

PROCESS AND PARTICIPATION IN LEGAL REGULATIONS  
OF URBAN REGENERATION:  
THE CASE OF ZEYTİNBURNU, İSTANBUL

A THESIS SUBMITTED TO  
THE GRADUATE SCHOOL OF NATURAL AND APPLIED SCIENCES  
OF  
MIDDLE EAST TECHNICAL UNIVERSITY

BY

HÜSEYİN ÇİÇEK

IN PARTIAL FULFILMENT OF THE REQUIREMENTS  
FOR  
THE DEGREE OF MASTER OF SCIENCE  
IN  
CITY AND REGIONAL PLANNING

DECEMBER 2005

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## **ABSTRACT**

### **PROCESS AND PARTICIPATION IN THE LEGAL REGULATION OF URBAN REGENERATION: THE CASE OF ZEYTİNBURNU, İSTANBUL**

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December 2005, 201 pages

High risks imposed by natural hazards, and changes in economic, socio-cultural and technological conditions compel Turkey to transform its cities rather than promote growth. In this respect, urban regeneration became a significant concern demanding a comprehensive and integrated vision and action.

Turkey will have to focus on regenerating the built environment in the near future, rather than follow conventional trends of city-extension development. As scope and methods of urban regeneration planning differ from that of development-planning, a special legal framework and process for urban regeneration is required. The development of comprehensive urban regeneration policies to coordinate physical, social and environmental issues, together with relevant procedural steps, all accommodated within a legal framework are today the most challenging problem in urban planning.

To identify the needs in detail, procedural and legal aspects of Zeytinburnu Urban Regeneration Project one of the current urban regeneration projects, related laws and draft laws, and experience abroad are comparatively reviewed here. The main finding is that the



procedural steps and legal arrangements of recent regulations represent single-minded understandings of the scope of urban regeneration. There are tendencies of centralizing the powers of implementation, relying only on physical regeneration as a linear process, discouraging all forms of participation. The recent regulatory attempts in special laws concerning regeneration, as well as in laws of 'development', 'local administrations' and 'municipalities' need to be modified in their procedural and legal provisions.

Local authorities can be charged to designate regeneration areas at 1/5000 city master plans which could be coordinated by changing an article within Development Law (3194). Tasks and responsibilities for comprehensive regeneration could be provided with the Law of Municipalities (5272), and the Law of Provincial Administration (5302). These laws could also equip local authorities with prerogatives of implementing regeneration projects.

A second procedural requirement concerns the preparation of plans. This demands steps for participatory interventions as well as a versatile structure to allow feedback and returns to former stages of planning. This could be introduced by means of a regulation regarding preparation of regeneration projects. This resembles the regulation on technical specifications for the preparation of development plans of Law 3194. This can enforce the participation of local citizens and stakeholders to the process. Changing the article 13 of the Municipality Law would suffice for the realization of participation processes. The article (24n) of the Greatercity Municipalities Law that enable partnerships between public, private bodies and NGOs can be further introduced to the Municipality Law for the very necessary synergies in regeneration projects.

Keywords: Urban Regeneration, Procedural Steps in Comprehensive Regeneration, Local Organization of Participation, Legal Regulation of Regeneration, The Zeytinburnu Project

## ÖZ

### KENTSEL DÖNÜŞÜMÜN YASAL DÜZENLENMESİNDE SÜREÇ VE KATILIM: İSTANBUL, ZEYTİNBURNU ÖRNEĞİ

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Aralık 2005, 201 sayfa

Türkiye’de kentler; ekonomik, sosyal ve kültürel koşullardaki değişmeler, teknolojik ilerlemeler ve yüksek doğal afet riskleri nedenleriyle, gelişmekten çok dönüşüme zorlanmaktadır. Bu bakımdan, kapsamlı ve bütünleştirilmiş bir vizyon ve eylem gerektiren kentsel dönüşüm kavramı önem kazanmaktadır.

Yakın bir gelecekte Türkiye, geleneksel eğilim olan kentlerin genişlemesinden, mevcut kentsel alanların dönüşümüne odaklanmak zorunda kalacaktır. Kentsel dönüşüm planlamasının kapsamı ve yöntemi, imar planlamasından farklı olduğundan, kentsel dönüşüm için özel bir yasal çerçeve ve süreç gerekmektedir. Günümüzde kent planlama disiplininin önündeki başlıca sorun, yasal çerçeve içinde fiziksel, sosyal ve çevresel konuların eşgüdümünü sağlamak amacıyla, kapsamlı kentsel dönüşüm politikalarının ilgili süreç tanımlarıyla birlikte geliştirilmesidir.

Bu gereksinimi ayrıntılı biçimde tanımlamak amacıyla, Türkiye’deki güncel kentsel dönüşüm projelerinde biri olan Zeytinburnu Kentsel Dönüşüm Projesi’nin süreci ve yasal yönleri, ilgili yasalar ve yasa tasarıları ve yurtdışı örnekleri ile karşılaştırmalı olarak incelenmiştir. Temel bulgu, son düzenlemelerdeki süreç adımların ve yasal yapıların tek yönlü bir kentsel

dönüşüm anlayışına sahip olduğu yönündedir. Bu düzenlemelerde, uygulama yetkilerini merkezileştirme, doğrusal süreç olarak fiziksel dönüşüme bağlanma, katılım biçimlerini engelleme eğilimleri bulunmaktadır. Dönüşüm hakkındaki özel yasalar kadar 'İmar', 'Yerel Yönetimler' ve 'Belediye' yasalarının da süreç ve yasal hükümleri değişiklik gerektirmektedir.

Yerel yönetimler dönüşüm alanlarını 1/5000 ölçekli nazım planda belirlemek üzere görevlendirilmelidirler; bu İmar Kanunu'nun (3194) bir maddesinin değiştirilmesi ile düzenlenebilir. Kapsamlı dönüşüm için gerekli görev ve sorumluluklar 'Belediye Kanunu' (5272) ve 'İl Özel İdaresi Kanunu' (5302) ile sağlanabilir. Bu kanunlar, yerel yönetimlere dönüşüm projelerini uygulamak üzere ayrıcalıklar verebilir.

İkinci bir süreç gereksinimi, planların hazırlanması hakkındadır. Planların hazırlanması katılımcı yöntemler kadar, geribildirimi ve önceki aşamalara geri dönmeyi sağlayan çok yönlü yapıyı da gerektirmektedir. Bu, dönüşüm projelerinin hazırlanması hakkında bir yönetmelik ile düzenlenebilir. Bu yönetmelik, 3194 numaralı İmar Kanunu'nun 'İmar Planlarının Düzenlenmesi ile ilgili Teknik Şartnamesi'ne benzerlik gösterebilir. Bu yönetmelik, yerel halkın ve paydaşların sürece katılımını zorunlu kılabilir. Belediye Kanunu'nun 13. maddesinin değiştirilmesi, katılım sürecinin gerçekleştirilmesi için yeterli olabilecektir. Kamu, özel kesim ve sivil toplum kuruluşları arasında ortaklıkları olanaklı kılan Büyükşehir Belediyesi Kanunu'nun 24. maddesi, dönüşüm projelerinde çok gerekli olan sinerji için, belediye kanununa ayrıca eklenebilir.

Anahtar Kelimeler: Kentsel Dönüşüm, Kapsamlı Dönüşümde Süreç, Katılımın Yerel Örgütlenmesi, Dönüşümün Yasal Düzenlemeleri, Zeytinburnu Projesi

**TO MY WIFE**

## ACKNOWLEDGMENTS

Many individuals have encouraged and supported me in my master studies. First, I would like to thank to my supervisor Prof. Dr. Murat Balamir for his guidance and insight throughout the study. I am also very grateful to Prof. Dr. Murat Balamir for giving me the change of working on Earthquake Master Plan of İstanbul, from which I gained the most innovative information regarding the issues of urban regeneration

I would also thank to Prof. Dr. Melih Ersoy, Assoc. Prof. Dr. Çağatay Keskinok, Asist. Prof. Dr. Nil Duruöz and Ömer Kırıl the members of the thesis jury, for their comments and suggestion.

My gratitude goes to the members of Dolsar Engineering Administration Board and the core team members of Yeşilirmak Basin Development Project for their understanding and appreciations.

I offer special gratitude to Akın Atauz for giving me a great support for all issues and encouragement during my working life and master studies.

I would like to gratefully thank to my friends Burak Belge and Mert Burnaz for their invaluable presence and supports.

I am extremely grateful to my parents and sisters for their endless patience, faith and confidant.

Finally, I would like to express sincere appreciation and special thanks to my wife, Selma, not only for her continuous motivation, encouragement, great patience, invaluable comments and guidance until the end of the study, but also her full support all the way through my life.

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## **LIST OF ABBREVIATIONS**

BU:	Boğaziçi University
CBD:	Central Business District
DSS:	Decision Support System
EMPI:	Earthquake Master Plan of İstanbul
EU:	European Union
GDDA:	General Directorate of Disaster Affairs
GDP:	Gross Domestic Product
GIS:	Geographic Information Systems
GNP:	Gross National Product
İMM:	İstanbul Metropolitan Municipality
İTU:	İstanbul Technical University
JICA:	Japan International Cooperation Agency
METU:	Middle East Technical University
MRE:	General Directorate of Mineral Research and Exploration
NDP:	National Development Plan
NGO:	Non-Governmental Organization
NSDP:	National Spatial Development Plan
SIS:	State Institute of Statistics
SPO:	State Planning Organization
TDR:	Transfer of Development Rights
UDK:	National Earthquake Council
UN:	United Nations
YTU:	Yıldız Technical University

## CHAPTER 1

### INTRODUCTION

Urban space is perpetually created and recreated as the spatial expression of economic, political and social progress operating at a level wider than the local.

*Brownill, 1990, 7*

Turkey experienced a significant population agglomeration in the cities after the Second World War. Urbanization rate in Turkey increased from 25 percent to 65 percent between 1950 and 2000, and urban<sup>1</sup> population increased more than 2 times in this period. Economic, social and physical structures of Turkish cities were shaped in this period.

On the other hand, Turkey can neither develop nor implement comprehensive urbanization and urban development policies. The planning approach, which has been practiced for several decades, minimize planning concept to development planning. Development plans define 2 zones: cadastral and planned. In other words, this approach is only related with physical developments. It does not consider either built up areas or socio - economic issues of urban areas. Characteristics of urban/ urbanization policies and formation process of built environment caused inevitable problems in urban areas.

Turkey has to upgrade urban environment to increase quality of environment, to increase standards of urban services like infrastructure and transportation facilities and social services and to improve housing standards. Turkey has to develop policies for built environment and insistently implement it.

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<sup>1</sup> Definition of 'urban' varies according to countries. Some countries define according to amount of population and some define according to type of administration. Turkey's statistics given in the thesis are according to the administrative definition of urban, which means province and sub province centers are accepted as urban.



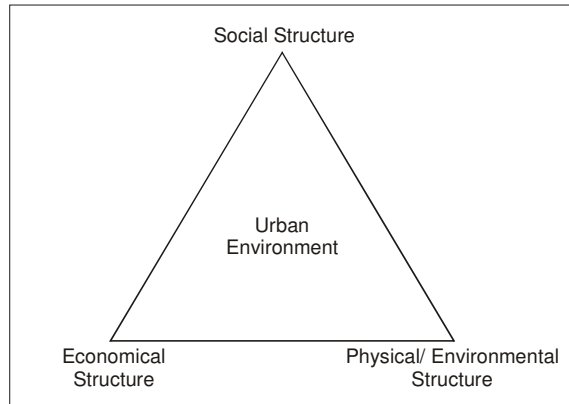
Urban regeneration, which is management of the existing built environment and includes set of comprehensive actions directed to social, economical and physical/ environmental components of built environment can be used for this purposed.

Although urban regeneration has recently been on the centre of urban policies and there exists several attempts to regulate this process. There is no uniform understanding of urban regeneration and regulation about the urban regeneration in Turkey.

In this context, thesis aims to focus on process and participation in legal regulations of urban regeneration in Turkey. Clarifying the motives behind urban regeneration policies and the necessity of regulations for procedural and legal aspects of urban regeneration projects in Turkey will be useful to reach this aim.

### 1.1 Needs Expressed for Urban Regeneration Policies in Turkey

Urban area is a complex system. It consists of various elements. These elements can be grouped under 4 headings physical, environmental, social and economic issues. Because there is overlap between physical and environmental issues, they can be taken as one group. In this context urban environment can be illustrated as figure 1.1.



**Figure 1.1 Urban Environment**

Although market led urban regeneration is on the focus and other issues are not considered in current urban regeneration projects of Turkey, motives behind urban regeneration in Turkey can be investigated under these 3 issues;

- physical/ environmental issues,
- economic issues, and

- social issues.

These issues also define scope of the current and next generation urban regeneration projects.

### **1.1.1 Physical/ Environmental Issues**

Physical/ environmental issues requiring urban regeneration arise from physical and environmental structure of the urban area. These issues can be problems arising from built environment and new developments. Physical/ environmental issues can be grouped under 3 headings;

- urban housing surplus, poor and unauthorized building stock,
- natural disasters and earthquake risk, and
- low quality environment and urban expansion.

#### **Urban Housing Surplus, Poor and Unauthorized Building Stock**

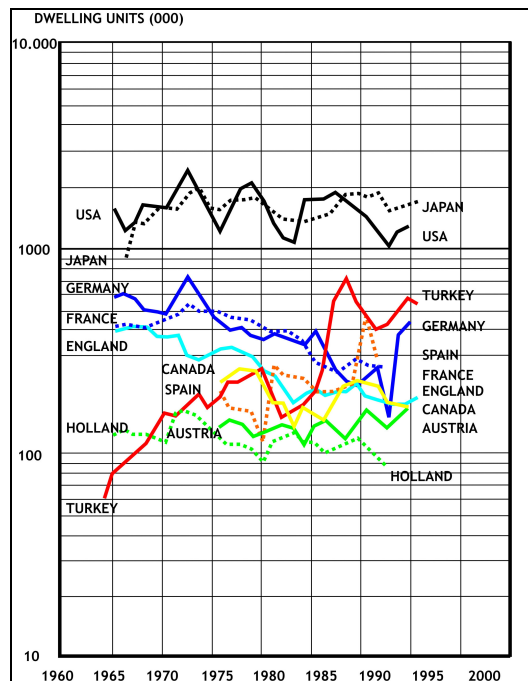
Parallel to the rapid demographic urbanization process, Turkey realized an extraordinary performance in housing production. Although very low levels of capital accumulation and infrastructure investments prevailed (Balamir, 2002), as comparison of production of urban housing units in Turkey and developed countries (figure 1.2) shows out, the construction rates were higher than many developed countries

On the other hand, facts behind the data of Figure 1.2 make this figure more dramatic. The ascending line indicating performance of Turkey is in reality progresses with at least another 1/3 of the figures shown here, since the unauthorized stock formation is not accounted by the official figures (Balamir, 2002e),

However, developed countries' data represent not only 'construction starts' but also reinvestments in existing stock. In countries saturated with housing stock, more of the cases obviously indicate reinvestments (Balamir, 2002e). This means that all other lines except the red line will considerably drop in the chart. The final result is that the performance of Turkey within global experience is still more significant than depicted by this chart.

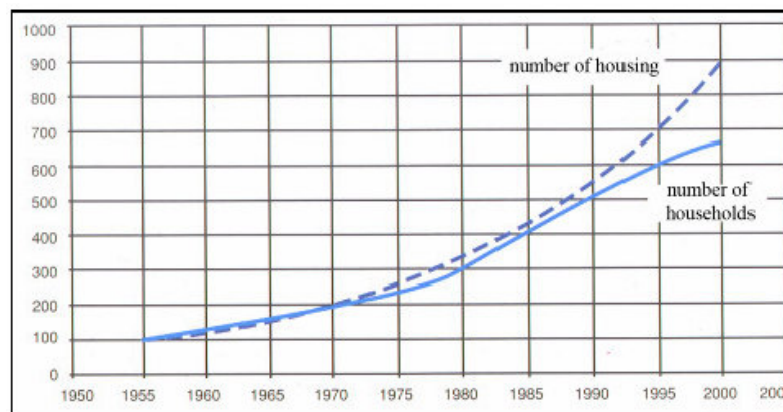
In this period, as there were no comprehensive and operational urbanization policies, market led small producers create housing production in Turkey. Because of the extraordinary housing production performance of Turkey, housing productions in urban areas has exceeded the number of households. In other words, developments in quantities of urban housing production and urban households between the 1960 and 2000 caused the gap between urban housing production and urban households to get larger. Although, this chart

also represents an understatement that the number of households covers all urban population but number of dwellings indicates only authorized production, the excess stock reaches more than 20 percent by the year 2000 (figure 1.3). Vacancy rate (3 or 4 percent of the stock) may be needed to get urban mobility, but this rate is much higher then needed. So, it can be interpreted as a housing surplus in urban areas.



**Figure 1.2** Production of Urban Housing Units in Turkey and Developed Countries

(Source: Balamir, 2002, p. 67 -based on UN Yearbook and SIS Construction Statistics)

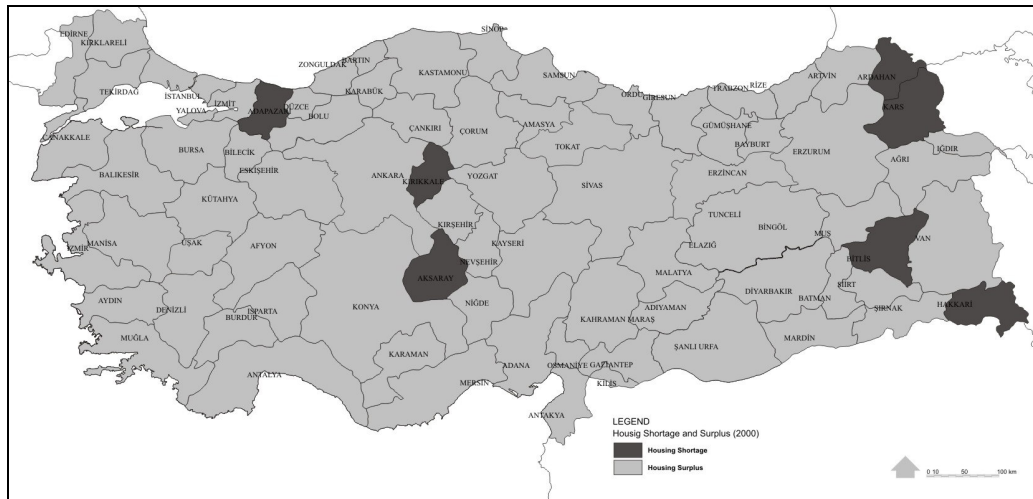


**Figure 1.3** Number of Urban Households and Urban Housing Units

(Source: Balamir, 2002, p. 68)

Besides the volume of housing production, location of houses is also significant. For this reasons, it is needed to analyse housing stock in urban scale. Urban housing stock is analysed by summing province and sub province centre datasets to create province scale dataset.

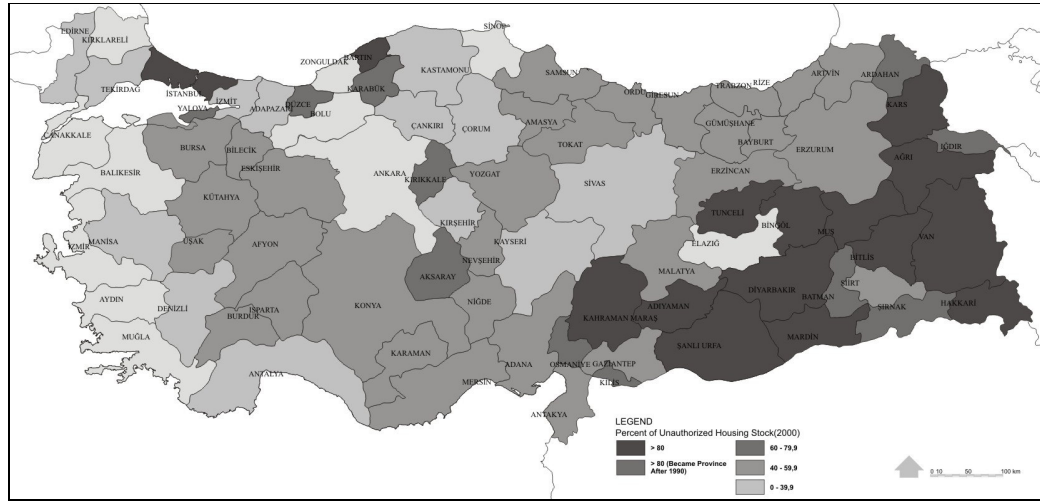
If housing need is reckoned by using authorized housing stock of province and sub province centres, number of households and vacancy rate of 4 percent, it is observed that there is housing surplus in all provinces other than 7 provinces (figure 1.4). Appendix A includes data about the housing stock and housing need.



**Figure 1.4 Urban Housing Shortage and Surplus (2000)**

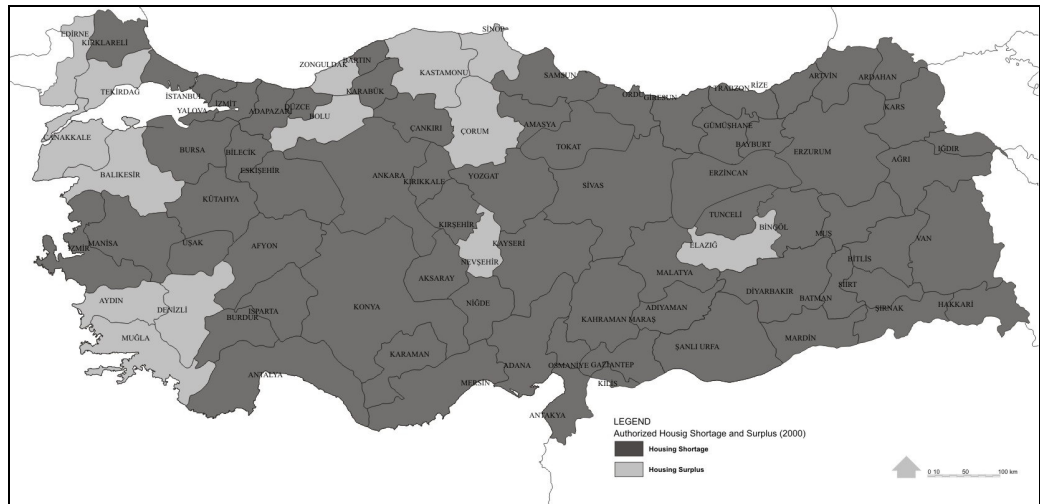
(Source: Produced from SIS, 2000; SIS, 2001 and Konut Müsteşarlığı, 2002)

Lack of comprehensive urbanization/ urban policies and migration resulted in unauthorized development and squatting in Turkish cities. In Turkey, only 64,4 percent of total housing stock has inhabiting permit, which means 35,6 percent of total urban housing stock is unauthorized. Figure 1.5 illustrates the percent of unauthorized urban housing stock by province. Because of the significance of the percent of unauthorized housing in total urban housing stock, it is needed to analyse housing need by using authorized housing stock.



**Figure 1.5 Percent of Unauthorized Urban Housing Stock in Urban Housing Stock (2000)**  
 (Source: Produced from SIS, 2000 and Konut Müsteşarlığı, 2002)

When authorized housing stock, which has construction permit, is considered to calculate housing need, housing surplus is observed in 14 provinces.



**Figure 1.6 Authorized Urban Housing Shortage and Surplus (2000)**  
 (Source: Produced from SIS, 2000; SIS, 2001 and Konut Müsteşarlığı, 2002)

Turkey has produced a huge volume of urban housing stock in the rapid demographic urbanization period. Urbanization rate of Turkey will increase slowly in near future, and urbanization rate and urban population will increase. There will be no housing shortage in terms of quantitative but there will be qualitative housing problems. For these reasons, as

Balamir (2002) emphasizes priority should therefore be given to the existing areas and to the regeneration of the building stock instead of increasing the volume of housing production (Balamir, 2002, 68).

Urban regeneration offers a comprehensive approach to regenerate built environment, and to regenerate urban housing stock, which is unauthorized and in poor conditions.

### **Natural Disaster and Earthquake Risk**

Geographic and climatic features of Turkey make cities exposed to several natural disasters. Cost of ten thousands houses plus their infrastructure must be met each year due to the natural disasters (DPT, 1999). According to the destructed housing units, most influential natural disasters are earthquakes, floods and landslides (table 1.1).

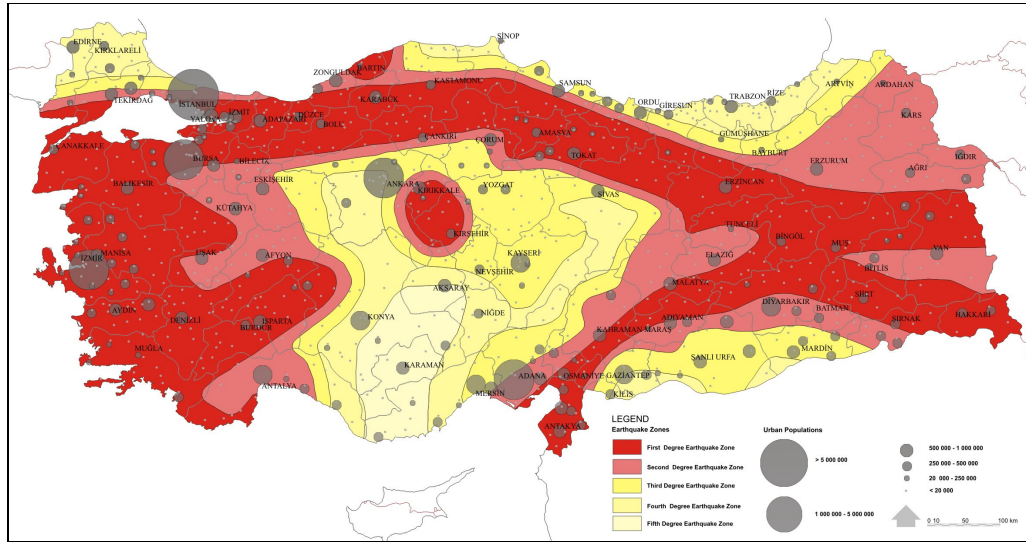
**Table 1.1 Dwelling Units Destroyed by Natural Disasters in Turkey (1930-1999)**

<b>Natural Disaster Type</b>	<b>Percent in Total</b>
Earthquake	61
Flood	14
Landslide	15
Rock falls	5
Fire	4
Avalanche, storm, rain	1

(Source: Ergunay, 1999)

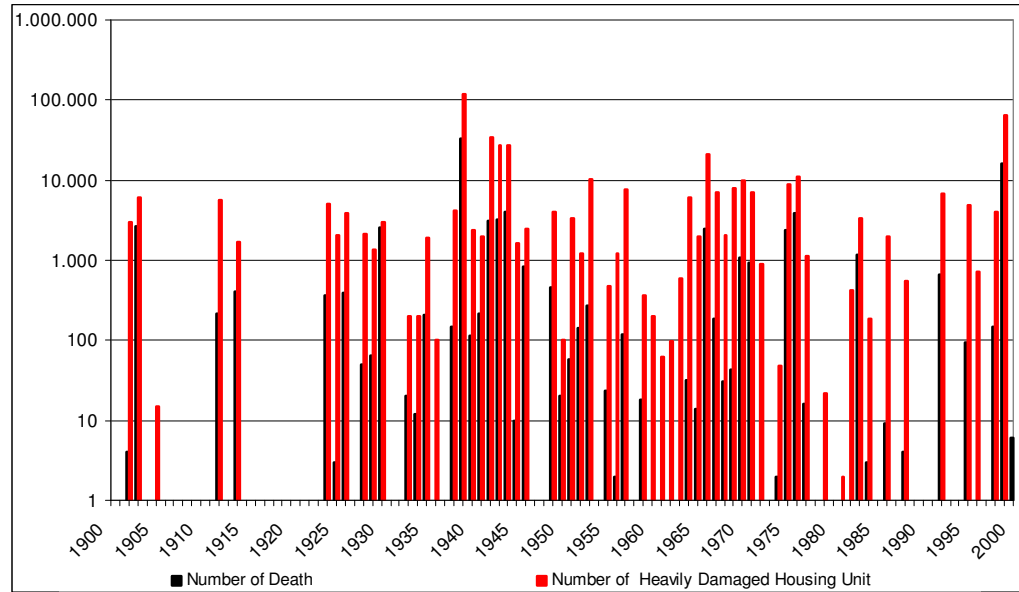
According to the 'earthquake zones map' that is officially valid, the 96 percent of the territory of Turkey is located in prone earthquake regions differing only as to the degree of earthquake hazard, and according to the population census of 2000, 98 percent of the population lives in these regions. The three of five urban settlements, whose population is more than 1.000.000, are located in first degree earthquake zones, and one of them is located in second degree earthquake zones (figure 1.7).

Earthquake is the leading natural disaster in its impacts causing 90 percent of death and injuries. Figure 1.8 shows the number of casualties and heavily damaged buildings due to earthquakes in Turkey during the last century. In total, 130 events are recorded. Total deaths exceed 80.000 and the total number of heavily damaged houses exceeds 440.000. Among them, the worst event was the 1939 Erzincan Earthquake that caused more than 32.000 deaths. The 1999 Izmit earthquake that caused more than 15.000 deaths was the second worst.



**Figure 1.7 Earthquake Zones Map of Turkey and Population of Urban Settlements (2000)**

(Source: Produced from The Ministry of Public Works and Settlement, 1996 and SIS, 2003)



**Figure 1.8 Number of Deaths and Heavily Damaged Houses in Turkey (1900–2000)**

(Source: Bağcı, Yatman, Özdemir and Altın, 1994 and GDDA, 2005)

The features of the urban building stock, which was produced without control and supervision, increases the vulnerability of Turkish cities, in terms of natural disasters. To mitigate natural disaster losses Turkey has to develop risk management methodology.

Because there are several sectors of natural disaster risk in urban areas risk management methodology must be comprehensive.

Due to the basic features of urban regeneration, it offers a comprehensive approach to mitigate the risks in built environment.

The three national reports, prepared to develop earthquake loss reduction strategies point to the inevitability of urban regeneration programs for Turkish cities. These national reports are:

- The report of the National Earthquake Council: 'The National Strategy of the Reduction of Earthquake Losses' published in April 2002,
- The report of the Earthquake Management Study Group in the 2004 Economics Conference of Turkey organized by State Planning Organization in June 2004,
- The reports of 'Earthquake council of the Ministry of Public Works and Resettlement' in September 2004.

***The report of the National Earthquake Council: 'The National Strategy of the Reduction of Earthquake Losses'***

The national strategy of the reduction of earthquake losses recommends mitigation plan, which compiles hazard and risk information and contains resolutions about these hazard and risk (UDK, 2002, 39). The report recommends that mitigation plan firstly should point out action plan areas and development of urban regeneration projects for these areas programs should be programmed.

Motives behind urban regeneration is defined as; "in areas where defected buildings, environmental units, and infrastructure and usage units are of high risk, a special image regime should be implemented; in addition to decisions directed to the building stock, policies like population dilution, bringing sage limitations should be operated by considering the social planning targets. It should be ensured that these areas are subject to common evaluations, planning, physical investments, management and administration forms as collective urban project areas, rather then being considered as the aggregate of a number of single building strengthening projects." (UDK, 2002, 40).

***The report of the Earthquake Management Study Group in the 4<sup>th</sup> Economics Conference of Turkey by State Planning Organization***

The report prepared by 'Earthquake Management Study Group', mentions that the principles that define the standards and methods regarding the earthquake safety in physical organization of our cities, loss reduction, and risk management should take place in



Development Law and bylaws. The report also mentioned that large part of the building stock especially in metropolises including squatters, illegal buildings and buildings against license and its extensions, is insufficient in terms of safety, and that such trends still continue, creates serious difficulties in reaching the targets of earthquake management. It is put forward that according to the current body of law, there is no solution other than pulling down in these areas, and that operations such as excuse, giving license, and strengthening will enlarge the problem of illegal stock and risks (DPT, 2004).

In these areas, urban regeneration planning to be produced are defined as: “it is essential to maintain urban regeneration in areas where such development dominates, by urban physical and social development plans original to the locality, stimulation, and legal and administrative sanctions. Such projects of physical social and safety development have the characteristic of an Action Plan especially in areas of high risk” (DPT, 2004).

#### ***The report of Earthquake Council of the Ministry of Public Works and Settlement’***

In the report, which aims to bring together the decrees of current body of law which are dispersed in many different laws and bylaws, and to develop a system of current body of law which is sensible concerning the earthquake phenomenon, easy to understand, and applicable, urban regeneration plans are defined as such: “they are plans in areas of high risk that require urgent intervention, in which projects aiming at physical and social development in terms of public good, and special physical implementations such as building strengthening, environmental improvement, density reduction, unification and resharing of real estates, putting construction and usage limitations together with social precautions take place” (Bayındırlık ve İskan Bakanlığı, 2004, 46).

The urban building stock is produced to a large extent without control and supervision; yet face a high earthquake and natural disaster risk. Faced with these hazards, it is necessary to develop special policies and approaches to urban areas (Balamir, 2002e).

#### **Low Quality Environment and Urban Expansion**

In urbanization period of Turkey, two different types of urban tissues occurred; authorized and unauthorized areas.

As it was mentioned above, 35,6 percent of total urban housing stock of Turkey is unauthorized, it can be put forward that almost 1/3 of urban areas developed in an unauthorized way. Main problems causing low quality urban environment in unauthorized areas can be listed as

- low quality housing,
- inadequate infrastructure,
- inefficient urban transportation system,
- high population density and congestion,
- inadequate green areas and
- high natural disaster risk.

There exist several problems in unauthorized areas, because these areas developed without any plan or supervision, besides authorized urban areas shaped by market led small-scale contractors' services, without any private or public supervision. In addition to low quality development plans, plan changes resulting increase in population density and decrease in urban service areas result to low quality environment. As a result authorized urban environments have been sub-standard and of low quality in terms of urban services and urban design too.

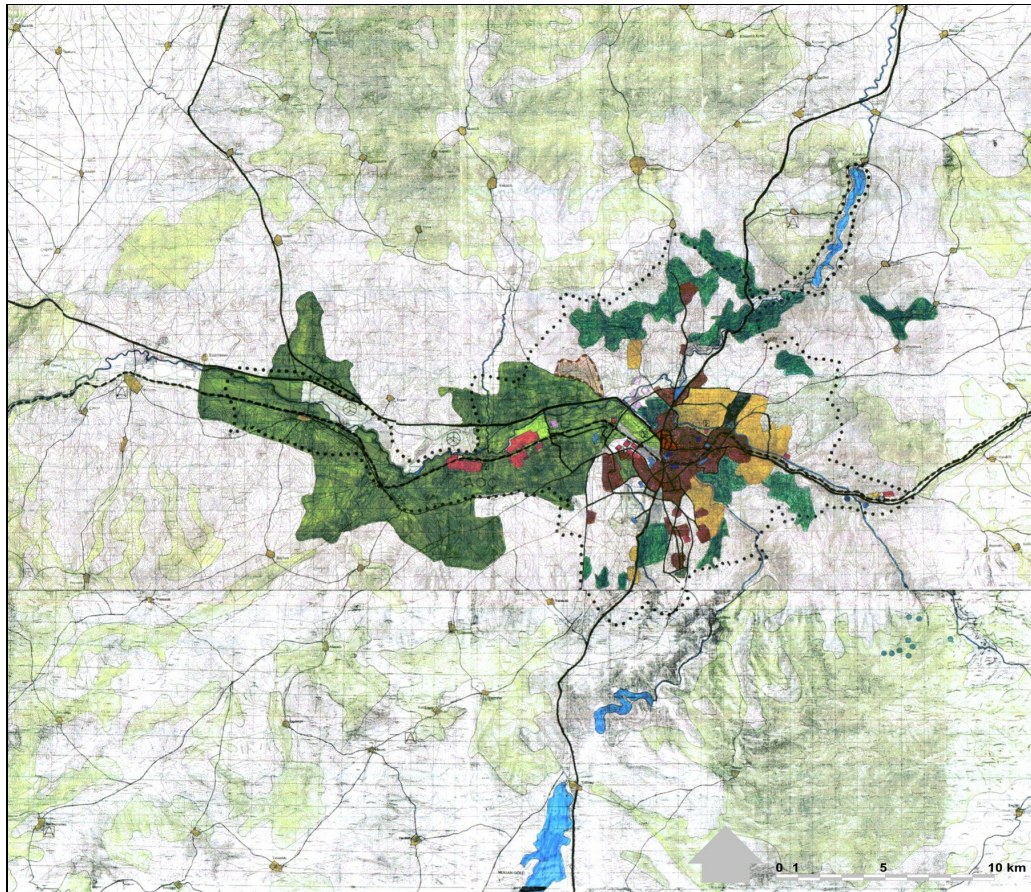
Low quality housing, inadequate infrastructure, inefficient urban transportation system, high population density and congestion, inadequate green areas in some section of the cities are the reasons for low quality urban areas, observed not only in metropolitan cities but also in small towns.

With in the urbanization process, urban population has increased and urban areas have expanded. Because of the Turkey's urban planning approach that is development planning, unnecessarily development areas were planned and urban areas unnecessarily spread. Reasons for urban expansion can be grouped under 2 headings.

- Municipalities prepare development plans more than the current and future needs: there exist two motives for unnecessarily planning
  - One of them is pressure of property owners to municipalities to transform their agricultural land to urban land.
  - Second one is related with the limited sources of municipalities. As municipalities cannot afford areas for urban services, they use readjustment share to get urban service areas.
- Developments in transportation technologies and tendency of high-income groups to move out of the city.

In this process, low-density urban areas arose but valuable natural areas and agricultural areas that have high earthquake risk were settled and cost of supplying urban services, like basic infrastructure and transportation, increases.

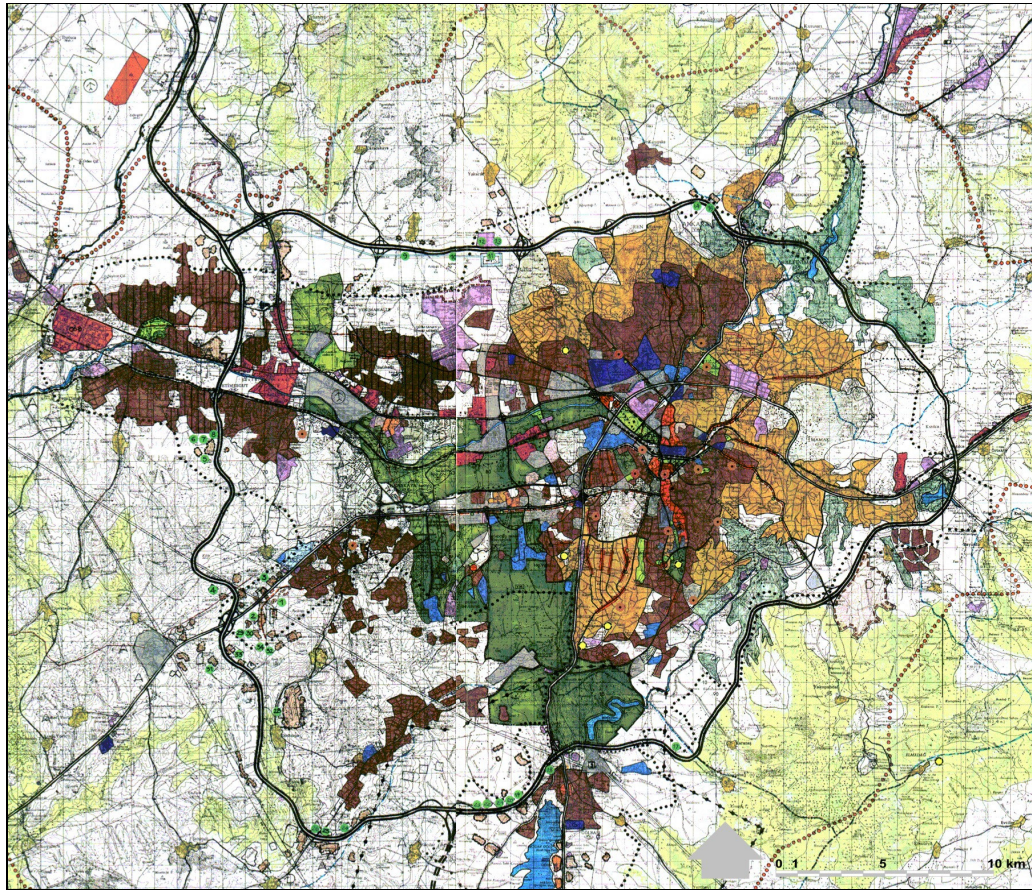
Figure 1.9 and 1.10 illustrate an example for urban expansion. Ankara had a population of about 74.000 and settled on 425 ha in 1950s; population of Ankara has reached about 3.300.000 where as it expanded to 25.245 ha (SIS, 2002 and METU CP 401-402 Planning Studio, 2001-2002). In this period, population of Ankara has increase annually about 3 percent, but urban land use has grown about 8 percent. Some additional functions and usages are required as population of city increase so it is expected that urban land use grow more than population increases but the significance of gap indicates urban expansion.



**Figure 1.9**      **Ankara at 1950s**

(Source: METU CP 401-402 Planning Studio, 2001-2002)





**Figure 1.10**      **Ankara at 2000s**

*(Source: METU CP 401-402 Planning Studio, 2001-2002)*

Urban regeneration offers re-using built environment that it will be possible to create compact urban form and to preserve valuable natural and agricultural areas, to minimize costs of urban services

### **1.1.2 Economic Issues**

#### **Urban Restructuring and Urban Economics**

Technological innovations, improvements in communication systems and transportation technologies cause changes in human activity patterns and space requirements. Changes in interactions between activities affecting densities and locations of residential, employment, shopping, and recreational activities, transport and communications and at the relevant infrastructure needs (Kovancı, 1996, 28)

Together with the changes in interactions between activities, advantages pertaining to the location change so urban usages as decisions in market system change. In this process, as industries move out of the city, unused or unutilized industrial buildings/ complexes occur.

In addition to changes in urban usages, densities could cause to urban decay and deterioration. New urban centres or new commercial complexes can cause to depressions in urban centres. For example in Ankara, as specialized central activities moved in parallel to the increase in the metropolitan nature the city from Ulus to Yenışehir, Yenışehir became the second centre in the city (Aksel, 2000). Although characteristics of these centres were different, Ulus entered a stagnation period, and slum areas appeared in Ulus.

### **1.1.3 Social Issues**

#### **Social Deprivation, Social Exclusion and Social Tensions in Urban Areas**

Current urban regeneration projects in Turkey are market oriented and ignore social issues, where as there exist several social problems, like social deprivation, social exclusion and social tensions, in urban areas that must be considered in urban regeneration projects.

Urbanization period has brought not only physical/ environmental problems but also significant social problems. New cities occurred at suburbs in the urbanization process. Together with the deficiency of basic urban services that cause to a gap between quality of life in cities and settlements around cities, socio-economic status of new comers resulted in social tension in Turkish cities.

