe Neighbourhood were the results of the lack of or failed organization between the related institutions during the planning process.

The objections have resulted in a lawsuit and the court has decided to cancel the master development plan of Pınartepe Neighbourhood. Although the court decision was clear, both municipalities interpreted the decision in different ways and the dispute continued. While the district municipality continued to make implementations based on the 1/1000 scale plan in force, the metropolitan municipality claimed that the decision also applied to lower scale plans. Different ways of interpretation of the same decision by two institutions victimized the stakeholders of the plan and created a chaotic situation which damaged the planning

process at the local level.

The Master Development Plan of Pınartepe Neighbourhood was abolished before being implemented at the end of nearly 3 years including the preparation process. The ambiguent environment in the planning area has led to substantial losses in terms of planning. For the neighbourhoods which are located within the borders of the Municpality of Büyükçekmece, many plans which were made particularly after 2010 by the metropolitan municipality have been abolished due to similar reasons, showing the problematic and unhealthy dimensions of the relations between these two authorized institutions.

The second case study planning process belongs to Kumburgaz Neighbourhood. The 1/5000 scale Master Development Plan of Kumburgaz was approved on 10.12.2012 and declared to the public for objections between 15.02.2013 and 15.03.2013. During the public display of the plan, thousands of objections from both those concerned and the district municipality was registered by the Metropolitan Municipality of Istanbul. The matters on which objections were centered highlighted the lack of coordination between municipal authorities.

The main issue on which objections mostly concentrated is the allocation of an approximately 708 hectares land in the plan as the “area whose agricultural character will be protected”. This plan decision was based on the analytical studies and the decisions of the Territorial Development Plan of Istanbul on 1/100.000 scale approved in 2009. The area which is allocated as the “area whose agriculture character will be protected” in the Kumburgaz Master Development Plan was designated as the “area whose natural and rural character will be protected” in the 1/100.000 scale plan. In the report of the master development plan, it is stated that within the “areas whose natural and rural character will be protected”, only buildings with rural character such as vineyard houses and farm houses, hobby gardens could be built and the details of agricultural activities and building conditions would be determined in lower scale plans. As the parts of the planning area were included in jurisdictions of some previous first-level municipalities before 2009 (before joining

to Büyükçekmece Municipality), there were plans which were made by the former municipalities based on approval of Istanbul Water and Sewerage Institution. Therefore, some areas which were designated as agricultural protection zones in the recent plan had already been given development rights by the old plans. The population of 90.000 people which was projected by the recent 1/5000 scale plan remains much behind the population which was projected by the former plans in force and the right for approximately 1.500.000 m^2 construction area in the region was removed by designating the area as agricultural protection zone. Petitions of objection were sent to the Metropolitan Municipality of Istanbul with a request to reconsider the conditions specified for the "area whose agricultural character will be protected". The metropolitan municipality was asked to consider the decisions of the 1/100.000 scale plan and readjust the precedent values as in the plans in force pursuant to 28 person/ha density values specified in the Long Distance Protection Area in line with ISKI (Istanbul Water and Sewerage Institution) Regulation.

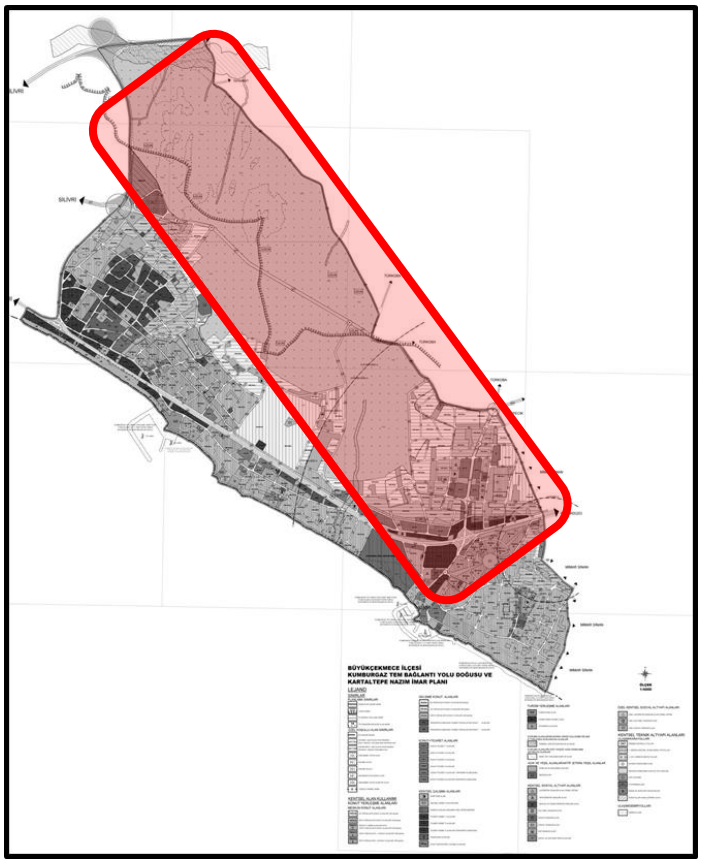


Figure 25: Kumburgaz TEM Link Road and Kartaltepe Master Development Plan Area whose Agricultural Character will be Protected

The other issue of objection was that there were multishare (shared ownership) plots in parts of the planning area designated as “transfer areas”. The district municipality claimed that the shared the ownership would prevent the implementation of development rights transfers and thus requested to revise the concepts of “transfer giving areas” and “transfer receiving areas”. It was also requested that coastal greenery starting from the southeast of the planning area to Kumburgaz Marina should be enlarged to cover the whole coastal strip and development rights within coastal greenry should be transferred to northern parts of the planning areas. Besides the district municipality identified many other problems regarding the implementation of development rights transfer in the plan such as;

- There will be substantial differences between property values before and after transfers and property owners may reject the transfer applications,
- Development transfer is a concept and a tool which is not included in the Development Law, and there are uncertainities on how transfers will be made, on what principles it will be based and which rules will be applied,
- There are no detailed and clear arrangements which would facilitate the agreements between property owners in transfer giving and receiving areas,
- Presence of too many independent sections and flat owners in transfer areas,

Based on such problems and uncertainities, metropolitan municipality was requested to make substantial revisions to the new concept and instrument of development right transfer used in the plan.

Moreover, the recent plan made by metropolitan municipality is based on lower population estimations compared to previous plans of the region. However, lower projections opposed the reality. There were development rights given by previous plans and the new plan underestimated these rights and has led to serious conflicts and uncertainty about fututе urban development in Kumburgaz. Proponents of the recent legislation that empowered upper-tier municipal authorities in urban planning claimed that metropolitan municipalities usually have a holistic understanding of urban space and development and thus could facilitate integrated citywide planning.

This may be true but such holistic handling of urban planning requires effective coordination with lower-tier municipal authorities in order to base plan decisions on accurate and updated knowledge. However, rather than effective mechanisms for enhanced coordination, the recent legislation brought about *ex-officio* planning systematic that is motivated to centralize the planning powers in the hands of metropolitan municipalities.