Some Turkish cities, like İstanbul and Ankara, are experiencing the growing concentrations of poverty and unemployment in particular neighbourhoods. Urban deprivation and social exclusion that are part of the EU agenda need to be addressed in Turkey (Gibson, Kocabaş and Öztaş, 2003).

Besides, according to Balamir (2002e) the excess stock that has been created in more than six decades, has also brought together a significant social problem. The urbanization unique to Turkey was the result of processes based on real estate possession. These caused layers of rich real estates were formed. Although tenants and landlords can live in the same location, they are separated from each other socially, and lost the opportunity of transition from one another (Balamir, 2002e).

On the other hand, parallel to the urban restructuring mentioned above slum areas occur in old city centres, where social-economic and physical deterioration in progress. Turkey has to develop policies for social deprivation, social exclusion and social tensions in urban areas. These policies have to be linked with physical and economic issues

#### **1.1.4 Comparison of New Development and Regeneration**

Needs expressed for urban regeneration policies in Turkey explained above show that Turkey has to shift to policies of urban regeneration, but comparing results of urban regeneration with the current urban planning policy, development planning, could emphasize the need of urban regeneration policies in Turkey.

As it was mentioned above, new development approach defines 2 zones: cadastral and planned zones. It includes process of transformation from cadastral zone to planned zone. The only tool used in this approach is planning new settlement areas. Whereas urban regeneration approach mainly focus on built up areas and considers urban area as an entire system of social, economic and physical issues.

Comparing pros and cons of new development and regeneration approaches is investigated by noticing scope and results of approaches under above-mentioned 3 issues. Pros and cons of these two approaches are summarized in Table 1.2. As it can be seen from the table, there is only one pro for new development which is ability of meeting urban area requirements rising from population increase, whereas there is no con against urban regeneration approach. On the other hand, urban regeneration approach does not aim to meet urban area requirement rising from population increase. Besides, new development has several cons but urban regeneration approach has several features transforms these cons to pro.

As a result of this comparative analysis, it is clear that urban regeneration offers several opportunities for urban planning and urban development in terms of scope and intervention tools.

**Table 1.2 Comparison of New Development and Regeneration**

	New Development	Urban Regeneration	
	<b>Physical/ Environmental Issues</b>		
P I O	Development plans meets urban area requirements rising from population increase	Urban regeneration aims to meet urban area requirements rising from population increase	P I O
C O N	Development plan only deals with new development area and does not consider built up areas.	Urban regeneration deals with mainly built up areas.	P I O
	Parallel to the increase in the urban population opening a new development area is required, but planning new settlement area more than the city's necessity causes to urban sprawl.	Urban regeneration aims to reuse vacant, unutilized areas and aims to prevent urban sprawl	
	Planning new settlement area more than the city's necessity means pillage of the fertile agricultural areas, natural assets.	Urban regeneration conserves the fertile agricultural areas, natural assets by reusing vacant, unutilized areas	
	Turkey's development planning approach does not have vision of looking from macro scale; it mainly deals with plot and building scale issues.	Urban regeneration approach requires a planning hierarchy and implemented as a reflection of city vision and covers all issues in urban environment.	
	Plot or building scale implementation, results in piecemeal development and low quality areas	Urban regeneration approach aims to upgrade low quality areas	
	Although it mainly deals with plot and building scale issues, it can not prevent a huge amount of low quality housing	Urban regeneration approach aims to upgrade low quality housing	
	<b>Economic Issues</b>		
C O N	Development plan does not consider economic structure of city,	It considers economic structure of city aims to improve the economy.	P I O
	It represents land use plan and does not go beyond the indicating commercial industrial uses	It defines economic sectors hoping improve the economy and develops strategies to develop expected sectors	
	Offers low cost settlement development at suburbs due to the low land prices	High land prices increases the cost of regeneration	
	It affects urban rent by opening new development areas.	It regenerates the area that has locational advantages but lost its importance due to regression in urban functions or social or physical depression and raises the value of area.	
	Urban sprawl increases the cost of supplying urban services like infrastructure and transportation, due to the delivery cost.	It reduces cost of supplying urban services by forming compact urban macroform	
	<b>Social Issues</b>		
C O N	Development planning approach does not consider social issues in urban environment	Urban regeneration approach defines urban area with its social, economic and physical issues as a complete	P I O
	It look the quantitative housing problem as a social issue and	It aims to minimize social deprivation, social exclusion and social tensions	

Due to the reasons explained above, main concern of Turkey's urban policy should not preparing new development plans or constructing new dwelling units. Housing need arise from increase in urban population can be meet with regenerating the urban areas which has

- unauthorized building stock,
- authorized building stock having low quality,
- earthquake risk or other natural risks,
- low quality urban environments.

On the other hand urban regeneration deals with not only physical or environmental issues, but also social and economic issues, as a comprehensive planning approach. For this reason urban regeneration can be implemented in areas which have economic, social problems.

Instead of preparing new development plans or constructing new dwelling, regenerating the urban tissue produces some pragmatic results, such as;

- creating habitable residential or working areas,
- increasing urban standards,
- solving urban or regional problems,
- creating competitive cities, and
- creating compact urban form and reducing cost of urban services.

Due to these reasons, Turkey has to develop a comprehensive urban policy framework including intervention to low quality urban areas in terms of not only physical aspects but also social and economic aspects. Turkey has to upgrade urban environment extensively both to increase quality of environment and to mitigate natural hazard risk, by means of redesigning urban environment, improving housing standards, infrastructure and transportation facilities and social services, which are possible by comprehensive urban regeneration policies.

Turkey has to upgrade urban areas both to increase quality of environment and to mitigate natural hazard risk, by means of redesigning urban environment, improving housing standards, infrastructure and transportation facilities and social services.



## **1.2 The Necessity of Procedural Guidance and Legal Framework for Urban Regeneration Projects in Turkey**

Urban regeneration has recently been on the centre of urban policies in Turkey. Many urban regeneration projects are in preparation or implementation stage at current. Lack of legal frame for urban regeneration projects results in confusion in the rearrangement process of built up areas. There have been several attempts to regulate this process. Still there is not uniform understanding of scope of urban regeneration and definition for process and participation of urban regeneration. Laws and draft laws regarding issues and process of urban regeneration are;

1. The law of greatercity municipalities (5216; 2004)
2. The law of municipalities (5272; 2004)
3. The law concerning the northern entry to Ankara urban regeneration project (5104; 2004)
4. The draft law of urban regeneration (prepared by the ministry of public works and settlement, 2004)
5. The sketch of the draft law of development (prepared by the ministry of public works and settlement, 2004)
6. Sketch of draft law of planning and development (prepared by the ministry of public works and settlement, 2005)
7. The draft law of urban regeneration and development (draft law sent to Grand National Assembly of Turkey in March 2005)
8. The law about the rehabilitation of historical and cultural property (5366; 2005)

Significance of the urban regeneration, as a comprehensive urban policy, for Turkish cities besides, lack of uniform understanding of scope of urban regeneration and definition for process of urban regeneration incites the process by legal regulation.

## **1.3 Objectives and Methodology**

Major aim of the study is to define process and participation in legal regulation of urban regeneration in Turkey and to define required modifications in legal framework for successful urban regeneration projects in Turkey.

Although there are several components effecting procedural steps of urban regeneration projects like features of the project area, aim and the scope of the project and planning approach, legal framework for urban regeneration projects is the most influential one in

terms of procedural steps of urban regeneration. For this reason, dealing with process and legal framework together makes the definition of process and participation for legal framework more realistic.

Definition of procedural steps, participation and legal framework for urban regeneration projects, first of all, requires reasons behind urban regeneration. For this reason, motives behind urban regeneration projects in Turkey are needed to investigate to understand problems in existing built environment.

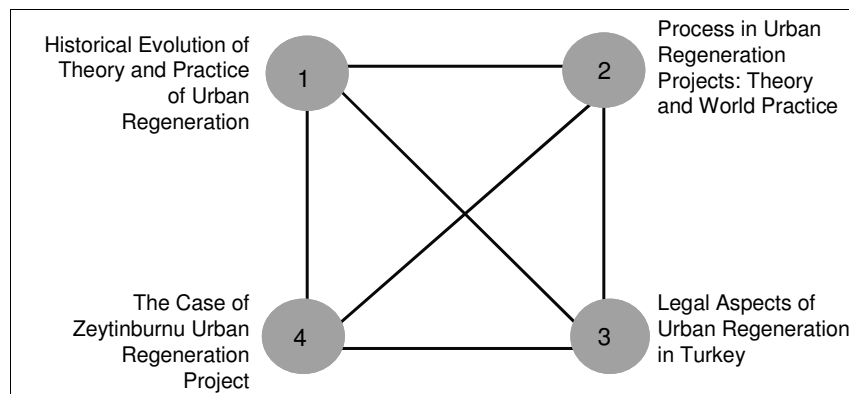
Secondly, it is needed to comprehend the concept of urban regeneration and historical evolution of urban regeneration issues.

Thirdly, finding out processes offered in urban planning theories and foreign urban regeneration practices with respect to the regeneration issues focusing on their institutional and legislative aspects besides practices in terms of procedural steps offers broad information to define process and participation.

Fourthly, examining Turkish legal framework in terms of urban regeneration projects in order to understand both threads and opportunities legal framework offers would be beneficiary while defining legal framework for urban regeneration projects. Besides investigating applications practiced in the history aiming regenerate urban area introduces beneficiary information.

Fifthly, investigating the procedural steps of a current urban regeneration project, as a case study could be beneficiary both to see detailed procedural steps, participation and problems requiring legal arrangements.

Organization of the chapters reflects this methodology. Figure 1.11 illustrates the methodology of the thesis.



**Figure 1.11 Methodology of the Thesis**

After defining need to shift to policies of urban regeneration and procedural and legal arrangements in the first chapter of the thesis, historical evolution of theory and practice of urban regeneration and interventions under urban regeneration are discussed. In the second chapter, defining basic principles and content of the urban regeneration is the main aim.

The third chapter focuses on theory and practice of procedural steps of urban regeneration projects. Process in urban regeneration projects with regards to procedural steps put forward in theories of urban planning is evaluated. Besides institutions, legislative aspects and practices of England and Netherlands are discussed. Third chapter aims to elaborate guiding theoretical bases and world practices for the issues of urban regeneration in Turkey.

The fourth chapter includes analyses of legal structure of planning and related laws in terms of urban regeneration and applications practiced in the history aiming regenerate. This chapter intends to understand both threads and opportunities legal framework offers.

The fifth chapter investigates the case of Zeytinburnu Urban Regeneration Project which is a pilot local action plan started in 2003. It is selected as a case study, due to the fact that it is the most comprehensive regeneration project with regard to its targets and it is the most extensive urban regeneration project with its coverage area. Zeytinburnu Urban Regeneration Project is investigated with key features of the project and procedural steps of the project. This chapter aims to provide a current example for procedural steps and problems requiring legal arrangements.

The sixth chapter, the last chapter, reciprocally integrates the previous analyses and findings underlines the fundamental issues, and aims to indicate how needs be met and appropriate tools and measures could be achieved in the regulation of urban regeneration in Turkey.

## **CHAPTER 2**

### **HISTORICAL EVOLUTION OF THEORY AND PRACTICE OF URBAN REGENERATION**

Towns and cities change over time, and this  
process of change is both inevitable and  
can be viewed as beneficial.

Roberts, 2000, 11

Urban regeneration approaches that arise as response to urban problems and changes in urban areas evolved depending on the problems and changes. This chapter aims to provide an evolution of urban regeneration approaches in terms of procedural steps and legal aspects of regenerative activities with respect to urban problems and changes in urban areas. Evolution of urban policies assists the understanding of why and how urban regeneration policies, legal framework and implementation process transformed. This chapter also aims to understand 21<sup>st</sup> century urban regeneration planning approach.

In this context, first of all, definition of urban regeneration and intervention types in regeneration are explored. Secondly historical evolution of urban regeneration approaches in terms of and procedural steps and legal aspects are elaborated. Thirdly basic principles of 21<sup>st</sup> century urban regeneration planning approach are defined. Finally, the chapter is evaluated in terms of procedural and legal aspects of urban regeneration.

## **2.1 Definition of Urban Regeneration and Intervention Types in Regeneration**

### **2.1.1 Definitions of Urban Regeneration**

'To re-generate' means 'to generate again, bring renewed existence'. On the other hand, urban regeneration means more than re-use and renew social, economic and physical structure of existing urban areas. Urban regeneration is a set of action that responds to changes and challenges directed by the economic, social and physical transition in existing built environment. Urban regeneration includes action both aiming to change built environment and directed to changes in built environment. It is a comprehensive term including actions oriented to social, economic and physical components of built environment.

Urban regeneration includes actions oriented to social component because it is about upgrading skills, cultural education facilities, creation and quality of job, social deprivation and exclusion, income level and wealth. Urban regeneration is about creation of attractive urban functions, generation of resources and income so it includes economic component oriented actions. Urban regeneration includes actions oriented to physical component because it is about upgrading building and housing conditions, infrastructure and transportation facilities. As a result, urban regeneration is a multi-dimensional phenomenon.

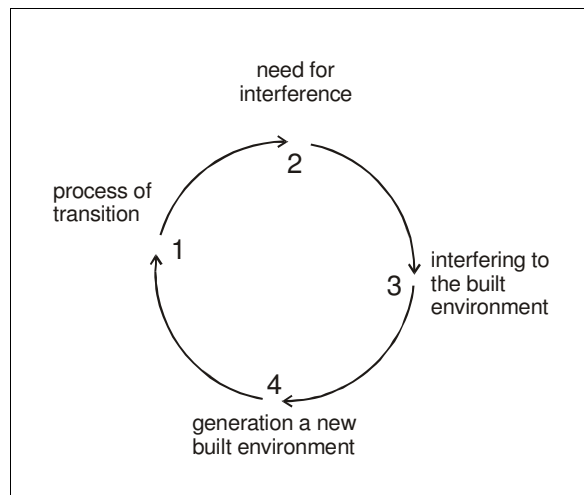
Roberts (2000) makes a more concise and clear definition of urban regeneration as 'a comprehensive and integrated vision and action which leads the resolution of urban problems and which seeks to bring about a lasting change in the condition of an area that has been subject to change' (Roberts, 2000, 17).

Urban regeneration is a comprehensive and integrated vision and action because urban regeneration projects consider social, economic and physical/ environmental issues all together. Urban regeneration is an action taken to meet the current and future requirements that emerge due to the new developments.

According to these definitions, urban regeneration process may be grouped in four phases;

1. Process of transition in social, economic or physical components of the city,
2. Understanding the need of interference to the built environment,
3. Interfering to the built environment, and
4. Generation a new built environment and relations different from the previous one.

This process illustrates a cycle (figure 2.1).



**Figure 2.1 Urban Regeneration Process**

As Kovancı (1996) mentions urban regeneration can be considered as an umbrella concept encompassing several elements of urban planning process with in an integrated scheme. All actions directed to built environment can be put under this umbrella concept as different intervention types. Urban regeneration includes different methods and operations directed to built-environment from conservative to innovative approaches. In this context, urban regeneration covers the actions, operations and methods from slum clearance to conservation, like renewal, redevelopment, rehabilitation, preservation, clearance, improvement, conservation, restoration, reconstruction, infill development and refurbishment.

### **2.1.2 Intervention Types in Urban Regeneration**

Urban regeneration as an umbrella concept, includes different methods and operations directed to built environment from conservative to innovative approach. All intervention types are directed to existing urban environment but they vary according to the main concerns. Some interventions aim to transform only physical structure; some include actions to change social and economic structure.

Interventions that aim to improve social structure involve strategies to;

- improve job opportunities,
- reduce crime rates,
- increase cultural and education opportunities,
- decrease social exclusion and remove social tensions, and
- eradicate disease, the provision of adequate housing.

Interventions that involve actions to physical/ environmental structure aim to improve living standards by means of supplying basic requirements of urban environment and housing conditions. These interventions may involve strategies to;

- change intensity and create open space,
- improve poor housing conditions,
- improve infrastructure facilities, and
- solve traffic problems and to increase accessibility.

Economic based interventions which aim to strengthen economic structure may have the strategies to;

- load new functions or to change functions,
- build new economic relations, and
- create attractive cities and regions.

Distinct classification of strategies according to aims is not proper for urban areas, because of the definition and complexity of urban. To strengthen economic structure, for example, besides the economic based strategies, physical/ environmental and social oriented strategies are required.

Definitions and main concerns of interventions in urban regeneration are explored in the follow part of the study.

#### **2.1.2.1 Renewal**

Urban renewal is an action directed to physical components of built environments. Although it is an outcome of the economic and social forces, it does not consider social or economical issues of built environment. Urban renewal refers to action to cope with actual or potential obsolescence, ranging from varying degrees of amelioration in the existing fabric to its complete replacement. Since any renewal decision implies a commitment of economic resources, such factors are accordingly brought into the decision to review via economic analysis (Lichfield, 1988, 25).

Couch (1990) defines urban renewal as a physical change, or change in the use or intensity of use of land and buildings, that is the inevitable outcome of the action of economic and social forces upon urban areas.

Grebler makes some comprehensive definition of the term as a deliberate effort to change the urban environment through planned large-scale adjustment of existing city areas to present and future requirements for urban living and working. It extends to non-residential as well as residential land uses (Grebler, 1964, p. 13).

According to Grebler, urban renewal process involves the replanning and comprehensive development of land or the conservation and rehabilitation of areas which are threatened by blight or are to be preserved because of their historical setting and cultural values—all in the framework of an over-all plan for a city's development (Grebler, 1964, p. 13).

#### **2.1.2.2 Clearance**

Clearance, which was used in the beginning of urban regeneration practices, is an action concerning the physical conditions and functional issues of built environment. It can be defined as the removal of inefficiently used urban areas for some other purpose (Günay, 1991, 3). This intervention type of urban regeneration was generally used in slum areas. Carmon defines slum clearance as a process of replacing slum areas with shopping centres, office building, and cultural and entertainment centres (Carmon, 1999).

This process focused on physical conditions and ignored social, economic issues. Critics for ignoring the heavy psychological cost of enforced relocation and the social cost of the destruction of healthy communities (Carmon, 1999).

#### **2.1.2.3 Redevelopment**

Redevelopment is generally used in physically deteriorated areas and has potentials for new functions or activities. 'Redevelopment operations tend to totally change the general layout of an area by rearrangement of buildings and roads, because it can not anymore provide opportunities for second economic activity or satisfactory living conditions' (Günay, 1991, 5). The objective is to remove the existing fabric and life pattern. This type of action is criticized and more adoptive policies have been developed in time (Özkan, 1998, 32).

#### **2.1.2.4 Improvement**

Improvement, which is directed to physical condition of the urban areas, includes the actions to improve the physical conditions of the built environment and aims to improve the physical conditions for enabling the continuation of existing use, functions and activities. It is used for the areas dereliction or insufficiency of existing fabric takes place because over-burden and over-usage (Özkan, 1998, 33)



#### **2.1.2.5 Rehabilitation**

Rehabilitation, which is also called as 'reconditioning', 'renovation', 'remodelling' and 'adaptive use', points to keeping main physical characters but loading new urban functions, activities. Lichfield defines rehabilitation as to adopt the building to a contemporary use which will be capable sustaining it (Lichfield, 1988, 26). Fitch makes a more detailed definition of adaptive use as the new use is to be inserted into the old container with the minimum visual dislocation and it is often the only economic way in which old building can be saved, adapting them to the requirements of new tenants (Fitch, 1976, 44-47).

#### **2.1.2.6 Preservation**

Preservation is a program of maintenance and intervention designed to prevent further deterioration and to keep a building, structure or site "as is" (Oberlander, Kalman and Lemon, 1989). Nothing is added to or subtracted from the aesthetic corpus of the object. Any interventions necessary to preserve its physical integrity (e.g. protection against fire, theft, or intrusion; heating, cooling, lighting) are to be cosmetically unobtrusive (Fitch, 1976, 46).

#### **2.1.2.7 Conservation**

This type of regeneration action is used in historical areas so as to preserve the urban fabric displaying architectural quality or basic characteristics of specific historical epochs. This type of operation is differentiated into two sub-types as 'direct' and 'indirect' by Lichfield. Direct conservation is to add or apply supportive materials into the actual fabric so as to ensure its continued durability and structural integrity. In the case of indirect conservation, the goal is the prevention of deterioration by a sound maintenance program and controlling environmental pollution (Lichfield, 1988, 26).

#### **2.1.2.8 Restoration**

Restoration, which is also called as 'restitution', is returning a building, structure, site or object to the appearance of an earlier time by removing later material and by replacing missing elements and details (Oberlander, Kalman and Lemon, 1989). Fitch defines the term as the process of returning the artifact to the physical condition in which it would have been at some previous stage of its morphological development (Fitch, 1976, 46).

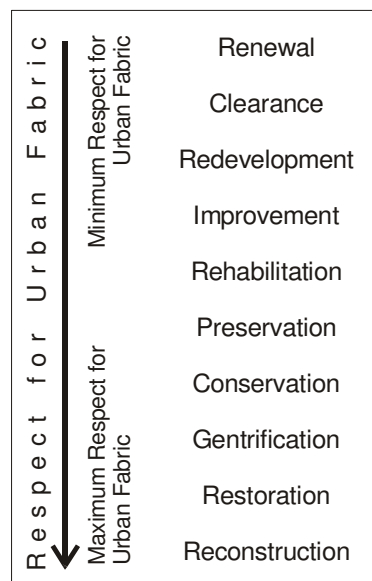
### 2.1.2.9 Reconstruction

Reconstruction is reproduction of a building, site feature or artifact that no longer exists with new construction that exhibits the shape, material and detailing (and often construction methods) of the resources as it once appeared (Oberlander, Kalman and Lemon, 1989). As Lichfield mentions that reconstruction could take place on the same site or in extreme cases, on another (Lichfield, 1988, 269).

### 2.1.2.10 Intervention Types and Specified Concerns

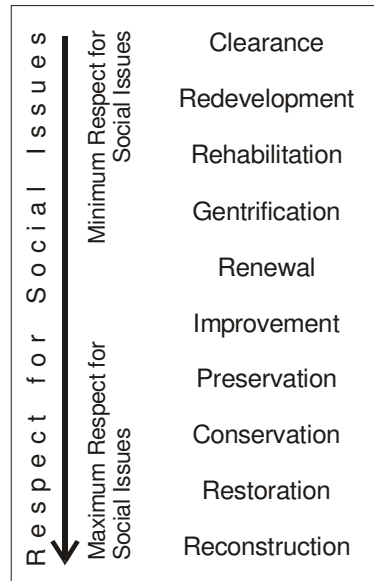
Each of these interventions aroused from the aim of managing the built environment. All of them became dominant in a period of time. Critics directed to interventions, because of the scope of the intervention and problems in the process and result of interventions, cause to improvements in interventions.

Figure 2.2 gives evaluation of urban regeneration interventions with respect to changes in the degree of physical/ environmental concern. While in the actions of renewal, clearance, redevelopment and improvement respect for the physical/ environmental issues is very low, in the case of rehabilitation, preservation, conservation, gentrification, restoration and reconstruction degree of physical concern is very high.



**Figure 2.2 Urban Regeneration Interventions: Extent of Intervention and Respect to Physical Structure**

*(Source: Adopted from Lemon, 1989, 6)*



**Figure 2.3 Urban Regeneration Interventions: Extent of Intervention and Respect to Social Structure**

Figure 2.3 summarizes the changes in urban regeneration interventions according to the degree of social concern. In the case of clearance, redevelopment, rehabilitation, gentrification, renewal social issues are not considered but actions taken to physical structure result to changes in social structure indirectly. On the other hand, although preservation, conservation, restoration and reconstruction do not make a specific treatment for social issues, these type interventions has minimum effect on social structure.

Table 2.1 gives an evaluation for transmission of former peculiarities in physical characteristics in functions. While in the actions of rehabilitation, preservation and conservation mainly physical characteristics are transmitted into the regenerated area, in the case of improvement, restoration and reconstruction both the existing functions and physical structure are to be transmitted. In some of the intervention types neither one of the two characteristics are necessarily transmitted into newly generated area such as renewal, clearance and redevelopment.

**Table 2.1 Intervention Types and Effects on Built Environment**

Types of Intervention	Changes in Existing Physical Characteristics	Changes in Existing Usage, Functions and Activities	Changes in Neither One of Them
Renewal		•	•
Clearance			•
Redevelopment			•
Improvement	•	•	
Rehabilitation	•		
Preservation	•		
Conservation	•		
Restoration	•	•	
Reconstruction	•	•	

(Source: Özkan, 1998)

Table 2.2 evaluates driving force behind the intervention type in terms of physical characteristics in functions. While the actions of rehabilitation, preservation and conservation occur in the case of absence and inconsistency of physical environment as a result of urban decline, the actions of renewal, improvement and reconstruction emerge in the case of absence and inconsistency of physical environment as a result of urban growth. On the other hand, the actions of clearance, redevelopment and restoration both urban growth and urban decline might be the driving force.

**Table 2.2 Driving Force Behind Intervention Types**

Types of Intervention	Urban Growth (absence and inconsistency of physical environment)	Urban Decline (absence and inconsistency of functions and activities)
Renewal	•	
Clearance	•	•
Redevelopment	•	•
Improvement	•	
Rehabilitation		•
Preservation		•
Conservation		•
Restoration	•	•
Reconstruction	•	

(Source: Özkan, 1998)

Partial interventions ignoring some components of city were criticized and comprehensive approaches, concerning all components of the urban environment have gained importance in the last decades. In the following part of the chapter, after elaborating the historical evolution of urban regeneration approaches and procedural steps and legal aspects of regeneration activities, basic principles of current urban regeneration planning approach will be defined.

## **2.2 Historical Evolution of Urban Regeneration Issues: Changes in Urban Areas and Responses to Changes**

Urban areas originate from the interactions that occur in the political space between physical/ environmental, social and economical factors, these are the main components of the urban areas. Urban area can be thought as a function, which has three variables; physical/environmental, social and economic. If one of the variables changes, other two variables is affected by the change and they change inevitably. For example, when economic structure of whole urban areas or a part of urban areas changes, this influences the physical/environmental organization and social structure.

Urban area accommodates various functions and there are interactions between these functions, which forms a complex system. Various elements influence the urban environment and cause to urban changes. Towns and cities change over time, and this process of change is both is inevitable and can be viewed as beneficial (Roberts, 2000). It is inevitable because changes in one of the social, economical and physical/ environmental elements affects directly and indirectly, by means of affecting other components, urban areas. Economic, social and physical factors are the most significant drivers of change.

Technological development, innovations, globalization and changes in markets and consumption patterns cause to economic restructuring. Process of economic restructuring both directly and indirectly affects the urban areas. Process of economic restructuring directly affects the urban areas because of the changes in economic structure. It indirectly affects the urban areas because of the effects of economic restructuring to physical/environmental and social life. This process generally covers;

- the industrial re-organization,
- the internationalization of markets,
- the relocation of industrial investments,
- the transnationalization of corporate competition,
- trends in the movement of capital from manufacturing in favour of diversified investment,
- trends in the movement of labour force from industrial to service employment,
- the movement of manufacturing industries into capital-intensive production, and
- the active competition among agents of local economic growth for mobile investment capital (Feagin and Smith, 1987).

Process of economic restructuring causes to;

- changes in settlement pattern at regional and sub-regional scale
- urban growth/ expansion and changes in land use pattern at city scale.

Poor physical conditions, unsatisfactory and outdated dwellings, physical decline and slum conditions, insecure environment, low standards of urban quality and their impacts on the urban areas caused to changes in urban areas. Social deprivation, social exclusion, social tensions, social concerns like health also cause to changes in urban areas.

Roberts (2000) explains that process of change can be viewed as beneficial. Although changes in physical/environmental, social, economic and political factors produce new threads for the urban environment it also creates opportunities to adjust and improve the condition of urban areas.

The responses to changes in urban areas have varied place to place and over time, depending on the social, economic and physical/ environmental conditions and changes in the urban areas.

Although urban regeneration, with its today definition, has been one of the significant urban phenomena for two decades, some types of regenerative actions such as slum clearance and improvement of old part of urban fabric have a long history. The big fire in Rome whose reason behind was Nero's will to remove the residential areas in extreme poverty (Numford, 1966), Haussmann's restructuring of central Paris, the edict of 1607 in France and renewal of inner city ghettos of Tokyo in 1880 are the oldest examples of regenerative actions. The difference between recent decades and the efforts in the past is the size and complexity of the problems, the speed of change, and the sophistication of policy (Couch, Fraser and Percy, 2003, 2).

Historical evolution of urban regeneration can be reviewed in six generations that differentiate according to dominated policies and reasons behind the policies. Although sharp distinction of these eras is not possible, periods may be defined as;

- before Second World War,
- after Second World War until 1960,
- 1960s,
- 1970s,
- 1980s, and
- after 1990.

In the following part of the study, dominant policies and reasons behind them are evaluated with referring to the Table 2.3.

### **Slum Clearance: Urban Policy until Second World War**

First generation, which is also called as the era of the bulldozer, emphasizes physical determinism and built environment. Attempts starting from the 1900s until Second World War time were mainly slum clearance. The slums of the nineteenth century, which were the product of a society that paid insufficient attention to the living conditions of the majority of urban residents, were acknowledged as unacceptable. After relating poor physical conditions and social deprivation, several policy interventions emerged to improve the living conditions of urban residents. On the other hand, Carmon explains the reason behind the idea of slum clearance as willing to make “better use” of central urban land and drive the poor out of sight (Carmon, 1999, 146). These areas were cleared and redeveloped by using the central governments funds.

These policies were supported with acts. In the United Kingdom, the process started on a massive scale with the Greenwood Act of 1930 (Short, 1982). In the United States, there is disagreement over whether to attribute the starting point to the Housing Law of 1937, or as many propose, to assign it to the legislation of 1949, which was the first to recognize public responsibility for the settlement of all families in the United States in decent and affordable housing (Carmon, 1999, 146).

Although policies were supported with acts, there were irrefutable differences between slum clearance operations in Europe and America in terms of the scale of the projects, their meaning, aim, etc. In America, the scale of the clearance projects was so large and all the existing fabric was totally cleared. There was no replacement policy for the displaced people (Özkan, 1998, 17). While in Europe, slum clearance operations were implemented under housing policy, so as to clear unhealthy housing areas and residents were subsidized by social housing.

Management of the operations was also different. The public authorities in the UK managed both the clearance and the provision of housing for those relocated in new council housing. In America, by contrast, concentration and clearance of land sites was generally done by public agencies, while the new construction was in the hands of private entrepreneurs (Carmon, 1999, 146). The slum areas were frequently replaced by shopping centres, office buildings, and cultural and entertainment centres, all of which were in high demand in the booming years that followed World War II.

Clearance process in UK began with the declaration of unfitness either of an individual house or a wider area. This part of the process was controlled by the public health acts (Özkan, 1998, 19). Dwellings that were judged 'unfit for human habitation' were legally defined as having no value. Over a million dwellings are evaluated as unfit for human habitation. Local municipalities acquired these properties. They were demolished and replaced by municipally owned and managed housing called social housing. Social housing areas were designed with new schools, public open space, and other community facilities. Main characteristics of these development programmes were municipalities that made all the decisions without any discussion with local people (Gibson, Kocabaş and Öztaş, 2003, 2). Clearance process in UK can be summarized as;

- declaration of unfitness,
- purchasing the unfit houses,
- demolishing unfit houses, and
- replacing them by social housing.

The organizational model was a top-down centralized. Residents were wholly passive actors and have no participation to local authority's decisions. Despite the significant differences in the nature of activity in the two countries, the criticism voiced against most of the projects in the US and UK was similar (Wilmott and Young, 1957). The executors were criticized for ignoring the heavy psychological cost of enforced relocation and the social cost of the destruction of healthy communities (Carmon, 1999, 146).

Process and product of slum clearance were also criticized. Clearance of the large areas often took many years to complete. After the declaration of unfitness, the neighbourhood was seen to have no long term future, owners of property made no investment, besides municipal services declined and the infrastructure deteriorated. This process was criticized as being the long slow death of the slums.

The clearance process resulted in two unwanted situation, which were criticized. One of them was high rise apartments up to 20 storeys which were redeveloped in clearance areas to supply facilities such as parks, community facilities and a modern road pattern. Second one was relocation of some residents to new peripheral estates, which was a must because of the high density of slums areas.

The Second World War, which halted the slum clearance momentum, resulted in a new policy: reconstruction of the war damaged fabric.



**Table 2.3 Evolution of Urban Regeneration**

<b>Period</b>	<b>1950s</b>	<b>1960s</b>	<b>1970s</b>	<b>1980s</b>	<b>1990</b>
<b>Policy type</b>	<b>Reconstruction</b>	<b>Revitalization</b>	<b>Renewal</b>	<b>Redevelopment</b>	<b>Regeneration</b>
Major strategy and orientation	Reconstruction and extension of older areas of towns and cities often based on a 'master plan'; suburban growth.	Continuation of 1950s theme; suburban and peripheral growth; some early attempts at rehabilitation.	Focus on insitu renewal and neighbourhood schemes; still development at periphery.	Many major schemes of development and redevelopment; flagship projects; out of town projects.	Move towards a more comprehensive form of policy and practice; more emphasis on integrated treatments.
Key actors and stakeholders	National and local government; private sector developers and contractors.	Move towards a greater balance between public and private sectors.	Growing role of private sector and decentralization in local government.	Emphasis on private sector and special agencies; growth of partnership.	Partnership the dominant approach.
Spatial level of activity	Emphasis on local and site levels.	Regional level of activity emerged.	Regional and local levels initially; later emphasis on local level.	In early 1980's focus on site; later emphasis on local level.	Reintroduction of strategic perspective growth of regional activity.
Economic focus	Public sector investment with some private sector involvement.	Continuing from 1950s with growing influence of private investment.	Resource constraints in public sector and growth of private investment.	Private sector dominant with selective public funds.	Greater balance between public private and voluntary funding.
Social content	Improvement of housing and living standards.	Social and welfare improvement.	Community-based action and greater empowerment	Community self-help with very selective state support.	Emphasis on the role of community
Physical emphasis	Replacement of inner areas and peripheral development.	Some continuation from 1950s with parallel rehabilitation of existing areas.	More extensive renewal of older urban areas.	Major schemes of replacement and new development; 'flagship schemes'.	More modest than 1980s; heritage and retention.
Environmental approach	Landscaping and some greening.	Selective improvements.	Environmental improvement with some innovations.	Growth of concern for wider approach to environment.	Introduction of broader idea of environmental sustain-ability.

(Source: Stöhr, 1989; Lichfield, 1992 and Roberts, 2000.)

### **Reconstruction: Urban Policy from Second World War to 1960**

In 1940s and 1950s, just after the Second World War, physical condition of urban environments and housing need was in concern because of the war damaged cities of European countries. In this period repairing war damaged cities and reconstructing the fabric of towns and cities initially took priority. National importance given to reconstruction of war damaged cities. Driven by the rationalism that gain importance after the Second World War and welfare state ideology, urban policy was deeply rooted in state control and provision of services directed the process of urban change. As Beswick and Tsenkova mention reliance upon the private sector was negligible as it was considered incapable of addressing the needs of society city (Beswick and Tsenkova, 2002, 9).

Although, national and local governments were the only actors and stakeholder in slum clearance period, during reconstruction period national government, local government and the private sector with minor additions were the key actors and stakeholder.

New housing needs and technological developments in this period resulted in suburban growth so this period was also a period of suburban growth. Suburban growth and the relocation of industry resulted in severe decline of the inner city (Beswick and Tsenkova, 2002, 9), which resulted in a new urban policy: revitalization.

### **Revitalization: Urban Policy of the 1960s**

Gradually, from the late 1950s, each country moved to more sensitive urban renewal programs going beyond traditional slum clearance and housing schemes. Motives behind city renewal in Europe in this period were the increasing traffic problems and pressing need for expanded or new downtowns with the increasing demands of service sector but criticism of the bulldozer approach influenced the new approach. Grebler (1964) differentiate slum clearance and urban renewal as the close association with an over-all city plan, the inclusion of non-residential land-uses and greater reliance on private investment distinguish urban renewal from the conventional slum clearance and housing programs. Differ from the first generation, poverty within the society was rediscovered.

In early 1960s, only four west European countries France, Denmark, Great Britain and Netherlands had national urban renewal programs. In France and Denmark, programs are codified in specific laws; in Britain the legal and financial tools of renewal were scattered over a number of planning, housing and fiscal acts; and the Netherlands made urban renewal an integral part of a revised town planning law (Grebler, 1964, 51).

According to Grebler urban renewal for expanding central functions took two sharply differing forms: One was the direct enlargement of existing centres through projects pushing into the surrounding grey areas, often in association with major traffic improvements, and the second was the building of new centres at a considerable distance from downtown (Grebler, 1964, 36-37).

Urban renewal programs require low resource in respect of the slum clearance and it consists of actions through preservation, conservation, rehabilitation and redevelopment. For this reason, as Claire mentions urban renewal is seen as a tremendously useful tool for the implementation of urban planning, if it is intelligently applied (Claire, 1969, 278-280).

As a result it can be said that urban regeneration issues were developed in this period in terms of both variation of actions directed to built environment, and addition of social concern.

### **Renewal: Urban Policy of the 1970s**

An economic slowdown began in the late 1960s and went into recession in the mid 1970s. In this period, the governments and public of several Western countries were unfavourably impressed by the results of research, which was unable to indicate significant positive results for many of the large social programs of the 1960s (Carmon, 1999, 147). The economy to decline government cut public expenditure so economic aspects of urban regeneration issues gained importance during 1970s. Right-wing governments cancelled urban renewal programs, and only slight public attention was paid to the worsening urban problems, especially in the inner cities.

Local municipalities have been encouraged by central government to expand a strategic and long-term approach to the regeneration of 19th century neighbourhoods, which lasted until 1990s. Lichfield describes this period as seeking conditions, which would enhance self-renewal, as for example; owner occupancy was thought to do (Lichfield, 1984, 110). In UK, more than three million dwellings have been improved by private owners with financial assistance from municipalities. Similar programs were applied in Germany, Netherlands and France (Gibson, Kocabaş and Öztaş, 2003).

In those years of the 1970s and 1980s, market conditions led to urban revitalization. The very low prices of land and housing in the city centres began to attract both small and large private entrepreneurs. This process resulted in political consensus and partnerships between private and public sector. According to Carmon this processes can be divided into two groups: public-individual partnerships and public-private partnerships (Carmon, 1999, 147).

Public-individual partnerships refers to partnership between individual people (households and owners of small businesses in deteriorated neighbourhoods and the authorities. public-private partnerships describes the cooperation between large private investors and public authorities, generally the local government.

### **Redevelopment: Urban Policy of the 1980s**

Effect of economic recession of 1970s continued in 1980s as aiming to achieve urban regeneration through attracting and assisting investment by the private sector in property development. Many of the urban policies of 1970s, but significant modifications and additions were subsequently introduced (Turok, 1987). Until 1980s, European countries conformed less closely to the logic of private capital than in the US, due to the help of central grants they did not need to attract business and high-income residents. Since 1980, public authorities have been trying to attract developers and defining 'enterprise zones' for

regenerative actions in urban space (Özkan 1998, 25). They oriented toward stimulating the private market rather than comprehensive planning. In general, the dominant objective in most countries was to use public powers to assist the private sector with a minimum regulatory intervention. This choice argues that the market directed revitalized built fabric was in turn to contribute to economic and social regeneration through providing appropriate buildings and locales for the new rising sectors of economic activity (Healey, et. al., 1972, 277).

Most significant modification was emphasizes on the role of partnership. As Roberts mentions most significantly, during the 1980s there was a move away from the idea that the central state should or could provide all of the resources required in order to support policy interventions (Roberts, 2000, 16). So the importance of political consensus and of partnerships between business and public sector agencies were emphasized (Özkan 1998, 25).

### **Regeneration: Urban Policy After 1990**

Further modifications and additions were introduced in 1990s. Recognition of series problems and challenges both in urban areas and in the implementation of former approaches and critics of former period urban regeneration approaches caused urban regeneration to gain further features. Countries in northern Europe have all moved on from housing renewal-led neighbourhood regeneration to comprehensive and integrated area-based regeneration (Gibson, Kocabaş and Öztaş, 2003). In this period urban regeneration became a composite concept including actions that encompass economic, environmental, social, cultural, symbolic and political dimensions in addition to upgrading housing and the built environment to meet minimum standards.

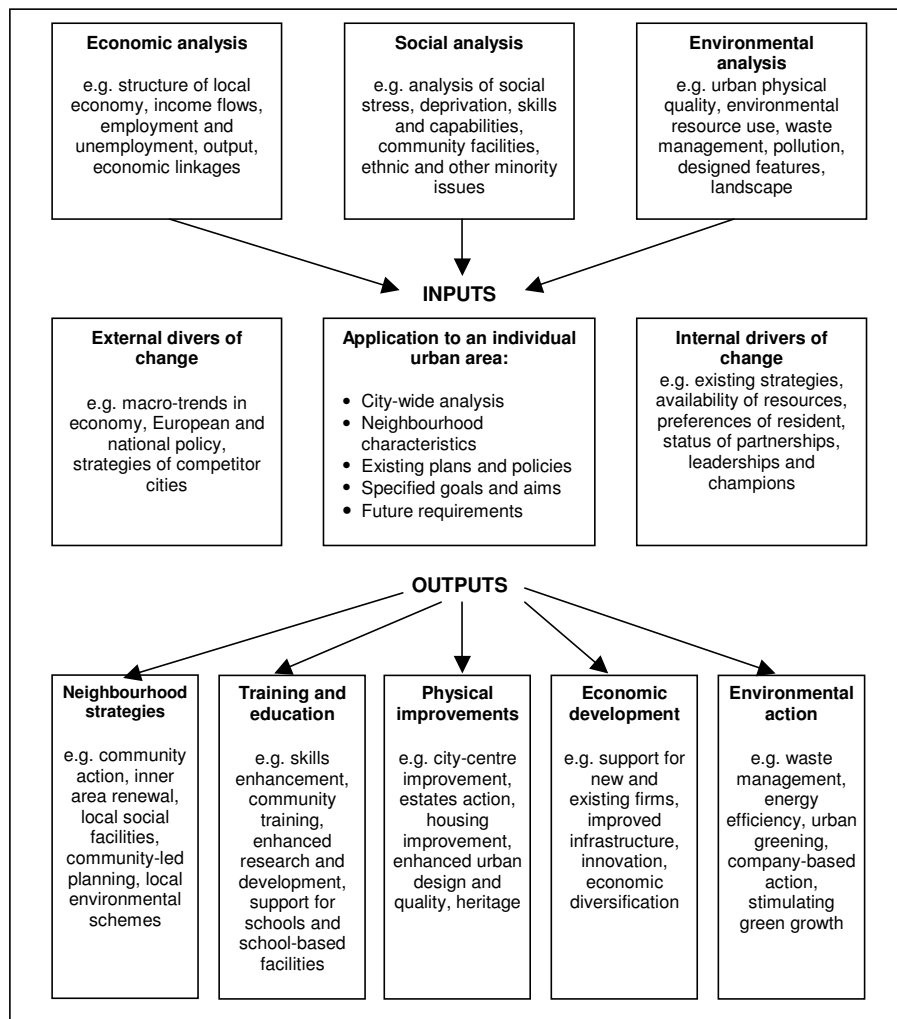
Critics rose about the top down approaches of former period urban regeneration brought also restructuring the urban regeneration approach to make more operational and community based.