Centralizaton of planning powers in the hands of metropolitan municipalities is usually justified on the grounds that upper-tier municipalities have more capacity than lower-tiers and thus they can develop and employ new tools and policies that may facilitate implementation of plan decisions. In this regard, many people have defended the recent legal arrangements that empowered metropolitan municipalities against district municipalities in urban planning. However, the reality may develop in very different ways as shown by the case of Kumburgaz. Metropolitan municipality has attempted to employ development rights transfer as a new instrument for plan implementation but seem to have failed. The major reason for the failure is the limited and insufficient understanding of local conditions by metropolitan municipality, mainly because of lack of coordination and cooperation with the district municipality.

After receiving thousands of petitions of objection against the 1/5000 scale East of Kumburgaz TEM Link Road and Kartaltepe Master Development Plan, the Council of the Metropolitan Municipality of Istanbul decided to "…reanalyze the 1/5000 scale plan by considering the actual development in the region and the decisions of the plans in force and make necessary revisions as well as make implementations in line with the 1/1000 scale plans in force until the 1/5000 scale plan is revised" on 14.06.2013. Political elements seem to have had an influence on the withdrawal decision of the Metropolitan Municipality of Istanbul. The decision was made 6-7 months before the local elections and due to the upcoming political competition metropolitan municipality aimed to avoide reactions in the region. This also highlights the impact of political processes, especially party politics on urban planning in Turkey.

In our third case, Mimarsinan Centre and Batıköy Neighbourhoods, what is more important is not the matters of objection but the way objections were handled. The objections to the plan have not been yet assessed and decided by the Metropolitan Municipality of Istanbul although 18 months passed after the plan approval and 12 months or so have passed after the announcement of the plan to the public. As in our previous case, the metropolitan municipality, who did not want to make a clear decision and attract negative reactions before local elections in 2014, chose to note down the matters of objection many times in the council meetings and postphoned the decision by several justifications. For example, the council has decided many times to "…obtain information from the district municipality on the previous plans and immovable properties which are subjected to objections and rewrite the objections in line with this…". Here, what should be emphasized is that the metropolitan municipality confirms that it developed and approved plans without sufficient information about the planing area such as the plans in force, conditions and rights defined in the current plans. It is obvious that the plan was prepared without clearly synthesizing the characteristics, structure, housing pattern and current conditions of the area and without accessing all necessary information, documents and even field research in collaboration with the district municipality.

According to the Istanbul Metropolitan Municipal Council's Commission Decision Nr: 110 and dated 09.11.2014; "The objections to the 1/5000 scale Master Development Plans of Mimarsinan Merkez and Batıköy Neighborhoods of Büyükçekmece District were assessed, and it was found suitable to re-arrange the area so as to take the part located in north of the E5 Highway out of plan approval boundary, and prepare a new 1/5000 scale plan because it was necessary to reassess the decisions of the approved plan regarding the northern parts of the E-5 Highway in terms of acquired rights and use decisions given in previous plans". The following figure shows in red color the part of the neihgbourhood, which would be subjected to another plan.

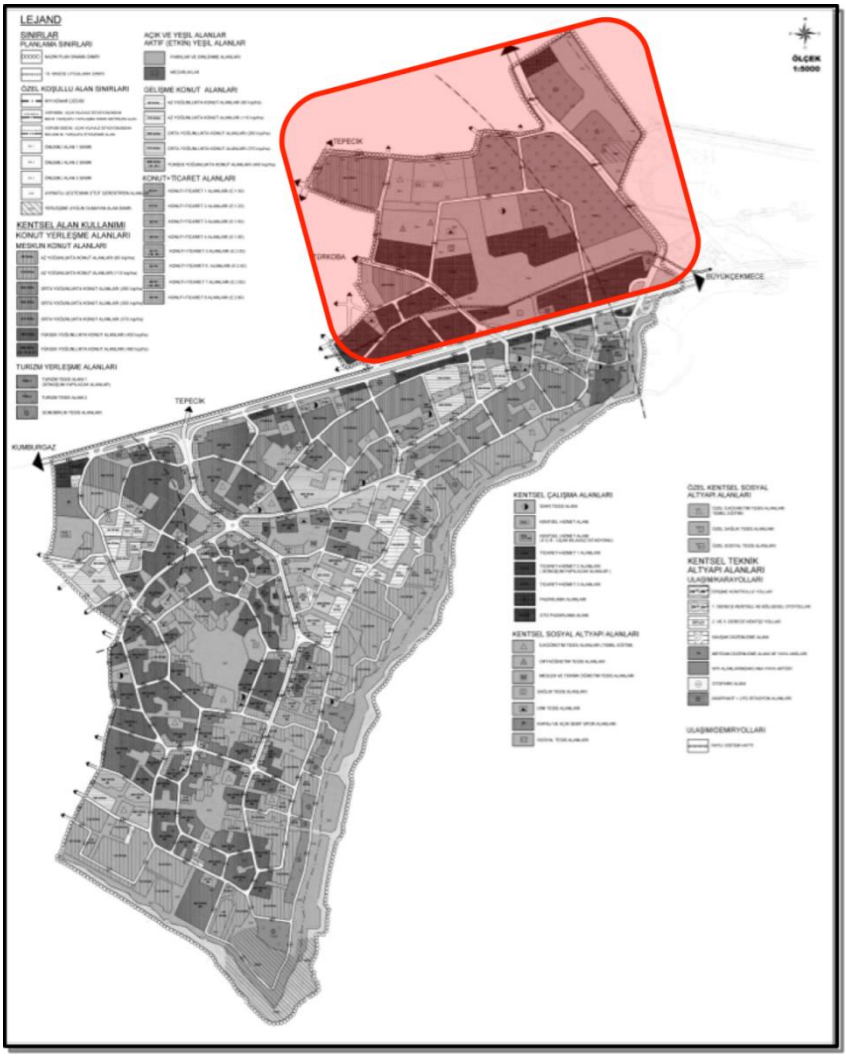


Figure 26: The Area that out of Plan Approval Boundry in M.D.P. of Mimarsinan Centre and Batıköy Neighbourhood

As shown in Figure 21, the area framed in red color was taken out of the plan approval boundary as a result of objections to the plan. The objections have mainly concentrated on applicability of the plan and protection of the acquired development rights. Moreover, the 2nd Administrative Court of Istanbul has the ruling that "Implementation Limits of 18th Article has been defined in master development plan according to the expert report submitted for the case for vacation of transaction in point. But the 6th Chamber of State Council does not deem suitable determining the limits of 18th article in 1/5000 scale Master Development Plans. The limit of 18th article determines the stages of the implementation development plan. We are of opinion that it is not appropriate to determine the 18th article limit in 1/5000 scale

plan, and that the district municipality should determine the limit of 18th article in relation with its own budget opportunities. For this reason, we are of opinion that the determination of 18th article's limits in 1/5000 scale Master Development Plan is exceeding the authority zone of the Metropolitan Municipality in terms of planning techniques, and that the operation subjected to this case is not appropriate from the aspects of planning techniqe". Moreover, it must be stated that there are large-scaled industrial corporations within the area decided to take out from the acceptance boundary as a result of objection against the plan. The park and tourism function given to the area, where there are factories now, in new planning work indicates how limited applicability the plan had.