As it was mentioned above, besides the physical concerns, economic and social issues such as jobs, training to improve skills, the needs of ethnic minority groups, the needs of the elderly and disabled, the quality of schools, community safety were concerned since all these issues are seen as interlinked. The new approach also includes an ecological dimension like energy efficiency, waste management. But most significant emphasize of this dimension is re-cycling urban land to prevent urban expansion.

### **2.3 21<sup>st</sup> Century Planning Approach: Sustainable Urban Regeneration**

Historical evolution and today's definition of urban regeneration shows that the concept evolved with substantial modifications and additions in each period. Scope, method and implementation tools evolved in this process. Slum clearance arose from the social concern and later it was reduced to unfit to human habitat so social issues ignored. Moreover, central government was the major actor with the minor additions from private sector.

However, current urban regeneration policies make comprehensive definition. The current urban regeneration concept involves social, economic and physical/ environmental issues, besides it accepts these issues as interlinked. Figure 2.4 illustrates the interactions between these and many other factors. According to Roberts (2000), economic, social and environmental analyses are the inputs for urban regeneration. Neighbourhood strategies, training and education, physical improvements, economic development and environmental actions are the output of the process. As it can be seen from the figure, urban regeneration involves variety of themes and topics and there are interactions between them.



**Figure 2.4 Urban Regeneration Process**

(Source: Roberts, 2000)

Consequently, urban regeneration seeks to solve all urban problems and to bring a lasting development in all concepts of urban area. To conclude, urban regeneration is a planned process of intervention in urban development.

Although scope and implementation of urban regeneration change according to countries, main emphasizes in current urban regeneration policies are;

- participation,
- sustainability,
- comprehensiveness, and
- partnership.

From these main emphasizes, following principles of urban regeneration can be identified. Urban regeneration projects should;

- enable local community participation;
- be sustainable;
- be comprehensive; and
- enable public private partnership.

In addition to these principles, a principle about the process needed to be mentioned; urban regeneration must be operational.

The principle of participation has two requirements.

- Urban regeneration should maximize the fullest possible participation and co-operation of all stakeholders with a legitimate interest in the regeneration of an urban areas; this may be achieved through partnership or other modes of working (Roberts, 2000). Urban regeneration should maximize resident involvement, especially at the design stage.
- After ensuring that participation is maximized, urban regeneration should ensure there is consensus.

The principle of sustainability has three requirements.

- Urban regeneration should develop a systematic and strategic approach to the long term continuation of activities on estates. A long term (20 years plus) neighbourhood regeneration strategy is implemented through a rolling program of neighbourhood action plans, each are implemented over a 5-10 year period. These local plans are implemented on block-by-block, neighborhood-by-neighborhood basis. In the early years priority is usually given to the neighbourhoods where conditions are worst – the principle of ‘worst first’. The rate of implementation is determined by the resources available (Gibson, Kocabaş and Öztaş, 2003).
- Urban regeneration should ensure that a strategy and the resulting programs of implementation are developed in accord with the aims of sustainable development (Roberts, 2000).

- Urban regeneration should make the best possible use of natural, economic, human and other resources, including land and existing features of the build environment (Roberts, 2000).

The principle of comprehensiveness has four requirements.

- Urban regeneration should be based upon a detailed analysis of the condition of an urban area.
- Urban regeneration should be aimed at the simultaneous adaptation of the physical fabric, social structures, economic base and environmental condition of an urban area (Roberts, 2000).
- Urban regeneration should attempt to achieve this task of simultaneous adaptation through the generation and implementation of a comprehensive and integrated strategy that deals with the resolution of problems in a balanced, ordered and positive manner (Roberts, 2000).
- Urban regeneration should recognize the importance of measuring the progress of strategy towards the achievement of specified objectives and monitoring the changing nature and influence of the internal and external forces which act upon urban areas (Roberts, 2000).

The principle of public private partnership has one requirement.

- Urban regeneration provides an investment framework, within which public sector resources are used to encourage private investment by homeowners and other neighbourhood investors, such as shop owners and owners of other small businesses (Gibson, Kocabaş and Öztaş, 2003).

The principle of operational has two requirements.

- Objects should be developed in accord with legal framework, institutional capacity and resources etc.
- Urban regeneration should set clear operational objectives which should; wherever possible, be quantified (Roberts, 2000) to be operational.

It is thought that mentioning widely applied principles could help to the development of the Turkish urban regeneration model.



## **2.4 Evaluation: Historical Evolution of Theory and Practice of Urban Regeneration**

Urban regeneration started as a response to slums of the nineteenth century which were acknowledged as an unacceptable. In this period social deprivation was related with poor physical conditions so several policy interventions emerged to improve the living conditions of urban residents. The critics directed to previous approaches, changes in urban areas, types of urban problems, and social-economical and technological developments caused urban regeneration approaches to evolve in the history. As a result of this evolution, urban regeneration approach is totally differentiated and issues of urban regeneration changed. Current urban regeneration approaches gained most significant features as an urban planning tool.

Changes in the aim, scope, implementation tools, methods, actors, management and organization of urban regeneration guide the process, participation and legal regulations of urban regeneration in Turkey.

Aim and scope of urban regeneration has progressed from single sided to comprehensive one. Current urban regeneration approaches consider and aim to regenerate all components of urban area: social, economical, political and physical issues. In order to realize successful urban regeneration project integrating all components and developing integrated strategies is a must.

Financing urban regeneration projects with public resources not only increases the public expenditures on urban regeneration but also affects the applicability of urban regeneration projects. To reduce public expenditures and increase the private investment in regeneration areas partnership model developed.

Process of urban regeneration projects changed parallel to the shift from 'top-down' approach to combination of top-down and bottom-up approaches. Process of current urban regeneration projects reflects the strategic planning approach. Not only process but also result is significant for urban regeneration. Urban regeneration should be based on consensus between partners and participants. Ignoring local community and approving top-down approach were subject to critics which affected the applicability of projects. Participation of local communities and stakeholders became significant actors for urban regeneration projects. Instead of an informing type of participation process, discussing process, orienting to consensus could be developed for urban regeneration projects. Responsible institutions for urban regeneration projects also shifted from central to local authorities due to localization.

In addition to the historical evolution of urban regeneration, focusing on theory and world practices, theoretical explanations on procedural step of urban regeneration or urban planning and legal structure examples from foreign countries will assists in definition of procedural steps and legal framework of urban regeneration projects in Turkey. Third chapter focuses on theory and world practice in terms of process in urban regeneration projects.

## **CHAPTER 3**

### **PROCESS IN URBAN REGENERATION PROJECTS: THEORY AND WORLD PRACTICE**

Scientific theories ... seek to improve our  
understanding of the world... But town  
planning exists to improve the world, not  
just understand it.

Taylor, 1999, 167

This chapter aims to draw theoretical framework for procedural steps of urban planning and urban regeneration planning, and examine world practices in terms of legal framework and procedural steps of urban regeneration. Recent urban planning approaches and project preparation models are studied to draw theoretical framework for procedural steps of urban regeneration projects. Because urban regeneration is rooted in practice rather than theory, it is not aimed to focus on theories of urban regeneration. Examining world practices assists in the definition of legal framework and procedural steps of urban regeneration projects.

In this scope, this chapter constitutes three parts. First part provides information about recent urban planning approaches and project preparation models to draw theoretical framework for process of urban regeneration projects. Second part elaborates two European countries –UK and Netherlands- to inform legal aspects of urban regeneration. Besides, practiced urban regeneration projects in those countries are evaluated in terms of procedural steps and participation. Last part of the chapter evaluates procedural steps defined by theories and selected practices, and legal framework of selected countries.

### **3.1 Theoretical Issues in Procedural Steps of Urban Regeneration Projects**

Urban planning theories are mainly related with the concept of urban planning and the activities in urban planning. Because it is aimed to draw theoretical framework of procedural steps of urban regeneration projects, activities in urban planning are investigated in this part. Theory (or planning approach) is one of the major components, which are influential for the activities or (with the thesis conceptualization) procedural steps in urban regeneration projects.

There are different types of theories, answering different kind of questions. Theories of urban planning have evolved in the history. Early planning theories (before 1960s) can be defined as town planning as physical planning and design. Haugue (1991) classifies the planning theories after 1960s under two main heading: Procedural Planning Theories and Critical Planning Theories. This classification is used in the thesis.

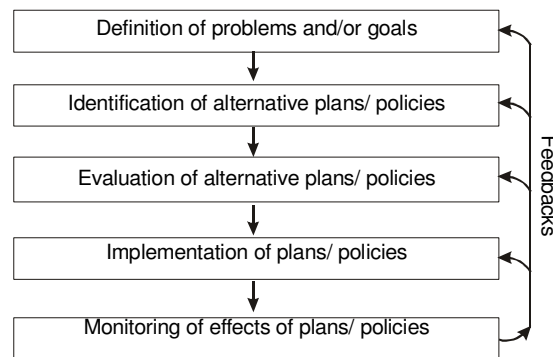
Urban planning approach is main definer of procedural steps of urban regeneration projects, but theories are defined here briefly to give essence of the theory and studied to draw a framework for procedural steps of urban regeneration projects.

#### **3.1.1 Procedural Planning Theories**

Procedural planning theories are about the procedure of the planning. They try to find answers to the questions; how the planning process works and how it should work to be more efficient.

##### **3.1.1.1 The Rational Process View of Planning**

The rational process view of planning is one of the theories about the process of planning. This theory was shaped by more considered criticisms of the Geddesian dictum of survey – analysis – plan. Rational process view of planning distinguishes 5 main stages (Taylor, 1999, 67).



**Figure 3.1 Planning as a Process of Rational Action**

*(Source: Taylor, 1999, p. 68)*

First there must be some problems or goals as reason for a plan of actions. Second stage includes identification of alternative plans/ policies to solve the problems. In the third stage, alternative plans/ policies are evaluated according to feasibility of the alternatives. This stage does not end, if no alternative is selected to be implemented. After selecting the best alternative, implementation stage starts. According to the rational process view of planning, last stage is monitoring of effects of plans/ policies, which gives feedback to former stages (Taylor, 1999). According to the feedbacks actions are reviewed.

Taylor defines three important conditions a rational planning exercise should fulfil. These are;

- the reason for making plan,
- the reason for planning decisions,
- the problems and objectives a plan trying to solve or achieve should be carefully and explicitly thought through.

These conditions are significant for definition of urban regeneration areas.

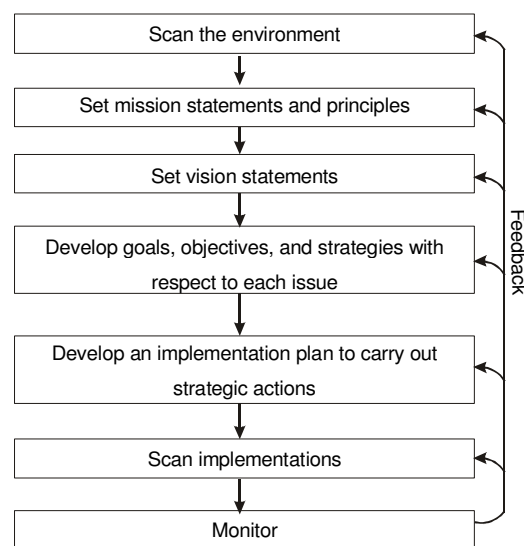
### **3.1.1.2 Strategic Planning Approach**

The strategic planning emerged in the late 1970s as a focus of local planning including transportation, health, environmental, and other functional planning areas both in region and city scale, but it was originated in the private sector. Like urban regeneration, strategic planning approach evaluated in the history.

Healey (1997b) makes a compressed definition of strategic planning; strategic planning is less a question of management than a style of governance. The basic assumption of

strategic planning is a community assesses and participation. This is the basic essence of strategic planning so it defines the process of strategic planning, strategy making. Healey (1997b) defines strategy making as a process of deliberate paradigm change that aims to change cultural conceptions, systems of understanding and system of meaning. It is more than just producing collective decisions. It is about shifting and re-shaping convictions (Healey, 1997b, 244-245).

Strategic planning offers an iterative process so putting clear distinction of procedural steps of planning is not so true. Seven basic steps of this approach define procedural steps:



**Figure 3.2 Procedural Steps of Strategic Planning**

On the other hand, as it was mentioned above participation is basic essence of this approach so participation in each stage should be maximized. Strengths, weaknesses, opportunities, and threats- SWOT- analysis is used for this purpose. At the end, it should be ensured about the consensus between participation and stakeholders.

### 3.1.1.3 Policy Planning Approach

As practice became more prior than theoretical assumptions in planning profession policy planning that sees planning as a technical process and believes that it should be divorced from politics developed. Policy planning is highly criticized due to the contradictions in it. This process was seen as a kind of game that involves conflicts, negotiations and compromises

between different interest groups. Local decision-making is significant for policy planning so local organization required to extend the autonomy of local decision making structures.

### **3.1.2 Critical Planning Theory**

In particular, critical planning theory applies Jurgen Habermas' critical communications theory of society to planning practice. Forester (1980) argued that by illuminating both structural obstacles to a democratic planning process and the practical opportunities planners have to counteract and overcome those obstacles, critical theory may help planners anticipate and correct for

Forester, (1980) suggests eleven principles that are complement planners' technical work. These are

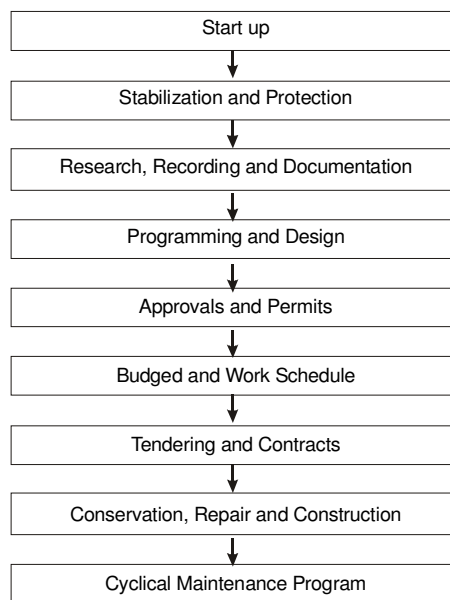
- Cultivate community networks of liaisons and contacts, rather than depending on the power of documents, both to provide and disseminate information;
- Listen carefully to gauge the concerns and interests of all participants in the planning process to anticipate likely political obstacles, struggles, and opportunities;
- Notify less-organized interests early in any planning process affecting them (the more organized groups whose business it is to have such information won't need the same attention);
- Educate citizens and community organizations about the planning process and the 'rules of the game';
- Supply technical and political information to citizens to enable informed, effective political participation;
- Work to see that community and neighbourhood, non-professional organizations have ready access to public planning information, local codes, plans, and notices of relevant meetings, and consultations with agency contacts, 'specialists' supplementing their own 'in-house' expertise;
- Encourage community-based group to press for open, full information about proposed projects and design possibilities;
- Developed skills to work with groups and conflict situations, rather than expecting progress to stem mainly from isolated technical work;
- Emphasize to community interests the importance of effective participation in informal processes of project review, and take steps to make such design-change negotiation meetings equitable to professionally unsophisticated groups;
- Encourage independent; community-based project reviews and investigations;

- Anticipate external political-economic pressures shaping design decisions and compensate for them soliciting 'pressure we can use' (e.g., countering vested anti public interests) rather than minimizing external pressure altogether (Forester, 1980)

### 3.1.3 Proposals for Project Preparation Steps

Several proposals have been developed to define project preparation steps. In this part of the study, some proposals for project preparation steps are reviewed to define a general framework for procedural steps.

Lemon (1989) defines nine steps for rehabilitation process of a building (figure3.4). Process starts with the review of rehabilitation standards and guidelines; legal description, ownership, zoning; determination of proposed uses; potential financing, initial research; prioritization of work. After instituting a regular program of conservation maintenance rehabilitation process ends.



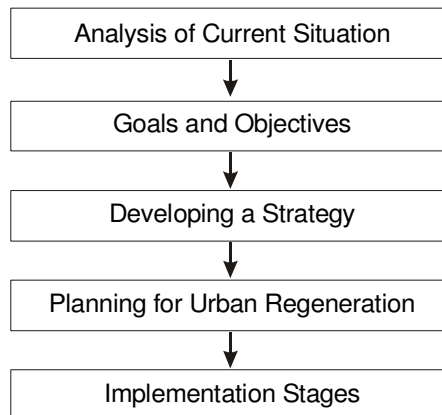
**Figure 3.3 Rehabilitation Process**

*(Source: Lemon, 1989)*

Process proposed by the guidelines for urban regeneration in the Mediterranean region includes five steps (figure 3.5). According to Priority Actions Programme Regional Activity Centre, the analysis of the current situation is the first step of any regeneration project. Diagnosis including analysis of the state of the land, its structures, divisions and the applicable private or public legal regime is helpful to identify the constraints, assets and the



related potential for regeneration (Priority Actions Programme Regional Activity Centre, 2004). An analysis of trends and opportunities for the future is also defined as an integral part at this stage.



**Figure 3.4 Urban Regeneration Process**

*(Source: Priority Actions Programme Regional Activity Centre, 2004)*

One of the main difficulties in urban regeneration is the choice and determination of objectives. Some objectives like the slowdown of urban spread, the reorganisation of the urban macro-shape and the renewal of the economy and abandoned urban functions are general and apply to the entire metropolitan area, in morphological, economic and social fields (Priority Actions Programme Regional Activity Centre, 2004).

Third step of the process, developing a strategy, includes actions to develop coherent and co-ordinated system of actions in spatial and temporal sequences, organised to achieve the desired ends (goals and objectives). Implantation of high-tech industries, growth of service activities, development of urban tourism, establishment of higher-education institutions could be chosen for regeneration strategies.

This step also requires the assignment of the task to a key agency or special organization.

According to Priority Actions Programme Regional Activity Centre, the traditional tools of spatial planning, at various scales, zoning, density, land-use patterns, are not ideal to meet the needs of urban regeneration, which requires

- adapting to local demands and shorter time span than that of developers,
- responding with flexibility to the national and international economic context and its cycles, which determine the availability and decisions of public and, mostly, private investors,

- local authorities and developers to implement and ensure compliance with local urban development plans (Priority Actions Programme Regional Activity Centre, 2004).

Priority Actions Programme Regional Activity Centre defines project-based strategic planning as the best option. It offers a wide range of interpretations and choices for zoning, organisation of open space and built-up areas, and of their density.

Implementation stages the last step defined by Priority Actions Programme Regional Activity Centre depend on the scope and nature of the regenerated sites.

### **3.2 Procedural and Legal Aspects of World Practice in Urban Regeneration**

As seen from the historical evolution of urban regeneration, several elements influence the policy environment, so urban regeneration interventions varies. Most significant drivers of change are the most significant components of urban areas; economic, social and physical components. But one more component, political environment can be added to these drivers of change. Consequently, the political scene determines the direction of urban policy moreover it defines implementation tools and funding allocated.

Two European countries –UK and Netherlands- are selected to inform legal aspects of urban regeneration. First of all a brief historical evolution of urban change and urban planning and urban policy will be examined in terms of urban regeneration to give the motives behind urban regeneration.

Secondly legal aspects of urban regeneration, organizations involved urban regeneration projects, power and responsibilities will assists definition of procedural steps and urban legal framework.

And finally, procedural aspects of urban regeneration projects will be elaborated. In these cases policy guidance and experienced projects will be used to find out process.

The UK has implemented neighbourhood regeneration programs on a larger scale than any other EU country. It has the longest history of neighbourhood regeneration and its current practice is the most sophisticated in the EU Thus the study did a detailed regeneration practice in the UK.

### **3.2.1 England**

Urban regeneration has been claimed as a main component of urban policy in England. Although most of the urban regeneration projects has experienced in brownfields, UK has made a comprehensive definition for urban regeneration projects.

#### **3.2.1.1 Evolution of Urban Planning and Urban Policy**

Urban policy of UK, in terms of urban regeneration, has performed a development parallel to the evolution of urban regeneration mentioned in second chapter, so evolution of urban regeneration policies and motives behind these policies are elaborated with reference to the six period defined in evolution of urban regeneration. To remind, these period are;

- before Second World War,
- after Second World War until 1960,
- 1960 – 1970 period,
- 1970 – 1980 period,
- 1980 – 1990 period and
- after 1990.

#### **Slum Clearance: Urban Policy until Second World War**

First generation, which is also called as the era of the bulldozer, emphasizes physical determinism and built environment. Attempts starting from the 1900s until II. World War time was mainly slum clearance.

While in Europe, slum clearance operations were implemented under housing policy, so as to clear unhealthy housing areas and residents were subsidized by social housing. Management of the operations was also different. The public authorities in the UK managed both the clearance and the provision of housing for those relocated in new council housing. In the US, by contrast, concentration and clearance of land sites was generally done by public agencies, while the new construction was in the hands of private entrepreneurs (Carmon, 1999, 146). The slum areas were frequently replaced by shopping centres, office buildings, and cultural and entertainment centres, all of which were in high demand in the booming years that followed World War II.

Clearance process in UK began with the declaration of unfitness either of an individual house or a wider area. This part of the process was controlled by the public health acts (Özkan, 1998, 19). Dwellings that were judged 'unfit for human habitation' were legally

defined as having no value. Over a million dwellings are evaluated as unfit for human habitation. Local municipalities acquired these properties. They were demolished and replaced by municipally owned and managed housing called social housing. Social housing areas were designed with new schools, public open space, and other community facilities. Main characteristics of these development programmes were municipalities that made all the decisions without any discussion with local people (Gibson, Kocabaş and Öztaş, 2003, 2). Clearance process in UK can be summarized as;

- declaration of unfitness,
- purchasing the unfit houses,
- demolishing unfit houses, and
- replacing them by social housing.

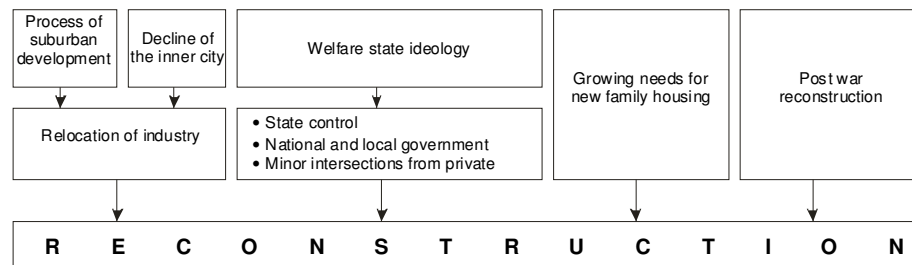
The organizational model was a top-down centralized. Residents were wholly passive actors and have no participation to local authority's decisions.

The Second World War, which halted the slum clearance momentum, resulted in a new policy: reconstruction of the war damaged fabric.

### After Second World War Until 1960

The period, after Second World War until 1960, was marked by post war reconstruction of British cities. Reconstruction as a response to relocation of industry, growing needs for new family housing and post war reconstruction became urgent (figure 3.6)

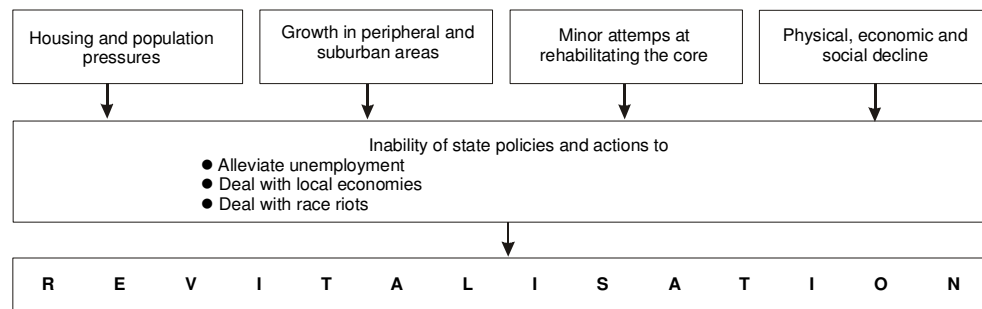
During this period at the mid-1970s urban policy proliferated state control and private sector was seen as incapable of addressing the needs of society.



**Figure 3.5 Motives Behind Reconstruction**

### 1960 – 1970 Period

The Conservative governments of the 1950s had sought to restrain public intervention in social and economic affairs, and gave less importance to planning and the reconstruction of war-damaged cities was coming to an end in 1961 (Yelling, 1999). As it can be read from figure 3.7, housing and population pressures, growth in peripheral and suburban areas, physical, social and economic decline are the reasons behind revitalisation policy of 1960s. Until the mid-1970s, local authorities were acknowledged to be the agents for directing and addressing urban change.

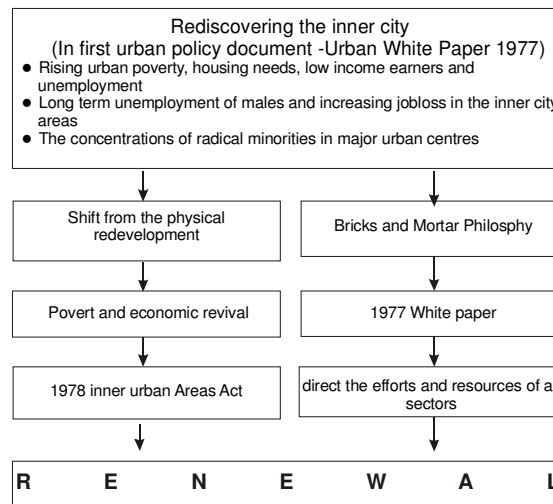


**Figure 3.6 Motives Behind Revitalization (1960's)**

### 1970 – 1980 Period

The embracing of 'modernization' as a theme by all political parties was the key feature, which encouraged urban renewal in England in the 1960s. In the field of town planning there were three main foci – city centres (central areas), transport infrastructure (particularly roads) and 'obsolescent' residential areas (Yelling, 1999).

After the realization of need for greater efforts to coordinate the available funding schemes, the 1977 White paper brought two important recommendations. It strongly recommended the inclusion of private investment towards the regeneration of deprived inner areas. It also suggested the establishment of Spatial Partnership Areas, in this way government funds were allocated in an effort to help the economic development of these areas. This was the emerging partnership.



**Figure 3.7 Motives Behind Renewal (1970's)**

In 1978, Inner Areas Act expanding the provision of funds to private firms and conjunction with the Urban Program and the government's mandate for economic regeneration was created (Barnekov, Boyle and Rich 1989). The act was limited to a few urban areas but it maintained as an urban policy of central government.

### 1980 – 1990 Period

Great changes in the fundamental government policies directed to built environment occurred in the decade of 1980s. Channelling the public resources urban areas having problems was no longer seen as plausible. In this period enterprise culture which was defined in 1977 White Paper as inclusion of all sectors –public authorities, private sector, non governmental organizations and community organization was born.

As Deakin and Edwards mentioned there were eight programs and one policy tool of great significance that were officially designated and utilized during the 1980s, all born out of the 1977 White Paper (Deakin and Edwards, 1993).

The two most significant initiatives are Urban Development Corporations (UDC) and the designation of Enterprise Zones (EZ). These initiatives speed up and secured the process of urban regeneration, in conjunction with the Urban Development and Urban Regeneration Grants.

Although Urban Development Corporations were defined as a property led urban regeneration, they have economic, social and physical concerns. They aimed to bring building and land into effective use, to endorse the development of new and existing

industry, to generate an attractive environment and to ensure the provision of social housing facilities thereby encouraging people to work and live in the area (Berry, Stanley and Deddish, 1993).

At the beginning of redevelopment period, Local Government, Planning and Land Act were enacted. That act established an UDC that had the power to grant planning permission for projects with in the designated area, in addition to the power of compulsory purchase. Compulsory purchase enabled them to acquire, hold, manage and dispose of land (Berry, Stanley and Deddish, 1993).

Although ten to fifteen years life span was expected for an UDC to complete the task of regenerating an area, all Urban Development Corporations came to an end in 1998 due to a new agency called the English Partnership.

In this period, urban policies were funded by using the Urban Development Grants and Urban Regeneration Grant which was suitable to private sector led joint venture projects. But they were merged in to the new City Grants in 1988.

### **After 1990**

Urban policy in terms of urban regeneration has experienced a significant shift in the 1990s. The 1990s urban regeneration approach was characterized by four concepts:

- comprehensiveness form of practice and policy,
- sustainability,
- equilibrium in terms of funding between the voluntary, private and public sectors
- emphasize on partnership.

Whereas, there was less stress on the physical realm of regeneration as oppose to the social, economic, environmental and institutional.

Several programs, institutions and organizations occurred in this process (Beswick, 2001):

- City Challenge (1991)
- Urban Partnership (1993)
- City Pride (1993)
- Single Regeneration Budget (1994)
- Rural Challenge (1994)
- Regional Challenge (1994)
- Capital Challenge (1996)

- Local Challenge (1996)
- Sector Challenge (1996)
- New Deal for Communities (1998)
- Regional Development Agencies (1999)

The New Deal for Communities, City Challenge and the Single Regeneration Budget aim to reduce the delivery of services by means of coordinating them.

New Deal for Communities is a program whose target is Britain's most deprived communities, based on the index of deprivation and emphasizes social issues. This program works in conjunction with the national Strategy for Neighbourhood Renewal (Beswick, 2001):

Deficiencies of 1980s' funding programs show the need of a more efficient and less confusing funding programs so Single Regeneration Budget (SRB) was created as a merged budget. According to Beswick, SRB aims to encourage synergy between departments, to respond to issues in a comprehensive way, to reduce overlap in service, and to synchronize the local and national schemes (Beswick, 2001):

As mentioned above, comprehensiveness form of practice and policy is one of the four concepts of 1990s. According to the Housing Grants, Construction and Regeneration Act (1996) of England, urban regeneration shall concern social, economic and physical issues. Aims of urban regeneration projects include

- securing that land and buildings are brought into effective use;
- contributing to, or encouraging, economic development;
- creating an attractive and safe environment;
- preventing crime or reducing the fear of crime;
- providing or improving housing or social and recreational facilities, for the purpose of encouraging people to live or work in the area or of benefiting people who live there;
- providing employment for local people;
- providing or improving training, educational facilities or health services for local people;
- assisting local people to make use of opportunities for education, training or employment;



- benefiting local people who have special needs because of disability or because of their sex or the racial group to which they belong (Housing Grants, Construction and Regeneration Act, section 126, subsection 2).

Neighbourhood regeneration is targeted to small areas with between 1000 residents (300 dwellings) and 10,000 residents (3000 dwellings). This small scale enables the whole neighbourhood to be comprehensively improved through a short-term, community-based neighbourhood action plan (Gibson, Kocabaş and Öztaş, 2003). Small scale neighbourhood action plans today became a part of larger scale area-based regeneration programmes.

A long term (20 years and more) neighbourhood regeneration strategy is implemented through a rolling programme of neighbourhood action plans that are each implemented over a 5-10 year period (Gibson, Kocabaş and Öztaş, 2003).

### **3.2.1.2 Organizations Involved In Urban Regeneration**

In addition to the local and central authorities, several organizations established to implement, coordinate, finance urban regeneration projects in UK. Recent organizations related with urban regeneration are reviewed here to make clear their tasks, responsibilities and powers.

#### **Urban Regeneration Agency**

The Urban Regeneration Agency was set up under the provisions of part III of the Leasehold Reform, Housing and Urban Development Act 1993 (the 1993 Act). It came into full operational effect on 1 April 1994, taking over the functions of English Estates, City Grant and Derelict Land Grant. The 1993 Act sets out the objects of the agency which, in outline, include the securing of regeneration of land in England which is unused or ineffectively used, or which is contaminated, derelict or unsightly (article, 159).

#### **Regional Development Agencies**

The Regional Development Agencies incorporate the roles of English Partnerships and the Rural Development Commission in the regions and also co-ordinate the activities of a range of other organization.

According to the Regional Development Agencies Act 1998, a regional development agency shall have the following purposes:

- to further the economic development and the regeneration of its area,
- to promote business efficiency, investment and competitiveness in its area,
- to promote employment in its area,
- to enhance the development and application of skills relevant to employment in its area, and
- to contribute to the achievement of sustainable development in the United Kingdom where it is relevant to its area to do so (article 4).

However, the key objective of RDAs will be to tackle regeneration by providing effective and properly co-ordinate regional development (Roberts, 2002).

### **Local Authorities**

Local authorities as the relevant planning authority usually have a key role to play in urban regeneration schemes. Powers given to municipalities with recent changes in England include;

- Incentives to local authorities to undertake 'design, build, finance and operate' type contracts (Local Government Regulations, 1997)
- A new self-certification scheme for local government Private Finance Initiative schemes which guarantees private sector partners (including banks) that they will be compensated if a contract is ruled unlawful (Local government act, 1997).

#### **3.2.1.3 Experience of England: Paddington Basin Regeneration Project**

The regenerating brownfield sites, such as railways, docks and industrial areas are general in UK. Paddington Basin regeneration project is a recent example of that type of regenerative actions. Paddington Basin is in the Westminster district at the West of London.

In 1988, Westminster City Council defined the Paddington Special Policy Area in recognition of the unique nature of this area, which encompasses Paddington Station, the canal basin, and several partly used or large vacant sites, (Paddington Basin, 2000). Main motives behind this decision are nearness to the central area and Heathrow Express that started to serve.

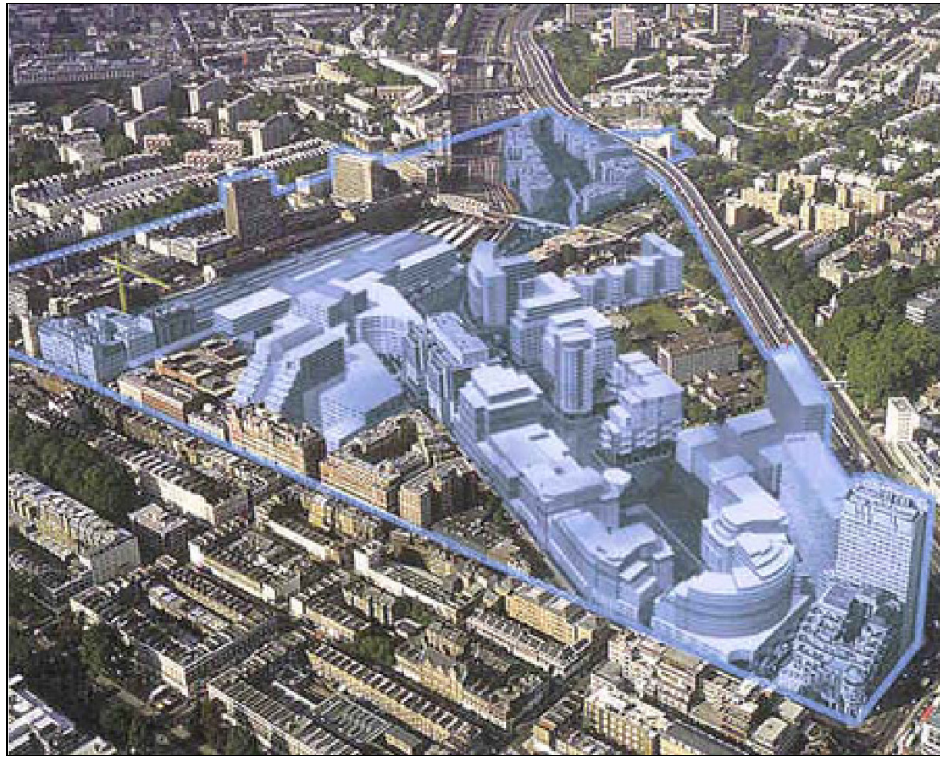
The area is approximately 50 ha in size and is of extreme strategic importance for London due to its connectedness to the country's transport network. In November of 1998, the nine developers involved in the regeneration of the area joined together to form the Paddington

Regeneration Partnership, which has worked closely with the Westminster Council, existing agencies, voluntary organisations and the local community to develop a Unitary Development Plan (Beswich, 2002).

Westminster is one of the richest districts and composed of politicians, public people, actors, and very high profile people but it also accommodates residents from a lower income group plagued by language, drug and prostitution problems. Therefore as Beswich (2000) quotes from Sadek (2002), the proposed redevelopment about long-term sustainable community planning addressed the issues and concerns of all residents. Community members have been consulted throughout the process to ensure that their needs and concerns were heard (Beswich, 2002). Regeneration strategies include social, economic and physical issues like housing, employment, job-skills training.

The Regional Authority has put pressure on the local authority to receive planning consent. If a planning application is rejected it could then go to appeal, if the planning project is considered very strategic it must be approved by the Secretary of the State for the Environment (Beswich, 2002). As Beswich (2000) quotes from Sadek (2002), article 14 of Regional Development Agencies Act (1998) supports the actions and decisions of the Regional Authority who has planning power over the local authority, thereby extending the planning process and consequently losing sight with the press.

Aerial Photo of Paddington Basin (figure 3.19) shows the implementation of urban regeneration in terms of physical regeneration.



**Figure 3.8**      **Paddington Basin Regeneration Proposal**

*(Source: Cheesborough, 2000)*



**Figure 3.9**      **Aerial Photo of Paddington Basin (2005)**

*(Source: Digitalglobe, 2005)*

Paddington Basin Regeneration Project supplies three significant lessons for the Turkish cases can be listed as;

- In order for regeneration to be successful, participation and partnership is enabled, all stakeholders are involved in the process.
- Comprehensive scope including social, economic and environmental issues is defined
- Process was designed as a long term vision and action, therefore developed long-term strategies.

### **3.2.2 The Netherlands**

There is considerable pressure to redevelop the land in Netherlands where space is scarce. Dutch spatial planning system and policies to increase densities of development and reuse brown fields to create compact cities.

#### **3.2.2.1 Evolution of Urban Planning and Urban Policy**

After World War II housing policies of the Netherlands changed from a market-driven situation to the production of social housing, stimulated and organized by the state, in order to meet the enormous needs of that time.

Problems occurred as a consequence of the separation of housing construction and spatial planning since 1962; and less control by the government on the production of the building sector and on the determination of prices became more and more obvious at the beginning of the 1970s (Hulsbergen and Stouten, 2001). The priorities in the policies changed, from social housing to the promotion of private home-ownership between 1975 and 1980. But social housing production -building for the neighbourhood- continued, giving priority to the housing needs of the residents with low incomes in larger cities. Building for the Neighbourhood was a strategy in urban renewal districts until 1990 (Hulsbergen and Stouten, 2001).

The main issue of this period, rebuilding or modernizing the old housing stock urban renewal districts for the present residents should be taken into consideration in procedural and legal aspects of urban regeneration in Turkey. The main issue meant:

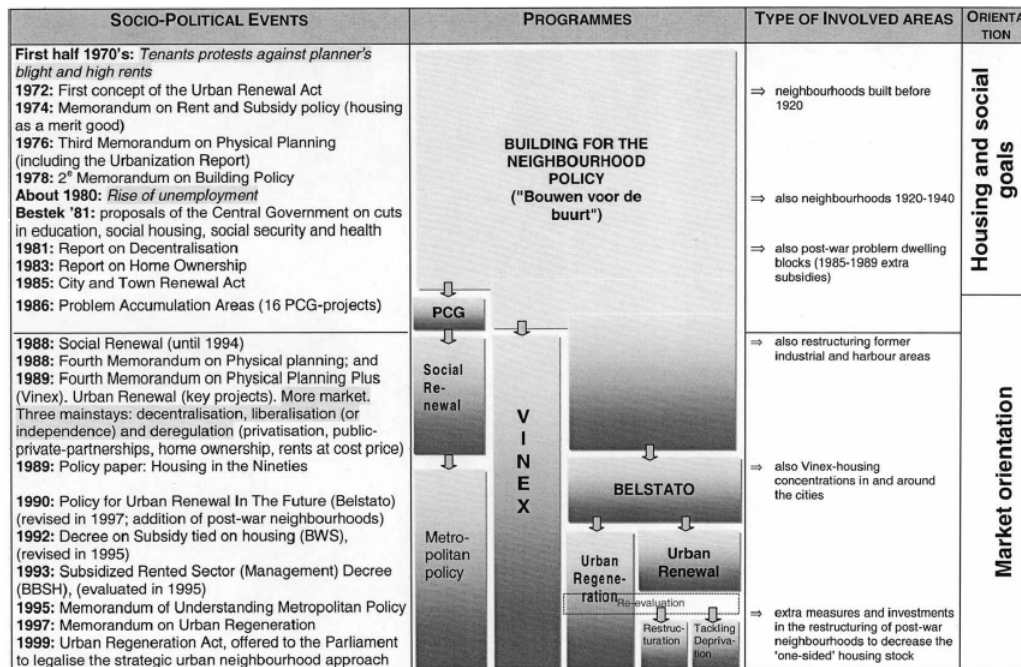
- the present low-paid population had the first right to the modernized and new dwellings;
- the tenants were guaranteed a substantially lower rent level than elsewhere in public housing;

- the distribution and rent guarantees were settled before the start of the design process; and
- active participation by the tenants (Hulsbergen and Stouten, 2001).

Since the mid-1980s the social and spatial policies have been disassociated, the socio-economic problems (among them poverty) of the large cities attracted more and more attention in the beginning of the 1990s. The urban and housing policies of the 1990s have been characterized by a decrease of governmental support combined with a larger dependence on private sector.

During the 1970s and 1980s the urban renewal policy was the framework, and the urban regeneration policy one of its parts. The situation changed in the 1990s, urban regeneration is the framework and urban renewal is a part of it (figure 3.10).

The evolution of the Dutch urban and housing policies shows characteristics of single sided programmes. At the end of the 1970s and beginning of the 1980s the disconnection between social and physical aspects was partly restored due to the urban renewal policy, but since 1986 the connection of urban policies started to deteriorate (Hulsbergen and Stouten, 2001). At the beginning of the 1990s separate approaches emerged for the urban regeneration.



**Figure 3.10 Evolution of Dutch Urban and Housing Policies**

(Source: Fernandez-Maldonado et al., 2000, p. 84).

### **3.2.2.2 Organizations Involved in Urban Regeneration**

Three level administrations having responsibilities for urban regeneration can be defined in the Netherlands; national, regional and local. The State of The Netherlands especially the Ministry of Housing, Spatial Planning and Environment have task and responsibilities at national level. Provinces that distribute the finance to the smaller local authorities have task and responsibilities at regional level. Municipalities who must make plans for renovation and revitalisation and propose them to the higher authorities are the administrations at local level. The Ministry of Housing, Spatial Planning and the Environment is responsible for defining general policies and acts. The local authorities, provinces and municipalities are responsible for applying the Act and associated instruments.

### **3.2.2.3 Experience of Netherlands: Spaanse Polder Regeneration Project**

Netherlands has experienced several urban regeneration projects. Spaanse Polder which is a business park in the middle of Rotterdam is one of the recent examples prepared according to the participatory principle.

The 'Randstad' (the entire urban agglomeration that includes Amsterdam, Rotterdam, The Hague and Utrecht) is the motor of the Dutch economy. Due to the Europe's undisputed leader harbour and varied economic activities Rotterdam is the undisputed heart of that motor (REURBA2, 2005).

Because the demand for business parks has increased enormously, the area for the harbour and industries in Rotterdam will get much bigger. Land reclamation has made it possible to develop an enormous new area: But existing business parks will also be worked on so that the existing space is used better. This can be done by restructuring outdated business parks located in the middle of the urban area.

Spaanse Polder is the largest urban business park in the Netherlands. Two hundred hectares in a polder which was green fields in 1940s. Then it was designated as an industrial area and the polder, which was more than two meters below sea level, had to be raised by adding enormous quantities of earth (REURBA2, 2005).





**Figure 3.11**      **Area of Spaanse Polder**

*(Source: Spaanse Polder 2015, 2005)*

More and more companies leaving the Spaanse Polder, together with their workforces leave behind old business that are often built for a specific purpose and new companies cannot move in straightaway.

The result is that a building will stay empty, before switching in the course of time to another type of economy: small car companies or party centres. The neighbours get upset and, when they leave too, a vicious circle is created with disastrous consequences for the image of the whole area. If a feeling of insecurity is also created, the situation goes from bad to worse (REURBA2, 2005).





**Figure 3.12 Aerial Photo of Spaanse Polder (2005)**

*(Source: Digitalglobe, 2005)*

City Council of Rotterdam decided that drastic improvements were needed in the urban business park, the Spaanse Polder in 2001. The main aim was to transform the run-down industrial estate into an area that the business community, the workers, the neighbouring communities and the city administrators could be proud of and to create an area where the business community will want to invest again (REURBA2, 2005).

According to the project coordinator, such large restructuring projects need to be run by the municipal authorities, and nothing could be achieved if plans are thought up from behind a desk and then try to sell them to the business community (REURBA2, 2005).

By working in the midst of the business community, it is required to know about their problems and opportunities. Therefore, an information centre in the middle of the area where business people can meet each other and the project staff was established.

According to the project coordinator the commitment of the business community is essential for the success of the project, and this project team have to be reasonable and flexible (REURBA2, 2005).

The plans for the restructuring work on the Spaanse Polder were prepared by means of collaboration between several services. The Rotterdam Development Corporation plays a central policy role and also implements the plans like a private company.

Significant lessons offered by Spaanse Polder Regeneration Project for the Turkish cases are that:

- The main aim of the project was to transform the run-down industrial estate but aim was related with social and physical conditions.
- To know about business communities' problems and opportunities and maximize participation an information centre in the middle of the area was established.

### **3.3 Evaluation: Process in Urban Regeneration Projects: Theory and World Practice**

Urban planning theories, reviewed in this chapter, define different procedural steps, because they implement different approach. The rational process view of planning defines linear process that does not allow feedback. Therefore implementing this approach to regeneration causes some handicaps. On the other hand, process offered by strategic planning approach is versatile structure allowing feedbacks. This approach also considers participation. Strategic planning process presents participation of local citizens and stakeholders to the process.

World experiments offer significant principles for Turkish cases: comprehensiveness, participation, partnership and long term vision. Both of the examples aimed to regenerate run-down areas and took all components of the area consideration to realize a successful urban regeneration. Processes of the projects were designed not only to maximize participation but also to ensure consensus. These processes introduce significant chance to know about local problems and opportunities.

Projects were managed with public- private partnership was established to enable private investment in regeneration areas. Processes of the projects were designed as a long term vision and action that allowed vision oriented long term strategies.

## **CHAPTER 4**

### **LEGAL ASPECTS OF URBAN REGENERATION IN TURKEY**

Urban regeneration has recently been a central issue of consideration, and attempts to regulate this process have multiplied in Turkey. There is no uniform understanding of what regeneration is.

Balamir and others, 2005, 2

This chapter aims to evaluate Turkish legal framework in terms of urban regeneration issues. By means of evaluating the Turkish legal framework, it is intended to focus on restrictions and opportunities offered by legal framework in terms of urban regeneration and process offered by the legal documents.

In this context, legal documents, which concern directly or indirectly urban regeneration issues, are studied in a chronological order. Aim, here, is not giving historical evolution of legal framework, but finding regulations, experiments, restrictions and opportunities in terms of urban regeneration.

Legal aspects for the issues of urban regeneration in Turkey are examined in 5 periods. These periods are defined by means of examining general conjecture and problems of the era, and aim, scope and tools of the laws enacted in these periods.

First period (before 1923) is defined as before the republican period. Second period (1923 and 1950) characterized as beginning of republican period when legislations inherited from Ottoman Empire were used, this period ended with the start of high urbanization speed. Third period, (1950 and 1985) is the period when Turkish cities were shaped by high urbanization speed. Fourth period (1985 and 1999) is the period of localization and slow urbanization speed. Last period (after 1999) is characterized by increased concern for urban regeneration in respect to urban problems especially earthquake risk, attempts to regulate urban regeneration issues.

## **4.1 Legislation Inherited From Ottoman Empire**

Effect of the political reforms made in 1839 (Tanzimat Edict) and urban problems, especially in İstanbul –which were need of reconstruction of CBD, transformation process in residential areas, high rate of demographic urbanization and urban expansion, physical, functional and transportation and infrastructure problems and risk of fire aroused from high rate of wooden houses caused to new institutional and legal regulations concerning urban areas.

### **4.1.1 Regulations and Laws of (Public) Buildings and the Regulation of Buildings and Roads**

The first entire plan of İstanbul prepared by Moltke between 1836 and 1837 has an important role in the development of urban development legislation. With the 'İlmuhaber' dated 1830 which summarizes the planning decisions in Molke's plan certain urban development rules appeared for the first time pioneered the enactment of the 1848 Regulation of (Public) Buildings (Selman, 1982, 74). Because of the need for institutional and legal organizations, fundamental changes experienced in the Empire, Six important regulations were come into force between 1848 and 1882. First Regulation of (Public) Buildings (was enacted in 1848, and one year later, another Regulation of (Public) Buildings that is not different from the former one, except some articles and changes was issued (Selman, 1982, 74). These regulations were issued only for İstanbul. The Regulation of Buildings and Roads (Turuk ve Ebniye Nizamnamesi), which is the first law, implemented in all cities and towns was issued in 1864. In 1882 Law of (public) Buildings was enacted content of and improving the Regulation of Buildings (Selman, 1982, 77).

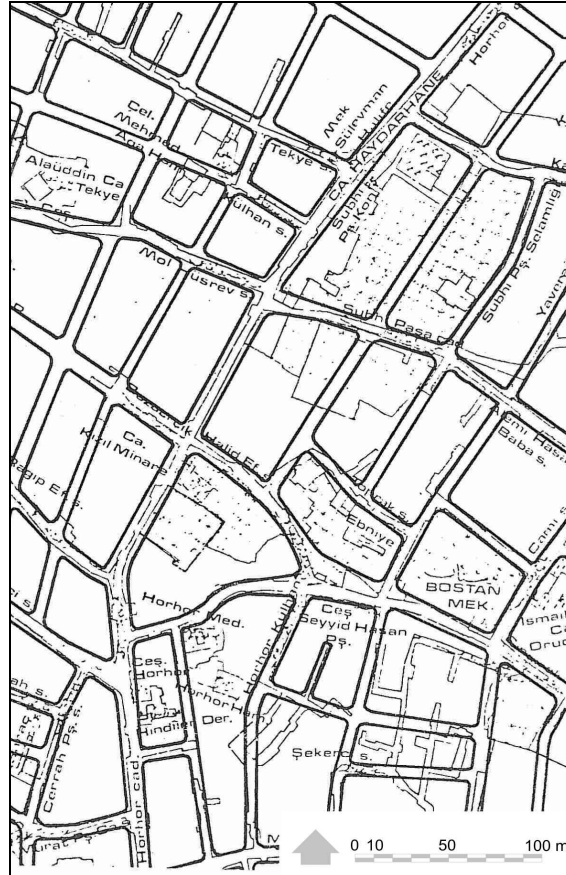
Although main concerns of these regulations were renewal and beautification of cities, both of them brought regulations for new development areas and built areas. With this law 'new organizations' were introduced for city squares and open areas; widths of roads were specified; certain proportions were introduced between street widths and the height of buildings; and detailed rules were introduced relating to plot shapes and proposed buildings' (Ersoy, 1992, 337).

First Regulation of (Public) Buildings (1848) and Law of (public) Buildings (1882) contributed two significant matters to urban planning in terms of urban regeneration issues.

One of them was about the expropriation; Law of Buildings and Roads suggests that both sides of the street to be expropriate, if a street has to be widen (Law of Buildings and Roads, 1864, article 3). On the other hand, the law same article did not give right of appeal, besides it was expected from owner to donate.



Implementation of the 1864 Regulation of Buildings and Roads on a Classical Ottoman Urban Fabric (figure 4.2) shows that the new urban fabric quite different from the existing fabric. This is almost identical with the urban fabric of 1882 Law of (Public) Buildings. But implementation of the law results wider streets and smaller building block (figure 4.3).



**Figure 4.2 Implementation of the 1864 Regulation of Buildings and Roads on a Classical Ottoman Urban Fabric**

(Source: Selman, 1982)

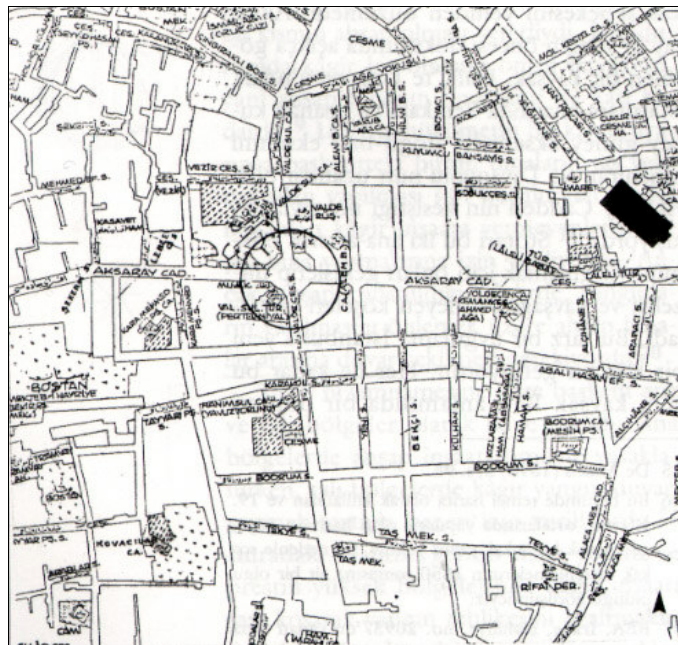






**Figure 4.4 Aksaray at 1850s**

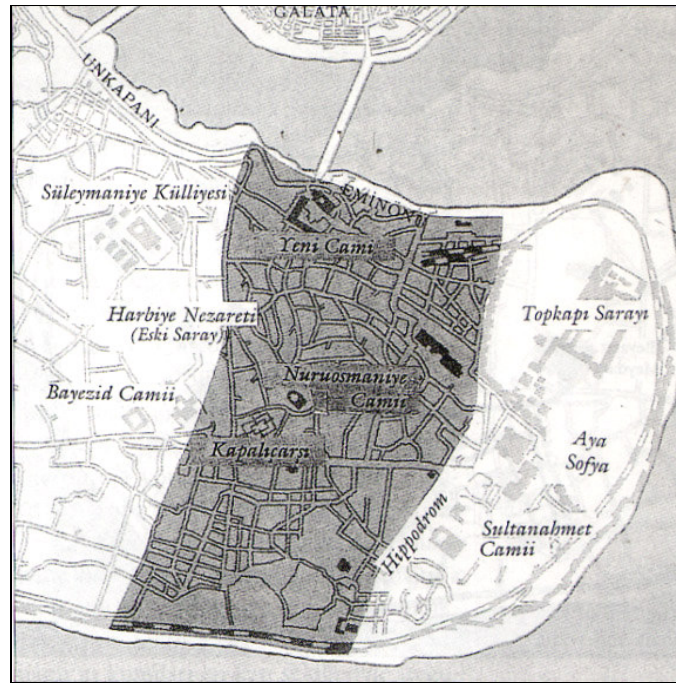
(Source: Çelik, 1998, p. 65)



**Figure 4.5 Aksaray at 1870s**

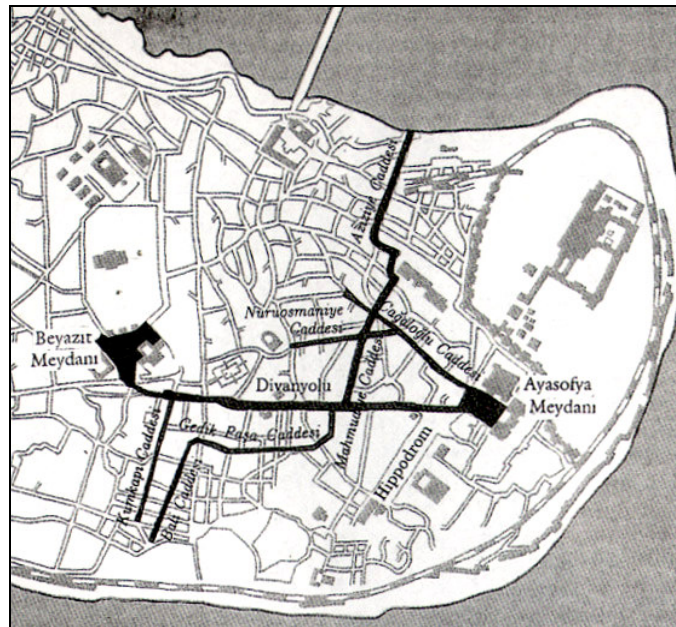
(Source: Çelik, 1998, p. 65)





**Figure 4.6** Area Affected by Hoca Paşa Fire

(Source: Çelik, 1998, p. 47)



**Figure 4.7** Street Pattern According to the Plan Prepared by Islahat-ı Turuk Commission

(Source: Çelik, 1998, p. 48)



**Figure 4.8** Plan of Samatya at 1850s

(Source: Çelik, 1998, p. 55)



**Figure 4.9** Plan of Samatya at 1870s

(Source: Çelik, 1998, p. 55)

## **4.2 1923 - 1950 Period**

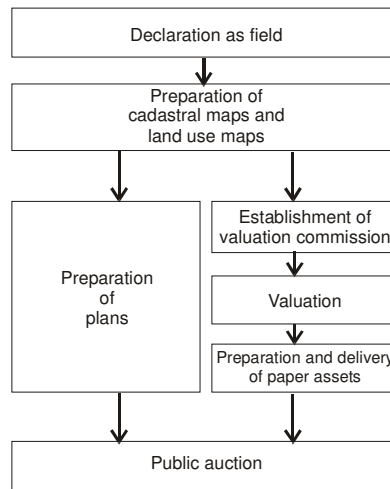
The Ebniye Law was an insufficient legal frame for the aims of new republic. Bilgen and Özcan (1989) state two reasons for that insufficiency. First one was the difficulty in realizing the aim of creating beautiful, clean, healthy, prosperous city as a symbol of the new regime within the existing development legislation. Second was the belief in urbanization that was wholly supervised by the state in terms of planning, implementation and control.

### **4.2.1 The Law about the Changes in the 1882 Law of (Public) Buildings (642; 1925)**

In the republic period, first regulation in terms of urban development was done as continuity of 1882 Law of (Public) Buildings in 1925. Big fire areas appeared in Anatolian cities, especially in cities at western Anatolian due to the independence war. Regulations of these areas faced some problems so 1882 Law of (Public) Buildings seen as incapable and some articles were changed with the law numbered 642 (Kıral, 1980). According to first article of this law, if more than 150 buildings are demolished in a municipal district due to the fire, this area together with its vineyards and orchards is accepted as field. Municipalities have to prepare cadastral maps and land use maps and plans for such areas in one year. If these operations were not done in one year, municipality could not use its authority (Kıral, 1980).

According to the law, a commission, whose three members are from ownership and three members are from municipality, defines values of the lands at fire area. Instead of land value defined by the commission, paper assets were given. After readjustment of fire area, lands are auction for one month (Kıral, 1980). Process offered by the law numbered 642 for fire areas may be illustrated as Figure 4.7.

The law numbered 642 made significant changes in 1882 Law of (Public) Buildings, and brought innovative approaches to urban planning in terms of urban regeneration. First of all, the law numbered 642 increased dwellings number for an area to be declared as field. 1882 Law of (Public) Buildings was implemented in the area that has ten burn dwellings, but the law numbered 642 increased the burn dwelling number 150. This change reduced the number of regeneration area to deal with.



**Figure 4.10 Process Offered by the Law Numbered 642**

Municipalities used bond in implementation first time, but the implementation area was limited with fire areas (Kıral, 1980). Municipalities did not take readjustment share, where as lands were sold by auction, difference between old and new values was gained by municipalities. On the other hand readjustment was done according to land values not area of the land.

#### **4.2.2 The Law of Buildings and Roads of Municipality (2290; 1933)**

Law of Buildings and Roads was enacted in 1933. Preparation of development plans and base maps became an obligation by this law. The basic aim of the development legislation of that period was to change the appearance of cities and to create cities of Western standards.

On that account, law no 2290 brought very detailed regulations about construction and defined the contents of the development plans in their land-use decisions and, even the widths of streets. As a result of this detailed coding, it is claimed that Law of Buildings and Roads was a 'continuation of the 'Ebniye 'Law with respect to the subjects it covers and its stipulations' (Akçura, 1982, 52).

Most of the laws and regulations of these years were enacted for the development of the city of Ankara and later they were generalized for the other cities of the country. Law of Buildings and Roads stimulated urban planning and development regulations for all cities by considering the experiences obtained in the development process of Ankara.

The Ebniye Law was a document mainly relating with the existing tissue so it could not supply the needed instruments for the new republic's administrators whose aim, for Ankara,

was to construct a new city on vacant, land rather than developing the surrounding area of the old city by focusing on it.

It is stated that a choice should be made between improving and developing the old city and constructing a new and healthy one. Yavuz explains two reasons behind new development: the widths of streets and their general condition are so bad that the cost of clearing will probably equal the cost of building a new town; and total redevelopment of the old town will magnify the housing deficit which is already at a critical dimension (Yavuz, 1952).

Jansen decided about old tissue as to be protected conserved and connected with newly developing settlement areas. However, official approach of shaping cities, in combination with the profit motive of landowners in the old city, destroyed the very basic characteristic of traditional Turkish city that should have been preserved (Özkan, 1998)

'New neighbourhoods' emerging in the limited number of cities, in which new legislation was implemented, could not work with the order of the old city. Whereas in the cities in which 'new neighbourhoods' could not be created, old tissue was destroyed by regenerating those areas. In this case, as a result of being together -new with the old- settlements could not have perceptible identities.

In this period, regeneration was the state's policy in the field of urbanization without introducing a coherent conservation policy. Development legislation and related implementations of 1923 and 1950 period did not develop a policy for conservation of that fragile tissue. Creation of new development areas was difficult because of the insufficient capital accumulation in the country.

#### **4.3 1950 - 1985 Period**

This period is the period of high urbanization period. In this period, urbanization rate increased from 25 percent to 53 percent of total population. Migration from rural areas to cities caused a concentration in the city. In spite of the fact that post-republican policies had supported decentralization of development in urban areas, beginning from 1950, policies promoted centralized development for the cities.

1950's approach of creating compact cities led to the demolition of 5-10 years old buildings whose potential economic life, in fact, is almost 40-50 years. Continuous changes that were made in development regulations promoted this unhealthy cycle of 'tear down- build up' process (Aysu, 1981, 204) the reason of the concentration policy of those day's governments was stated as the increase in the possibility of service provision. According to this claim, local administrations will supply better service provision in infrastructure and social services if the cities are development in a compact form (Aysu, 1981, 207).

Beginning from 1950, Turkish city faced with a new fact under high levels of migration; that was squatting. Weakness of (mainly financial weakness) the state 'to generate sufficient public transportation networks for decentralization and to provide shelter for the new urban population' (Günay, 1991, 13) led to the development of squatters in the peripheral areas of cities. In this way, beside the dual structure which was a product of development legislation produced with reference to law no 2290, a new structure emerged after 1950.

Another development, beside squatters, under high levels of migration was the regeneration activities in the existing built-up area. Cities began to be regenerated as a result of being concentration points also in economic life. While the housing stock was increasing illegally on the periphery; it increased in the city by given permissions for higher densities. Thus, development legislation of that period brought new regulations for occurrence of higher densities.

#### **4.3.1 The Law for the Foundation of G.E.E.A.Y.K. (5805; 1951)**

The high council of Immovable Monuments and Antiquities (G.E.E.A.Y.K.) was established in 1951. Aim of establishing this council was identification of main principles for the conservation, restoration and maintenance of architectural and historical monuments, following and interpretation of the conservation applications, discussion of all kinds of subjects and problems scientifically on cultural heritage to be preserved.

The action of conservation was not considered at the city scale in that law, but with in the related implementations of Council tried to take decisions rather than building scale by using the authority given by the law numbered 6785.

#### **4.3.2 The Development Law (6785; 1956)**

Inefficiency of the development law numbered 2290 against increasing number of urban problems brought a new development law in 1956.

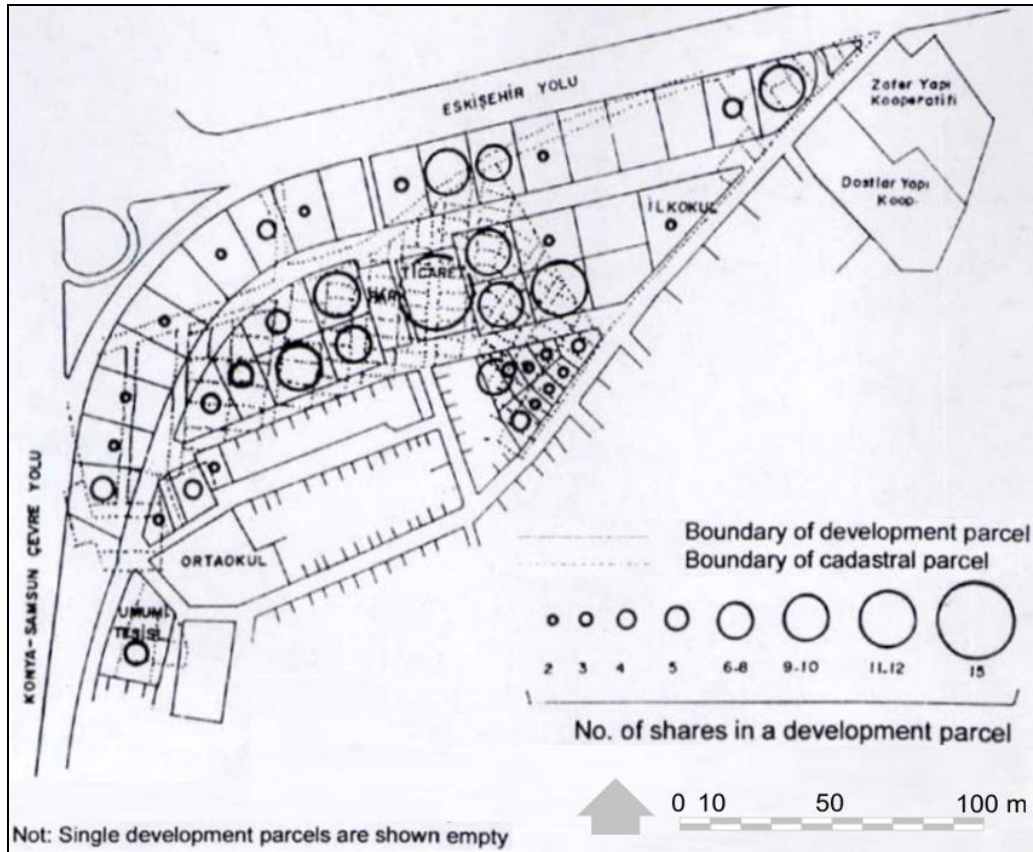
With the new law authority given to municipalities for preparing 'development regulation' (imar Yönetmeliği) for their settlement by considering its local characteristics and opportunities on matters such as the number of storeys, height, projections, distance from neighbours, distance to roads and shorelines, construction area for the buildings etc. Significance of this new regulation in terms of urban regeneration issues is consideration of local and spatial features of settlements.

Another significant development in terms of urban regeneration was related with readjustment share (DOP), which means while transforming from cadastral parcel to urban



land, up to 25 percent of the property could be expropriated for public facilities without compensation to the owners, because it is assumed that development will accrue losses.

On the other, according to the law, only one single building could be built on a certain plot. This definition brought a serious restriction to construction order and let to the domination of small size plots in general layout (Türksoy, 1987, 56). Besides the small size plots number of shares made regenerative activities difficult throughout all development process in urban areas. An allotment plan drawn according to the development plan issued by 6785 and its 42<sup>nd</sup> article in 1978 exemplifies the result of development plan in terms of number of shares. Generated ownership pattern can be seen obstacle for urban regeneration.



**Figure 4.11** Ankara Balgat Allotment Plan (1978)

(Source: Kırıl, 1980)

#### **4.3.3 The Expropriation Law (6830; 1956)**

This law, involving provisions about managing the expropriation issues and related value assessment, was come into effect in 1956. With the enactment of this law, immovable those owned by real or legal persons shall be expropriated by the state and public administrations for any investment in the case of public interest. This law offers significant opportunities in terms of urban regeneration.

The law were abolished with the introduction of new Expropriation Law numbered 2942 in 1983.

#### **4.3.4 The Flat Ownership Law (634; 1965)**

The Flat Ownership Law numbered 634 become valid in 1965 due to the increase in the value of land and construction apartment buildings. Ownership fragmentation in buildings, a self generated process in the market, accelerated the development and redevelopment activities in Turkish cities and hence the rate of urbanization (Balamir, 1975, 315). The legal recognition of ownership fragmentation had serious results in terms of urban regeneration.

Balamir has defined these results under six categories. Firstly, it caused a large stock of buildings to loss. Many of the centrally located small buildings become economically redundant because a new and sufficiently higher 'best' use can be maintained in these locations by the process of ownership fragmentation (Balamir, 1975, 316).

Secondly, according to Balamir, it caused high level of regeneration activity in the first step. Flat ownership led to new developments in the small towns, whereas in larger ones it stimulated regeneration activities as well as new developments. Apartment blocks were produced by regenerative activities in the place of that lost stock (Balamir, 1975, 316).

First two categories constitute a cycle of regeneration of old tissue to apartment blocks. This is the first regenerative cycle of the Law. Finalization of the first regenerative cycle made regeneration difficult in the urban space

Thirdly, results of the law brought an irreversible situation for the cities, because the probability of older buildings (under normal ownership) being fragmented in ownership in the market is always greater than the probability of unification of distinct ownership rights in a fragmented building (Balamir, 1975, 316)

Fourth, as the law defines three conditions for the termination of flat ownership; unanimity among the owners, falling down of the building and the state action of expropriation, besides unanimity among the owners is needed for every decision the law itself, made the process almost irreversible by minimizing the probability of producing a joint decision. As Türksoy



mentions, even though it is obvious that each building has a certain life in terms of different criteria (economic, functional, structural etc.) flat ownership law did not bring any regulation towards the renewal of settlements that came into existence under this law (Türksoy, 1987, 62).

Fifth, the law paved the way for the strict divergence in the smallest scale instead of larger scale organizations in urban space. The law proposed a social organization accordant with a certain physical environment. Nevertheless, it would be better if this organization were forced within a larger physical unit rather than in building scale (Balamir, 1975, 302).

Sixth, it ended in the social disintegration in urban space. With Balamir's words 'the law brought high possibility for people being from same social and income group in certain area and this led social disintegration in urban space' (Balamir, 1975, 314).

Although the law caused to speed up development and redevelopment activities in Turkish cities, it has serious deficiency, in terms of urban regeneration.

#### **4.3.5 The Gecekondu Law (775; 1966)**

Flat ownership law (634) and the Gecekondu Law (775), which are still valid, enacted as a result of inefficiency of the law numbered 6785. Gecekondu law brought fundamental regulations both for built and unbuilt areas, so the law involves a regenerative approach and provides a policy with its legal, organizational and financial tools for the aimed regeneration project.

One of the significance of Gecekondu law is comprehensive looking and zoning. The law differentiated three types of zones in squatter areas and defined three types of action for each of them. Those zones in the law were

- clearance zones,
- improvement zones and
- prevention zones.

Besides the law interlinks implementation in these zones. In the clearance zones, buildings in poor conditions would be completely cleared and their land would be assigned to common uses. For the people whose houses were cleared, new houses would be provided in prevention zones.

Areas having buildings in better condition are determined as improvement zones and improvement of the area through planning and upgrading the standards of dwellings is proposed. The law introduced 'improvement plans' for these zones and defined it as; 'the plan that is temporarily prepared to upgrade the physical environmental conditions of

gecekondu' (Türksoy, 1983, 22). By the improvement plan, according to the law, the way of the provisions of public facilities for gecekondu areas would be specified firstly and then, those areas would be developed together with the city by development plans.

'Prevention zones' are defined as those in which different kinds of housing projects would be developed for low-income groups and also for newcomers in the city. In order to prevent the evolution of new squatters, the law proposed the development and implementation of projects for social housing, core-housing, self-help housing and low-cost housing cooperatives in those prevention zones. With this aim a central fund was also established as a financial assistance.

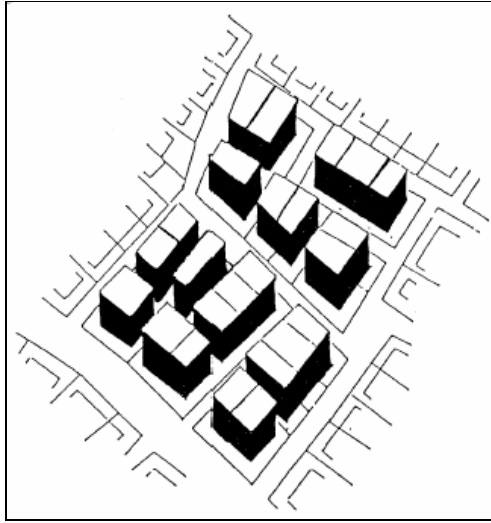
Implementations according to the gecekondu law changed ownership and settlement pattern, but it also caused to low quality urban environment and triggered off unauthorized development in cities (figure 4.12 and Figure 4.13),

The law can be evaluated as interventionist policy in terms of both definitions of different zones where actions and policies are totally different but strongly interlinked and process of the regeneration activities. This approach, integrating new development areas and clearance areas was also used in 1970s.



**Figure 4.12 Settlement Pattern of the Gecekondu**

*(Source: YESKEP, 1996)*



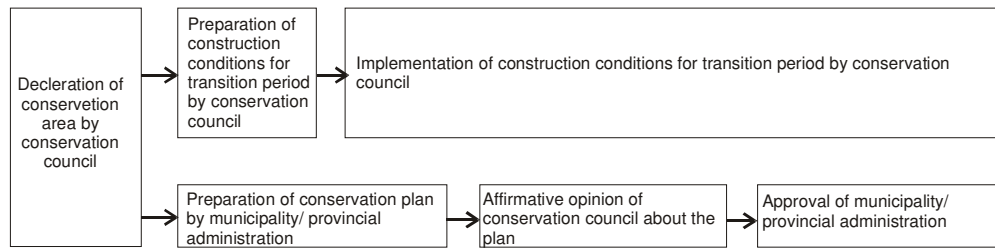
**Figure 4.13 Settlement Pattern of the Improvement Plans**

(Source: YESKEP, 1996)

#### **4.3.6 The Law for Conservation of Cultural and Natural Heritage (2863; 1983)**

Another law -the law for preservation of cultural and natural heritage (2863) involving provisions about the built environment was enacted in 1950-1985 period. Although some articles of the law were changed with the law numbered 3386 in 1987, the law (2863/ 3386) is studied in this period. The law brought a new concept, conservation plan. The law forced municipalities and provincial administrations (*il Özel İdaresi*) to prepare conservation plans of sites with in the next one year after their determination and registration.

The law brought significant regulations and tools that are worth to consider in terms of procedural steps of urban regeneration. According to the law declaration of an area as conservation area (sit) halts implementation of development plan. Related administration has to prepare conservation plan in one year. Conservation council has to define, in one month, construction conditions for transition period, which would be valid until the preparation of conservation plan (article 17). The process offered by the law can be summarized as Figure 4.14.



**Figure 4.14 The Process Offered by the Law Numbered 2863/ 3386**

Municipalities can exercise compulsory purchase with the council's decision and approval of Ministry of Culture and Tourism (article 17a). On the other hand, construction prohibited areas can be exchanged by other treasury land (article 17f). Both tools and process offered by the law present significant innovations.

Some articles of the law were changed with the Law about the amendment of law for preservation of cultural and natural heritage and some laws (5226; 2004), which brought innovative approaches to urban regeneration issues in Turkey.

#### **4.3.7 The Expropriation Law (2942; 1983)**

The Expropriation law numbered 6830 was abolished with the introduction of new Expropriation Law numbered 2942 in 1983. The law brought only reversal action for an expropriation work. If no action is taken to the expropriated land for five years, property owner may obtain the land by paying the expropriation back.

#### **4.3.8 The Law About The Procedures to be Fulfilled for Buildings Violating Development and Squatter Housing Legislation and Change in One Article of Development Law Numbered 6785 (2981; 1984)**

Another significant law enacted in this period was the law about the procedures to be fulfilled for buildings violating development and squatter housing legislation and change in one article of development law numbered 6785. The law directed to illegally developed areas defined two types of actions for squatting areas; preparation and improvement plans. Meaning and scope of improvement plans that were first introduced by the Gecekondu Law (775) were changed. The law numbered 775 defined improvement plans as temporary regulations, but later it transformed to permanent. Secondly, the former aimed to upgrade physical conditions, whereas the law numbered 2981 aimed to create a new settlement pattern under the increased development rights (Türksoy, 1996).

Implementation of the law that does not involve rehabilitation and improvement changed not only physical tissue but also social and economic structure of the area.

#### **4.4 1985 - 1999 Period**

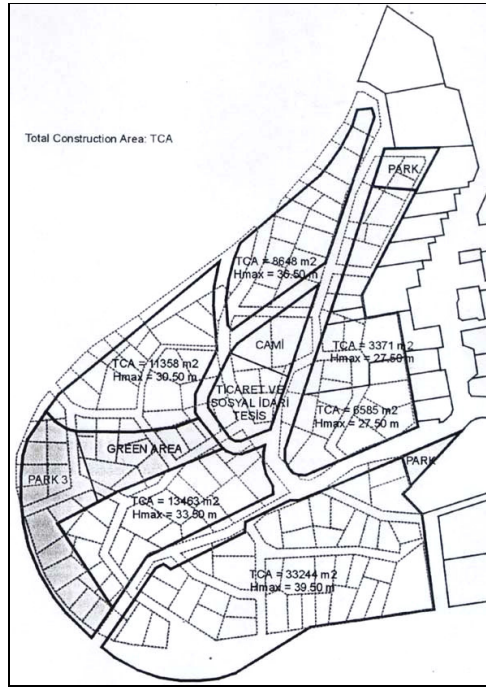
##### **4.4.1 The Development Law (3194; 1985)**

Development law numbered 6785 was replaced by new development law numbered 3194 in 1985. Although new law did not propose structural difference in comparison with the former law, Altaban mentions two primary policies of new development law. The development law numbered 3194 is transfer of authorities to local administration, and accelerating and making development process and procedure easier (Altaban, 1985, 11).

According to Günay, provisions of the law encouraged redevelopment oriented implementations by relaxing restrictions and depressing the authority (Günay, 1995). The law generally involves provisions at plot or building scale so it does not propose a new spatial organization for building blocks and plot structure. Plotlines restrain urban regeneration attempts. Removal of plot lines and promotion of common ownership in a building block perform to prevent speculative redevelopment activities and provide choice to increase technical infrastructure and social amenities (Balamir, 1980 and Günay, 1995)

Readjustment share increased from 25 up to 35 percent but the provision which imply that readjustment share can be taken only once a time remained same. This also shows hindrance effect for urban regeneration attempts.

Implementation of the development plan leads to the emergence of a lot of commonly shared lots (figure 4.15), which can be considered as an obstacle on urban regeneration.



**Figure 4.15 Example to Implementation of the Development Plan: Yıldız, Allotment Plan**

(Source: Volkan, 2002 -cited from Çankaya Municipality)

Technical Specifications on the Preparation of the Development Plans explains the procedural steps of preparation and implementation of development plans. The stages of the production of a development plan are:

1. The collection of the preliminary information and documents before the plan: the collection of information on, existing map, geological report, State Hydraulic Works reports and projects, historical preservation areas, high voltage energy transfer lines, State Highway route, coastal areas, railway, harbour, airport, forest area, from the related institutions.
2. The designation of purposes and targets
3. Collection of information and research (analysis)
4. Synthesizing the information, interpretation, evaluation of the results
5. Planning decisions, transition to planning, planning alternatives, comparison between alternatives, evaluation
6. Final planning document and attachments, planning decisions, planning notes
7. Planning implementation programs (article 2.02).

As it can be seen above, the first stage defined in the document is on the data collection before the planning stage and the 2., 3., 4. stages are “research and evaluation studies” within the preparation stage, which is about the collection and production of data as input for planning. The aim of the research and evaluation stage is stated as “determining the existing and past situation of the area to be planned and evaluating the potential, tendencies and limitations for development, and predicting the level that the settlement will reach in the future after the planning period as realistically as possible”. Technical Specifications on the Preparation of the Development Plans defines a linear process.

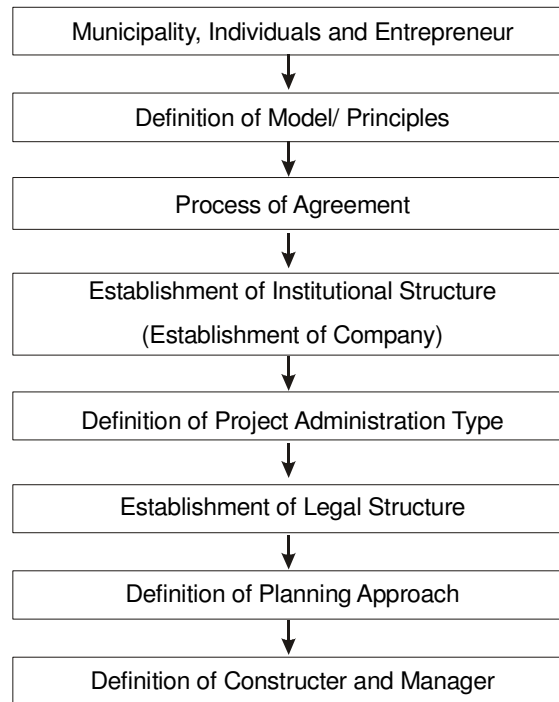
Between 1985 and 1999, Turkey has experienced several urban regeneration projects. Portakal Çiçeği Dikmen Valley and Zafertepe Urban Regeneration Projects are the significant examples experienced in this period.

Portakal Çiçeği Urban Regeneration Project aimed to regenerate Portakal Çiçeği Valley through a model aiming gathering together and integration on project basis of development right and the sharing of the value thus created within the framework of the cooperation of public and private sectors.

Göksu explains advantages of the model as;

- Right of construction on project basis instead of parcel basis,
- Joint sharing of the value created on project basis,
- Sharing of the value created, not the right of development,
- Increased public benefit as a result of integration instead of expropriation
- Participation of different group in the project
- Development of the project partnership (Göksu, 2002)

The institutional structure took the form of a company organization in which both municipal and individual landowners and the entrepreneur have come together under the cooperation of public and private sectors. Such a structure has enabled particularly individuals to participate in decision making process and be informed of decision made through their representatives.



**Figure 4.16 Process of Portakal Çiçeği Urban Regeneration Project**

*(Source: Adopted from Göksu, 2002)*

Dikmen Valley Urban Regeneration Project The project is being implemented in the Dikmen Valley extending in a south north direction of Ankara, occupied by squatters. Dikmen Valley Urban Regeneration Project aimed to generate recreational area as well as cultural and entertainment corridor and provide healthy and high quality housing areas by using basically self financing mechanisms and participatory planning approaches in the valley of an area of 150 ha (Göksu, 2002).

The project is significant in terms of both organization and planning and its investment size and funding method (Göksu, 2002). Funding requirements and comprehensiveness of the project brought a new approach in management. A project development company was founded with the partnership of private planning company, Ankara Greatercity Municipality and six district municipalities.

Squatter house owners who were right holder according to the law numbered 2981 founded a cooperative participated in Project Decision-Making Board that was formed to ensure the making of all decisions in a participatory manner through managers of housing cooperative.



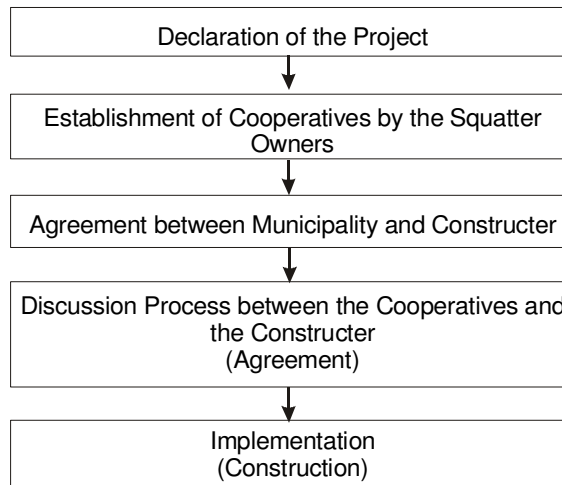
The project allowed only right holders to benefit from housing units constructed in the valley. Calculation of the value of the housing unit delivered to right holders basing on the size of the existing land.

Third phase of Dikmen Valley Urban Regeneration Project is going to start in April of 2006.

In this period, regeneration intervention named from squatter housing to contemporary housing (GEÇAK) project which aimed to solve the squatter housing problems in Çankaya, Ankara was implemented by the Municipality of Çankaya.

GEÇAK proposed public-citizen participation rather than a public-private or public-private-citizen partnership model. The participants organized under an organizational structure, cooperative. But tenant squatters were not included in these organizations, contrary to the model of Portakal Çiçeği Valley project.

The Municipality made an agreement with a constructor, after the organizational structure was established. Then the municipality as initiator and controller brought the cooperative and the constructor together to discuss the building process.