5.5.2. Problems of Power Sharing and Control in Urban Planning

In this section, problems originating from plan contents and planning process, as well as share of powers between institutions, and problems about operation of monitoring mechanism in urban planning practice in Turkey are discussed.

After the recent legal arrangements, one major problem in the relationship between upper and lower-tier municipalities is violation of the authorities of district municipalities by metropolitan municipalities. This is usually done by master development plans containing detailed decisions and arrangements, which should normally be contained in implementation plans. For instance, plan notes of Pınartepe Master Development Plan on 1/5000 scale contained plan decisions and principles normally to be specified in lower scale plans, such as hmax., minimum plot condition etc. Normally such values should not be specified in master development plans. With such detailed master plans, metropolitan municipalities not only intervene into the authority domain of district municipalities but also restrict their roles. District municipalities are restricted in their decision making flexibility in planning and are pushed to a planning process in which they could only specify the given decisions in upper scale plans or put more details of the same sort to implementation plans. This is one of the major problem areas of urban planning in Turkey.

Within this scope, as a result of the assessment of the objections, which were made in the announcement process of Pınartepe Neighbourhood Master Development Plan, the Metropolitan Municipality of Istanbul amended the plan and readjusted it by some changes. In this process, the development status was not adjusted for a while pursuant to the provision in Article 1.1.3 of the plan notes of the 1/5000 scale plan which was just made in the district municipality reading; "based on the current 1/1000 scale development plan construction terms which are contrary to the construction terms that are specified in this plan, no implementation can be made and no building license can be given". This caused an ambiguity about whether the current 1/1000 scale plan will be implemented until the new 1/1000 scale plan was prepared and also caused reactions by people living in the area. It was observed that the city, which has a constantly renewed dynamic structure, entered into a stable process in the planning sense during this chaos.

There are also judicial evaluations and court decisions regarding the Pınartepe case showing that the metropolitan municipality by means of irrelevant content of the upper scale plan violated authorities of the district municipalities. The Court Decision No 2013/964 Dated 22.05.2013 with Basis No 2011/1981 was made against 1/5000 scale Pınartepe Master Development Plan approved in 2011. The court decided on the cancellation of the plan due to the fact that the master development plan was contrary to development legislation with regard to its procedure by removing the district municipality's power of implementation with its plan notes. Besides, it was also noted that plan notes were contrary to urbanization principles and to the legislation and law to put plan notes on the upper scale plans and suspend the implementation of the plans although partially.

Similar to Pınartepe case, which has the plan note stating that "1/1000 scale implementation development plans in compliance with 1/5000 scale Master Development Plan cannot be put into implementation unless approved", Istanbul Metropolitan Municipality also intervened into the authority domain of Büyükçekmece Municipality in Kumburgaz and Mimarsinan cases. As emphasized earlier, there was an ambiguity in the region about whether the current 1/1000 scale

plan will be implemented until the new 1/1000 scale plan is prepared and whether the presence of this article persistently in each 1/5000 scale plan prepared by the Metropolitan Municipality of Istanbul has any other explanation than being an effort to protect its power of enforcement on the district municipality and to weaken the district municipalities by tying their hands. Again, at this point, it can be said that the monitoring mechanism within urban planning has become a unilateral system under favor of the peak of the authority of metropolitan municipality under favor of legal regulation No. 5216, and that there is only a top-down monitoring mechanism. District municipalities are monitored and their operations are controlled by metropolitan municipalities but when it comes to action of the upper-tier, the monitoring and control become unclear issues. This situation leads the planning process to be carried out improperly, and also the principle of reciprocity to be harmed.

Another problem with the content of master development plans is the designation of improper land use decisions that are in contrary to the actual situation in planning areas. This problem is another manifestation of the authority violation issues. In Pınartepe case, almost half of the planning area (the northern parts of the 1/5000 scale Master Development Plan) is determined as "Risk Area in Terms of Geological Structure and Landslide". In plan notes, following conditions are specified for these areas; "the areas which are risky in geological and topographical terms and dangerous to be opened for settlement due to reasons such as landslide involve potential landslide areas are shown as 'Risky Areas in Terms of Geological Structure and Landslide' in the plan". These areas are also designated as the "areas which are inconvenient for settlement" until they are approved by the related institution based on geological and microzoning analysis reports and maps as per the General Directorate of Natural Disasters Circular dated 19.08.2008 and numbered 10337.

Although it is understandable that these risky zones are unsuitable for urban development in terms of ground structure, and that this is stated in the plan as a geological warning, it is not plausible to leave these areas as unidentified zones and not to assign them a function in the legend. If these areas are not suitable for urban

development, they must be defined with a function containing open-air uses such as green spaces, parks, kindergarten, forestation areas, etc. Otherwise, these areas will be defined in the plan as risky zones in terms of ground structure but having no function and identity in the plan, which is not acceptable from planning principles point of view. So, it is not suitable to leave an area without a function within the planning area (See Figure 27). At this point, from the aspect of parties having rights on these areas, uncertainties emerge. Such uncertainities also apply to district municipalities who prepare lower scale plans. Lower-tier municipal units would have a hard time in finding out how an implementation plan can be prepared for areas which are not clearly identified in upper scale plans. This is another way of violation of planning powers of lower-tier municipal units. This situation indicates that metropolitan municipalities may left unclear points about plan contents, which makes us to question the claim that if metropolitan municipalities are given the planning powers, they would come up with more holistic and integrated plans.