**Figure 4.17**      **Process of GEÇAK Project**

GEÇAK proposed dilemma in terms of participation. Firstly the municipality tries to organize the participants in a cooperative and then apply a top down approach in the case of selecting constructor with out any participation. At the end, the municipality starts discussion process between participants and constructor to come an agreement. Besides, the municipality defined only squatter owners as participant.

Meetings with the project participants could not develop an area of negotiation and consensus. Therefore participation in the projects could not go beyond information-giving. But current discussions about establishing an active participation system are centred on urban planning in Turkey.

#### **4.5 After 1999**

After 1999 earthquakes that killed more than 15.000, risks in urban areas and urban problems came in to consideration, therefore urban policies focused on urban regeneration. Several draft laws and laws has been prepared that directly or indirectly related with urban regeneration issues since 1999.

Although urban regeneration has been on the centre of urban planning first law about urban regeneration started to be enunciate in this period. Following laws and draft laws directly or indirectly related with urban regeneration issues are prepared after 1999

1. The law about the changes in the law for preservation of cultural and natural heritage and some laws (5226; 2004),
2. The law of greatercity municipalities (5216; 2004),
3. The law of municipalities (5272; 2004),
4. The law concerning the northern entry to Ankara urban regeneration project (5104; 2004),
5. The draft law of urban regeneration (proposed by the ministry of public works and settlement, 2004),
6. The sketch of the draft law of development (proposed by the ministry of public works and settlement, 2004),
7. Sketch of draft law of planning and development (proposed by the ministry of public works and settlement, 2005),
8. The draft law of urban regeneration and development (draft law sent to Grand National Assembly of Turkey in March 2005),
9. The law about the rehabilitation of historical and cultural property (5366; 2005).

#### **4.5.1 The Law About the Changes in the Law for Conservation of Cultural and Natural Heritage numbered 2863 and Some Laws (5226; 2004)**

The law (5226) that changed some articles of the law (2863/ 3386) brought innovative approaches to urban planning. Definition of conservation in the law offers broad perspective for conservation plan. Following features and principles can be extracted from the definition of conservation plan:

- Conservation plan aims to conserve cultural and natural heritage in the protection sites through the sustainability principle.
- Conservation plan based on local researches about archaeological, historical, natural, architectural, social, economic, cultural, physical components besides ownership information.
- Conservation plan includes strategies to upgrade social and economic structure, producing employment and value added.
- Conservation plan is integrity of projects of rehabilitation and regeneration, implementation phases and programs, plan notes and explanatory reports consists of aims, goals, strategies, plan decisions that are prepared according to the principle of participatory area management models (article 3a8).

The law is the first law that mentions participation in planning process in Turkey. Besides consideration of the plan was also changed from single side (physical) concern to comprehensive -social, economic and physical/ environmental concerns. Definition, principles and features of preservation plan shows similarities with definition of urban regeneration. According to the law, declaration of an area as conservation site halts implementations of all plans (article 17).

Conservation plan can define rehabilitation and regeneration areas, projects and programs for the preservation sites. Plan also defines areas where construction right is restricted and areas where construction is strictly forbidden. The law enabled exchange of properties and transfer of development rights (TDR). Properties at construction-restricted areas can be exchanged with properties of municipality or governorship (article 17b). Development rights of properties at construction forbidden areas can be transferred to development areas, which are defined by development plans (article 17c). According to the law, in the process of TDR, current value is taken as base. Municipality and governorship can prepare, deliver and collect bonds prepared for this purpose. Bank of Provinces is responsible for printing, approval process of changing hands, preparation of database and supervision.

#### **4.5.2 The Law of Greatercity Municipalities (5216; 2004)**

The law about the administration of greatercities (3030, 1984) was valid until the law of greatercity municipalities (5216) was enacted in 2004. Tasks and responsibilities given to greatercity municipalities with the law include

- Preparation of development plans (1/25.000 and 1/5.000) according to environmental plans (article 7b),
- Approval of implementation plans prepared by first-degree municipalities and sub-district municipalities (article 7b),
- Protecting environment, agricultural lands, catchment areas through the sustainability principle (article 7i),
- Preparation of plans concerning disasters (article 7u).

Prerogatives given to greatercity municipalities include the

- powers to 'vacate and demolish dangerous buildings, and to demolish all other non-conforming structures' (article 7z).

Municipalities became capable of instituting partnerships with local municipalities and private firms, or establishing firms themselves. Municipalities can participate in services and costs of projects carried out with public, private bodies or NGOs (article 24n). These municipalities are also entitled to institute 'financial organizations' (article 26). The law offers opportunity to undertake many forms of partnerships in comprehensive regeneration projects

On the other hand powers to vacate and demolish dangerous buildings and to demolish all other non-conforming structures empower greatercity municipalities for urban regeneration projects aiming risk mitigation.

#### **4.5.3 The Law of Municipalities (5272; 2004)**

The law of municipalities (1580, 1930) was valid until the law numbered 5272 was enacted in 2004. Responsibilities given to municipalities are protecting natural, historical and cultural assets in their functions of plan preparation. Municipalities can exercise powers of compulsory purchase for this purpose and for housing provision; start firms, borrow capital, issue shares and paper assets (article 68).

This law is the first law including the term "urban regeneration". According to the law, gratercity municipalities and municipalities in gratercity municipalities, province municipalities

and municipalities whose population is 50 000 and above, can designate areas (not smaller than 50 000 m<sup>2</sup>) for 'urban regeneration and development projects'. Aim of the urban regeneration projects can be

- reconstruction or restoration of worn out city parts,
- developing housing, industry and commerce areas,
- developing technology parks,
- developing social infrastructure,
- earthquake risk reduction and
- conserving historical and cultural tissue of city (article 73).

Urban regeneration and development areas are declared by the decision of council. Processes of demolishing or altering existing buildings under this pretext are subject only to 0.25 of regular duties. Voluntary agreements with property owners are the preferred method in regeneration projects (article 73). This does not however exclude the prerogatives of exercising compulsory purchase. Disagreements have priority to other cases in the courts.

#### **4.5.4 The Law Concerning the Northern Entry to Ankara Urban Regeneration Project (5104; 2004)**

This law is one of the laws that are enacted for special areas. Law aims to improve physical conditions and appearances, provide healthy settlement pattern and increase 'life standards' of project area; northern entry to Ankara. All plan implementations were halted in the area defined by the law, , after the law became valid.

The Greater Municipality of Ankara is responsible for the preparation of a plan (1/ 5000), subject to the approval of Ministry of Public Works and Settlement (article 4). All buildings even the buildings constructed according to the former plans are subject to the plan decisions.

All public and private property is subject to compulsory purchase. This is preferably carried out with mutual agreements between property owners and the Municipality (article 4). An inventory of property owners entitled to specific shares in prospective property is to record the size, development type, and the legal status of current property. This provides options for individuals (tenants included), and describes a program of payments, the value of the existing property deduced from total debt. The non-conforming property owners are subject to the special procedures of the Compulsory Purchase Law (2942, article 3), empowering the

municipality to distribute payments up to 5 years. The Greater Municipality of Ankara is entitled to have access to credits of the Housing Administration.

The law concerning the northern entry to Ankara urban regeneration project (5104; 2004) charges Greater Municipality of Ankara for preparation of the urban regeneration project, but the law charges the ministry for approval of the project.

Other than the Northern Entry to Ankara Urban Regeneration Project, the Greater Municipality of Ankara has some other urban regeneration projects. Güneypark Urban Regeneration Project is one of them.

#### **4.5.5 The Draft Law of Urban Regeneration (Prepared by the Ministry of Public Works and Settlement, 2004)**

The draft law of urban regeneration was prepared by the ministry of public works and settlement in 2004. Unhealthy and insecure living environments, unauthorized building stock and natural disaster risks are the motives behind the draft law. Aims of the draft law are explained in the aim part as to improve, purify and regenerate gecekondu and buildings that are incongruous to development regulations and plans prepared according to this draft law to form healthy and secure living environment through the sustainable development principle and creating hazard sensitive living environments. For this reasons, the draft law was prepared to define principles and models for construction of new settlement and development areas and production of cheap building and land that are base on public participation (article 1).

The draft law includes acts and defines processes to

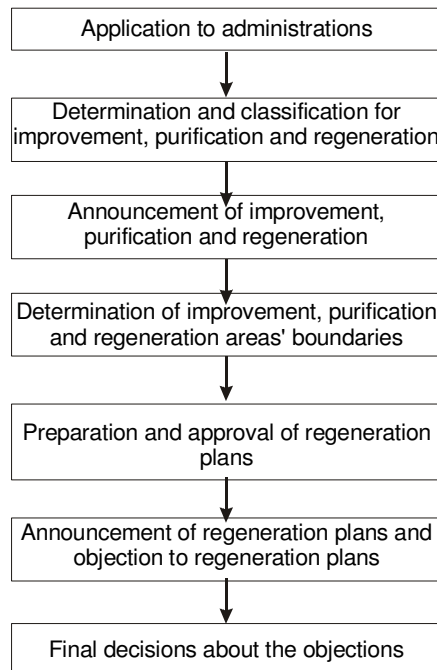
- improve, purify and regenerate buildings that are incongruous to development regulations and to plans prepared according to this draft law and
- supply city's future need for buildings and lands (article 2).

The draft law defines 3 intervention areas; improvement, purification and regeneration. The draft law charges greatercity municipalities (greatercity municipalities and municipalities under greatercity municipalities) and other municipalities in the boundary of municipality and adjustment areas and provinces out of these boundaries. All planning and implementation powers in urban regeneration plan areas are transferred to these administrations.

Task and responsibilities given to municipalities and provincial administration includes

- determination of improvement, purification and regeneration areas,
- preparation of regeneration plans which are 1/5 000 and 1/1 000 scaled development plans including implementation stage and programs of social and technical infrastructure and finance models,
- preparation of subdivision plans arrangement of lands,
- preparation of 3 types of certificates for landowners and house owners,
- construction of housing and
- preventing unauthorized development.

The process offered by the draft law is illustrated with figure 4.18. Main aim of the draft law is to transform ownership pattern.



**Figure 4.18 Process Offered by the Draft Law of Urban Regeneration**

The draft law, which defines process for authorization of unauthorized building, is almost same with the law of numbered 2981. Although the draft law brings new definitions and zoning tools for urban planning, it offers implementation of development regulations for unauthorized areas. Besides the draft law considers urban regeneration only as physical

issue. For this reasons process offered by the draft law considers physical regulations. Public participation to planning process is mentioned in the aim part of the law; it does not bring any regulations about the public participation to the planning or implementation process. On other significant issue that should be evaluated in terms of procedural steps of urban regeneration projects is the plan hierarchy. The draft law does not get input from upper scale plans, but it gives input for upper scale plans.

#### **4.5.6 The Draft Law of Development**

The draft law, which was prepared the Ministry of Public Works and Settlement in 2004, intends a new planning approach. The intended planning approach re-defines plan hierarchies and relations between plans. The draft law defines planning far away from the physical arrangement. It concerns social, economic, physical and environmental issues (article 1). Besides, the draft law develops several implementation tools. Defining several types of special planning areas is one of the implementation tools. The draft law enables municipalities to designate several types of special planning areas for the purposes of implementing projects concerning protection, regeneration, intensive development, and public and/or private investments (article 28, 29, 30, 31).

Municipalities are obliged to carry out mitigation plans to reduce disaster risks, if ignored, the Ministry could use its prerogatives. They are entitled to determine the location and size of areas for such operations, prepare plans and projects. The municipality or the majority of the property owners in an area could form partnerships for the redevelopment and/or joint management of the area. Besides physical operations of clearance, development, protection, such projects are envisaged to cover policies of finance, management, ownership and means of socio-economic development. The tools for such operations are determined by the municipalities, which are entitled to 30 % of the property values and 25 % of building surface increases generated. "Protecting the rights of the original owners, the municipalities in these areas could carry out lease agreements, servitudes, comprehensive project development, tendering for construction, supervision, arranging shares according to the Flat Ownership Law, management organizations, etc.... and demolish existing buildings avoiding public purchase" Such property will be exempt from sales and purchase taxes for 5 years, and Value Added Tax will be applicable at the rate of 1%.



#### **4.5.7 The Draft Law of Planning and Development**

The Ministry of Public Works and Settlement proposed a new development law in 2005. The draft law defines urban and rural regeneration areas. Characteristics of urban and rural regeneration areas are defined as;

- natural and technological hazard risk urban hazard or risk,
- social, economic and physical deprived areas, and
- Insufficient or poor quality social and technical infrastructure (article 29).

The draft law of planning and development that charges municipalities and provincial administrations for the preparation and implementation of urban regeneration aimed development plans, provincial administrations approve the regeneration areas defined by the municipalities whose population is less than 50 000.

According to the draft law, definition and declaration of regeneration area halts the implementation of plans and constructions other than the construction that took the construction permit before declaration (article 30).

The draft law charges administrations to prepare regeneration aimed development plans in two years to

- take Measures for natural disasters,
- mitigate urban hazards and risks,
- protect natural and cultural assets,
- support local architecture,
- achieve local development program,
- revitalize slum areas,
- improve environmental quality, and
- ensuring secure and healthy development (article 30).

Aims of the draft law listed above make a comprehensive definition for urban regeneration, because it has not only physical structure but also social and economic objectives.

Although the law does not consider directly the upper scale plan decisions, it offers revising the plan if it has decisions contrast to the upper scale decisions.

Regeneration aimed development plans that take maps of hazard risk, report of risk management as base are prepared together with programs showing finance sources and regeneration projects.

Process offered by the law starts with the definition of regeneration area, and follows a rational process.

Powers of the administrations given by the draft law includes;

- To take decision about conservation, retrofitting, using, improving, developing, renovating and clearance,
- To expropriate real estates,
- To exchange real estates,
- To transfer of development right to special project development areas by changing,
- To Establish real estate investment trusts with private firms,
- To practice exceptions for estate tax, and
- To restrict temporarily or permanently by orienting (article 30).

The draft law of planning and development offers a different approach to the finance of the urban regeneration projects. Administrations can use national or international credits and equity capital and contract easement to finance urban regeneration projects. Besides, real estate owners are obligated to cover expense of the infrastructure and project in respect of share of real estate values. According to the law, 15 percent of the value created by the project is left to the administrations to be used for urban regeneration projects. Rest of the value is shared between real estate owners.

The draft law offers regulations to determine all actions and studies including definition of regeneration areas, preparation of plans and projects, participation and implementation.

#### **4.5.8 The Law About the Rehabilitation of Historical and Cultural Property (5366; 2005)**

Draft of the law was sent to Turkish Grand National Assembly in March 2005 with a name of 'Draft Law of Urban Regeneration and Development'. Context and name of the draft law was changed and enacted in June 2005.

The law numbered 5216 gives tasks and responsibilities of regenerating conservation areas to greatercity municipalities, municipalities in greatercity municipalities (first-degree and sub-district municipalities), province municipalities, sub-district municipalities and municipalities whose population 50 000 and above, and outside of these municipalities provincial administrations (article 1).

Aim of the law is explained in aim and scope part (article 1) as

- developing housing, commercial, cultural, touristic and social facilities by means of reconstructing and restoring areas that are worn out and tend to losing specialty in conservation areas (article 1)
- taking measures to risks of natural hazards,
- conserving historical and cultural immovable

Prerogatives given to municipalities and provincial administrations include the temporary limitation on construction and usage of real estate. All public and private property is subject to compulsory purchase. This is preferably carried out with mutual agreements between property owners and the municipality and provincial administrations (article 4).

Process and procedure offered by the regulation about the implementation of the law about the rehabilitation of historical and cultural property can be summarized as following:

1. Definition of regeneration areas,
2. Preparations for decision of regeneration areas,
3. Decision of regeneration areas,
4. Approval of regeneration areas,
5. Preparation and approval of phase project and programs,
6. Preparation and approval of regeneration projects,
7. Preparation and approval of regeneration implementation projects.

First of all, municipality or provincial administrations defines regeneration areas. Historical and cultural characteristics and natural hazard risk are considered in definition of regeneration areas (regulation about the implementation of the law about the rehabilitation of historical and cultural property, article 8). They make preparations to decide regeneration areas. "Implementation Unit" is established to determine the present conditions of the area. Implementation unit gathers information about cadastral, real property, land use, functions, demography etc. After preparations for decision of regeneration areas, councils of greatercity municipality and provincial administrations decide regeneration areas and council of ministers approves decision of regeneration areas. Stage project and programs are prepared

by the related administration and approved by mayor of greatercity municipality in the border of municipality, and approved by governor out of the municipality border. Finally, regeneration projects and regeneration implementation projects are prepared and approved.

Implementation can be done by municipalities or provincial administrations or public institutions or real or legal persons and also they can institute partnership between housing administrations for implementation. Implementation also can be done by the property owner in building scale.

#### **4.6 Evaluation: Legal Aspects of Urban Regeneration in Turkey**

There are several attempts to regulate this process but there is no specific law and regulation on urban regeneration issues. Laws and regulations about urban areas generally development oriented. There is no law or regulation considering built up areas. On the other hand several regulations were done before and just after republican period. Field rule used these implementations to declare the area as regeneration area, using participatory method in valuation and enabling municipalities to prepare bond are the topics to be considered in both process and legal aspects of urban regeneration.

Between 1923 and 1950 'regeneration' was the state's policy in the field of urbanization but proposed regeneration type had certain destructive results due to the absence of a conscious conservation policy for existing built-up areas.

Urban areas were mainly shaped between 1950 and 1985 by the effect of development law and flat ownership law. Both of these laws produced irreversible settlement and ownership pattern. Readjustment period of development plans caused to increase the number of shares in one plot. Flat ownership also causes to increase the number of shares in one building and conditions for the termination of flat ownership made the process almost irreversible by minimizing the probability of producing a joint decision. The Gecekondu law enacted in this period is significant in terms of defining three different intervention zones that are interlinked.

The laws enacted between the years of 1950 and 1980 promote concentration in the existing built-up area to ensure low cost infrastructure provision. This period's laws also led to destructive regeneration actions in urban areas on the base of redevelopment and/or renewal. After 1980, legal framework encouraged, again, redevelopment oriented implementations by relaxing restrictions and transferring authority to local administrations (Özkan, 1998, 84).

On the other hand, there is no uniform understanding between present attempts aiming to regulate the urban regeneration process. Present attempts mainly focused on regenerating the physical components of urban areas, which is already accruing in market condition.

Besides, they do not propose new approach for urban regeneration. Main characteristics of recent attempts can be summarized as following.

- Process offered by the laws and draft laws almost same with the gecekondu law.
- Implementation tools are inherited from development law.
- There is not defined resource for urban regeneration.
- Participation model is not defined.

Table 4.1 provides an evaluation of legal framework for the issues of urban regeneration.

**Table 4.1 Evaluation of the Laws**

Year of Ediction	Law No	Name of the Law	Provisions of the Law	Concerned Regeneration Type	Implementation Scale (Building/ Area)	Degree of Concern
1882		Law of (public) Buildings	Regulations for new development areas and built areas	Redevelopment	Area	Directly
1925	642	Law About the Changes in the 1882 Law of (Public) Buildings	Regulations for built areas (burnt areas)	Redevelopment	Area	Directly
1933	2290	Law of building and roads of municipality	Preparation of development plans in order to create cities fitting into 'ideal model'	General Clearance Redevelopment	Area	Indirectly
1951	5805	Law for the foundation of G.E.E.A.Y.K.	Conservation, restoration and maintenance of architectural and historical monuments consideration of historical buildings in	Conservation Restoration Preservation	Building	Indirectly
1956	6785	Development	Development regulation readjustment share for built-up area provisions dominating small-sized	General Redevelopment	Area/ Building	Indirectly
1956	6830	Expropriation law	Provisions for expropriation of immovables owned by real or legal persons	General	Building	Indirectly
1956	634	Law of flat ownership	Distinct freehold rights on independently usable parts of buildings	General Redevelopment	Building	Directly
1966	775	Gecekondulaw	Improvement plan, clearance zone improvement zone	Improvement Rehabilitation Clearance	Area	Directly
1972	1605	Amendment of the development law no.6785	Site' concept urban site	Conservation	Area/ Building	Directly
1973	1710	Law of antiquities	Broadens the 'site' concept historical, natural and archaeological sites	Conservation Preservation	Area/ Building	Directly
1983	2863	Law for preservation of cultural and natural heritage	Conservation plans	Conservation Preservation	Area/ Building	Directly

(Source: After Özkan, 1998)

**Table 4.1 Evaluation of the Laws (continued)**

Year of Edition	Law No	Name of the Law	Provisions of the Law	Concerned Regeneration Type	Implementation Scale (Building/ Area)	Degree of Concern
1983	2942	Expropriation law	Provisions for expropriation of immovable owned by real or legal persons	General	Area/ Building	Indirectly
1984	2981	Procedures to be fulfilled for buildings violating development	Differentiates the content of improvement plans introduced redevelopment by higher	Improvement Redevelopment	Area	Directly
1985	3194	Development law	Transfer of planning authority to municipalities	General	Area/ Building	Indirectly
2004	5226	The law about the changes in the law for preservation of cultural and natural heritage and some laws	Conservation plans	Conservation Preservation Rehabilitation Regeneration	Area/ Building	Directly
2004	5216	The law of greatercity municipalities	Management of Greatercity Municipalities		Area	Indirectly
2004	5272	The law of municipalities	Management of Municipalities		Area	Directly
2004	5104	The law concerning the northern entry to Ankara urban regeneration project	Regeneration	Regeneration	Area	Directly
2005	5366	The Law About the Rehabilitation of Historical and Cultural Property	Conservation	Conservation Renewal Clearance Regeneration	Area/ Building	Directly
2004		The draft law of urban regeneration	Regeneration	Regeneration	Area	Directly
2004		The sketch of the draft law of development	Regeneration and development	Regeneration	Area	Directly
2005		Sketch of draft law of planning and development	Regeneration and development	Regeneration	Area	Directly

(Source: After Özkan, 1998)

## **CHAPTER 5**

### **THE CASE OF ZEYTINBURNU URBAN REGENERATION PROJECT**

Urban regeneration project should imply a high quality program design, and be flexible in stages of project and implementation.

BU, İTÜ, METU and YTU, 2003, 861

This chapter analyses key features and procedural steps of urban regeneration projects with the case of Zeytinburnu Urban Regeneration Project. Main aim here is to evaluate the procedural steps of Zeytinburnu Urban Regeneration Project to define a procedural guidance and legal framework.

In this context, firstly motives behind Zeytinburnu Urban Regeneration Project and planning proposal for the Zeytinburnu are given both to find out the necessity of regeneration projects in Zeytinburnu and to introduce the project. Secondly, basic social, economic and physical characteristics of Zeytinburnu district, which are input for the key features and process of the project, are clarified. Thirdly, basic principles, aim, scope, management, organization and finance of the project are given as key features of Zeytinburnu Urban Regeneration Project which are significant both for definition of procedural steps and for establishment of linkages between the steps. Fourthly, process of the project is explained. Procedural steps of the project, moreover actions and studies that should be done is elaborated for each stage with the help of a chart named Zeytinburnu Urban Regeneration Project's Procedures and Projects. Finally, evaluation of the chapter is given.



## **5.1 Motives Behind Zeytinburnu Urban Regeneration Project**

After the 1999 earthquakes, İstanbul became focus of worries of earthquake, since it has ten million of population and it is vital to the country's economy with the production of about 22 percent of GDP, besides the 'world city' image.

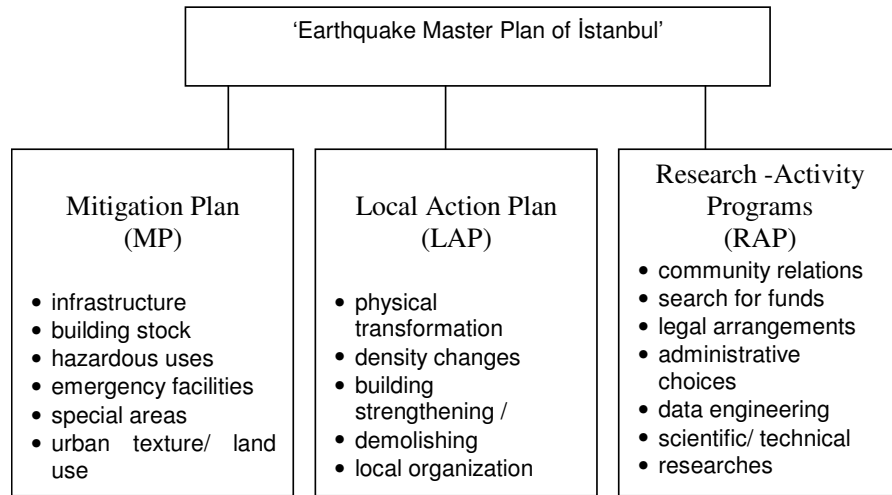
Administrations of İstanbul take the condition of İstanbul into consideration and have been in a further position in Turkey. First of all, after 1999 earthquakes, the study on a disaster prevention/ mitigation basic plan in İstanbul including microzonation aiming damage estimations was done by Japan International Cooperation Agency (JICA). This was the diagnosis of the situation of İstanbul.

Earthquake Master Plan of İstanbul (EMPI), secondly, was prepared in 2003 characterized as being the first comprehensive mitigation report in Turkey by four Universities – Boğaziçi University, Middle East Technical University, İstanbul Technical University and Yıldız Technical University. EMPI is a comprehensive coordination of mitigation measures to be implemented in the face of the impending earthquake in İstanbul. It essentially draws the framework for a series of social contracts indicating to the operations necessary, and the responsibilities of all administrative units, private bodies, and the ordinary citizens (BU, İTÜ, METU and YTU, 2003). EMPI is envisaged as a framework for social contracts to be drawn between IMM, the Governorate, local municipalities, unincorporate municipalities, institutions, enterprises, NGOs, local community administrations, and individual citizens with the aim of determining the active role of the parties involved, and facilitating their participation and contributions (BU, İTÜ, METU and YTU, 2003).

This plan, with implementation projects, a program or a 'road map' characterized as a social agreement, the proposal of gathering together different stakeholders prepared for different risk sectors; and the appropriation of the risk management undertakings and activities in transparency through common responsibilities by broad groups (Balamir, 2004, 15-16).

This plan offered treatment with implementation projects. The Earthquake Master Plan of İstanbul, with its operational formation, contains three main programs in its structure (figure 5.1). The first of these is the 'Mitigation Plan', which has to be prepared for the whole city and which maintains the coordination of the different sectoral preventive measures. Mitigation Plan is the main program, which includes projects of management of the risks pertaining to earthquakes and other hazards in all systems and the sectors of the city. Besides, mitigation plan points out action plan areas.

Second program is the Local Action Plan (LAP), which includes the preparation and implementation of projects and sub-projects in areas defined as of high risk. Local Action Plan includes developing and implementing comprehensive urban regeneration projects with contribution of the local society.

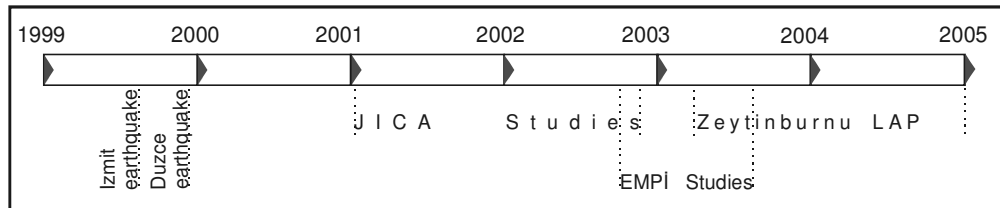


**Figure 5.1 Structure of the İstanbul Earthquake Master Plan**

(Source: BU, İTU, METU and YTU, 2003)

Thirdly, 'Programs of Research and Activity' are determined, in order to maintain and sustain the environmental conditions required for the realization of the first two activities (BU, İTU, METU and YTU, 2003, 701).

Determining the high risk areas within the scope of the mitigation plan, and making safety increasing investments in these areas in a detailed and interactive way, constitutes the second activity areas of Earthquake Master Plan of İstanbul. These areas, in which both natural hazards and the human and economical resources faced with this hazard are high, are defined as the prior 'regeneration areas' of extreme risk (BU, İTU, METU and YTU, 2003, 858).



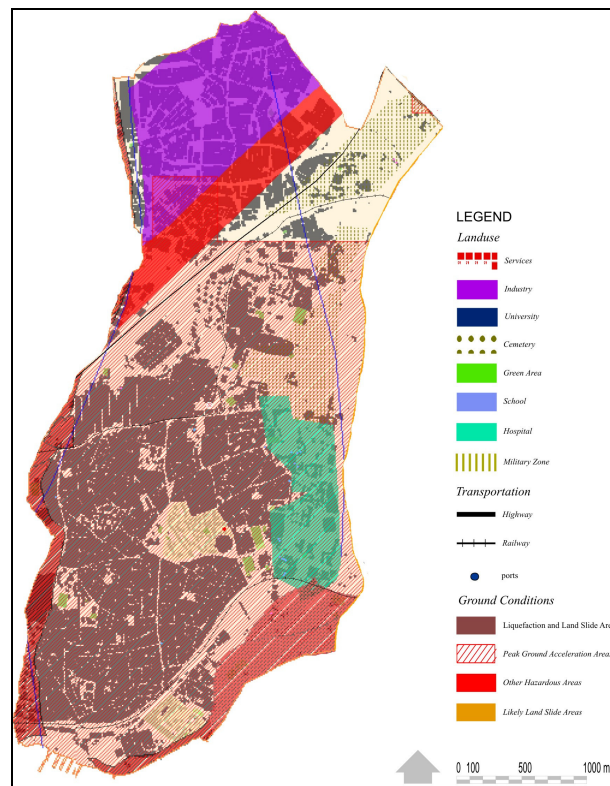
**Figure 5.2 Historical Evolution of Risk Mitigation Studies in İstanbul**

The studies of Local Action Plan (LAP) that is suggested in sub regions having high-risk has started in 2003 in Zeytinburnu District named Zeytinburnu Urban Regeneration Project, because of the fact that Zeytinburnu presents several potentials to be first example of LAP. The reasons for selecting Zeytinburnu can be grouped under 2 headings.

First group is related with the high earthquake risk and characteristics of Zeytinburnu increasing the risk.

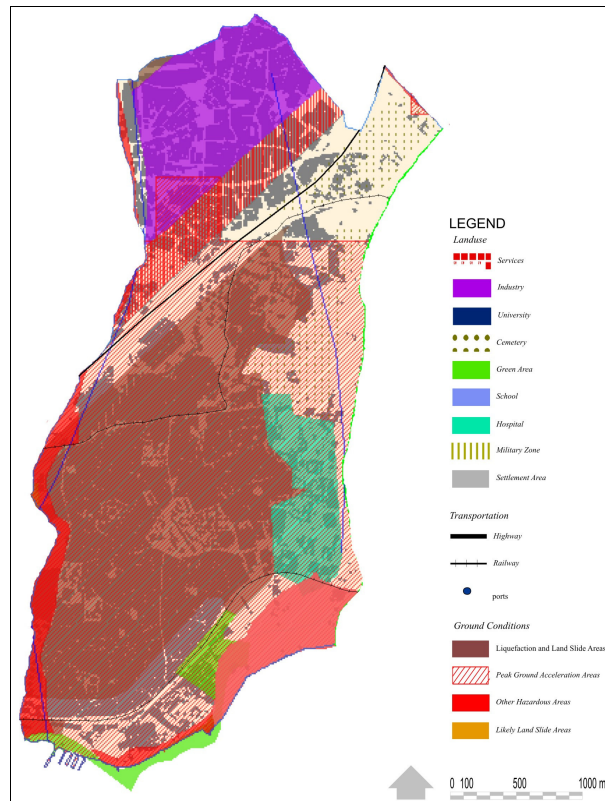
### Being Primary Risky Areas According to Earthquake Forecasts by JICA

According to the JICA's damage estimations studies made by using five hundred meter grids those six out of fifty-four quarters are in Zeytinburnu district. The risk carried out by six quarters represents 45 percent of thirteen quarters of Zeytinburnu. macroform risk and general uses and hazard areas analyses (figure 5.3 and Figure 5.4) exemplify the risk that Zeytinburnu has.



**Figure 5.3 Macroform Risk Analysis**

(Source: Produced from İMM, 2003 and JICA, 2002)



**Figure 5.4 General Uses and Hazard Areas**

(Source: Produced from İMM, 2003 and JICA, 2002)

### Being the First Focus of Squatter Housing and Unauthorized Housing

First squatter houses of İstanbul emerged in Zeytinburnu in the migration period, for this reason percent of squatter housing and unauthorized housing is very high. Unauthorized construction increases the risk of earthquake on the basis of buildings.

### Consistency of Problematic Buildings Every Category

Number of storeys, types and deformity in location of buildings and differences in construction techniques are the problematic categories.

### Existence of First, Second, Third and Fourth Residence Zones

Present buildings are completed in different years and construction methods (reinforced concrete etc). These buildings are inadequate according to earthquake regulation.

Second group is related with the high potential of transformation of the district and of good practice and example for other urban regeneration projects.

### **High Potential of Transformation of the District**

In addition to the location of Zeytinburnu in Istanbul that offers some functions, socio-economic characteristics of Zeytinburnu reflects the high potential of transformation.

### **Characteristics of Socio-Cultural Structure**

Heterogeneous socio-economic structure of Zeytinburnu can be sample for entire İstanbul.

High earthquake risk, characteristics of Zeytinburnu increasing the risk, the high potential of transformation of the district and of good practice and example for other urban regeneration projects are given in the characteristics of Zeytinburnu district

Zeytinburnu was selected as a pilot area that aims to develop and implement comprehensive urban regeneration projects as offered in EMPI in 2003, but several new proposals developed for the area of Zeytinburnu out of the EMPI. New proposals for Zeytinburnu are

- removing Zeytinburnu habitants to new locations and decreasing density,
- retrofitting building stock,
- diluting building stock and
- opening security belts (Balamir, 2005).

Brief definition of these proposals will help to comprehend the need of urban regeneration projects in Zeytinburnu.

### **Removing Zeytinburnu Habitants to New Locations and Decreasing Density**

Removing the population in high risky areas by means of creating attractive situation is the first proposal that contingency motive remind. But this proposal cannot stop pressures to become dense, decrease strategic and economic value of a district having central location (Balamir, 2005).

### **Retrofitting Building Stock**

This proposal aims to secure settlements by means of building retrofitting. Because of the fact that most of building stock is unauthorized and do not have project, applicability of this proposal is very low. In addition to retrofitting building stock, it is required to upgrading urban environment (Balamir, 2005).

### **Diluting Building Stock**

Buildings that have the probability of collapsing and high damage are defined by building surveys. Approach suggests starting legal procure based on 39<sup>th</sup> article of Development Law. But approach invites social resistance and has deficiency to re plan the physical formation (Balamir, 2005).

### **Opening Security Belts**

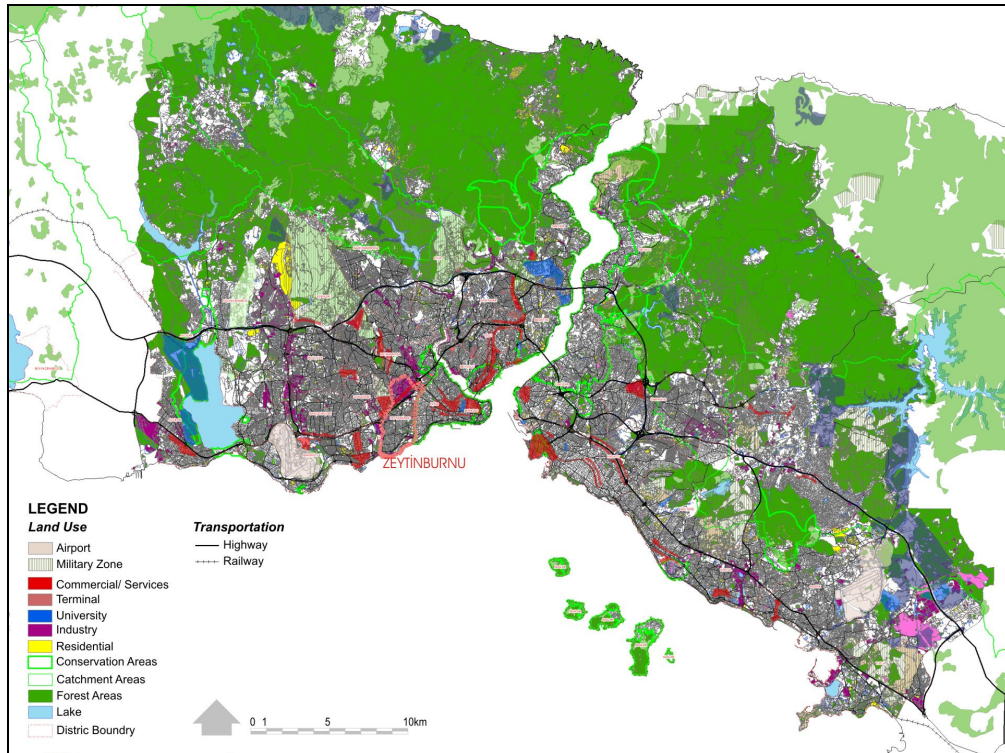
This approach, which accepts urban deficiencies and risks, directed to emergency case. On the other hand, in addition to the lack of gains of the approach, it has the deficiency of high nationalization cost (Balamir, 2005).

Deficiencies of above mentioned proposal makes them useless, whereas urban regeneration offers a comprehensive framework as a risk mitigation strategy. It is comprehensive because its physical consideration is above the building scale –neighbourhood, district or city scale, and its takes into consideration not only physical issues but also social and economic issues to mitigate the risk arose from those issues. For these reasons, it is thought that urban regeneration project is the best tool for mitigating the earthquake risk.

In the course of time, some of these approaches were integrated to Zeytinburnu urban regeneration project and some started as a separate project. As a result, scope and content of the pilot local action plan was changed and as Balamir mentions countless studies has been done for 2 years (Balamir, 2005). Besides none of them was brought to conclusion. For this reason, Zeytinburnu Urban Regeneration Project revealed in the Earthquake Master Plan of İstanbul by the METU-İTU urban planning group is examined as offered in EMPİ.

## 5.2 Characteristics of Zeytinburnu District

The district of Zeytinburnu has a central location in İstanbul. It is located at the west side of Historical Peninsula. Marmara Sea exists at the south of the district, at the west Bayrampaşa district, at northwest Esenler, at northeast Eyüp, at east Fatih and at west is the Bakırköy and Güngören districts exists. Major railway and highway connections of the city pass through the district. At the north E-5 (D-100), at the south coastal road and railway pass through, besides there is a seaport at the south.



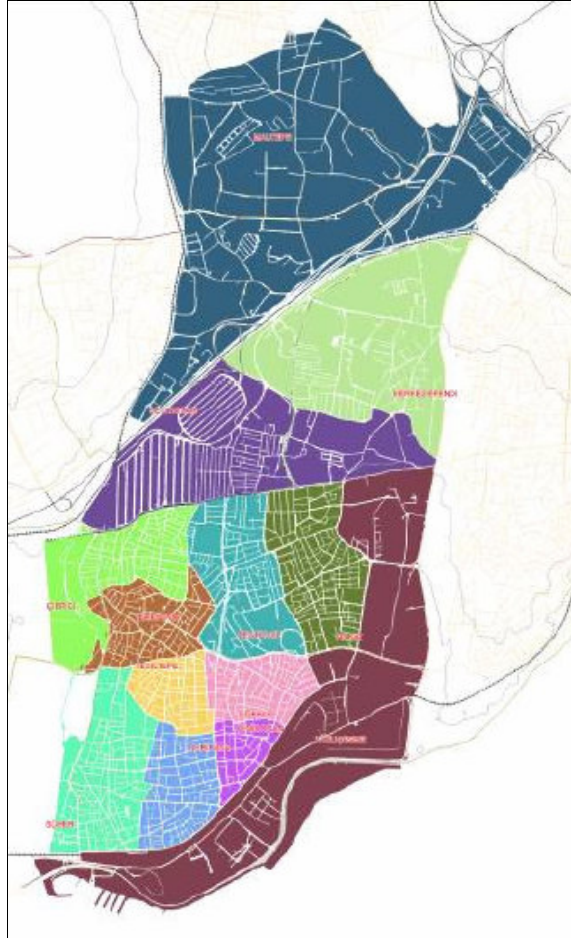
**Figure 5.5** Land Use of İstanbul and Location of Zeytinburnu

(Source: Produced from IMM, 2003)

Until the 16<sup>th</sup> century, Zeytinburnu was a promenade area. First development of Zeytinburnu started with foundation of tannery at Kazlıçeşme but quick development of the district started with the declaration of Regulation Belonging to İstanbul Industry Zone, which defined Zeytinburnu as an industry zone, in 1947 (Zeytinburnu Municipality, 2005). Migration from rural areas to urban areas in 1950s resulted in the fast demographic urbanization in İstanbul. Development of industrial activities at Zeytinburnu caused to immigrants to chose it as a residential use. So the district faced with unauthorized development and squatting. The

increase in the population of Zeytinburnu required new organization and it was established as the 14<sup>th</sup> district of Istanbul in 1957 (Zeytinburnu Municipality, 2005).

The district of Zeytinburnu is made up of 13 neighbourhoods. Bestelsiz, Çırpıcı, Gökalp, Kazlıçeşme, Maltepe, Merkezefendi, Nuripasa, Seyitnizam, Sümer, Telsiz, Veliefendi, Yenidogan and Yesiltepe are the neighbourhoods of the district (figure 5.4).



**Figure 5.6 The Neighbourhoods of Zeytinburnu District**

*(Source: Produced from IMM, 2003)*



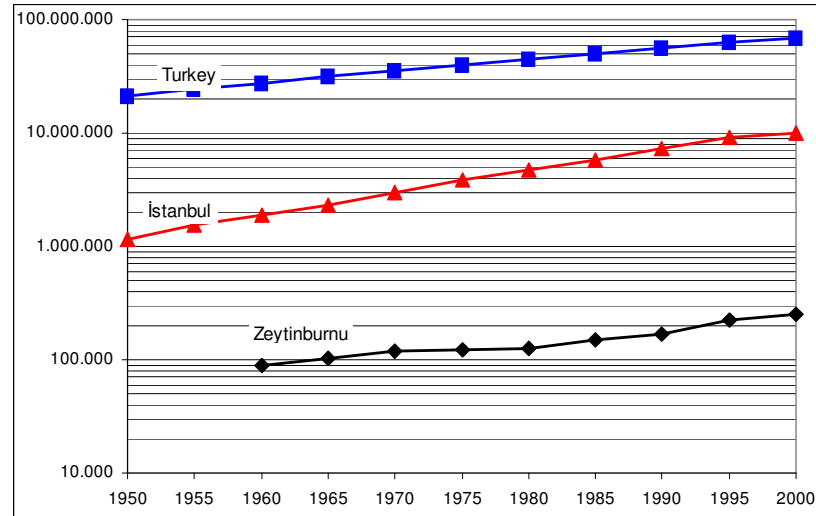


**Figure 5.7**      **Aerial Photo of Zeytinburnu**

### **5.2.1 Social Characteristics**

Most of the residents of Zeytinburnu are immigrants from abroad or other parts of the country (Zeytinburnu Belediyesi, 2004). According to the population census of 1960, population of Zeytinburnu was 89.397. It reached 247.669 in 2000. In other words, population Zeytinburnu has increased 2,8 times in forty years. Development of Zeytinburnu's population has developed parallel to Turkey's and İstanbul's. Population growth rate of Zeytinburnu was below the population growth rate of İstanbul until 1990s, where as Zeytinburnu always performed a population growth rate above the Turkey's population growth rate after 1980 (table 5.1). Like İstanbul, population of Zeytinburnu is not naturally increase, population increases because of the migration. Share of Zeytinburnu's population in population of

İstanbul decreased from 4,7 percent to 2,5 percent between 1960 and 2000. It may indicate that Zeytinburnu has saturated.



**Figure 5.8 Population of Turkey, İstanbul and Zeytinburnu**

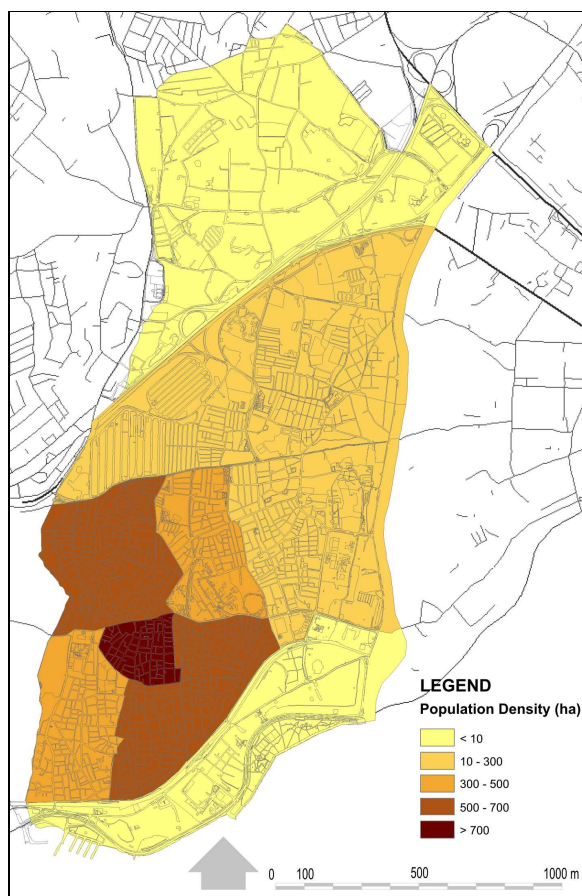
(Source: Zeytinburnu Belediyesi, 2004)

**Table 5.1 Population of Turkey, İstanbul and Zeytinburnu and Population Increase Rates**

Years	Turkey	Annual population increase rate (%)	İstanbul	Annual population increase rate (%)	Zeytinburnu	Annual population increase rate (%)
1950	20.947.188	-	1.166.477	-	-	-
1955	24.064.763	2,77	1.533.822	5,48	-	-
1960	27.754.820	2,85	1.882.092	4,09	89.397	-
1965	31.391.421	2,46	2.293.823	3,96	102.874	2,81
1970	35.605.176	2,52	3.019.032	5,49	117.905	2,73
1975	40.347.279	2,50	3.904.588	5,14	123.548	0,94
1980	44.736.957	2,07	4.741.890	3,89	124.543	0,16
1985	50.664.458	2,49	5.842.985	4,18	147.849	3,43
1990	56.743.035	2,27	7.309.190	4,48	165.679	2,28
1995	62.865.574	2,05	9.198.809	4,60	224.768	6,10
2000	67.844.903	1,52	10.033.478	1,74	247.669	1,94

(Source: Zeytinburnu Belediyesi, 2004)

Distribution of population in Zeytinburnu is the reflection of land use (figure 5.9 and Figure 5.10). While Yeşiltepe neighbourhood has highest population density (839,1 persons/ ha), Maltepe neighbourhood where industrial usage exists has the lowest population density (1,9 persons/ ha).



**Figure 5.9 Population Density in Zeytinburnu**

(Source: Produced from IMM, 2003)

According to the population census of 2000, 92,5 percent of total population (includes only age of 6 and over) is literate, and the literacy changes between genders (table 5.1). While percent of literate men is 96,4 in men, this percentage decreases for women to 88,3.

**Table 5.2 Number of Illiterate and Literate and percentage in total**

	Total	Illiterate	Percent of illiterate	Literate	Percent of literate
Man	113.516	4.114	3,6	109.399	96,4
Woman	107.893	12.583	11,7	95.302	88,3
Total	221.409	16.697	7,5	204.701	92,5

(Source: SIS, 2002b)

On the other hand, distribution of the literates according to the graduated school (table 5.2) shows that graduate of primary school constitutes most of the literates (58,4). Percent of Higher Education is just 6 in all literates.

**Table 5.3 Distribution of the Literates According to the Graduated School**

	Total	Primary school	Percent of primary school	Middle school	Percent of middle school	High school	Percent of high school	Higher education	Percent of higher education
Man	87.992	48.251	54,8	15.707	17,9	18.212	20,7	5.822	6,6
Woman	73.237	45.951	62,7	9.591	13,1	13.916	19,0	3.779	5,2
Total	161.229	94.202	58,4	25.298	15,7	32.128	19,9	9.601	6,0

(Source: SIS, 2002b)

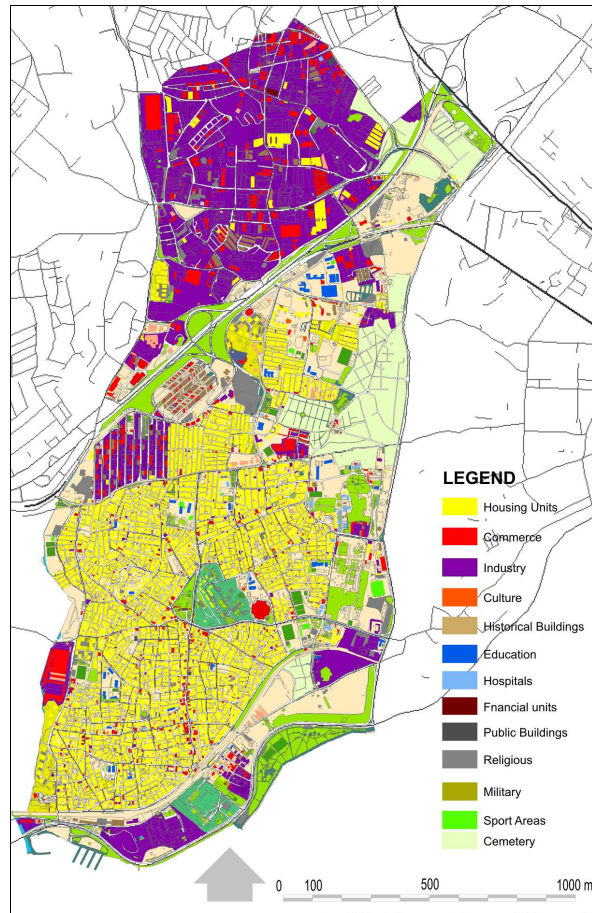
Residents of the district are employee in production and service sectors, so Zeytinburnu has a dynamic population structure, which affects the social structure of the district. The result of the survey made in 2001 by Istanbul Metropolitan Municipality Service Measurement Investigation also proves this. According to the survey 37% of the employed people who live in the district are workers and 15% of them are artisans.

## 5.2.2 Economic Characteristics

Location of Zeytinburnu increases the significance of Zeytinburnu in İstanbul. Because of the central location, main railway and highway connections and historical development characteristics, the district developed as residential and industrial district. Industries at Zeytinburnu have significant role not only for İstanbul but also for Turkey.

## 5.2.3 Physical Characteristics

Residential areas constitute 23,8 percent of district, where as industry and small scale industry covers the 11,3 percent and 6,9 percent of the total area. Residential areas at Zeytinburnu are located densely between the E-5 highway and coastal road. Contrary to the residential areas, industrial areas are settled down mainly on the north of E-5 and on the south of coastal road (figure 5.10). Mixed use is common in Zeytinburnu. The commercial use is mainly in ground floor usage on the main streets.



**Figure 5.10 Zeytinburnu Urban Land Use, 2004**

(Source: Produced from IMM, 2003)

Although Zeytinburnu started to develop after 1950s, 11.069 of 15.432 total buildings at Zeytinburnu (72 percent) constructed after 1980, buildings at neighbourhoods including industrial usage like Maltepe constructed mainly before 1980.

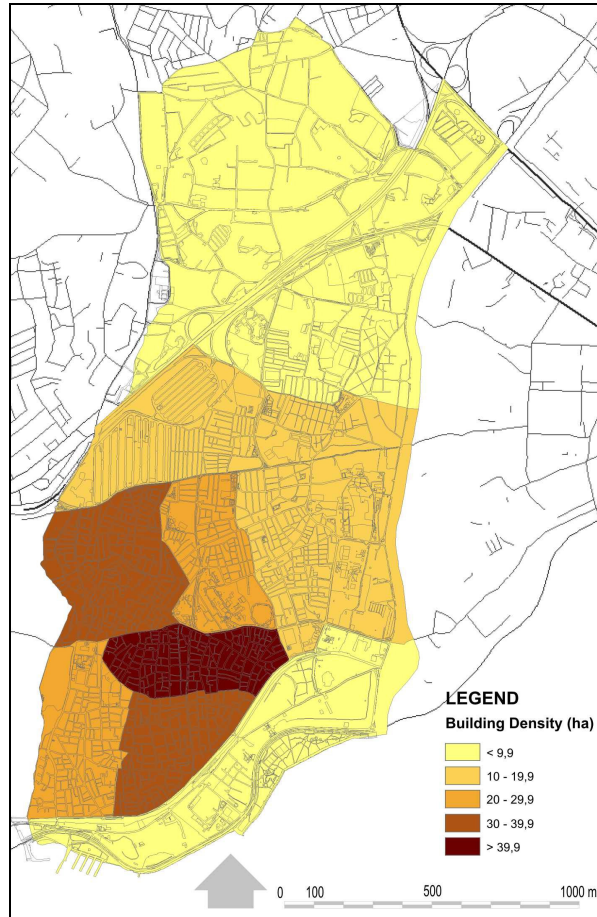
**Table 5.4 Distribution of Buildings by Construction Year**

	1949 and before	1950-1959	1960-1969	1970-1979	1980-1989	1990 and after
Number of Buildings	208	513	1.148	2.443	4.815	6.25
Ratio (%)	1,4	3,3	7,5	15,9	31,3	40,7

(Source: IMM Database)

As it was mentioned above development at Zeytinburnu first started at Kazlıçeşme, but today, it is the neighbourhood where building density is the lowest. Depending on the urban

land use, building density is very low at the neighbourhoods where industry exists (figure 5.10 and Figure 5.11).

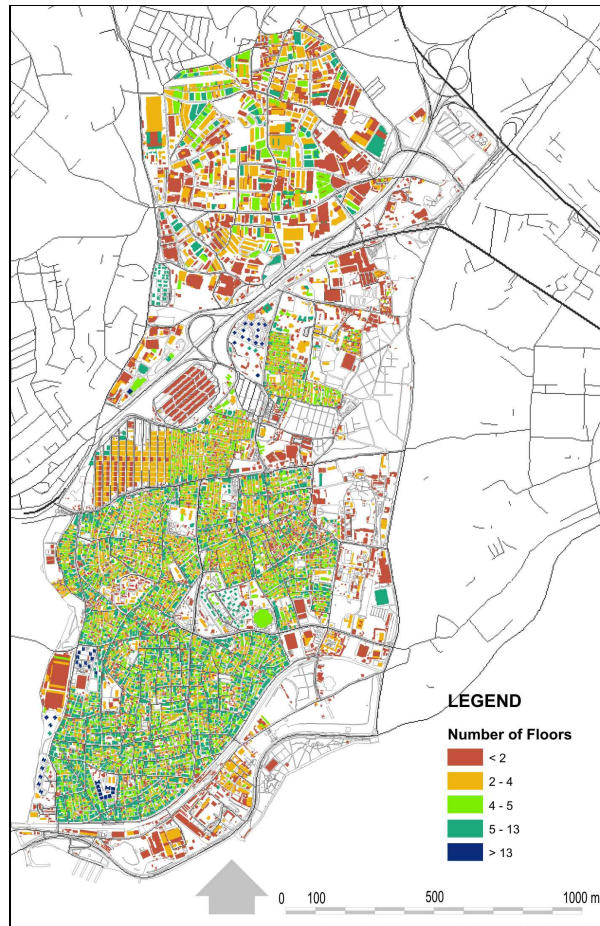


**Figure 5.11 Building Density in Zeytinburnu**

*(Source: Produced from IMM, 2003)*

As figure 5.12 shows out, most of the buildings' number of floors at Zeytinburnu (67,4 percent) is between 4 and 7.

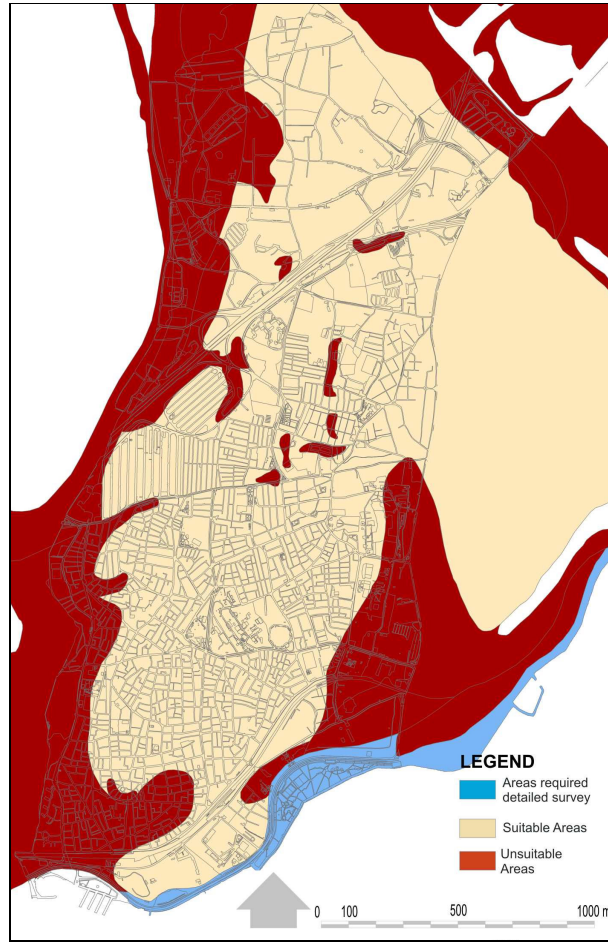




**Figure 5.12 Number of Floors**

*(Source: Produced from IMM, 2003)*

There are 15.432 buildings in Zeytinburnu. 3.626 of these buildings are constructed in unsuitable areas. Approximately 23,5 percent of existing buildings are in the risky areas (figure 5.13).



**Figure 5.13 Ground Conditions of Zeytinburnu**

(Source: Produced from IMM, 2003)

### 5.3 Key Features of Zeytinburnu Urban Regeneration Project

#### 5.3.1 Aim and Scope of Zeytinburnu Urban Regeneration Project

The second action area of Earthquake Master Plan of İstanbul is the Local Action Plan (LAP), which includes the preparation and implementation of projects and sub-projects in areas defined as of high risk. Because Zeytinburnu is one of the risky areas in İstanbul, like other risky areas Zeytinburnu is defined as 'Prior Regeneration Areas'. As defined in EMPI, main purpose of Local Action Plan is to reduce or minimize the earthquake risk and to create safe settlements. Zeytinburnu urban regeneration project is a tool to reach this aim. It aims to regenerating the social, economic and physical structure of the district to mitigate the earthquake risk and social and economic risks at Zeytinburnu. So, additional purposes should be given to the project. Additional purposes can be



- defining weakness and opportunities,
- producing solution to urban problems,
- increasing quality of life and
- developing visions for the project area.

To reach these aims, Zeytinburnu urban regeneration projects accepts a planning approach, which can be defined as;

- participatory,
- flexible,
- specific to the district,
- operational/ applicable and
- focus strategic issues but comprehensive in necessary situations.

Local action plans aiming reducing or minimizing the earthquake risk and creating safe settlements, like Zeytinburnu Urban Regeneration Project must have certain characteristics, which increase the applicability of the plan. These characteristics are clarified in thirteen points:

1. Zeytinburnu Urban Regeneration Project should imply the investigation of policies and strategies, which will be used in the regeneration that aim at building a safe city, and the creation of a system (road) map.
2. Zeytinburnu Urban Regeneration Project should neither be the entire demolishing and rebuilding of the area, nor mere building retrofitting. The maintenance of the earthquake safety should imply the works that aim at the determination of the regeneration and strengthening areas. For this reason, the Zeytinburnu Urban Regeneration Project is neither an engineering, nor a planning/design project. The project that will be made in Zeytinburnu should be realized with the cooperation and the coordination of both fields.
3. The Zeytinburnu Urban Regeneration Project has to take into account the physical and social structure, and the economic problems of the district.
4. It must be concentrated on the studies on financial, management and legal issues; and the feasibility of the project should be investigated thoroughly.
5. Zeytinburnu Urban Regeneration Project should be open to new applications regarding to issues of finance, implementation and participation.

6. The participation strategy of the regeneration projects is a fundamental aspect of the plan. Zeytinburnu Urban Regeneration Project should investigate all the participating and targeted people, and facilitate participation to the project.
7. A local office, which will maintain the local participation and the local management of the projects, should be established in advance.
8. The Action Plan should give rise to strategic, economic and social partnerships.
9. Zeytinburnu Urban Regeneration Project should imply a high quality program design, and be flexible in stages of project and implementation.
10. Priority must be given to the financing of Action Plan with its own resources.
11. Zeytinburnu Urban Regeneration Project should aim at public benefit.
12. Zeytinburnu Urban Regeneration Project should increase the local opportunities.
13. Zeytinburnu Urban Regeneration Project should be sustainable. For this purpose, it must aim to set up an 'Urban Regeneration Management Model'.

### **5.3.2 Management and Organization of the Project**

As it was in EMPI, a project super administration team with a partnership of IMM Directorate of Urban Regeneration and Development and Zeytinburnu Municipality Construction Directorate. Joining to this team from other related directorates of the municipalities should be obtained. Among the members of project super administration team there should be city planner, geologist, architect and civil engineer. On the other hand, it is mentioned in EMPI that public private partnership will increase the applicability of the project by promoting the project: so project super administration team should include private investors dealing with the regeneration area. Under the project super administration team 6 working teams are defined. These are

- vision and planning team,
- urban design/ architecture/ presentation team,
- GIS/ database team,
- real estate team,
- social/ economic research team and
- local community organization team.

Responsibilities of project super administration team are

- preparing local action plan's program and projects,

- doing analytical studies and forming vision,
- taking preliminary planning decisions,
- defining project packages subject to tendering procedures,
- tendering the project packages,
- supervising adjudicated project packages,
- doing applicability analyses,
- searching for finance of the project and
- founding local office(s).

On the other hand, it is expected that some of the team's member to be in local offices as part time. Besides the expert mentioned above, sociologist or public relation officer to be employ at local office would be useful. Responsibilities of local office are;

- securing local participation,
- informing local people,
- coming to agreement with local people,
- searching for applicability of the project and searching and forming new organization to solve problems, and
- supplying inputs in stages of project design in the direction of aim, strategy and local requests.

In an area, where education level is very low like Zeytinburnu, significance of the local office increases

### **5.3.3 Finance of the Project**

EMPI mentions that Local Action Plans can be financed by using present source and by defining/ constituting new sources. But it also emphasizes the necessity of founding a 'source pool' and using the sources in this pool synchronously to finance Local Action Plans. Present source that can be involved to 'source pool' are

- taxes collected from the regeneration area,
- contribution of the municipalities' revolving fund,
- contribution of the fund of natural hazard insurance (Balamir, 2001b) or long-term, low-interest rate credits,
- contribution of the private partnership(s)

- credits obtained from national and international organizations giving credits for habitable cities.

These are the present sources that can be used in the legal framework to finance regeneration projects. On the other hand, some finance ways also can be developed to implement project.

- transversal finance,
- built operate transfer,
- transfer of development rights (TDR),
- taking regeneration share,
- offering bond and
- loading profitable usage appropriate with vision of the area.

#### **5.4 Process of Zeytinburnu Urban Regeneration Project**

METU-İTU urban planning group developed more detailed procedural steps of Local Action Plans, which is appropriate for Zeytinburnu Urban Regeneration Project. Although the project started in 2003, because it was invaded by some approaches mentioned above, Zeytinburnu Urban Regeneration Project elaborated as METU-İTU urban planning group of EMPI offered. Fundamental source for this part of the thesis is EMPI.

According to Earthquake Master Plan of İstanbul, the implementation of urban regeneration by Local Action Planning requires the studies to be organized in nine stages. This method should also be appropriated for the Zeytinburnu Urban Regeneration Project. These stages are

- 1. Scope and Procedure Design,**
- 2. Surveys, Information Gathering and Database Formation,**
  - 2.1. Surveys and Information Gathering,
  - 2.2. Database Formation,
- 3. Analyses,**
- 4. Preliminary Decisions,**
- 5. Design Stage,**
- 6. Feasibility and Applicability Evaluation,**
  - 6.1. Feasibility,
  - 6.2. Applicability Evaluation,
- 7. Implementation Programming,**

## **8. Implementation Tenders, and**

## **9. Supervision.**

First seven of these stages are related with the planning regeneration area whereas last two of them are concerned in implementing the plan. Eighteen months were proposed for the planning stages, which involves only first seven stages.

Stages, actions and studies for each stage of Zeytinburnu Urban Regeneration Project besides inward and backward linkages were illustrated with a flowchart (figure 5.14). Actions and studies of urban regeneration projects generally define three fields: urban planning field, vision field and local community organization field. Depending on the aim of Zeytinburnu Urban Regeneration Project, there are four different fields in the flowchart: urban planning field at the top of the flowchart, vision field, local community organization field and also engineering field which considers building stock only at the bottom of the chart. for these reasons, engineering field is not explored here. Actions and studies required in each stage of urban planning field, vision field and local community organization field are elaborated in the remaining part of this chapter.



(Source: BU, İTÜ, METU and YTU, 2003, in EMPI prepared by H. Çiçek)

#### **5.4.1 Scope and Procedure Design**

Scope and procedural design stage is the requirement of planned action. Like any planned action Zeytinburnu Urban Regeneration Project has to design scope and procedures at the beginning. Besides some features of Local Action Plans and Zeytinburnu Urban Regeneration Project that are listed below increase the importance of this stage.

- There is not a model for that type of project aiming risk mitigating.
- Results of the project are significant because it aims
  - to reduce or minimize the earthquake risk and to create safe settlements,
  - to develop a model for other local action plans.
- Project includes several sectors and stakeholders.
- Finance sources for the project are limited.

For these reasons, at the beginning of the project, scope of the project and working program for the next stages have to be defined. This stage should include the following actions and studies.

##### **1. Project Scope and Stage Design**

Aim and scope of the project have to be defined together with the planning approach. Detailed actions has to be defined with reference to the aim, scope and planning approach, besides strategies that enable to reach aims should be developed and these strategies should be extended to stages. And also, personal requirements should be calculated with reference to the actions and timing.

It is thought that some studies of the project can be project packages subject to tendering. For this reason, project packages should define at the end of this stage. Three types of project packages can be defined;

- Research projects,
- Planning/ designing projects, and
- Implementation projects.

This action should include the following studies.

- 1.1. Detailed working program
- 1.2. Work phases, necessity of productive power and time
- 1.3. Synchronization of work phases

## **2. Project Management and Implementation**

After defining the actions and personal requirements of the actions, working teams work methods and their responsibilities should be defined. Also decisions about execution and supervision of the projects should be taken. It is hoped that presenting the project at Turkey and abroad contribute to both finance and applicability of the project so a method to present project in Turkey and abroad should be developed.

- 2.1. Determination of coordinator, working teams, organization and working procedure
- 2.2. Defining involvement of experts
- 2.3. Developing method to present project at Turkey and abroad.

## **3. Constitution of Local Office and Determination of Participation Periods**

It should not be forgotten that urban regeneration projects are prepared for the citizens living in the regeneration area for this reasons as it was mentioned above, Local Action Plan is a project of public relation. Besides deficiency of regeneration/ rehabilitation legal framework exerts participation.

To enable participation of local citizen to the project and to manage the project locally it is required to founding office(s) at regeneration areas. This action should include the following studies.

- 3.1. Organization of relationships with local community and constitution of infrastructure of local office
- 3.2. Determination of working principles of local office and local office staff
- 3.3. Tools for collection of opinion and consideration of local community on project
- 3.4. Local working schedule
- 3.5. Corporation arrangements with muhtar



#### **4. Vision Meetings**

Defining vision of Zeytinburnu parallel to the vision of İstanbul delivers input for both preliminary and design stages. In this stage and preparation sub-stage of surveys, information gathering and database formation vision meetings with NGO's, academia, experts, municipal units should be done.

#### **5.4.2 Surveys, Information Gathering and Database Formation**

This stage involves studies to collect required information and data, besides formation of database for both analysis and plan decisions. Because of the urgency of the Zeytinburnu Urban Regeneration Project, it is thought that some studies of this stage can be project packages subject to tendering. As a preparation period is required for tendering studies, this stage has two sub stages:

- preparation, and
- information gathering and database formation

##### **5.4.2.1 Preparation**

It is the process where the studies needed for the research on the information gathering and database formation sub-stage are made. The studies to be done at this sub-stage specified as:

##### **1. The research standards and the determination of the method**

The methods and standards to be used at the information gathering and database formation sub-stage should be determined. By reviewing the experiences on urban regeneration a data production method should be developed. On the other hand, it is possible to make the research for information gathering and database formation sub-stage by tendering, therefore the studies should be realized with some standards. These standards should be determined within the process.

##### **2. The protocols of data management**

İMM, JICA, EMPI, the Governorship Zeytinburnu Municipality and local surveys have produced databases in various formats that can be used for Zeytinburnu Urban Regeneration Project. Updating and usage principles of these databases should be determined. Besides, the utility and storage circumstances of the data obtained at each stage should be determined. The obtaining of data in the format determined in the digital

environment will spread the database formation efforts to the implementers and reduce the time needed for this purpose.

- 2.1. Gathering existing database (JICA database/ EMPI database/ IMM GIS database/ Zeytinburnu municipality database/ governorship database)
- 2.2. Database operating protocols
- 2.3. Determination of format, operating basis and joining acquired databases

### **3. Determination of Project Outputs**

Content and format of progress reports prepared at the end of each stage, format and demonstration standards for outputs, and content and format of presentation should be determined. Defining the output standards in international standards help to present the project and reach financial resources.

- 3.1. Determination of outputs for each stage
- 3.2. Format and storage of digital database and information

### **4. Establishment of Local Office**

After establishing and announcing the local office, local community should be informed about the aim, scope and method of the project. This action should include the following studies.

- 4.1. Introductory meetings with local community
- 4.2. Determination of communication method with local community
- 4.3. Representation type and election of local community members
- 4.4. Necessary works for implementation stage with local community
  - 4.4.1. Preparation of household survey
  - 4.4.2. Determination of household survey database and representation format

#### **5.4.2.2 Information Gathering and Database Formation**

The determination of regeneration and rehabilitation areas, the statement of a vision for the area and the data to be used for the determination of the urban projects is obtained by studies to be realized at this sub-stage. The research at this stage may be contracted as a project package in the action plan or may be produced within the local bureau (project packages subject to tendering procedures are shown in Figure 5.14 with red).

In the information gathering and database formation sub-stage, some research projects should be implemented. The research topics are:

### **1. The research on Socio-Economic structure**

To get information about the Socio-Economic structure of the project area socio-cultural features, the population dynamics and economic structure of the area should be obtained. During researches, determination of problems and potentials on these issues is also significant. Data required for this kind of work may be obtained by surveys.

- 1.1. Socio-cultural inputs
- 1.2. Population dynamics
- 1.3. Economic information

### **2. The Function of the Zeytinburnu in İstanbul Metropolitan Area**

Information about the function of the Zeytinburnu in İstanbul metropolitan area contributes to the definition of vision and new functions for the area. For this purpose, the research on function of the Zeytinburnu in İstanbul metropolitan area should involve following sectors:

- 2.1. Housing,
- 2.2. Industry,
- 2.3. Commerce,
- 2.4. Transportation, and
- 2.5. History-tourism.

### **3. Information on the natural conditions**

Geological and geotechnical structure of the Zeytinburnu should be investigated, earthquake risk increases the significance of this researches. In addition to Geological and geotechnical information about other local natural information (climate and water level) should be researched.

### **4. Research on Urban Risk Sectors**

Detailed research on the urban risk sectors made in EMPI provides a more detailed production for the local action plan. It is expected from this research to show the risks in the area explicitly, and to help urban zoning by making it easier to determine the urban

regeneration areas and contribute to the studies on strategy formation for the reduction of these risks. The risk sectors to be given in detail under this heading are:

- 4.1. Macroform Risks,
- 4.2. Special Risk Areas,
- 4.3. Risks of Urban Fabric,
- 4.4. Risks of Function,
- 4.5. Risk of Production Losses,
- 4.6. Risks at Special Buildings
- 4.7. Risks of Building Stock and Function,
- 4.8. Hazardous Usage,
- 4.9. Emergency Facility (EF) Structure, Management and Spatial Distribution,
- 4.10. Open Space Scarcity, and
- 4.11. External Impacts.

## **5. The Evaluation of the Existing Building Stock**

For the determination of the urban regeneration areas and the risks they have, the existing building stock should be evaluated. For this reason, a detailed database should be prepared on the physical conditions of the building stock.

## **6. Information on macroform, infrastructure routes and transportation**

Macroform and land use analyses of the Zeytinburnu district should be investigated by defining urban uses in terms of density, size and spatially. Urban use databases in present settlement areas should include the following data types;

- Type of land use,
  - Industry
  - Business centre and working areas
  - Housing
  - Tourism and accommodation areas
  - Open and green areas
- Settlement tissue
- Density of use
- Accessibility of the area, infrastructure and transportation opportunities

This study should also include durability analysis in terms of earthquakes, capacity and adequacy of urban infrastructure of Zeytinburnu district.

#### **7. Information on Real Property and Ownership**

Type of ownership and number of shares determines the urban regeneration process so the ownership pattern of Zeytinburnu district is very significant for the applicability of the project.

#### **8. The determination of stakeholders**

On other significant study must be done in this sub-stage is the determination of stakeholders. Stakeholders of the area must be defined and informed about the project.

#### **9. The evaluation of laws and regulations**

Legal framework of urban regeneration issues should be re evaluated to see opportunities and restrictions.

#### **10. Setting up the database operating system**

Database formed for the development of spatial analysis with GIS, will help the realization of some analytical studies.

#### **11. Implementation of Household Survey**

The study should be done in this sub-stage at local community organization field is implementation of household survey which must be prepared in previous sub-stage.

#### **12. SWOT analysis**

Another study, which is expected to assist analysis stage, is SWOT analysis. SWOT analysis should be done at local office with participatory method.

### **5.4.3 Analyses**

Third stage can be defined as conception of the Zeytinburnu. This stage aims to establish reason- result relations between sectors and to make intersectoral analyses. These analysis guides both in design and implementation stages. The results to be acquired at the end of this stage should include the following analytical studies.

#### **1. Socio Economic Structure**

This study involves analysis about socio economic characteristics, ownership pattern, economic activities and potentials, and local investment capacities.

#### **2. Evaluation of Geological Data**

Results of this study, following the addition of building stock data, the urban renewal and improvement areas will be determined. In addition to that, this evaluation will later be transformed to micro zoning maps. In other words, they can be an input for the construction of new buildings in the urban regeneration area.

#### **3. Evaluation and Analyses of Risks Sectors**

The risk that each sector possesses should be put forth, after the data that is acquired by the research of urban risk sectors is processed. Urban inadequacies will be determined by this study and by evaluating these inadequacies together with 'Geological Data', 'Macro Structuring Analyses', and 'Building Stock Data', the Determination of Regeneration and Retrofitting Zones can be determined. Urban risks cover the above mentioned risk sectors.

#### **4. Analyses of Macroform, Infrastructure Routes and Transportation**

The features of the site concerning the macroform, technical infrastructure, and transportation are to be determined with the help of researches done in information gathering and database formation sub-stage. It is expected that this data should constitute input in the incoming stages for the decisions related with the macroform, technical infrastructure, transportation and density.

## **5. Evaluation of Micro Zoning Maps and Document and Developing Zoning Typologies**

The micro zoning maps that constitute input in all planning decisions are prepared and zoning typologies are developed.

## **6. Determination of Regeneration and Retrofitting Zones and Retrofitting Processes with participation of Local Community**

As a result of all analysis regeneration and retrofitting zones can be defined by using participatory method. The only way of implementing plan decisions is participation so project super administration team has to sure there is consensus between participants and stakeholders.

## **7. Identification of Financial Sources**

Another significant study of this analysis stage is researches on available or potential financial sources.

## **8. Definition of Standards and Norms to Project Preparation**

After finalizing analysis stage preliminary decisions stage starts, so defining standards, norms, and principles which guide to earthquake secure projects constitute input in the preliminary decisions stage.

## **9. Processing Household Survey Results**

Results of household survey, which is implemented in information gathering and database formation should be analyzed and constitute input to other

### **5.4.4 Preliminary Decisions**

According to standards, norms, and principles of the project which are defined in the previous stage, preliminary decisions are taken with participation of local communities and stake holders. Again it is significant being sure there is consensus between participants and stakeholders. Decisions follow a hierarchy: start from macro level end parcel/ building scale.

This stage should include the following actions and studies.

- Land use decisions
- Transportation and infrastructure decisions
- New building elements/ arrangements and urban design decisions
- Existing building stock decisions
- Regulations for historical values, cultural and environmental qualities
- Regulations for infrastructure and social services
- Emergency service design
- Resource use principles
- Investment programming and organization
- Determination of new settlement decisions and elements
- Decisions related to existing building stock
- Employment of resources and financing
- Determination of credit conditions for local community

#### **5.4.5 Design Stage**

Fifth stage of the project is the design stage which is designed as longest stage of project. Design stage is also formed in a hierarchical system. Planning hierarchy can be summarized as;

- land use plan,
- infrastructure projects,
- urban design projects, and
- architectural projects.

Outputs of implementation projects obtained in design stage are;

1. Macro scale İstanbul and local action plan area
2. 1/5000 scale land use plan
3. 1/1000, 1/500, 1/250 scales plans and designs
4. Architectural projects
5. Emergency action plan



For this reason, participations to the design stage should be enabled by means of planning workshops, design weekends and informative and orientation meetings.

#### **5.4.6 Feasibility and Applicability Evaluation**

The sixth stage of the project has two sub-stages: evaluation and applicability surveys.

##### **5.4.6.1 Evaluation**

Projects obtained in design stage are evaluated in this stage in terms of urban standards, norms and principles, earthquake risk and appropriation with vision of the area. Besides, local offices evaluate the objections, and analyze the degree of meeting the demand of local community. According to the results evaluation, necessary changes are done in plans and projects.

##### **5.4.6.2 Applicability Surveys**

Applicability of the projects on which there is consensus, is investigated in terms of legal and administrative framework, resources, feasibility. On the other hand, temporary residential areas for the dwellers of regeneration or retrofitting areas and temporary housing household with the principles for temporary housing should be defined in this stage.

#### **5.4.7 Implementation Programming**

Seventh stage of the project is implementation programming. Actions and studies that should be done in this stage can be summarized as;

- division of the projects into appropriate phases, which can be applicable and open to tender,
- preparation of tender
- determination of supervision conditions
- contracting with property owners

Beside the households should be relocated in temporary housing areas, and decisions related to credits for homeowners should be taken.

#### **5.4.8 Implementation Tenders**

Projects that are divided into appropriate phases are tendered according to the tendering prepared in the previous stage. Two types of implementation can be defined based on the type of project;

- implementation of infrastructure projects
- implementation of architectural projects

#### **5.4.9 Supervision**

Last phase of the project is defined as supervision. In this stage implementations are supervised according to the standards, norms, and principles of project defined in previous stages. Depending on the types of implementation, 2 types of Supervision can be defined;

- urban supervision and
- building supervision.

### **5.5 Evaluation: The Case of Zeytinburnu Urban Regeneration Project**

Scope of urban regeneration, designed procedural steps of Zeytinburnu Urban Regeneration Project and problems in the project contribute process and participation in legal regulations. Zeytinburnu Urban Regeneration Project emerged as a response to high earthquake risk, main aim of the project was physical upgrading. Social and economic regeneration was not aimed directly. But the project was seen as a chance of regenerating Zeytinburnu with its all components. Therefore, the process concerning all components of Zeytinburnu was designed. As mentioned in chapter 1 and world examples emphasize handling urban area with all components in urban regeneration projects increase the success of the projects.

Procedural steps of the project illustrate a linear process but inward and backward linkages between studies, actions allow iterative process. The process accommodates features of the strategic planning approach such as definition of vision for the area, enabling local participation.

Due to the lack of legal arrangements about urban regeneration, participation of local citizens to the process became a significant issue in terms of implementation of the project. Mutually agreement is required such a condition for implementation. 39<sup>th</sup> article of Development Law (3194) could be used to demolish risky buildings, but this does not offer regenerative actions. Besides, new development and constructions could not be stopped in the area. Powers of the local authorities in terms of regeneration are very limited.

## **CHAPTER 6**

### **CONCLUSION**

This chapter reciprocally integrates the previous analyses and findings concerning foreign experience in urban regeneration and current attempts in Turkey, underlines the fundamental issues, and aims to indicate how needs be met and appropriate tools and measures could be achieved in the regulation of urban regeneration in Turkey, taking into consideration the various propositions and suggestions made by authorities and individuals.

#### **Understanding the Scope of Urban Regeneration**

Recent attempts to regulate urban regeneration process in Turkey do not have a common purpose or understanding of urban regeneration, but generally consider urban regeneration as a tool of interfering physically deprived areas. Some of the laws, draft laws and implementations reveal this understanding.

The law concerning the northern entry to Ankara urban regeneration project (5104; 2004), the law about the rehabilitation of historical and cultural property (5366; 2005), the draft law of urban regeneration, and the draft law of planning and development all focus on physical structure of cities alone and aim to transform physical structures. Aims stated in these laws can be summarized as to improve physical conditions, improve the appearances and provide a 'healthy' settlement pattern. The currently active urban regeneration project of Northern entry to Ankara, and Güneypark urban regeneration project do not take into consideration social and economic issues and constitute two distinct examples of such single-minded projects of narrower scope.

On the other hand, the law about 'changes in the law for conservation of cultural and natural heritage' (2863, 2004), law of Municipalities (5226; 2004), and the draft development law all consider urban areas with their social, economic and physical components, and simultaneously attempt to bring regulations covering social, economic and physical components. These laws aim not only to improve physical structure, but also enhance development in social and economic structure of cities.

Turkey is not totally alien to successful comprehensive urban regeneration projects. Urban regeneration projects like Portakal Çiçeği, Dikmen Valley and Zafertepe projects are not confined only to physical issues but also cover social and economic issues. As described and discussed in the earlier chapters, the historical evolution and World practices of urban regeneration reveal also that the understanding has shifted from single-sided (physical) concerns to one of comprehensive scope (social, economic and physical).

The main purpose of most the urban regeneration projects is physical change, either in the form of reuse of land, vacant or unused, under-used or ineffectively used, contaminated, derelict, neglected or unsightly. But for a successful and sustainable result, all components of urban regeneration need to be addressed.

Dutch understanding of urban regeneration also emphasizes the comprehensiveness of urban regeneration. The main aim of the Dutch spatial planning system and policies is to increase densities by means of developing and reusing brown fields to create compact cities, taking into account the social and economic issues of urban environment. Current understanding of urban regeneration is more than physical improvement. It is improvement and integration of physical, social and economic components. Besides, urban regeneration is implemented not only in physically deprived areas but also in the areas where social and economic problems exist.

Forming comprehensive urban regeneration in Turkish legal framework is very significant in terms of interfering social, economic and physical problems, and ensuring sustainable developments.

The scope of urban regeneration explained by the draft law of development offers a wide perspective for comprehensiveness and integrity of urban regeneration. However, the aim and scope of related laws and draft laws need to broaden to integrate physical regeneration with social and economic issues.

The result of the Ankara Northern Entry urban regeneration project aiming to regenerate physical structure of an area (where immigrants live) is likely to be unsustainable or gentrification will occur in the area. The scope of the law about Ankara Northern Entry urban regeneration project should be more comprehensive.

Aim statements of the urban regeneration projects defined by law of municipalities (5272; 2004) include physical regulation for social and economic issues. In addition to the physical regulations, policies and strategies must be developing solutions and improvements to the social and economic problems.

The possible changes in the ownership pattern in unauthorized areas brought by the draft law of urban regeneration should take the social and economic results of regeneration into consideration.

Socially and economically deprived areas are defined by the draft law of planning and development as potential regeneration areas and the law offers development plans for the area. However, it is obvious that development plan can neither include strategies about social and economic structure nor readjust the conditions for improvement. Planning concept of the draft law should shift from physical development planning to strategic planning approach.

### **Tasks, Responsibilities and Powers**

Responsibilities and powers are given to local and central authorities to enforce regeneration in urban areas. Foreign experiences show that municipalities working with support from the national government could better manage urban regeneration projects. Although urban regeneration has not been defined as a national policy in Turkey, laws and draft laws provide the necessary powers, tasks and responsibilities both at local and national levels.

Laws and draft laws (like the law of municipalities and draft law of urban regeneration) charge municipalities and provincial administrations as the ultimate authority for the preparation and implementation of urban regeneration projects. On the other hand, the law concerning the northern entry to Ankara urban regeneration project charge the municipality with the duty, yet designating the Ministry of Public Works and Settlement to approve the regeneration plan.

According to the draft law of planning and development that charges municipalities and provincial administrations for the preparation and implementation of urban regeneration projects, provincial administrations approve the regeneration areas defined by the municipalities whose population is less than 50 000. This constitutes still a third constraint in the prerogatives of preparing regeneration plans.

The first condition charging municipalities and provincial administration with designation of area and preparation and implementation of project gives a broad power to local authorities, but it is deprived of supervision of central authorities. The second constraint charging the Ministry for approval of plan and the third constraint charging the provincial administrations for approval of plan are the result of aiming to supervise the administrations. In a period when localization gains importance transferring local powers to central authorities can negatively affect localization and participation process.

Powers given in the related laws and draft laws include:

- vacating and demolishing dangerous buildings,
- compulsory purchase,
- exchange of real estate,
- transfer of development rights,
- designation of different zones,
- preparation and transfer of bond, and
- establishing firms or instituting partnerships with local municipalities and private firms.