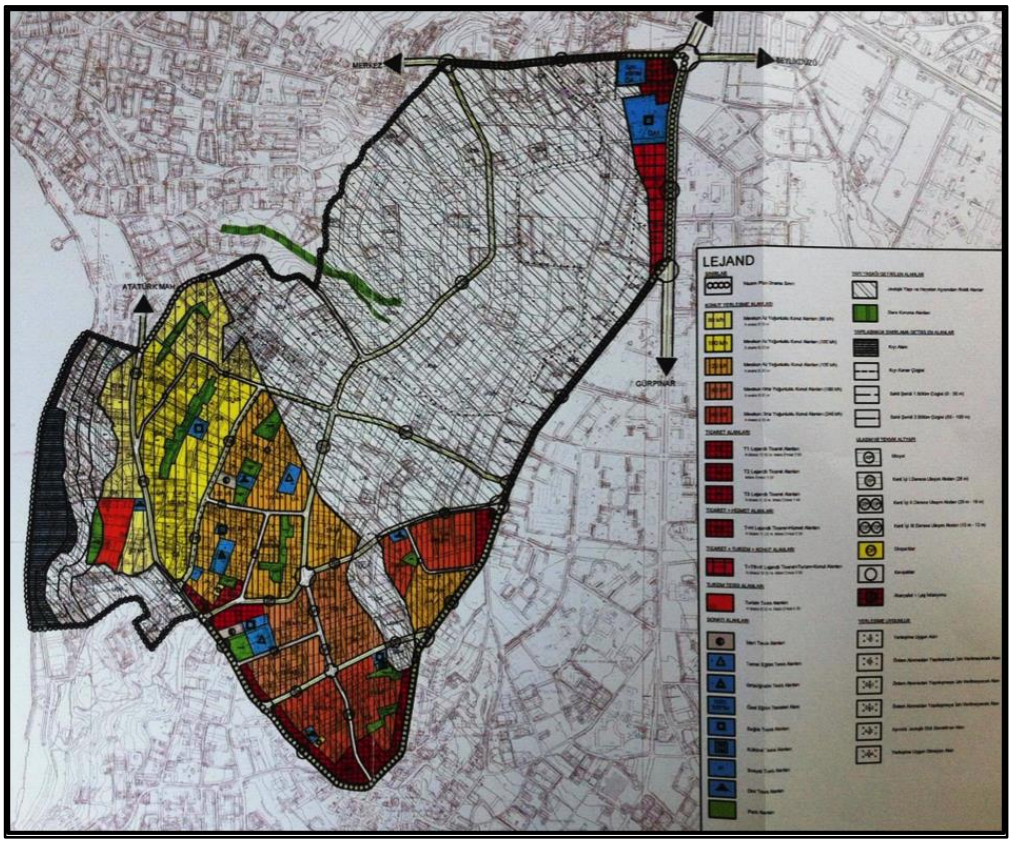


Figure 27: Unidentified zone (no-color parts) in Master Development Plan of Pınartepe Neighbourhood

5.5.3. The Problem of Lack of Participation, Equality and Transparency during Planning Process

By giving urban planning powers to metropolitan municipalities by the Metropolitan Municipality Act No. 5216, it has been aimed to avoid the uncontrolled and dispersed use of planning powers by lower-tier municipalities including the district municipalities. Moreover, it has been thought that a planning process executed and monitored by a central institution would bring holistic and integrated plans. However, since the introduction of the new centralized system, some problems of the planning system might be solved at the expense of creating new challenges. One of the new challenges in urban planning system is plan implementations that violate the principles of transparency, equality and participation.

Pınartepe case reveals such challenges in preparation and implementation process of the recent master development plan. Pınartepe Neighbourhood was part of the former Gürpınar Municipality before 2009. However, with the enactment of the Law No. 5747 on 29.03.2009, Pınartepe Neighborhood was connetcted to Büyükçekmece Municipality. At the same time, other neighbourhoods around Pınartepe were connected to another district municipality, namely the Beylikdüzü Municipality. Following the restructuring of municipal juristictions in 2009, the Metropolitan Municipality of Istanbul prepared and approved 1/5000 Scale Master Development Plans for neighbourhoods connected to both Büyükçekmece and Beylikdüzü Municipalities. A part of the objections raised against the recent master development plan of Pınartepe Neighbourhood by Büyükçekmece Municipality highlighted serious inconsistencies and irrational decisions in both plans. The district municipality mainly emphasized that as settlements connected to Büyükçekmece and Beylikdüzü Municipalities showed similar charateristics in terms of socio-economic and spatial structure, master development plans concluded very different decisions with regard to development rights and building densities. Building densities given for Beylikdüzü side were usually higher than those of Büyükçekmece side. A good example to this is the Atatürk Street, which divides Büyükçekmece and Beylikdüzü Districts. While a building height of 3 storeys was suggested for Büyükçekmece side

of Atatürk Street in Pınartepe Master Development Plan, 5 storeys were allowed in Beylikdüzü part of the same street in Beylikdüzü Master Development Plan.

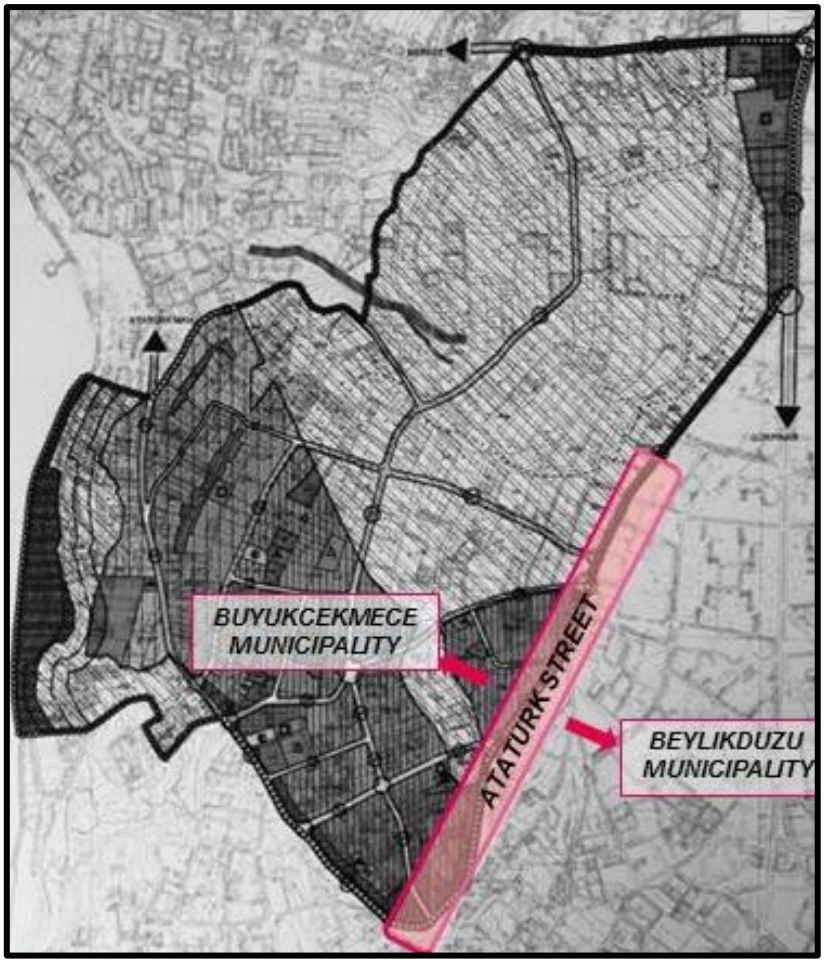


Figure 28: Atatürk Street, which divides Büyükçekmece and Beylikdüzü Districts

The reason to this irrational situation and to the inconsistent plan decisions seems to be political. The Municipalities of Büyükçekmece and Beylikdüzü were from different political parties. In this context, Beylikdüzü Municipality seems to have enjoyed the privillage of being from the same political party with the Metropolitan Municipality of Istanbul. It is plausible to assert that the metropolitan municipality attempted to make a favor to the district municipality, which shares the same political tradition with itself. Here we should argue that some of the justifications of the recent legislation that empowered metropolitan municipalities proved to be irrelevant. Proponents of this recent legislation claims that if planning powers are centralized at the hands of metropolitan municipalities, problems of partial planning such as

inconsistent and irrational plan decisions between neighbourhing municipal juristictions would be avoided. However, Pınartepe case shows that the reality may well be different than intentions. Pınartepe case shows that even metropolitan municipalities as the centralized holders of planning powers may end up with partial and incompatible plans in the same locality mainly because of political reasons.