The law about the changes in the law for conservation of cultural and natural heritage numbered 2863 and some laws (5226; 2004) give powers of compulsory purchase, transfer of development rights, exchange of real estates and definition of different zones to municipalities and governorships. The law of municipalities, in which term of urban regeneration appeared firstly, mentions voluntary agreement with property owners.

On the other hand, the law concerning the northern entry to Ankara urban regeneration project (5104; 2004) gives powers of compulsory purchase in the project area to the Metropolitan Municipality. The draft law of urban regeneration gives privileges to municipalities and governorship to define different zones and compulsory purchase (article 12). The draft law of development enables municipalities to designate several types of special planning areas for the purposes of implementing projects concerning protection, regeneration, intensive development, and public and/or private investments (article 28, 29, 30, 31).

Powers given to municipalities with recent changes in England include;

- Incentives to local authorities to undertake 'design, build, finance and operate' type contracts (Local Government Regulations, 1997)
- A new self-certification scheme for local government Private Finance Initiative schemes which guarantees private sector partners (including banks) that they will be compensated if a contract is ruled unlawful (Local government act, 1997)

Tasks, responsibilities and powers given in related laws and draft laws offer all required tools for defining regeneration area, planning and implementing urban regeneration projects. As they are given separately, it is required that powers mentioned above to be put together in a

law. On the other hand some powers given to municipalities like compulsory purchase need to be used concerning the social and economic effects.

In addition to these responsibilities, social and economic directed responsibilities could be given to the local authorities. They could be responsible for founding local office(s), securing local participation, informing local people, coming to agreement with local people, and searching for applicability of the project and searching and forming new organization to solve problems.

### **Procedural Steps**

Understanding of urban regeneration, planning approach, tasks, responsibilities and powers given to authorities affect the procedural steps of urban regeneration, but urban regeneration projects generally start with the definition of regeneration area.

As main aim of the urban regeneration projects offered by regulations is realizing physical transformation, process offered by these laws includes re-planning the physical environment or revising the development plan. Processes of urban regeneration projects offered by recent laws and draft laws reflect the understanding of physical development plan understanding. The process is the reflection of rational process view of planning. The process is physical planning oriented and process does not involve stages that develop social or economic structure of urban environment.

In addition to the planning approach, expected output of the process also affects the process. Expected output of the recent regulations is a drawn up physical plan for future. On the other hand, Turkish experiments, mentioned in the fourth and fifth chapters, draw a different process. These exemplify the process of vision oriented strategic planning.

Foreign practices discussed in the thesis, draw different procedural design for urban regeneration projects. Foreign practices generally follow strategic planning approach; set a vision and determine the strategies to reach the vision.

Main difference between process offered by laws and draft laws and the process of foreign examples is flexibility. While the process offered by recent regulations figures linear process and forms an ossified structure, foreign examples' processes visualize flexible and versatile structure.

As mentioned above aim and scope of urban regeneration in Turkey could be widen, and process of urban regeneration projects be transformed from physical plan oriented to vision oriented to develop social economic and spatial strategies.

### **Designation of Regeneration Areas and Boundaries**

First stage of the procedural steps of urban regeneration projects is designation of urban regeneration areas. Aims of the related laws and draft laws address the potential regeneration areas. According to these laws urban regeneration projects can be implemented in physically deprived areas, worn out city parts, risky areas, and unauthorized areas.

According to the related laws and draft laws, regeneration areas are defined locally, out of city scale plan. Different ways are defined for definition of urban regeneration projects areas and boundaries by the related laws and draft laws. First way describes the definition of urban regeneration areas by laws like the law concerning the northern entry to Ankara urban regeneration project. The law of municipalities, the draft law of urban regeneration and the draft law of development define second way for definition of urban regeneration areas; municipalities and provincial administrations define the regeneration areas. The law of municipalities brings area size criteria for definition of regeneration areas. According to the law of municipalities, regeneration areas cannot be less than 5 ha. According to the draft law of urban regeneration, which defines three intervention areas; improvement, purification and regeneration, application to administrations is required.

On the other hand, areas of urban regeneration projects like Portakal Çiçeği, Dikmen Valley, Zafertepe and Zeytinburnu urban regeneration projects were defined at city scale studies. For example Zeytinburnu Urban Regeneration Project is an out come of EMPI.

Size of the regeneration areas also varies; while the area of Portakal Çiçeği Valley Urban Regeneration Projects is about 11 ha, Dikmen Valley Urban Regeneration Projects covers 150 ha and the area of Zeytinburnu Urban Regeneration Project is about 132 ha.

As mentioned in third chapter, regeneration area is defined at city scale planning studies and critters for definition of urban regeneration area are defined by Leasehold Reform, Housing and Urban Development Act (1993) of England. Urban regeneration projects are generally implemented by small-scale neighbourhood action plans targeted to small areas with between 1000 residents (300 dwellings) and 10,000 residents (3000 dwellings). Small-scale neighbourhood action plans are often part of larger scale area-based regeneration programmes, which include the homes of 25,000 people or more, together with commercial areas, such as district shopping centres.

Urban regeneration areas could be defined at city scale plans to ensure comprehensive urban development.



## **Procedures of Participation and Participants**

The law about the changes in the law for conservation of cultural and natural heritage numbered 2863 and some laws (5226; 2004) is the first law mentioning participation in planning process. Although definition of participant varies according to laws, all related laws and draft laws directly or indirectly mention participation to the urban regeneration projects. Some laws like the law concerning the northern entry to Ankara urban regeneration project (5104; 2004) limit the participant with real estate owners, some laws like draft development law make comprehensive definition of participants.

Although participation is not mentioned directly in the law of municipalities, the law makes most extensive participatory group; all citizens have the right of participating municipality's decisions and services (article 13).

According to the draft development law; municipality, profession chambers, and NGOs can participate to the planning process (article 30a). The law about the changes in the law for conservation of cultural and natural heritage numbered 2863 and some laws (5226; 2004) extend the participant group; in addition to municipality, profession chambers, and NGOs, governorship, related authorities, and citizens affected by plan are defined as participators of the planning process (article 17a).

On the other hand, the draft law of urban regeneration and the draft law of planning and development mention owners and local resident as participators. According to these law and draft laws participation process will be regulated by regulations. Although participation is mentioned in related laws and draft laws, process of participation still is not defined.

The law of municipalities, draft law of urban regeneration and the law concerning the northern entry to Ankara urban regeneration project enable municipalities instituting some types of partnership. The law of municipalities and draft law of urban regeneration enable municipalities to establish firms or institute partnerships with local municipalities and private firms. According to the law concerning the northern entry to Ankara urban regeneration project, Greatercity of Ankara can institute partnership with Housing Administration.

In addition to the enabling participation to the process, involving definition of participation process, and ensuring consensus is very significant in terms of urban regeneration law.

Urban regeneration projects of Turkey, discussed in the thesis, emphasize on participation. While some examples focus on only owners as participant, some make a comprehensive definition for participant including local people who live or work in the area, NGOs etc. In the Portakal Çiçeği and Dikmen Valley Urban Regeneration Projects, an institutional structure took the form of a company organization in which both municipal and individual landowners and the entrepreneur involved. That enabled individuals to participate in decision making

process and be informed of decision made through their representatives. Zeytinburnu Urban Regeneration Project represents an example of comprehensive participatory approach. As mentioned in fifth chapter, the participation strategy of the regeneration projects is a fundamental aspect of the plan, so it is aimed to investigate all the participating and targeted people, and facilitate participation to the project. For this reason it is aimed to establish local office to maintain the local participation and the local management of the projects aimed to be established. Workshops, design weekends and informative and orientation meetings are mentioned to enable participations to the design stage.

Parallel to the planning approaches' emphasises on participation, active participation by the tenants is defined as significant issues of urban regeneration projects in England and Netherlands. Leasehold Reform, Housing and Urban Development Act (1993) of England mentions the participating tenants. Establishing local offices, organizing planning workshops, design weekends, and informative and orientation meetings are tools to enable participations to the process.

Participation to the urban regeneration projects gains significance in terms of discovering local problems and opportunities, considering local requests, ensuring sustainable development. For this reason, legal regulations about urban regeneration should make a comprehensive definition of participants.

### **Finance and Resourcing**

Turkish and foreign practices show that, urban regeneration projects are financed by partnership of public and private sectors. Like foreign regulations discussed in the thesis, some of the recent attempt to regulate urban regeneration process enables public-private partnership. On the other hand, some draft laws like the draft law of development and the draft law of planning and development do not include power of establishing partnership. Specific resources are assigned for urban regeneration projects in foreign countries.

Powers of authorities (like exchange of real estates, transfer of development rights, and preparation and transfer of bond) can be evaluated as useful tools for financing urban regeneration projects.

Mainly two types of partnership models to enable several resources for urban regeneration projects are suggested; public sector - public sector partnership and public sector - private sector partnership.

The law concerning the northern entry to Ankara urban regeneration project enables only public sector - public sector partnership between the municipality and Housing Administration (article 7). The law of greatercity municipalities and draft law of urban

regeneration entitle administrations to public sector - public sector partnership and public sector - private sector partnership by means of establishing firms or instituting partnerships with local municipalities and private firms. In addition, the draft law of urban regeneration enables authorities to make contract with firms or Housing Administration and to establish partnership with cooperatives, entrepreneurs and contractors to construct buildings in regeneration areas.

In addition to the partnership models, laws and draft laws define some resource types for urban regeneration projects that are

- equity capital,
- appropriations transferred to the municipality and Housing Administration,
- all kind of the project income including revenues of selling as resource for the project,
- national or international credits,
- credits of the Housing Administration

According to the draft law of urban regeneration, authorities can use national or international credits, sell excess housing, commercial or industrial parcels and units all revenues of the project that can be used only for the aim of the law.

The law concerning the northern entry to Ankara urban regeneration project lists equity capital, appropriations transferred to the municipality and Housing Administration, all kind of the project income including revenues of selling as resource for the project (article 7). Besides, the Greater Municipality of Ankara is entitled to have access to credits of the Housing Administration to use for the project.

According to the law, if revenues exist after the project completed, some part of the revenues defined by the Ministry of Public Works and Settlement are shared among Housing Administration, the Greater Municipality of Ankara, district municipalities, and municipalities who have real estates in the project area. Remaining part is registered to the general budget. Local citizens or owners are not considered during the value sharing.

The draft law of planning and development offers a different approach to the finance of the urban regeneration projects. Administrations can use national or international credits and equity capital and contract easement to finance urban regeneration projects. Besides, real estate owners are obligated to cover expanse of the infrastructure and project in respect of share of real estate values. According to the law, 15 percent of the value created by the

project is left to the administrations to be used for urban regeneration projects. Rest of the value is shared between real estate owners.

Almost all of the financial tools and resources were used in the urban regeneration projects of Turkey. The institutional structure of Portakal Çiçeği and Dikmen Valley Urban Regeneration Project -a company organization- enabled not only participation of local citizens but also partnership between public and private sectors.

On the other hand, Earthquake Master Plan of İstanbul emphasizes the necessity of founding a 'source pool' and using the sources in this pool synchronously to finance Local Action Plans.

As mentioned above foreign countries assign specific resources for urban regeneration projects. The New Deal for Communities, City Challenge and Single Regeneration Budget of England aim to reduce the deliver of services by means of coordinating them. Single Regeneration Budget to encourage synergy between departments, to respond to issues in a comprehensive way, to reduce overlap in service, and to synchronize the local and national schemes was created as a merged budget. Regional development agencies also may give financial assistance (Regional Development Agencies Act 1998, section 5).

According to the Housing Grants, Construction and Regeneration Act 1996, The Secretary of State may, with the consent of the Treasury, give financial assistance to any person in respect of expenditure incurred in connection with activities, which contribute to the regeneration or development of an area. Assistance may, in particular, be given by way of grants, loans, guarantees, or incurring expenditure for the benefit of the person assisted (Article 126 and 127).

Partnership models, financial tools and resources given in related laws and draft laws offer all required tools for planning and implementing urban regeneration projects;

- private sector capital,
- equity capital of administrations,
- appropriations,
- all kind of the project income including revenues of selling as resource for the project,
- bonds, and
- national or international credits.

As they are given separately, it is required that financial tools and resources mentioned above should be put together in a law.

As a result, The recent regulatory attempts in special laws concerning regeneration, as well as in laws of 'development', 'local administrations' and 'municipalities' constitute basic framework to define responsibilities, powers, procedural steps, ways of participation and partnership, finance of urban regeneration projects, but they need to be modified in their procedural and legal provisions.

Main problems in the procedural steps and legal arrangements of Turkey are single-minded scope of the urban regeneration, tendency of centralizing the powers, implementing physical regeneration oriented linear process, discouraging active participation. A law about the urban regeneration needs to take these issues into consideration.

Powering local authorities (municipalities and governorships) to designate regeneration areas, plan and approve is significant to enable relevant participation to the process. To avoid piecemeal implementation in urban areas, urban regeneration areas and project development areas, to which development rights can be transferred could be defined, at city master plans by means of concerning all components of urban area. Local authorities can be charged to designate regeneration areas at 1/5000 city master plans to decide at city level and coordinate regeneration areas. This could be coordinated by changing an article within Development Law (3194).

On the other hand, local authorities should be equipped for implementation of regeneration projects. Powers of the local authorities should include vacating and demolishing dangerous buildings, compulsory purchase in regeneration areas, exchange of real estate and transfer of development rights in regeneration areas, preparation and transfer of bond, and instituting partnerships with public, private sectors and NGOs. Tasks and responsibilities of local authorities for comprehensive regeneration could be provided with the Law of Municipalities (5272), and the Law of Provincial Administration (5302). These laws could also equip local authorities with prerogatives of implementing regeneration projects.

A second procedural requirement concerns the preparation of plans. This demands steps for participatory interventions as well as a versatile structure to allow feedback and returns to former stages of planning. This could be introduced by means of a regulation regarding preparation of regeneration projects. This regulation resembles the regulation on technical specifications for the preparation of development plans of Law 3194. Regulation on preparation of regeneration area could define procedural steps of an urban regeneration projects as:

- A: Definition of Urban Regeneration Areas
- B: Declaration of Urban Regeneration Area
- C: Scope and Procedure Design

- D: Surveys, Information Gathering and Database Formation
- E: Analyses
- F: Preliminary Decisions
- G: Design Stage
- H: Feasibility and Applicability Evaluation
- I: Implementation Programming
- J: Implementation Tenders
- K: Supervision

This regulation can also enforce the participation of local citizens and stakeholders to the process. Changing the article 13 of the Municipality Law would suffice for the realization of participation processes.

The article (24n) of the Greatercity Municipalities Law that enable partnerships between public, private bodies and NGOs can be further introduced to the Municipality Law for the very necessary synergies in regeneration projects.

Due to the physical, economic and social problems, high risks imposed by natural hazards, and changes in economic, socio-cultural and technological circumstances regenerating the urban areas will be on the centre of urban issues.

Due to the physical, economic and social problems, high risks imposed by natural hazards, and changes in economic, socio-cultural and technological circumstances regenerating the urban areas will be on the centre of urban issues. The development of comprehensive urban regeneration policies and legal framework defining process and participation will be the most significant issue in urban planning. The thesis aimed to define a process and participation in legal regulation of urban regeneration in Turkey. Turkey has to make a historical return to the comprehensive urban regeneration regulations with the inclusion of strategic planning process.

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**APPENDIX A:****HOUSING STOCK, HOUSING NEED AND  
PERCENT OF UNAUTHORIZED HOUSING**

	Housing Stock (Authorized and Unauthorized)	Number of Housing Construction Permit**	Housing Stock (Unauthorized)	Housing Need***	Percent of Unauthorized Housing in Housing Stock
Adana	420.460	102.849	317.611	312.899	75,54
Adıyaman	65.043	12.466	52.577	60.828	80,83
Afyon	111.382	38.120	73.262	83.170	65,78
Ağrı	39.833	1.798	38.035	38.363	95,49
Aksaray*	53.018	10.231	42.787	62.473	80,70
Amasya	63.811	22.951	40.860	49.333	64,03
Ankara	1.084.337	578.171	506.166	937.139	46,68
Antalya	332.178	136.424	195.754	281.100	58,93
Ardahan*	6.962	5	6.957	8.496	99,93
Artvin	26.720	7.178	19.542	20.761	73,14
Aydın	209.603	123.749	85.854	144.377	40,96
Balıkesir	249.715	148.747	100.968	180.517	40,43
Bartın*	23.249	2.078	21.171	13.583	91,06
Batman*	52.583	4.075	48.508	40.471	92,25
Bayburt*	8.450	855	7.595	6.597	89,88
Bilecik	38.628	14.986	23.642	36.003	61,20
Bingöl	25.529	4.504	21.025	20.408	82,36
Bitlis	31.617	2.194	29.423	35.373	93,06
Bolu	45.970	44.700	1.270	36.685	2,76
Burdur	53.333	17.951	35.382	42.418	66,34
Bursa	565.591	160.549	405.042	416.683	71,61
Çanakkale	84.426	43.935	40.491	70.612	47,96
Çankırı	36.895	18.268	18.627	28.224	50,49
Çorum	103.793	51.238	52.555	74.827	50,63
Denizli	152.002	63.156	88.846	106.535	58,45
Diyarbakır	184.856	22.649	162.207	133.406	87,75

	Housing Stock (Authorized and Unauthorized)	Number of Housing Construction Permit**	Housing Stock (Unauthorized)	Housing Need***	Percent of Unauthorized Housing in Housing Stock
Düzce*	34.421	188	34.233	31.742	99,45
Edirne	80.354	39.421	40.933	69.206	50,94
Elazığ	98.067	57.606	40.461	65.892	41,26
Erzincan	37.460	12.887	24.573	31.095	65,60
Erzurum	106.794	35.961	70.833	106.258	66,33
Eskişehir	195.987	63.284	132.703	150.170	67,71
Gaziantep	269.188	54.199	214.989	204.922	79,87
Giresun	83.878	33.327	50.551	64.343	60,27
Gümüşhane	15.862	3.928	11.934	14.470	75,24
Hakkari	17.322	1.276	16.046	18.127	92,63
Hatay	171.799	43.269	128.530	132.300	74,81
İçel	299.592	99.362	200.230	231.609	66,83
Iğdır*	17.871	1.011	16.860	15.741	94,34
Isparta	94.376	34.345	60.031	79.713	63,61
İstanbul	3.136.931	598.532	2.538.399	2.542.651	80,92
İzmir	1.031.901	528.745	503.156	817.224	48,76
K.maraş	127.264	24.051	103.213	110.382	81,10
Karabük*	55.176	4.478	50.698	42.211	91,88
Karaman*	46.355	12.878	33.477	29.229	72,22
Kars	28.601	3.619	24.982	32.488	87,35
Kastamonu	69.120	29.204	39.916	42.030	57,75
Kayseri	231.219	102.666	128.553	172.427	55,60
Kilis*	19.997	1.011	18.986	14.618	94,95
Kırıkkale*	71.693	8.561	63.132	81.289	88,06
Kırklareli	65.925	34.920	31.005	58.389	47,03
Kırşehir	45.312	20.223	25.089	33.256	55,37
Kocaeli	209.806	90.027	119.779	184.068	57,09
Konya	341.318	132.147	209.171	294.233	61,28
Kütahya	113.506	37.816	75.690	84.631	66,68
Malatya	120.069	39.280	80.789	101.902	67,29
Manisa	243.442	108.699	134.743	194.849	55,35
Mardin	70.011	3.646	66.365	63.281	94,79
Muğla	109.620	55.717	53.903	82.410	49,17
Muş	23.665	2.806	20.859	22.944	88,14
Nevşehir	71.520	24.362	47.158	34.420	65,94
Niğde	40.902	15.541	25.361	35.358	62,00
Ordu	118.358	34.221	84.137	84.546	71,09

	Housing Stock (Authorized and Unauthorized)	Number of Housing Construction Permit**	Housing Stock (Unauthorized)	Housing Need***	Percent of Unauthorized Housing in Housing Stock
Osmaniye*	78.701	1.481	77.220	68.638	98,12
Rize	67.067	16.406	50.661	46.862	75,54
Sakarya	105.556	46.388	59.168	113.354	56,05
Samsun	222.484	81.771	140.713	151.540	63,25
Siirt	26.433	7.604	18.829	21.470	71,23
Sinop	38.709	19.488	19.221	27.396	49,65
Sivas	100.975	45.819	55.156	85.125	54,62
Şanlıurfa	147.142	16.747	130.395	134.682	88,62
Şırnak*	30.506	44	30.462	27.768	99,86
Tekirdağ	166.909	68.769	98.140	118.518	58,80
Tokat	102.712	34.108	68.604	83.650	66,79
Trabzon	137.306	46.997	90.309	109.196	65,77
Tunceli	12.519	2.451	10.068	12.350	80,43
Uşak	70.651	23.660	46.991	52.081	66,51
Van	73.687	6.394	67.293	68.161	91,32
Yalova*	61.458	5.695	55.763	40.717	90,73
Yozgat	75.763	23.354	52.409	65.356	69,17
Zonguldak	94.432	49.952	44.480	63.797	47,10
Total	9.761.787	4.524.170	5.237.617	10.906.368	53,65

\* Provinces that became province after 1990

\*\* Number of housing construction permit includes construction permits given after 1960

\*\*\* Housing need= (household population/ size of household)\* 1,04

(Source: Produced from SIS, 2000; SIS, 2001 and Konut Müsteşarlığı, 2002)

## APPENDIX B:

### LAWS AND REGULATIONS USED IN THE THESIS

Law No.	Name in English	Name in Turkish	Publication Year
1580	Law of Municipalities	Belediyeler Kanunu	1930
	The Law of (Public) Buildings	Ebniye Nizamnamesi	1984
	Asar-ı Atika Nizamnamesi	Asar-ı Atika Nizamnamesi	
1593	Law of General Hygiene	Umumi Hıfzısıhha Kanunu	1930
1580	The Law of Municipalities	Belediye Kanunu	1930
2290	Law of Buildings and Roads of Municipality	Belediye Yapı ve Yollar Kanunu	1933
2301	Law of Foundation of Municipality Bank	Belediyeler Bankası Kurulması Kanunu	1933
2497	Law for Expropriations of Municipalities	Belediyelerin Kamulaştırma işlemleri Hakkında Kanun	1934
5431		Ruhsatsız Yapıların Yıkılması ve 2290 Sayılı Belediye Yapı ve Yollar Kanunu'nun Değiştirilmesine ait Kanun	1949
5805	Law for the Foundation of G.E.E.A.Y.K	Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulu'nun Kuruluşu Hakkında Kanun	1951
6785	Development Law	İmar Kanunu	1956
6830	Expropriation Law	Kamulaştırma Kanunu	1956
634	Flat Ownership Law	Kat Mülkiyeti Kanunu	1965
775	Gecekondu Law	Gecekondu Kanunu	1965
1605	Amendment of Some Articles of Development Law	İmar Kanunu'nun Bazı Maddelerinde Değişiklik Yapılması Hakkında Kanun	1972
1741	Amendment of the Law for the Foundation of G.E.E.A.Y.K numbered 5805	5805 sayılı Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulu'nun Kuruluşu Hakkında Kanun'da Değişiklik Yapılması Hakkında Kanun	1973
2863	Law for preservation of cultural and natural heritage and some laws	Kültür Varlıklarını Koruma Kanunu	1983
2981	The Law About The Procedures to be Fulfilled for Buildings Violating Development and Squatter Housing Legislation and Change in One Article of Development Law Numbered 6785	İmar ve Gecekondu Mevzuatına Aykırı Yapılara Uygulanacak Bazı İşlemler ve 6785 Sayılı İmar Kanununun Bir Maddesinin Değiştirilmesi Hakkında Kanun	1984
3194	Development Law	İmar Kanunu	1985

Law No.	Name in English	Name in Turkish	Publication Year
	Regulation for the Production and Revision of the Development Plan	İmar Planı Yapılması ve Değişikliklerine ait Esaslara Dair Yönetmelik	1985
	Technical Specifications on the Preparation of the Development Plans	İmar Planlarının Düzenlenmesi ile ilgili Teknik Şartname	1986
3386	Law about the amendment of law for preservation of cultural and natural heritage numbered 2863 and some laws	2683 Sayılı Kültür Varlıklarını Koruma Kanunu'nda ve Bazı Kanunlarda Değişiklik Yapılması Hakkında Kanun	1987
5216	The Law of 'Greatercity Municipalities'	Büyükşehir Belediyesi Kanunu	2004
5226	Law about the amendment of law for preservation of cultural and natural heritage numbered 2863 and some laws	2683 Sayılı Kültür Varlıklarını Koruma Kanunu'nda ve Bazı Kanunlarda Değişiklik Yapılması Hakkında Kanun	2004
5272	The Law of Municipalities	Belediye Kanunu	2004
5104	The Law Concerning the Northern Entry to Ankara Urban Regeneration Project	Kuzey Ankara Girişi Kentsel Dönüşüm Projesi Kanunu	2004
5366	The Law About the Rehabilitation of Historical and Cultural Property	Yıpranan Tarihi ve Kültürel Taşınmaz Varlıkların Yenilenerek Korunması ve Yaşatılarak Kullanılması Hakkında Kanun	2005
5302	Law of Provincial Administration	İl özel İdaresi Kanunu	2005
	The Draft Law of Urban Regeneration (Prepared by The Ministry of Public Works and Settlement, 2004)	Kentsel Dönüşüm Kanunu Tasarısı	
	The Draft Law of Development (Prepared by The Ministry of Public Works and Settlement, 2004)	İmar Kanunu Tasarısı Taslağı	
	The Draft Law of Planning and Development (Prepared by The Ministry of Public Works and Settlement, 2005)	Planlama ve İmar Kanunu Tasarısı Taslağı	
	The Draft Law of Urban Regeneration and Development (Prepared by The Ministry of Public Works and Settlement, 2005)	Kentsel Dönüşüm ve Gelişim Kanunu Tasarısı	

## **APPENDIX C:**

### **KUZEY ANKARA GİRİŞİ KENTSEL DÖNÜŞÜM PROJESİ KANUNU**

#### **AMAÇ**

MADDE 1. — Bu Kanunun amacı, kuzey Ankara girişı ve çevresini kapsayan alanlarda kentsel dönüşüm projesi çerçevesinde fiziksel durumun ve çevre görüntüsünün geliştirilmesi, güzelleştirilmesi ve daha sağlıklı bir yerleşim düzeni sağlanması ile kentsel yaşam düzeyinin yükseltilmesidir.

#### **KAPSAM**

MADDE 2. — Bu Kanun, ekli "Protokol Yolu Sınır Krokisi"nde gösterilen Kuzey Ankara Girişı Kentsel Dönüşüm Projesi alan sınırları içindeki her tür ve ölçekteki plânlar, inşa edilecek resmî ve özel her türlü yapı, alt yapı ve sosyal donatı düzenlemeleri ve kamulaştırma işlemleri ile Projenin amacına uygun gerçekleştirilmesine yönelik usul ve esasları kapsar.

#### **TANIMLAR**

MADDE 3. — Bu Kanunda geçen;

- a) Bakanlık : Toplu Konut İdaresi Başkanlığının bağlı olduğu bakanlığı,
  - b) İdare : Toplu Konut İdaresi Başkanlığını,
  - c) Belediye : Ankara Büyükşehir Belediyesini,
  - d) İlçe belediyeleri : Altındağ ve Keçiören belediyelerini,
  - e) Proje : Kuzey Ankara Girişı Kentsel Dönüşüm Projesini,
- İfade eder.

## PLAN VE RUHSATA İLİŞKİN HÜKÜMLER

MADDE 4. — İlgili mevzuatına göre ilçe belediyeleri ve diğer kamu kuruluşlarına ait olan, her ölçek ve nitelikteki imar plânları, parselasyon plânları ve benzeri imar uygulamalarına dair izin ve yetkiler ile proje onayı, yapı izni, yapım sürecindeki yapı denetimi, yapı kullanma izni ve benzeri inşaata dair izin ve yetkiler Proje alan sınırları içinde kalan bölgede Belediyeye aittir. Belediyece hazırlanacak 1/5000'lik nazım imar plânları Bayındırlık ve İskân Bakanlığı tarafından onanarak yürürlüğe girer.

Proje alan sınırları içindeki tüm gayrimenkuller, bu Kanunun yürürlüğe girdiği tarihten önce mevzuata uygun olarak yapılmış ve onaylanmış herhangi bir ölçek ve türdeki imar plânı kapsamında kalsalar dahi, bu Kanuna göre yapılacak plân hükümlerine tâbi olurlar.

Proje alan sınırları içinde kalan bölgede, bu Kanunun yürürlüğe girdiği tarihten önce yapılmış olan plânların uygulanması Kanunun yürürlüğe girdiği tarihten itibaren durur. Bu plânların kısmen veya tamamen uygulanmaya devam edilmesi ya da bu Kanuna göre yeniden yapılması hususunda Belediye yetkilidir.

Proje uygulaması tamamlandıktan sonra, Belediyenin bu Kanundan kaynaklanan yetkileri ilgili mevzuatına göre ilçe belediyeleri ve diğer kamu kuruluşlarına devredilir.

## ARAZI VE ARSA DÜZENLEMESİ

MADDE 5. — Belediye, Proje alan sınırları içinde bulunan binalı veya binasız arsa ve arazilerde yeni yapılacak imar plânlarına göre düzenleme yapar.

Fililen bir kamu hizmetinde kullanılan ve üzerinde kullanım amacına yönelik yapı bulunan taşınmazlar hariç olmak üzere, Proje alan sınırları içerisinde kalan bölgede Proje için ihtiyaç duyulan arazi ve arsalardan, kamu tüzel kişilerinin mülkiyetinde bulunanlar bedelsiz olarak Belediyeye devredilir. Gerçek kişilerin ve özel hukuk tüzel kişilerinin mülkiyetinde bulunan gayrimenkuller ile 24.2.1984 tarihli ve 2981 sayılı İmar ve Gecekondu Mevzuatına Aykırı Yapılara Uygulanacak Bazı İşlemler ve 6785 Sayılı İmar Kanununun Bir Maddesinin Değiştirilmesi Hakkında Kanuna göre hak sahibi olan kişilerin haklarına konu gayrimenkuller, malikler ve hak sahipleriyle yapılacak anlaşmalar çerçevesinde Projede kullanılır. Bu anlaşmaların usul ve esasları yönetmelikle belirlenir.

Anlaşma sağlanamayan hallerde gerçek kişilerin ve özel hukuk tüzel kişilerinin mülkiyetinde bulunan gayrimenkuller Belediye tarafından kamulaştırılabilir. Bu Kanun uyarınca yapılacak kamulaştırmalar 4.11.1983 tarihli ve 2942 sayılı Kamulaştırma Kanununun 3 üncü maddesinin ikinci fıkrasındaki, iskân projelerinin gerçekleştirilmesi amaçlı kamulaştırma sayılır.



Proje alan sınırları içinde yapılacak plânlarda, kamu tesislerine ayrılan veya ayrılacak alanlar, daha önce Belediyeye devredilmiş ise, devir miktarını aşmayacak kısmı bedelsiz olarak ilgili kamu tüzel kişisine geri verilir.

Proje alanı içerisinde 2981 sayılı İmar ve Gecekondu Mevzuatına Aykırı Yapılara Uygulanacak Bazı İşlemler ve 6785 Sayılı İmar Kanununun Bir Maddesinin Değiştirilmesi Hakkında Kanun ile aynı 2981 sayılı Kanunun bazı maddelerini değiştiren 3290 ve 3366 sayılı kanunlardan süre itibarıyla yararlanamayan, ancak 1 Ocak 2000 tarihinden önce yapıldığını belgeleyen ruhsatsız yapı ve gecekondu sahipleri, hak sahipleri için yapılacak konutlardan, bedelini on yıl içinde ödemeyi taahhüt etmek kaydıyla hak sahibi olurlar. Hak sahibi olacak kişiler, bu ödemeleri 775 sayılı Gecekondu Kanunundaki hükümlere göre yaparlar.

Proje alanı sınırlarında kalan ve içme suyu kullanımından vazgeçilen baraj ve koruma kuşaklarındaki su havzalarını plânlamaya ve bunlara ilişkin sınırları belirlemeye Belediye yetkilidir.

#### PROJE YÖNETİMİ

MADDE 6. — Proje alan sınırlarındaki kentsel tasarım projeleri ile konut, sosyal donatı, çevre düzenlemesi ve teknik alt yapı projeleri ile yapım dahil diğer işler Belediye ve İdare tarafından, Bakanlıkça tespit edilecek görev dağılımına göre yapılır veya yaptırılır.

Projedeki müşavirlik ve kontrollük hizmetleri İdare ve Belediye tarafından özel hukuk hükümlerine göre kurulacak veya iştirak edilecek şirket tarafından bedeli karşılığında yürütülür.

#### FINANSMAN VE GELİRLER

MADDE 7. — Proje için gerekli malî kaynak, ilgili yıl bütçe kanunlarında gösterilen miktarda İdare ve Belediye bütçesinin özel tertiplerine intikal ettirilecek ödenekler ile Belediye ve İdarenin kendi kaynaklarından ayıracağı ödenekler ve satış gelirleri dahil her türlü Proje geliriyle sağlanır. Bu ödenekler ve Proje gelirleri İdare ve Belediye tarafından açılacak müşterek banka hesabına aktarılır ve Projeye dair her türlü harcama bu hesaptan yapılır. Hesapla ilgili işlemler, kamu kurumlarının kaynaklarını banka hesabında toplamalarına dair düzenlemeler uygulanmaksızın özel hukuk hükümlerine göre yürütülür.

İdare, bütçesine aktarılan ödeneklerden veya kendi kaynaklarından, Projedeki konut, sosyal donatı, çevre düzenlemesi ve teknik alt yapı işlerinde kullanılmak üzere, Belediyeye konut kredisi sağlayabilir. Bu kredinin usul ve esasları yönetmelikle belirlenir.

Projeden elde edilen gelirler Projenin finansmanında kullanılır. Projenin tamamlanmasından sonra artan Proje geliri varsa, bu gelirin Bakanlık tarafından belirlenecek kısmı, İdare, Belediye, ilçe belediyeleri ve Proje alan sınırları içerisinde alanı bulunan diğer belediyelerin bütçesine, kalan kısmı ise genel bütçeye gelir kaydedilir.

#### DIĞER HÜKÜMLER

MADDE 8. — Bu Kanunda hüküm bulunmayan hallerde 3.5.1985 tarihli ve 3194 sayılı İmar Kanununun ilgili hükümleri uygulanır.

Belediye ve İdare tarafından yapılacak konut ve iş yeri satışları 2.3.1984 tarihli ve 2985 sayılı Toplu Konut Kanunu hükümlerine göre yapılır.

Bu Kanunda belirtilen yönetmelikler ile Kanunun uygulanmasına ilişkin diğer yönetmelikler Bakanlık tarafından hazırlanarak yürürlüğe konulur.

#### YÜRÜRLÜK

MADDE 9. — Bu Kanun yayımı tarihinde yürürlüğe girer.

#### YÜRÜTME

MADDE 10. — Bu Kanun hükümlerini Bakanlar Kurulu yürütür.

## **APPENDIX D:**

### **KENTSEL DÖNÜŞÜM KANUN TASLAĞI**

#### **GENEL GEREKÇE**

Bu Kanun ile tüm yerleşim alanlarının bilim, teknik ve sanat kurallarına uygun sürdürülebilir gelişme ilkesi doğrultusunda sağlıklı ve güvenli yaşam çevrelerinin oluşturulması amaçlanmıştır.

Hazine, İl Özel idaresi, Genel ve Katma Bütçeli İdareler, Belediyeler, Vakıflara ait arsa ve araziler ile başkasının veya kendi arsası üzerine yapılan tüm yapıları kapsamaktadır.

Özel Kanunlarla ve Uluslar arası sözleşmelerle yapılaşma yasağı getirilen alanlar ile bilim ve teknik kurallara uymayan yapıların tasfiyesi genel esastır.

Bu kanun ile sağlıksız ve yeterli donatıya sahip olmayan kentlerin yeterli ve sağlıklı alt yapıya ve donatıya sahip olması için gereken hükümler getirilmiş bu kapsamda Anayasa ve mülkiyet hakları göz önünde bulundurularak düzenlemeler yapılmıştır.

Mevcut yapılaşma içinde mevzuata aykırı yapılmış pek çok yapının envanterinin çıkartılması değerlendirilmesi ve iyileştirilmesine ilişkin hükümler getirilmiş olup, bu çerçevede vatandaşın mağduriyetinin önlenmesi göz önünde bulundurulmuş imar affı kavramının yer etmemesi için arsa üzerinden hak verilmesi yoluna gidilmeyip konut verilmesi öngörülmüştür.

Mevzuata aykırı yapıların tekrar yapılmaması için cezai önlemlerin arttırılmasına gerek duyulmuş buna ilişkin hükümler getirilmiştir.

Gecekondu yapanların hak sahipliği bir tek konutla sınırlandırılmıştır. Mevzuata uygun yapıların hakları korunmuştur.

Afet riskli alanlarda yapılan yapılar ve diğer yapılar için afet risklerinin değerlendirilmesi ve bu yapılara ilişkin projelerin üretilmesi amaçlanmış bu çerçevede hükümler getirilmiştir.

Kentsel dönüşüm yapacak olan idarelerin sorunları irdelenmiş bu sorunların giderilmesi için hükümlere yer verilmiştir.

## AMAÇ

Madde 1- Bu Kanun tüm yerleşim alanlarının, bilim, teknik ve sanat kurallarına uygun sürdürülebilir gelişme ilkesi doğrultusunda, sağlıklı ve güvenli yaşam çevrelerinin oluşturulması, afete duyarlı, kentsel standartlara uygun olarak kullanılmasına yönelik iyileştirme, tasfiye ve yenilenmesini sağlamak amacıyla, ilgili idare eliyle yeni yerleşim ve gelişim alanları açmak, ucuz yapı ve arsa üretmek üzere, toplumsal katılıma dayalı, düzenleme ilke ve esasları ile bunlara ilişkin uygulama yöntemlerini belirlemek amacıyla düzenlenmiştir.

## KAPSAM

Madde 2- Bu Kanun Hazine, İl Özel İdaresi, Genel ve Katma Bütçeli İdareler, Belediyeler, Vakıflara ait arsa ve arazileri ile, başkasının arazisi veya kendi arsası üzerine yapılan yapılar ile imar mevzuatına aykırı olan her türlü yapının ve bu Kanun uyarınca hazırlanan Kentsel Dönüşüm Planına aykırı yapıların iyileştirme, tasfiye ve yenilenmesini, kentin mevcut ve gelecekteki yapı ve arsa ihtiyacının karşılanması için yapılacak iş ve işlemleri kapsar.

## GENEL ESASLAR

Madde 3- 2863-3386 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanunu, 2873 sayılı Milli Parklar Kanunu, 2872 sayılı Çevre Kanunu, 383/444 sayılı Özel Çevre Koruma Kurumu Başkanlığı Kurulmasına Dair Kanun Hükmünde Kararname, 3621-3830 sayılı Kıyı Kanunu, 2960 sayılı Boğaziçi Kanunu, 6831 sayılı Orman Kanunu, 3202 sayılı Köy Hizmetleri Genel Müdürlüğü Kuruluş ve Teşkilatı Hakkında Kanun, 4342/4368 sayılı Mera Kanunu, 2920 sayılı Sivil Havacılık Kanunu, 7269 sayılı Umumi Hayata Müessir Afetler Dolayısıyla Alınacak Tedbirlerle Yapılacak Yardımlara Dair Kanun gibi Özel Kanunlarda ve Uluslararası Sözleşmelerde yer alan ilke ve esaslar nedeniyle yapı yasağı ve kısıtlaması getirilmesi zorunlu alanlardaki mevcut yapılara bu kanunun sadece tasfiye ile ilgili hükümleri uygulanır.

Kentsel dönüşüm planı kapsamında kalan alanlarda, ilgili idare dışında farklı kurum ve kuruluşlara mevcut kanunları ile verilen planlama ve uygulama yetkileri, bu Kanunda tanımlanan idare ve kurumlara geçer. Ancak; bu kanunda tanımlanan ilgili idareler planlama ve uygulama işlemlerinde, ilgili kurum görüşlerini ve önerilerini alırlar.

Kentsel dönüşüm planı kapsamında üretilen yerleşim alanları ile her türlü iş ve işlemlerden elde edilen bedel bu Kanunun amacı dışında kullanılamaz ve harcanamaz.

## İSTİSNALAR

Madde 4- Türk Silahlı Kuvvetlerine ait hareket, eğitim ve savunma amaçlı alanlar bu kanun kapsamı dışındadır.

## TANIMLAR

Madde 5- Bu Kanunda geçen bazı kavramlar aşağıda tanımlanmıştır.

- TASFİYE ALANI; jeolojik, jeofizik durumu, deprem, taşkın, heyelan vb. afet tehlike ve riskleri taşıyan, doğal, kültürel, tarihi, ekolojik ve tarımsal değerlere sahip ve çevreye ilişkin mevzuatlar kapsamında kalması nedeniyle bulunduğu yerde korunamayan, zorunlu olarak boşaltılması gereken alanlar ile kentsel dönüşüm planı kararları gereği yerinde korunamayan yapıların ve gecekonduların bulunduğu yapılaşma yasağı getirilen alanlardır.

- İYİLEŞTİRME ALANI; Mevcut dokusu ve sosyal ve teknik altyapı ihtiyaçları açısından günün koşullarına ve gelecekteki öngörü ve ihtiyaçlara cevap vermemesi nedeniyle genel planlama kararları bozulmaksızın plan değişikliği yapılmak suretiyle kısmi tasfiye ve yenilemelerinin yapılacağı alanlardır.

- KENTSEL DÖNÜŞÜM ALANI; Mevcut dokusu ve sosyal ve teknik altyapı ihtiyaçları açısından günün koşullarına ve gelecekteki öngörü ve ihtiyaçlara cevap vermemesi nedeniyle içerisinde varsa gecekondular, imar mevzuatına aykırı yapıların da bulunduğu, tasfiye, yenileme, iyileştirme ve dönüşümü gerçekleştirmek üzere, çağdaş kentsel standartlarda sosyal ve teknik alt yapısı hazırlanarak günün koşullarına ve gelecekteki ihtiyaçlara göre belirlenen alandır.

- KENTSEL DÖNÜŞÜM PLANI; İmar planı bulunan veya bulunmayan alanlarda, mevcut dokunun kentsel iyileştirme, yenileme, gelişme ve tasfiye amacını içeren; jeolojik ve jeoteknik etüt raporlarına dayalı arsa ve arazi düzenlemesi ve parselasyon planına esas olarak hazırlanan rapor ile birlikte, teknik ve sosyal altyapının, uygulama etap ve programları ile finans modelini de içeren 1/5000 ve 1/1000 ölçekli imar planlarıdır.

- UYGULAMA PROGRAMI; Kentsel dönüşüm alanı içinde; bu Kanun Hükümlerine uygun olarak bölgelerin, sosyal ve ekonomik yapısı dikkate alınarak belirlenen plan etapları doğrultusunda; bu planların uygulanmasına yönelik finans kaynakları ve teknik önlemleri içerecek şekilde hazırlanan plan eki programdır.