The second example here comes from the Kumburgaz case. The master development plan of Kumburgaz was withdrawn as a result of the intense objections raised against the plan and its implementation was suspended. When this planning process is analysed, it can be said that the process is a clear example that shows how lack of communication between metropolitan and district municipalities influences the outcomes of the plan. In other words, as participation of the district municipality was neglected in this planning process, the outcomes of the process were insufficient and ineffective. On the other hand, active contribution of the district municipality to the process in terms of an institution, which provides updated data and information, might have prevented the serious objections to the plan. The exclusion of Büyükçekmece Municipality from planning process has in a sense forced it to participate in the process by means of objections, which eventually suspended the plan. This example shows that the recent legislation that empowered metropolitan municipalities has not been effective to solve the problems of mutuality, equality and participation in urban planning system in Turkey.

As a result, we have already emphasized in previous chapters that spatial planning is one of the most important means in realization of national development goals. Spatial planning is also an effective means in increasing quality of life and achieving urban development goals. However, as it can clearly be seen in case studies discussed above, due to the structure of the current planning system that creates power and responsibility chaos, spatial planning has not been effective in directing the implementation in Turkey. The recent legal arrangements seem not be a solution to this problem. The next chapter will discuss some policy implications in order to overcome the major challenges in Turkish urban planning system that originate from improper and irrational share of planning powers among municipal authorities.

CHAPTER 6

CONCLUSION

6.1. Overview of Case Study Findings

The timing of introduction of metropolitan area management and two-tier municipal system in Turkey was not accidental. The new system was introduced during the early 1980s when the world's economic and political systems were undergoing significant changes. In order to benefit from the opportunities provided by technological achievements, the global economy reorganized itself over a larger geography by decentralizing the industrial activity to locations where labor and production costs were more favorable (Sassen, 2000). Following the industrial decentralization, large-scale urban projects, especially regeneration projects were developed and implemented in cities of many advanced countries, including mainly the US and the UK in order to address economic decline in these cities (Balaban and Puppim De Oliveira, 2014). Therefore, one major impact of the neo-liberal transformation after 1980 in world's cities has been the growing interest by both public and private sectors in production of urban built environment via various projects and investments. Construction and real estate sectors have gained importance and started to play crucial roles in both national and urban economies.

Turkey did not stay away from these systemic changes and aimed to be integrated with the global neo-liberal transformation through various reforms in both economic and political domains. Through the decisions of 24th January 1980, neo-liberal economic policies have been put into action, and Turkish economy has become completely an open economy in the years following the early 1980s. With the neo-liberal policies, the interest of global financial capital on Turkey has increased and the Turkish financial markets were opened to international transactions in 1989 (Boratav, 2003). Similar to international trends, construction sector has gained significance after 1980 in Turkey and the sector started to play important roles in national economy as well as urban development processes. A construction boom,

during which volume of new constructions has grown substantially by means of direct and indirect support provided by the state, characterized the mid-1980s (Balaban, 2011).

Privatization policies of the post-1980 era not only targeted the state economic enterprises but also included implementations that ease the sale or transfer of public lands and properties to private actors. We have observed increasing utilization of public lands and properties for large-scale urban projects and built investments in many major cities of Turkey after 1980. In order to encourage such urban development pattern, the government has decentralized the planning system and empowered local governments in terms of their duties and responsibilities for managing urban development via the new Urban Development Law (No. 3194) and Metropolitan Municipality Law (No. 3030) enacted in 1984 and 1985 (Balaban, 2011). Moreover, the Housing Development Administration and the Housing Development Fund were established in 1984 in order to encourage housing production in cities. The grants provided to house producers and buyers through the Housing Development Fund have led to an increase in numbers and activities of housing cooperatives and private firms and to rapid expansion of housing development in peripheries of big cities. Large-scale companies and big producers have dominated the housing sector, which was organized by small-scale companies and petty entrepreneurs before 1980, after the mid-1980s (Işık and Pınaroğlu, 2005; Keyder, 2006).

One of the fundamental features of Turkish urbanization after 1980 has been generation and distribution of urban rents to various sections of the society by the state. While squatter amnesties of the mid-1980s and housing production via mass housing fund by cooperatives and private companies rewarded low- and middle-income groups, corporate capitalists enjoyed the built investment opportunities provided by the state in housing, transportation and infrastructure sectors (Balaban, 2011). Not only central government but also local governments played key roles in this game. Since the mid-1980s, urban residents and private sector actors are used to benefit from various sorts of urban rents and unearned income opportunities.

Especially the big cities like Istanbul, Ankara, Izmir and Bursa have become centers of attraction by public and private actors because of their potential to provide significant amount of urban rents and unearned income opportunities. It is not much to say that local constituencies usually assess the performance of local governments and mayors based on their success in generating and distributing urban rents. One important reason to such performance assessment is that the meaning of urban property ownership especially housing has changed since 1980.

Economic, social and cultural transformations have changed the way the housing problem is perceived by the society. The house, which is considered as a means of providing social security and mainly a basic human right in 1970s, started to be regarded as an investment for unearned income during the neo-liberal era. Different conceptions of the housing problem by the public also changed the attitude towards and expectations from local governments, which are important actors of the housing policy and sector. From land procurement to infrastructure provision and from building construction models to funds and benefits for housing, there are various fields of intervention that municipalities take part in while addressing the housing problem. The involvement of local governments into housing sector is influenced by the dominant economic and political developments.

In the era of neo-liberalization, the major role of local governments in service provision has shifted from a manageralist structure to an entrepreneurial one, stating that local governments would focus on income generation rather than effective provision of collective consumption (Harvey, 1989). Local governments have started to cooperate with private sector in provision of public services in cities with the aim of generating income for their own budget and of opening new investment opportunities for private sector. This has led to commercialization of various fields of public and urban services including land and housing sectors. In line with global trends, we have been observing such developments in Turkey since Turkey's integration with the neoliberal transformation. Many local services have been privatized and many service fields have increasingly been commercialized. The approach of local governments to urban planning as well as the relationships among

different local government units has been influenced by the entrepreneurial climate that has been dominating urban policy-making. Urban planning has been turned into a means of realizing and increasing the potential of urban space to generate and distribute urban rents. Likewise, metropolitan municipalities tend to reward lower tier municipal units, which cooperated with them in commercializing urban space, enhancing opportunities to benefit from urban rents and opening new channels of investments to private sector. On the other hand, due to dominant party politics and interests, upper tier municipal units may attempt to punish lower tier municipal units, which are from different political traditions, by using urban planning and service provision frameworks. The case studies of this thesis exemplify this situation very clearly.

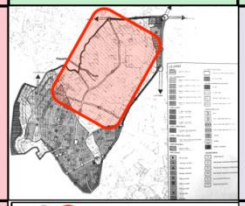
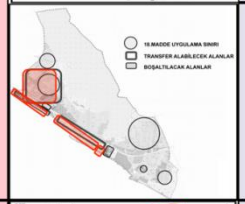
In a nutshell, since the early-1980s, municipalities started to work for enhancing the investment opportunities and channels for the capital rather than serving for reproduction of labor power by means of collective consumption. In some cases, local governments resemble service companies rather than public entities. The entrepreneurial municipalities tend to seek for generating income and profits via activities even beyond their jurisdictions and to be more focused on serving for demands of private actors and especially large capital groups. In other words, they have been pursuing an urban planning and development policy that prioritize the investments and services towards generating and distributing urban rents, and turning cities into centers of attraction for national and global capital. Reflection of such trends can be observed in Turkey, where municipalities tend to follow an entrepreneurial approach and an urban development policy that focuses on generating and distributing various sorts of urban rents. Under such a governance approach, serious problems are observed between central and local governments as well as among municipalities. Polarization around part politics adds much to this situation. The case study research of this thesis reveals significant findings in this respect.

The urban planning system was centralized in Turkey after the mid-2000s in the way that metropolitan municipalities were provided with almost all authorities and

responsibilities for spatial planning at the city level. The centralization was argued to bring better outcomes for existing planning system in terms of avoiding the chaotic situation among different local government units and facilitating the development and implementation of holistic and integrated spatial plans. However, practical outcomes of the centralization attempt have been the opposite. The centralization of urban spatial planning resulted in further coordination problems and deepened the chaos between related institutions, unlike the intentions and motivations behind empowering of the metropolitan municipalities. The major reason for the failure of centralization is the dominance of urban policymaking by party politics and high-level of political polarization at the local level in Turkey. The political polarization and controversies along the lines of part politics make significant impacts on the relationship between local governments from different political traditions. Under such political environment, centralization attempts may sustain and deepen the chaotic situation that characterizes the existing planning system rather than turning it into a holistic and integrated planning system. The case study analysis provides evidences to this situation.

Table 6 summarizes the key aspects and results of the involvement of the metropolitan municipality in planning process in each case study. The most controversial decisions given by the metropolitan municipality in each planning case have been selected and examined in order to point out the declared and underlying motivations behind those decisions. In Pınartepe case, the controversial decision is the closure of a disaster-prone area to urban development, whereas transformation of an existing industrial area constitutes the controversial planning decision of the metropolitan municipality in Mimarsinan case. In Kumburgaz case, there are two controversial decisions made by the metropolitan municipality, which are the transfer of development rights from coastal strip to an inland area and closure of agricultural lands to urban development.

Table 6: Critical Evaluation of Controversial Decisions of Istanbul Metropolitan Municipality in Case Studies

CASE STUDY AREA	LOCATION OF THE CONTROVERSIAL DECISION OF ISTANBUL METROPOLITAN MUNICIPALITY IN PLANNING AREA	STATUS OF THE CONTROVERSIAL AREA IN PREVIOUS MASTER AND IMPLEMENTATION DEVELOPMENT PLANS	STATUS OF THE CONTROVERSIAL AREA IN THE NEW MASTER DEVELOPMENT PLAN OF ISTANBUL METROPOLITAN MUNICIPALITY	REASONS FOR THE NEW STATUS OR CONTROVERSIAL DECISION GIVEN BY ISTANBUL METROPOLITAN MUNICIPALITY	UNDERLYING REASON OR MOTIVATION BEHIND THE CONTROVERSIAL PLANNING DECISION OF THE METROPOLITAN MUNICIPALITY
PINARTEPE CASE		RESIDENTIAL AREA	HIGH RISK ZONE DUE TO GEOLOGICAL SITUATION AND SEISMIC STRUCTURE OF THE ARE	RISK REDUCTION AND PREVENTION OF LIKELY LOSSES IN DISASTERS	SAME MOTIVATION APPLY TO ALL CASES AND THE MAJOR REASON BEHIND THE CONTROVERSIAL DECISIONS OF THE METROPOLITAN MUNICIPALITY ARE HIGHLY POLITICAL. THE CONTROVERSIAL DECISIONS ARE IN FACT PLAUSIBLE AND RATIONAL PLANNING DECISIONS AIMING TO ADDRESS KEY URBAN PROBLEMS. HOWEVER THESE ARE STRUCTURAL DECISIONS THAT ARE HARD TO IMPLEMENT AND USUALLY BEYOND THE CAPACITY OF LOWER-TIER MUNICIPALITIES. SUCH STRUCTURAL DECISIONS INCREASE THE BURDEN OF URBAN PLANNING RESTRICTIONS TO LOWER-TIER MUNICIPALITIES THAT ARE OPEN TO INTERACTION WITH THE LOCAL COMMUNITY. LOWER-TIER MUNICIPALITIES MAY FACE PRESSURES FROM THE COMMUNITY IN CASE THEY ARE LEFT ALONE TO MAKE THE LOCALS ACCEPT STRUCTURAL PLANNING DECISIONS WHICH LIMIT DEVELOPMENT RIGHTS. UNDER HIGH-LEVEL OF POLITICAL POLARIZATION AND DOMINANCE OF URBAN POLICYMAKING BY PARTY POLITICS, SUCH STRUCTURAL AND RATIONAL PLANNING DECISIONS MAY TURN INTO POLITICAL MECHANISMS THAT DOWNGRADE THE REPUTATION AND CREDIBILITY OF LOWER-TIER MUNICIPALITIES FROM DIFFERENT POLITICAL TRADITIONS THAN THE UPPER-TIER MUNICIPALITY.
KUMBURGAZ CASE		LOW-DENSITY RESIDENTIAL AREA WITH RURAL CHARACTER	URBANIZATION CONTROL AREA TO PROCTECT VALUABLE AGRICULTURAL LAND	RESOURCE MANAGEMENT VIA PROTECTION OF VALUABLE AGRICULTURAL LANDS	
		RESIDENTIAL AREA	EVACUATION ZONE THAT WILL BE SUBJECTED TO TRANSFER OF PROPERTY RIGHTS	OPENING OF THE COASTAL STRIP FOR PUBLIC USE AND MAXIMIZING THE PUBLIC INTEREST ALONG THE COAST	
MİMARSİNAN CASE		INDUSTRIAL ZONE	NEW URBAN CENTER - MIXED USE AREA INCLUDING TOURISM, COMMERCIAL AND SERVICE FUNCTIONS	PREVENTION OF INDUSTRIAL POLLUTION VIA TRANSFORMATION OF AN INDUSTRIAL SITE INTO A NEW AND LIVABLE CITY CENTER	

In Pınartepe case, the metropolitan municipality has changed the status of an existing residential area, which is located at north and constitutes almost half of the planning area, to a high-risk zone considering the geological situation and seismic structure of the area. The new status of the area is designated as “Risky Zone in terms of Geological Structure and Landslide” in the new 1/5000 master development plan by Istanbul Metropolitan Municipality. As the area is closed to urban development and building construction is not allowed after the new plan was put into force, the district municipality has faced serious reactions and pressure from the local community to change the situation and open the area to urban development. Consequently, the plausible planning decision of the metropolitan municipality has turned into a controversial issue between metropolitan and district municipalities, which resulted in a lawsuit.

Similarly in Kumburgaz case, the region classified as rural and low-density residential area in the previous plan was designated as a protection zone for agricultural purposes in the new plan. Besides, the coastal strip in Kumburgaz neighborhood was decided to be evacuated in order to open the coastal area for public use and functions. The existing property rights in the coastal strip were aimed to be transferred to an inland area, which is not of course as attractive and valuable as the coastal area. Both decisions raised significant reactions from the local population not only because of limitations on urban development in certain parts of the planning area but also due to uncertainties regarding the implementation of the “development rights transfer” policy. The reactions targeted the lower-tier municipality and local population forced the district municipality to reverse the situation. Likewise the first case, plausible and positive planning decisions made by the metropolitan municipality have become controversial issues between both authorities due to increased pressures faced by the district municipality.

Finally in Mimarsinan case, the controversial decision is the decentralization or relocation of existing industrial premises, which were designated in an industrial zone in the previous plan. The metropolitan municipality attempted to relocate the industrial premises due to various sorts of pollution they cause and transform the

industrial site into a mixed-use area including various functions such as tourism, commerce and services. Moreover, the area was also planned to be the new town center of Mimarsinan based on its locational advantages as being along the E-5 highway. In this case, objections have mainly concentrated on applicability of the plan and protection of the acquired development rights. The relocation of a large-scale industrial zone is an important and a structural planning decision, which is usually beyond the capacity of a district municipality to implement. Industrial firms located in the zone also objected the decision and thus deepened ithe controversy between metropolitan and district municipalities.

Although they were turned into controversial issues between upper- and lower-tier municipal authorities, the fundamental decisions given by the metropolitan municipality in each planning case seem to be rational and plausible decisions addressing key problems in the planning areas. Reduction of disaster risks, protection of agricultural lands, enhancing publicly use of the coastal area and relocation of the polluting industrial site are all positive urban planning attempts that need to be acknowledged. On the other hand, these are structural interventions that are quite difficult to implement and hard to make the local community understand and accept them. Especially in contexts like Turkey where local communities are sensitive in development rights over their properties and where municipalities are judged based on their performance in urban rent creation and distribution, such structural planning interventions may end up with adverse political outcomes. In other words, structural planning decisions, as in each planning case examined in this research, may cause serious political burdens to lower-tier municipalities that are highly open to interaction with local constituency.

Each case examined in this research reveals that the Metropolitan Municipality of Istanbul tended to increase the burdens of urban planning controls and restrictions to Buyukcekmece Municipality by giving principally rational and plausible but practically challenging and controversial decisions in master development plans. The political polarization based on party politics that dominate urban policymaking in Turkey seems to be the major underlying reason here. As Buyukcekmece District

Municipality and Istanbul Metropolitan Municipality are from different political parties and traditions, the metropolitan municipality did not hesitate to increase the burdens of urban planning process to and limit the flexibility of implementation of the district municipality by means of controversial decisions in upper scale plans. All in all, the recent centralization of urban planning in Turkey seems to have been ineffective in resolving the problems of urban planning system. Instead the chaotic situation that characterized the urban planning system in Turkey for a long time has deepened with the recent centralization. This is largely because of the political polarization in local governance and domination of urban policymaking by party politics in Turkey. Under such political climate, planning decisions of the metropolitan municipality, which seem to be meaningful and positive in terms of urban planning principles, may function as a political mechanism that, in a sense, punish, constrain and oppress the district municipality from a different political party or tradition. In other words, political polarization may enable metropolitan municipalities to use their planning powers and authorities in ways to downgrade the reputation and credibility of any district municipality among its constituency.

6.2. Policy Implications and Recommendations

An urban planning system, in which duties and powers of the related institutions are well-defined, inter-institution coordination is well provided, and the principle of hierarchical unity of urban plans is adopted, would be effective in solving the current planning problems. Besides, in such a system, partial plan implementations for large investment projects and urban development and transformation projects can be well evaluated and turned into opportunities to direct urban development. Under such urban planning system, the 1/25.000 and 1/5.000 scale master development plans that are prepared by metropolitan municipalities and the 1/1.000 scale implementation development plans that are prepared by district municipalities might have different contents and implications for urban development. It is crucial to distinguish between the roles and contents of different development plans in a way that they do not overlap with each other either in terms of scale or of planning approach, decisions and presentation techniques. Otherwise, several plan documents that include different

decisions for the same area due to power and duty conflicts may come out, and also serious problems may be encountered in practice. This is what is observed in almost all metropolitan cities in Turkey due to the nature of existing legal and institutional organization of urban planning. Since the inter-institution power differentiation is not clear in terms of both of legislation and planning applications, different plan decisions may be made for the same areas in urban development plans, and problems become more inextricable.

Several laws and by-laws regulate the process of urban development in Turkey. However, shortcomings and deficiencies in urban development legislation result in a number of problems and a chaotic situation, especially with regard to use of powers to prepare urban development plans at various scales. As it is argued in case study chapter based on concrete examples, this situation may lead to cancellation of development plans prepared by different public bodies within their jurisdictions, to withdrawal of the plan by the related institution due to intense objections, or to prolonged preparation periods and unhealthy development processes for cities. Within this context, through a legal and institutional reform, it is required to clarify the matter of authority, and to re-evaluate the increasingly centralized power distribution and the limits of the auditing authority of metropolitan municipalities, which tend to implement heavy tutelage on district municipalities.

Considering the problems discussed in previous sections of this thesis, it is necessary to reorganize the distribution of authorities and powers of development planning between district and metropolitan municipalities. In this re-reorganization, principles of “hierarchical unity of plans”, “balance in planning audit” and “participation in planning” should be taken into consideration. The actions, which should be taken in order to enable the creation of a healthier urban management and planning system in metropolitan cities, can be listed as follows:

- First of all, an integrated and upper-scale planning system should be developed based on the structure of “urban regions”, which are emerged through the transformation of metropolitan areas.

- The responsibilities of district municipalities for urban planning should be made upper-scale-plan-depended, strategic, and area-oriented rather than being “scale” oriented.

- Principles of “reciprocity” and “hierarchical unity of plans” should be taken as basis in plan approval and audit procedures between metropolitan and district municipalities.

- A unit that will coordinate planning activities of district and metropolitan municipalities should be established (such as UKOME, AYKOME, PLANKOME). In planning, management plan concept that will contain an organization model facilitating the implementation, ensuring the audit, and defining interest groups and their duties should be developed.

- The institutional capacity of metropolitan municipalities should be tied to certain rules. Metropolitan municipalities, which do not have a certain capacity in terms of knowhow and personnel, should not be allowed to use unlimited powers of planning. In laws, necessary regulations should be made, the conflict of power between the institutions should be ended, and also the planning and implementation works should be delivered to related, authorized, equipped persons and organizations.

- Planning capacity of district municipalities should be improved, and the norm staff rules that apply to technical staff and experts should be revised and expanded. Training should be spread throughout the institutions, related and equipped personnel should be trained in local governments, and the qualifications of the members of the municipality council, the main decision body in planning, should be assessed. Moreover, the use of computer and new technological means should be spread throughout the institutions that are authorized in planning, automation systems should be established, the use of the internet should be activated between local managements and central

management, and thus services will be more efficiently provided. Establishing a city information system should renew cities' archives.

- A new bottom-up participatory planning process should be designed in order to integrate city councils in planning processes of district municipalities. In planning activities, interest groups should be analyzed and all parties that are influenced by the plans and projects should be considered, active participation of the public should be ensured, society should be informed about municipal council meetings, and project decision boards should be created.

- A new planning approach should be considered and applied in order to integrate strategic, development and improvement plans at provincial level in urban planning. Starting from improvement plans, interim period plans and policies should be produced in all scale plans, planning and plan implementations should be staged based on priorities of the country and region, emergency action plans should be prepared and effective audit should be provided in the implementations.

- Principles and rules should be determined with regard to management of cities; a new city administration model should be developed in order to improve the concept of urban governance.

Such approach needs to be discussed in order to take location- and scale-based approach into account in adjusting the metropolitan areas in Turkey. The organizational structure that emerges in absence of these discussions is transformed into an unaudited political area that is centralized by means of urban planning, which is one of the primary means of urban resources, and this leads to the results, which might deeply influence the entire political system.

The study attempts to present the main perspectives and discussions with regard to metropolitan and district municipalities' power of planning. One of the important

results reached by these discussions is that the planning activity forms a whole with the results of the legislative and administration functions. Therefore, plans, as a whole, have resulted in the improper establishment of hierarchy of plans and the practice and spread of a highly paralyzed, non-systematic and anachronistic urbanization concept. On the other hand, it is obvious that the power of planning is associated with neither the administrative power in the field of development law nor only the development law. Thus, it should be admitted that a proper and integrated planning activity, with which planning activity forms a whole with the functions and areas of power of the legislation and the administration, could only be fulfilled through this perspective.

Having a development plan, on its own, cannot be an objective for a city. Plans are road maps, which are prepared in order to reach the future targets. Therefore, they can be realized only if they are documents, in which targets and purposes for solving the mutual problems of people living in the city are decided together.

With a new and comprehensive regulation, it is compulsory to establish and implement an intermediary agency ensuring the cooperation and collaboration between different institutions and organizations having power of planning. It fills in the gaps in upper and lower scales in plan stages, makes a regulation that will implement the principle of hierarchical unity, takes urban planning out of the concept of “urbanization” regarding as a physical adjustment means that produce a simple land plan, makes planning process with a participation method and audits each phase of the process, offers a rich portfolio of plan implementation means to local managements, develops mechanisms ensuring social justice between the immovable property owners, obligates the preparation of the conservation plans minimizing natural disaster risks, prepares action plans for the implementation process, brings deterrent punishments to local managers and urbanites, and most importantly does not have a political identity.

Besides, if the matter is to be solved without the need for another intermediary agency, the most prior matter in regulations, which will be made for local

governments, is the proper distribution of duties. Firstly, the distribution of duty between central and local governments and between different units of local governments should be made. Within this context, what is essential is the assignment of all services that are in local nature and carried out by private enterprises. While making this regulation, attention should be given to avoiding the transformation of local governments into new bureaucratic and bulky organizations. Local governments should be given enough income for proper functioning of transfer of duties. In sharing of incomes, dependency should be reduced; distribution of incomes and duties should be secured in amendments that will be made in main laws.

Another matter, which should be taken into account in the necessary and subsequent regulations, is the creation of democratic local government systems in accordance with the philosophy and principles of local governance. Regulations encouraging the formation of the organs and democratization of decision-making processes and participation are required. Within this framework, the same status systematics should not be created in cities with small and large populations, and they should differ in the area of duty and income particularly by preferring hierarchy in the municipalities.

Metropolitan municipalities' centralist character and district municipalities' passive positions should be transformed in accordance with democratic values, and the coordination values of these institutions should be highlighted. Meanwhile, as the populations of metropolitan and district municipalities increase, district municipalities should be established by taking some geographical and administrative criteria as basis.

In distribution of responsibilities regarding the city, the role of central administrative organs has focused on the audit on local administration organs, and the acceptance of proposals and plans of central administration organs has been necessitated for local administrations. Making these adjustments in mentioned way will make the local managements become efficient and democratic institutions on one hand, and also contribute to the settlement and development of the democracy on the other hand.

The increase in active actors within urban location makes the need for coordination between different regions in the process more important in fulfilling the protection duties. The determination of the institutions and organizations that will be involved in the implementation process, the determination of the works to be done and the creation of distribution of duties in connection with that, making the adjustments stipulating the use of necessary sources, and determining the contribution and support that will be obtained from other institutions or by the government, as well as establishing a team of experts that will be providing organization, are necessary to enable this coordination.

Particularly in implementations that will be fulfilled at local level such as planning, enabling more effective participation of public ensures promptness in determining and fulfilling the purposes and priorities with regard to protection. It can be seen that there are innovations in terms of role sharing between the central management and local managements; that the central management is rather framework determinant and order protector, while local managements undertake roles with regard to implementation and spatial regulation.

In the new duty and power distribution that will be made between central and local governments, attention should be given to enabling the administration to have a structure functioning better as a whole, using more efficient sources, producing services more easily, allowing the local services to be executed by the local managements in accordance with the principle of decentralization and closeness to the public in service, and enabling local managements to have their own personalities and to create a more transparent and participation management thereby removing the unnecessary tutelage applications on the local managements. The duties that cannot be fulfilled by a local management due to sources and technical deficiencies should be fulfilled together with another local unit, if necessary.

As a result, it is necessary to urgently solve the problematic areas that are assessed within the scope of the current study, to eliminate the interest areas that create

conflict between the said institutions, to clarify the provisions that are underlined and open for interpretation within the scope of the study in the applicable legislation, and to make new regulations that do not to permit the different interpretations of the institutions in order to healthily and efficiently maintain the planning process, of which reason of existence is to develop cities, to increase urban life quality, to create healthy and livable cities for everybody, and it should progress on public benefit basis. In planning process, audit mechanism should be executed by an objective institution acting based on participation, and on principles of equality and mutuality for everybody rather than an audit mechanism with an enforcing and subjective attitude in the understanding process. And then, it will be possible to have the chance to live in harmonized, consistent and successive cities rather than living in parted and disconnected urban areas.

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YAZARIN

Soyadı : İÇYÜZ

Adı : İLKE

Bölümü : ŞEHİR VE BÖLGE PLANLAMA

TEZİN ADI (İngilizce): THE RELATIONSHIP BETWEEN UPPER AND LOWER TIER MUNICIPALITIES IN URBAN PLANNING: THE CASE OF ISTANBUL METROPOLITAN MUNICIPALITY AND BÜYÜKÇEKMECE MUNICIPALITY

TEZİN TÜRÜ : Yüksek Lisans ■ Doktora ☐

1. Tezimin tamamı dünya çapında erişime açılsın ve kaynak gösterilmek şartıyla tezimin bir kısmı veya tamamının fotokopisi alınsın. ☐

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