- DÖNÜŞÜM BELGESİ; Bu Kanun kapsamında kalan yapılar ve/veya kişiler esas alınarak ilgili idare tarafından bu Kanun uyarınca yapılacak tespit işlemleri sonrasında düzenlenen ve hak sahiplerine verilen belgedir.

- ARSA MALİYET BEDELİ; Arsa ve/veya arazinin rayiç bedeline, imar parseli oluşturulmasına yönelik Bayındırlık ve İskan Bakanlığınca her yıl tespit edilen asgari ücret esas alınarak belirlenen harita, plan, parselasyon planı, etüt, proje, arsa, arazi düzenleme ve bu konuyla ilgili her türlü masraflar da eklenerek bulunan arazi bedelidir,
- YAPININ ESAS BEDELİ; Kentsel dönüşüm planında belirlenen kentsel, sosyal, teknik altyapıya ait katılım payları, arsa maliyet bedeli de ayrıca eklenerek, Bayındırlık ve İskan Bakanlığınca her yıl yayımlanan Yapı Yaklaşık Maliyeti esas alınarak hazırlanan zemin etüdü, aplikasyon projesi, yapı projeleri bedeli, yapı denetim veya fenni mesul bedeli ile keşifle belirlenen yapıma ilişkin bedellerin toplamıdır.
- GECEKONDU; İmar ve yapı işlerini düzenleyen mevzuata ve genel hükümlere bağlı kalınmaksızın, kendisine ait olmayan arazi veya arsalar üzerinde, sahibinin rızası alınmadan yapılan izinsiz yapılardır.
- İMAR MEVZUATINA AYKIRI YAPI; İmar ve yapı işlerini düzenleyen mevzuata ve genel hükümlere aykırı olarak kendisine ait arazi veya arsalar üzerinde yapılan her türlü yapıdır.
- İLGİLİ İDARE;; Belediye ve mücavir alan sınırları içerisindeki uygulamalar için Büyükşehir Belediyeleri (3030 sayılı Kanuna tabi illerde İlçe ve alt kademe belediyeleri) ile diğer belediyeleri, bu alan sınırları dışında kalan alanlarda Valiliklerdir.
- BAKANLIK; Bayındırlık ve İskan Bakanlığıdır,

Bu Kanunda adı geçen diğer kavramlara ilişkin açıklamalar, Bakanlıkça hazırlanan Yönetmelikle belirlenir.

## BAŞVURULAR

Madde 6- Bu Kanun kapsamına giren tüm yapılar için yapıların bulunduğu yerin ilgili idaresine 3 ay içinde başvurulur. Başvuru iadeli taahhütlü olarak posta ile de yapılabilir. Posta ile yapılan başvurularda, dilekçenin postaya verildiği tarih başvuru tarihi sayılır. Bu kanun yürürlüğe girdiği tarihte Yurtdışında bulunanlar için başvuru süresi 6 aydır.

Dilekçeye; nüfus cüzdanı sureti ve bu kanun amaçlarında kullanılmak üzere ilgili idare tarafından bir kamu bankasında açılacak hesaba yatırılan 50 milyon TL. başvuru bedeline ilişkin makbuzun aslı ve gecekondü sahiplerinden/oturanlardan; kendisinin veya eşinin veya reşit olmayan çocuğunun oturduğu belediye ve mücavir alan sınırı içinde ev yapmaya müsait arsaya veya bir eve veya apartmanın bağımsız bir bölümü veya bir bölümü iş yeri olarak kullanılan bir yapıya sahip olmadığına dair noterden alınmış taahhütname, vekil ile başvuruluyor ise vekaletname örneği ve yönetmelikle hazırlanma esasları belirlenecek durum tespit raporu eklenir.

Üzerinde yapı yapılmak suretiyle arsa ve arazisi, tecavüz veya işgal edilen malikleri de ilgili idarelere yardımcı olmak üzere; arsa ve arazilerin ada ve parselini, tecavüz ve işgallerin zaman ve miktarı hakkındaki mevcut bilgileri içeren bir dilekçe ile ilgili idarelere başvuru masrafını ödemeden başvurabilirler.

İmar mevzuatına aykırı yapılmış yapıların sahiplerinden; yukarıdaki belgelere ilaveten tapu veya tapu yerine geçecek belge istenir.

Sanayi, turizm ve buna benzer diğer yapı ve tesisler, patlayıcı ve parlayıcı madde içeren üretim ve depolama istasyon ve tesis kapsamında kalan yapılar için başvuru aşamasında yukarıdaki belgelere ek olarak ÇED ön araştırma raporu istenecektir.

Gecekondu sahiplerinden ise; yukarıdaki belgelere ilave olarak; seçmen kütük, nüfus sayımı kayıtları ile muhtarlıktan o bağımsız bölümde ikamet ettiğine dair alınan yazı, varsa tapu tahsis belgesi, vergi makbuzu, elektrik veya su depozitosu, telefon faturasını eklemek zorundadır.

Bu kanun uyarınca açılan hesapta toplanan meblağa yasal faiz oranı uygulanır. 3030 sayılı kanun kapsamında kalan belediyelerde ilçe belediyeleri adına ayrı birer hesap açılır.

2981/3290/3366 sayılı kanuna göre müracaat etmiş ancak henüz tapularını almamış olanlar başvuru bedeli alınmaksızın bu kanun hükümlerine göre yeniden müracaat ederler.

İmar mevzuatına aykırı yapı veya gecekondu yapanlardan bu Kanun hükümlerine göre müracaatta bulunmayanlara ve 2805 ve 2981/3290/3366 sayılı kanuna göre müracaat etmiş olup da tapu almış olanlara; ikinci yapıları için A ve B grubu değişim belgesi düzenlenemez.

Ancak, daha önce gecekondu yıkılanlar ile 2805 ve 2981/3290/3366 sayılı kanuna göre müracaat etmiş olup da tapu almış olanlardan tasfiye alanında kalanlara bu Kanunun tasfiye hükümleri, kentsel dönüşüm plan hükümlerine göre farklı imar hakkı ve kullanım getirilenlere dönüşüme ilişkin hükümleri uygulanır.

## TESPİT VE TASNİF İŞLEMİ

Madde 7- İlgili idareler; bu Kanunun yürürlüğe girdiği tarihten itibaren en geç 9 ay içerisinde başvuruya konu alanlarda tasfiye, iyileştirme, yenileme ve dönüştürmeye yönelik tespit ve tasnif işlemlerini tamamlar haritalara işler. Bir rapor eki olarak Sınır tespit kuruluna gönderilir.

İlgili idarelerce tespit ve tasnif işlemleri; en az 1'er adet şehir plancısı, mimar, inşaat, harita ve jeoloji veya jeofizik mühendislerinden oluşturulan yeterli sayı da heyet ve yardımcı eleman tarafından yapılır.

İdarelerin bünyesinde yeterli sayıda teknik eleman yok ise; Valilik tarafından kamu kurum ve kuruluşlarından temin edilir. İdareler bu yol ile de yeterli sayıda eleman temin edemez ise bu elemanlar ücreti karşılığında özel sektörden 4706/4734 sayılı İhale Kanununa tabi olmadan temin edilir.

Tespit ve tasnif işlemlerinde kullanılacak olan hava fotoğrafı alımı, kıymetlendirilmesi, harita alım ve tanzimi ve benzeri teknik yardımlar hakkında Bayındırlık ve İskan Bakanlığı ve ilgili idarenin istekleri; ilgili Bakanlık, kamu kurum ve kuruluşlarca herhangi bir bedel aranmaksızın en geç 30 gün içinde yerine getirilir.

İlgili idare, işlemlerin düzenli, süratli, zamanında ve doğru yapılmasına ilişkin tertip ve tedbirleri almakla yükümlüdür.

## DUYURU

Madde 8- İmar mevzuatına aykırı yapıların tespit ve tasnif işlemleri tamamlandıktan sonra, valilik veya ilgili belediyesince tespit edilen ilan yerlerinde 15 gün süre ile askıya çıkarılır. Birer örneği mahalle veya köy muhtarlığına verilir.

## SINIR TESPİT KURULLARI

Madde 9- Sınır tespit kurulu; Büyükşehir Belediyesinin bulunduğu yerlerde; Büyükşehir Belediye Başkanlığını temsilen İmar Daire Başkanı Başkanlığında, ilçe belediyesi imar müdürü ile İl Bayındırlık ve İskan Müdürlüğünce görevlendirilen mesleki yeterliliğe sahip 2 yetkili, büyükşehir ve ilçe belediyelerinden 1'er adet şehir plancısı ve harita mühendisinden oluşur.

Büyükşehir belediyesi dışında kalan yerlerde; Belediye başkanı veya başkanı temsilen Başkan yardımcısı başkanlığında, imar müdürü İl Bayındırlık ve İskan Müdürlüğünce görevlendirilen mesleki yeterliliğe sahip 1 yetkili ve 1'er adet şehir plancısı ve harita mühendisinden teşekkül eder.

Sınır tespit kurulu sınırları belirler. Belirlenen bu sınırlar; belediye ve mücavir alan sınırları içinde ise Belediye meclisince, dışında ise İl İdare Kurulu Kararınca onaylanır.

Valiliklerde ise; valiyi temsilen vali yardımcısı başkanlığında İl Bayındırlık ve İskan Müdürü ve 1'er adet şehir plancısı ve harita mühendisinden oluşur.

Tespit ve tasnif işlemlerini içeren rapor ve pafta ile birlikte Kurula gönderilir. Sınır tespit işlemi rapor ve paftaların değerlendirilmesini müteakiben 3 ay içerisinde kurulca tamamlanır.



Kurul üyeleri kamu kurum ve kuruluşlarından temin edilir, edilemiyorsa ücreti karşılığında özel sektörden 4706/4734 sayılı İhale Kanununa tabi olmadan temin edilir.

#### KENTSEL DÖNÜŞÜM PLANLARIN HAZIRLANMASI

Madde 10- Kentsel dönüşüm planının, şehircilik ilkelerine, planlama esaslarına, bulunduğu bölgenin sosyal, ekonomik, kültürel, coğrafi ve jeolojik koşullarına Çevre, Orman, Kıyı gibi koruma ve kullanmaya ilişkin hükümler içeren Özel Kanunlara uygun olarak; arazinin jeolojik, jeofizik durumu deprem, taşkın, heyelan gibi afet tehlike ve riskleri dikkate alınarak 3194 sayılı İmar Kanuna ilişkin “Plan Yapım Esaslarına Dair Yönetmelik” hükümlerine göre hazırlanır.

İlgili İdareler; sınır tespit kurulunun belirlediği sınırlara göre kentsel dönüşüm planlarını, sınır tespiti işleminin tamamlanmasından sonra en geç 6 ay içinde hazırlamak ve onaylamak zorundadır.

Bakanlık gerekli görülen hallerde, Kentsel Dönüşüm Planlarını yapmaya, yaptırmaya, değiştirmeye ve re’sen onaylamaya yetkilidir.

Kentsel Dönüşüm Planları ilgili idarelerce hazırlanır. Belediye ve Mücavir Alan sınırları içinde; belediye meclisince, bu sınırlar dışında ise İl İdare Kurulu Kararınca onaylanır. 3030 sayılı Kanun kapsamında kalan belediyelerde 1/5000 ölçekli planlar Büyükşehir Belediye Meclisince, 1/1000 ölçekli planlar ise ilçe ve alt kademe belediye meclisleri tarafından yapılır, yaptırılır ve onaylanır.

3030 sayılı Kanuna tabi belediyelerde; birden çok ilçe-alt kademe belediye sınırlarını kapsayan kentsel dönüşüm planı alanlarında, Büyükşehir belediyesi ile ilçe-alt kademe belediyeleri arasında protokol düzenlenerek karşılıklı yetki devri yapılabilir.

Ancak, anlaşmazlığa düşülmesi halinde Bayındırlık ve İskan Bakanlığı re’sen planı onaylamaya yetkili olup anlaşmazlığa yönelik verdiği karar kesindir.

Bu planlar; Onay tarihinden itibaren belediye başkanlığınca tespit edilen ilan yerlerinde 15 gün süre ile ilan edilir. 15 günlük süresi içinde planlara itiraz edilebilir. Belediye başkanlığınca belediye meclisine gönderilen itirazlar ve planları belediye meclisi 15 gün içinde inceleyerek kesin karara bağlar.

Belediye ve mücavir alan dışında kalan yerlerde yapılacak Kentsel Dönüşüm Planları valilikçe yapılır veya yaptırılır. İl İdare Kurulu Kararı alınıp Valilikçe uygun görüldüğü takdirde onaylanarak yürürlüğe girer. Bu planlar Onay tarihinden itibaren valilikçe tespit edilen ilan yerlerinde 15 gün süre ile ilan edilir. 15 günlük süresi içinde planlara itiraz edilebilir. İtirazlar valiliğe yapılır, valilik itirazları ve planları 15 gün içinde inceleyerek kesin karara bağlar.

Kentsel Dönüşüm Planları üst ölçekli planı bulunan yerlerde onaylanma tarihinden itibaren en geç 1 ay içinde üst ölçek planı onaylayan idareye iletilir, kentsel dönüşüm planı kararlarını en geç 1 ay içinde üst ölçek planına işler.

Kentsel Dönüşüm Planı hazırlanırken plan ekinde, doğalgaz, telekomünikasyon, elektrik, su, kanalizasyon gibi teknik altyapı tesislerine ilişkin projeler dikkate alınarak yapılması esastır.

Onaylanmış kentsel dönüşüm planlarında yapılacak değişiklikler de yukarıdaki usullere tabidir.

İdareler gecekondulaşmayı önlemek için, ileriye dönük kullanılmak üzere, kentsel dönüşüm planı kapsamında teknik ve sosyal altyapıları da hazırlanmış gelişim alanları oluşturmak zorundadır.

Kentsel dönüşüm planlarının bir kopyası valiliğe, bir kopyası Bakanlığa gönderilir.

#### PARSELASYON PLANLARININ HAZIRLANMASI VE TESCİLİ

Madde 11- Kentsel Dönüşüm Planlarına göre parselasyon planları yapıp, belediye ve mücavir alan içinde belediye encümeni, dışında ise il idare kurulunun onayından sonra yürürlüğe girer. Bu planlar ilan yerlerinde 15 gün süre ile ilan edilir. Ayrıca mutat vasıtalarla duyurulur. Bu süre içinde yapılan itirazları İdare 15 gün içinde cevaplar ve sonuçlandırır. Bu sürenin sonunda kesinleşir. Tashih edilecek planlar hakkında da bu hüküm uygulanır.

Kesinleşen parselasyon planları tescil edilmek üzere tapu dairesine gönderilir. Bu Daireler ilgililerin muvaffakatı aranmaksızın, sicilleri planlara göre re'sen tanzim ve tesis ederler.

Kentsel Dönüşüm Planları içinde kalan hisseli arazilerde mümkün olduğunca ada bazında parsel oluşturulması kaydıyla hisse çözümleri yapılabilir.

Yapı ruhsat işlemlerine planlar yürürlüğe girmeden ve tescil işlemleri tamamlanmadan başlanamaz, ruhsat talebinde bulunulamaz.

#### KAMULAŞTIRMA

Madde 12- Bu Kanuna esas hazırlanacak kentsel dönüşüm planı ile belirlenecek alan sınırları içindeki gayri menkullerin kamulaştırma iş ve işlemleri ilgili idarece 2942/4650 sayılı Kamulaştırma Kanununa göre yürütülür ve yapılır.

## ARAZİ VE ARSA DÜZELEMESİ İMAR KATILIM PAYLARI

Madde 13- Kamu kurum ve kuruluşlarına ayrılan alanlar; kentsel dönüşüm planı kararları doğrultusunda hazineye devri yapılarak ilgili kamu kurum ve kuruluşlarının talepleri halinde 30 gün içerisinde tahsis edilir.

Kentsel Dönüşüm Planı sınırları içinde bulunan müstakil, hisseli veya hisse karşılığı satın alınan veya özel parselasyona dayalı yerler de dahil olmak üzere, binalı veya binasız arazi ve arsaları, malikleri veya diğer hak sahiplerinin kabulü aranmaksızın, birbirleri ile yol fazlaları ile kamu kurumlarına veya ilgili idarelere ait yerlerle birleştirmeye, bunları yeniden imar planına uygun ada veya parsellere ayırmaya, müstakil, hisseli veya kat mülkiyeti esaslarına göre hak sahiplerine dağıtmaya ve re'sen tescil işlemlerini yaptırmaya belediyeler ve valilikler yetkilidir.

Düzenleme Ortaklık Payları, düzenlemeye tabi tutulan yerlerin ihtiyacı olan yol, meydan, park, otopark, çocuk bahçesi, yeşil alan, dini tesis ve karakol gibi umumi hizmetlerden ve bu hizmetlerle ilgili tesislerden başka maksatlarda kullanılamaz.

Düzenleme ortaklık paylarının toplamı, yukarıdaki fıkrada sözü geçen umumi hizmetler için, yeniden ayrılması gereken yerlerin alanları toplamından az olduğu takdirde, eksik kalan miktar belediye veya valilikçe kamulaştırma yolu ile tamamlanır.

Kentsel Dönüşüm Plan sınırları içinde yer alan ve düzenleme sahasında bulunan okul, hastane, kreş, belediye hizmet veya diğer resmi tesis alanı gibi umumi hizmetlere ayrılan alan için % 10 oranında Kamu Ortaklık Payı alınır.

Bu oranların Kamu Ortaklık Payına ayrılan alanların ihtiyacını karşılamaması halinde, düzenlemeye giren parsellerin alanları oranında pay verilmek suretiyle hisselendirilir.

Bu madde hükümlerine göre herhangi bir parselden bir defadan fazla D.O.P. ve K.O.P. alınamaz.

Daha önce yapılan düzenlemeler dolayısıyla D.O.P alınmış arazi ve arsalar D.O.P. hesabına dahil edilmezler.

Bu maddede yer almayan hususlarda 3194 sayılı İmar Kanunu'nun 18. Maddesi ve Uygulama Yönetmeliği uyarınca uygulama yapılır.

## DÖNÜŞÜM BELGESİ DÜZENLEME ESASLARI

Madde 14- Kentsel dönüşüm planı kararlarına ve ilgili idarece yapılan tespit, tasnif ve uygulama işlemelerine göre yerinde korunamayacak parsel ve yapı sahiplerine aşağıdaki hükümlere göre;

#### A grubu belge

- Kendi mülkiyeti üzerinde yürürlükteki mevzuata uygun yapı sahibi,
- İmar mevzuatına uygun olmakla beraber tasfiye alanında kalan veya plan gereği tasfiye edilmesi zorunlu yapı ve arsa sahibi,

#### B grubu belge

- Kendi mülkiyeti üzerinde yürürlükteki mevzuata uygun olmayan,
- Gecekonduların sadece bir bağımsız bölüm sahiplerine,

#### C grubu belge

- Gecekondu niteliğinde olup birden fazla yapı veya birden fazla bağımsız bölüm sahiplerine,

İlgili idarece dönüşüm belgesi düzenlenir.

Bu Kanun kapsamında öngörülen,

A GRUBU DÖNÜŞÜM BELGELERİNDEN - Bedel alınmaz

B GRUBU DÖNÜŞÜM BELGELERİNDEN - 1 Milyar

C GRUBU DÖNÜŞÜM BELGELERİNDEN - 2 Milyar Türk Lirası bedel alınır.

Bu bedellerin tahsili ile, yapı esas bedelinin ödenmesi ve ödeme süreleri ile taksitlendirilmesine ilişkin usul ve esaslar; Bayındırlık ve İskan Bakanlığınca hazırlanacak yönetmelikle belirlenir.

#### UYGULAMA İŞLEMLERİ:

##### Madde 15- Tasfiye Alanında Kalan Yapılar:

- Özel Kanunlar ve Uluslararası sözleşmeler kapsamında yapı yasağı getirilen alanlar,
- Jeolojik, jeofizik durumu, deprem, taşkın heyelan v.b. afet ve riski taşıyan alanlar.
- Doğal, kültürel, tarihi, ekolojik ve tarımsal değeri nedeniyle yapı yasağı ve kısıtlaması getirilmesi zorunlu alanlar,
- Su kirliliği ve gürültü kontrolü, hava kalitesinin korunması gibi çevresel sakıncaları nedeniyle yapı yasağı ve kısıtlaması getirilmesi zorunlu alanlar,
- Havaalanlarının uçuş konisi ve mania hatlarında yapılaşma yasağı ve kısıtlama getirilmesi zorunlu alanlar,

- Planlama ve şehircilik ilkeleri açısından Kentsel Dönüşüm Planı kararı ile yapı yasağı ve kısıtlaması getirilen alanlar,

İlgili idarece kentsel dönüşüm planı ile tasfiye alanı olarak belirlenir. Bu alanlarda yapılan tasfiye işlemi planın etapları, uygulama programı ve finans modeli uyarınca gerçekleştirilir.

- Tasfiye alanında kalan; imar mevzuatına uygun yapı sahiplerine ceza alınmaksızın bedelsiz dönüşüm belgesi düzenlenir.
- Tasfiye alanında kalan; imar mevzuatına aykırı yapı ve gecekondu sahiplerine ceza alınmaksızın bedelli dönüşüm belgesi düzenlenir.

Tasfiye Edilecek Yapılar:

- Yıkılacak derecede tehlikeli yapılar ile deprem, taşkın, heyelan, yangın vb. afet tehlike ve riskleri taşıyan, herhangi bir afet durumunda yıkılması muhtemel can ve mal güvenliğini tehdit eden yapılar,
- Kentsel dönüşüm planı kararlarına aykırı münferit fabrika, sanayi yapı ve tesisleri, depolar, patlayıcı ve parlayıcı madde içeren üretim ve depolama istasyon ve tesisleri gibi gayri sıhhi müessese olduğu tespit edilen yapılar,
- Su, hava, gürültü ve çevre kirliliğine sebep olan ve halk sağlığını tehdit eden yapılar,

Kentsel Dönüşüm Planı etapları, uygulama programı uyarınca yapının niteliğine ve mevzuata uygunluğuna bakılmaksızın tasfiye edilir.

Bunlardan;

- a) İmar mevzuatına uygun olan yapılar için bedelsiz olarak dönüşüm belgesi verilir.
- b) İmar mevzuatına aykırı yapılar ve gecekondu için bedelli dönüşüm belgesi verilir.

Kentsel dönüşüm planı kapsamında iyileştirme ve dönüşüm alanında kalan yapılar;

A- Kentsel dönüşüm planı kararı gereği ve başvuruda ibraz edilen durum tespit raporuna göre yerinde korunabilecek şartları taşıdığı, İlgili İdarece tespit edilen imar mevzuatına aykırı yapılardan; yapının; afet dayanımı, yangın vb. risk ile çevre ve halk sağlığı açısından dayanıklılığı ile ilgili olarak Bakanlıkça hazırlanan yönetmelikte belirtilen şartlara haiz teknik rapor istenir.

- a) Hazırlanan teknik rapor sonucu; hiçbir işleme gerek kalmaksızın yerinde korunacak yapılar için bu Kanun hükümleri uyarınca bu yapılardan mevzuata aykırılık derecesine göre ceza alınır.

b) Hazırlanan teknik rapor sonrasında yapının güçlendirilerek yerinde korunması gerekiyor ise; bu Kanun hükümleri uyarınca bu yapılardan mevzuata aykırılık derecesine göre ceza alınarak yapıların güçlendirilme projeleri hazırlanır.

B- Kentsel Dönüşüm Planı içinde kalan, imar mevzuatına aykırı yapı veya gecekondur niteliğindeki yapılar, plan kararı gereği yerinde korunamıyor ise; ceza alınmaksızın yapı sahiplerine dönüşüm belgesi düzenlenerek tasfiye edilir.

C- Kentsel dönüşüm planı kararı gereği mevzuata uygun olmakla beraber tasfiyesi zorunlu olan yapılardan herhangi bir ceza alınmaksızın dönüşüm belgesi düzenlenir.

D- Kentsel dönüşüm planı sınırları içinde yapısı bulunmayan yoksul ve dar gelirli; 775 sayılı Kanun hükümlerinden yararlandırılır.

## TESLİM VE TAHSİS İŞLEMLERİ

### Madde 16-

a) A grubu dönüşüm belgesi düzenlenen hak sahiplerine daha önce kullandığı konutuna eşdeğer bir bağımsız bölüm verilir.

Tasfiyeye konu A grubu yapı yapıldığı tarihteki mevzuata uygun ise, parsel maliki yada maliklerinin talebi ile idarece hiçbir bedel talep edilmeksizin kentsel dönüşüm planında mevcut yapısına en yakın alandan idarece yaptırılacak yapılardan kullanılan imar haklarına uygun sayı ve nitelikte bağımsız bölüm verilir.

Tahliye tarihinden itibaren; yeni yapılacak yapılara yapı kullanma izin belgesi düzenlenip, yapı belgesi verilinceye kadar belge sahipleri İdarece belirlenecek geçici iskan alanlarında ikamet ettirilir, ancak yeterli sayıda yer temin edilemez ise rayiç bedel üzerinden 24 ayı geçmemek üzere kira bedeli ödenir. İdarelerce yapılacak her türlü takas ve tahsis işlemleri tahliye tarihinden itibaren 2 yıl içinde sonuçlandırılır.

b) Gecekondu ikamet eden, son nüfus sayımında o bölgede sayılmış, en son Genel Seçimlerde o bölgede oy kullanan ve halen ikamet eden ve aynı İl sınırları içerisinde başka bir yerde yapı yapmaya müsait arsa veya bir yapıya veya yapıların bağımsız bölümlerinden birine sahip olmayanlara B grubu Dönüşüm Belgesi düzenlenir.

B grubu Dönüşüm Belgesi alanlardan yapı bağımsız bölüm sayısı ile sınırlı olmak kaydıyla tasfiye edilenlere, yapı kullanma izin belgesi verilinceye kadar rayiç bedel üzerinden belirlenen kira bedelinin % 50'si ödenir.

B grubu Dönüşüm Belgesi almaya hak kazananlara, ilgili idarece, bu Kanuna ilişkin Yönetmelikle belirlenen öncelik sırasına göre, YAPI ESAS BEDELİNİN % 50'si karşılığında,

bir bağımsız bölüm verilir. Bu Dönüşüm Belgesi kapsamında verilen konutlar için bağımsız bölüm brüt alanı 120 m<sup>2</sup>.yi geçemez. Daha büyük alanlı konut talep edenler, bu sınırın üzerindeki m<sup>2</sup> bedelini yapı esas bedeli üzerinden öderler.

c) C grubu Dönüşüm Belgesi düzenlenmiş ise; idarece, bu kanuna ilişkin hazırlanacak olan yönetmelikte belirlenecek öncelik sırasına göre, Yapı Esas Bedelinin % 85'inin ödenmesi karşılığında bir bağımsız bölüm verilir.

d) İdareler kentsel dönüşüm planında, birden fazla bağımsız bölüm yapılmak üzere ayrılmış olan tahsise hazır hale getirilmiş arsalar, B ve C grubu Dönüşüm Belgesi sahibi olanlara, müşterek veya Kooperatif yoluyla inşaat yapmak isteyenlere de, Kat Mülkiyeti Kanunu hükümlerine uyulmak kayıt ve şartıyla arsa tahsis edilir.

e) Tahliye edilen yapıların 30 gün içinde yıkılması zorunludur.

Tasfiye edilen yapıların sahiplerine tahliye tarihinden itibaren 24 ay içinde yeni bağımsız bölümleri tahsis edilir.

İlgili idareler; bu kanun kapsamında belge düzenleyip, hak sahibi niteliği kazananlara verilecek yapıları ve/veya bağımsız bölümleri aşağıdaki usul ve esaslarla göre üretebilir.

Bu işlemler;

a) İdare tarafından kurulmuş yada ortak olunan Özel Hukuk hükümlerine tabi şirketler tarafından yapıpı veya yaptırılabilceğı gibi Toplu Konut İdaresi ile de protokol imzalayarak yaptırılabilir.

İlgili İdare bu fıkra kapsamında yapacağı iş ve işlemlerde 4734 sayılı Kamu İhale Kanunu'na tabi değıldir.

b) İdare ayrıca, kooperatiflere, yerli ve yabancı yatırımcılara, müteahhitlere % 30'dan az olmamak kaydıyla kat karşılığında kentsel dönüşüm planları kapsamında hazırlanmış imar parsellerinden vermek suretiyle yapı üretebilir.

c) İdare, bu Kanun kapsamında kalmayan kişi ve kurumlara da, yapı esas bedeli üzerinden tamamını ödemek koşuluyla rayiç bedelinden az olmamak kaydıyla ihale mevzuatı usulleri çerçevesinde ihtiyaç fazlası yapıları satabilir.

d) İdare ayrıca, kentsel dönüşüm kapsamında kalan alanda, ticaret, sanayi, turizm vb. konut dışı kullanımlar ile sosyal konut dışında kalan konut alanlarını oluşturmak ve bu Kanuna göre oluşturulan imar parsellerini talep edenlere rayiç bedelinden az olmamak kaydıyla ihale mevzuatı usulleri çerçevesinde satabilir.

e) İdare; bu kanun kapsamında yapılacak yapı ve bağımsız bölümler için bu Kanunun hızlı şekilde uygulanmasını teminen ulusal veya uluslararası yatırım ve/veya finans çevreleriyle kredi sözleşmesi yapabilir.

Bu durumda ilgili mevzuat hükümleri saklıdır.

## YAPI RUHSATI VE YAPI KULLANMA İZİN BELGESİ İŞLEMLERİ

Madde 17- Kentsel dönüşüm planı içinde bulunan tüm yapılar; ruhsata tabidir.

Kentsel dönüşüm planı içinde iyileştirme ve dönüşüm alanında kalan yapılardan, plan kararı gereği yerinde korunabilecek nitelikte olanlarına hazırlanan teknik rapor doğrultusunda, güçlendirme ve gerekli görülen tüm projeler hazırlanmak ve ilgili idarece onaylanmak suretiyle yapı ruhsatı ve projesine uygun olarak, inşai faaliyet tamamlandığı takdirde yapı kullanma izin belgesi düzenlenir. Bu alandaki sanayi tesisleri için ÇED raporu istenir.

Teknik rapor doğrultusunda projelerinde herhangi bir değişiklik ve güçlendirme gerektirmeyenlerden inşai faaliyeti tamamlanmış olanlara;

a) İmar mevzuatına aykırı olanlara; bu kanuna ilişkin cezai hükümler uygulanmak suretiyle

b) İmar mevzuatına uygun olarak inşa edilenlere hemen,

Yapı ruhsatı ve yapı kullanma izin belgesi düzenlenir.

Kentsel dönüşüm planları hazırlanırken plan bütünlüğünün bozulmaması amacıyla plan gereği dönüşüm alanındaki sosyal donatılar tamamlanmadan diğer kullanımlara yapı kullanma izni verilmez.

## DENETİM

Madde 18- İlgili idarelerin bu Kanun kapsamında yaptıkları her türlü harita, planlama, parselasyon planı, arsa ve arazi düzenlemesi, her türlü etüt ve proje, yapı ruhsatı ve yapı kullanma izni işlemleri ile, yapı denetimine ilişkin iş ve işlemler Bayındırlık ve İskan Bakanlığının denetimine tabidir. Bu Kanuna aykırı iş ve işlemleri iptale Bayındırlık ve İskan Bakanlığı yetkilidir.

Bakanlık gerekli gördüğü hallerde inceleme ve denetimlerini yapar. Bakanlıkça yapılan inceleme süresince, mevzuata aykırılık tespit olunan her türlü harita, plan, parselasyon planı, arsa ve arazi düzenlemesini etüt ve projeler, ruhsat, yapı kullanma izni, tescil işlemlerinin yürürlüğü durdurulur. Mevzuata aykırılık giderilmedikçe, bu alanlarda hiçbir uygulama yapılamaz ve ilgililer hakkında yasal işlem yapılır.



Bu Kanun yayımlandığı tarihten itibaren yapılacak her türlü gecekondü ve mevzuata aykırı yapılarından Valiliklerin ve belediyelerin ilgili birimleri, mahalle ve köy muhtarları, apartman yöneticileri, parsel malikleri, yapı müteahhidi, yapı sahibi, proje müellifleri, fenni mesuller ve/veya yapı denetim kuruluşlarının ortakları, yetki ve görev alanına göre müteselsilen sorumludur.

Bu Kanun yürürlüğe girdiği tarihten itibaren yapılacak tüm gecekondular ilgili idarelerce hiçbir karar alınmasına lüzum kalmaksızın en geç 30 gün içerisinde yıktırılır. Yıkım masrafı gecekonduyu yapandan 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümleri çerçevesinde alınır.

Belediye ve Mücavir alan sınırları içinde yapılan gecekonduların yıkımı ile ilgili işlemlerden bizzat Belediye Başkanları ve ilgili birim amirleri, valilik görev alanında Valiler ve ilgili birim müdürleri sorumludur.

Bu Kanunun yürürlüğe girdiği tarihten sonra ruhsatsız, imar planına, ruhsat ve eki projelerine, imar mevzuatına, kat mülkiyeti hukukuna aykırı yapılan yapılar tespit ve mühürlenmesi tarihinden itibaren en geç 30 gün içinde kentsel dönüşüm planına ve imar mevzuatına uygun hale getirilmezse veya bu süre içinde ruhsat alınmazsa 30 günlük süre sonunda hiçbir karar alınmaksızın 30 gün içerisinde yıktırılır, masrafı yapı sahibinden alınır. Bu yapılar ruhsatlı olup, yapı müteahhidi fenni sorumlusu veya yapı denetim kuruluşu denetimi altında inşa ediliyorsa yıkım bedeli 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümleri çerçevesinde bu kişilerden tahsil edilir.

Mahalle ve köy muhtarlıkları yapı ruhsatı alınmaksızın inşa edilen yapı hakkında, en geç 3 gün içinde, ilgili idareye bildirimde bulunmak zorundadır.

Ayrıca, yapının tamamına yapı kullanma izin belgesi düzenlenmeksizin yapının iskan edilmesi mümkün değildir. Mahalle ve köy muhtarları, yapı kullanma izin belgesi düzenlenmeksizin iskan edilen yapılar hakkında yapı en geç 1 hafta içinde tahliye edilmek üzere, ilgili idarelere 3 gün içinde bildirimde bulunmak zorundadır.

Yapı kullanma izin belgesi düzenlenmeksizin iskan edilen yapıları tahliye etmeyen ilgili idare görevlileri ile bu yapılara su, elektrik, doğalgaz, telefon, kanalizasyon ve benzeri hizmetlerden faydalandıran kurum ve kuruluş görevlileri hakkında yasal işlem yapılması zorunludur.

## MALİ HÜKÜMLER

Madde 19- İlgili idareler adına bir kamu bankasında açılan hesapta bu Kanun çerçevesinde toplanan başvuru bedelleri, dönüşüm belgesi bedelleri, harç ve cezalar paralarının % 10 'u

Hazineye, % 5 'i Bakanlığa, devredilir. 3030 'a tabi ilçe ve alt kademe belediyeleri hesabında toplanan paralardan ayrıca % 5 'i Büyükşehir belediyelerine devredilir.

Bakanlık, ilgili idare ve Büyükşehir Belediyeleri bu kanun hükümleri çerçevesinde toplanan gelirleri sadece bu Kanun hükümleri çerçevesinde yapılacak iş ve işlemler için kullanır.

Harcamalara ilişkin usul ve esaslar Bakanlıkça hazırlanacak yönetmelikte belirtilir.

## CEZALAR

Madde 20- Bu Kanun kapsamında verilen görevleri yerine getirmeyen ilgili idare görevlileri hakkında 3194 sayılı İmar Kanunu'nun 42. maddesinde yer alan cezalar üst limitten uygulanır.

Bu kanuna, plana, parselasyon planına, yönetmeliklere, standartlara aykırı olarak projelendirilen yapılarda yapı sahibi, yapı müteahhidi, şantiye şefi ve proje müelliflerinin her birine kusurun niteliği ve oranı da dikkate alınarak 2 milyar TL.'den 50 milyar TL'ye kadar para cezası verilir. Fenni mesullere ve yapı denetim kuruluşlarına verilecek ceza bu miktarın 2 katı olarak tespit edilir.

Yapı sahibinin, yapı müteahhidi veya şantiye şefi veya proje müellifi veya yapı denetim kuruluşu sahibi veya ortağı olmaması halinde yapı sahibine ceza verilmez.

Yapı, süresi içinde mevzuata uygun hale getirilmemesi halinde yapı sahibi, şantiye şefi, ilgili yapı denetim kuruluşu ortakları yapı müteahhidi ve proje müellifine kusurlarına göre 3 aydan 2 yıla kadar hapis cezası verilir.

Bu Kanun yürürlüğe girdikten sonra kendine ait olmayan arsa, arazi veya her türlü alan üzerinde kısmen veya tamamen yapı yapanlar ile hisseli arsa ve arazi üzerinde hissedarların tamamının izni alınmaksızın yapı yapan veya yaptıranlara 2 yıl hapis cezası verilir. Yapı, idarece bu Kanunda belirtilen süreler içinde tasfiye edilip, tasfiye bedeli yapı sahibinden alınır.

Bu Kanunun suç saydığı fiillerin tekrarı halinde para cezaları 2 kat artırılarak uygulanır.

İdarece verilen para cezalarına karşı cezanın tebliğinden itibaren 7 gün içinde İdare Mahkemesine itiraz edilebilir. İtiraz edilmesi idarece verilen cezanın yerine getirilmesini durdurmaz.

Bu Kanun ve bu Kanuna ilişkin olarak çıkarılacak olan yönetmeliklere aykırı uygulama yapan, yapılması gereken iş ve işlemleri geciktiren birim amirleri, kamu görevlileri ve mahalli idare organlarının üyeleri hakkında Cumhuriyet Savcılıklarınca ceza soruşturması yapılır.

Bu kanun uyarınca verilen hapis cezaları paraya çevrilemez tecil edilemez.

Yapı Kullanma İzni bulunmayan yapıları, elektrik, su, kanalizasyon, telekomünikasyon, doğalgaz gibi teknik altyapı hizmet ve tesislerinden faydalandıran ilgili kurum ve kuruluşların yetkilileri hakkında da aynı para ve hapis cezaları uygulanır.

Bu konuda belirlenen para cezaları her yıl 4421 sayılı Kanun hükümlerine göre artırılır.

Para cezalarının ödenmemesi halinde 6183 sayılı Amme Alacaklarının Tahsil Usulü Hakkında Kanun hükümleri uygulanır.

#### YÖNETMELİKLER

Madde 21- Bayındırlık ve İskan Bakanlığı bu kanunda belirtilen veya belirtilmeyen ancak açıklanması gereken hususlarda düzenleme yapmaya yetkilidir.

Bu Kanunun ve uygulaması, yürürlüğe girdiği tarihten itibaren 6 ay içinde ilgili yönetmelikler hazırlanır.

#### GEÇİCİ MADDE : 1

Madde 22- Bu Kanunun yürürlüğe girdiği tarihten itibaren, 2981/3290/3366 sayılı Kanun 1 yıl içinde sonuçlandırılarak yürürlükten kalkar. İşlemleri tamamlanmayan hak sahiplerine ilişkin işlemler bu Kanuna göre bitirilir.

#### YÜRÜRLÜK

Madde 23- Bu kanun yayımı tarihinde yürürlüğe girer.

#### YÜRÜTME

Madde 24- Bu Kanun hükümlerini Bakanlar Kurulu yürütür.

YAPININ FİZİKİ DURUMU	FİZİKİ GERÇEKLEŞME ORANI(%)
1-Temel + Bodrum (bodrum var ise)	10
2-Zemin kat+Normal katlar ( kolonlar % 9, Kiriş % 9, Tabliye % 9, Duvarlar % 9	36
3-Çatının tamamlanması	10
4-Doğrama	12
5-İç sıva	4
6-Dış sıva	3
7- Boya badana	3
8-Kaplamalar	4
9-Elektrik tesisatı	5
10- Sıhhi tesisat	7
11-Kalorifer tesisatı	4
12- Müteferrik İşler “ Ruhsat ve Eklerine Aykırı olarak Balkon kapatılması gibi Emsal arttırıcı Kazanımlar	2
TOPLAM	100

PARA CEZALARINA İLİŞKİN KATSAYI CETVELİ		
AYKIRILIKLAR	İMAR PLANI OLAN ALANLAR	İMAR PLANI OLMAYAN ALANLAR
Ruhsat Eklerine Aykırı	1	1/2
Ruhsatsız	2	1

#### Uygulanacak Formül:

Konutlar İçin:

$$C = \left\{ \frac{axb}{d} \times e + c \times e \right\} \times 0.04 \times K \times F$$

İşyerleri ve Diğer Yapılar İçin:

$$C = \left\{ \frac{axb}{d} \times e + c \times e \right\} \times 0.06 \times K \times F$$

#### AÇIKLAMALAR:

- C Para Cezasıdır.
- a Parsel Alanıdır.
- b Maliye Bakanlığınca Emlak Vergisine esas olmak üzere tespit ve ilan edilen asgari arsa m<sup>2</sup> birim değeri veya bu değer in ilan edilmediği yerlerde, Emlak Vergisi Kanununa istinaden belirlenmiş rayiç bedelin m<sup>2</sup> başına isabet eden değeridir.
- c Bayındırlık ve İskan Bakanlığı yapı yaklaşık maliyet bedeli m<sup>2</sup>
- d Yapının “yapı inşaat alanı”dır.(m<sup>2</sup>)

e imar mevzuatına aykırı olarak inşa edilen veya kullanılan yapı inşaat alanıdır.(m<sup>2</sup>)

$\frac{axb}{d}$  x e Toplam parsel değerinin yapının imar mevzuatına aykırı bölümüne isabet eden kısmıdır.

c x e Yapının imar mevzuatına aykırı bölümüne ait yapı bedelidir.

K Katsayılarıdır.

F Fiziki Gerçekleşme Oranıdır.

## **APPENDIX E:**

### **KENTSEL DÖNÜŞÜM VE GELİŞİM KANUNU TASARISI**

#### **GENEL GEREKÇE**

Hızla gelişen kentleşme süreci ülkemizin önemli sorunlarının başında gelmektedir. Bu süreç özellikle kentlerimizin merkez bölgelerindeki eski kent dokularının ve korunması gerekli kültürel mirasın olumsuz etkilenmesine neden olmuştur. Kültürel mirasın yoğun olarak bulunduğu alanlar, gerek eskimleri ve bakımsız kalmaları, gerekse yoğun olarak denetimsiz bir şekilde iskan edilmeleri ve kullanılmaları nedeniyle toplumun can ve mal güvenliğini tehdit eder duruma gelmiştir. Bu bölgelerde güvenliğin sağlanması özellikle gelişen şehirlerimizde büyük problem teşkil etmektedir.

Bu düşünceden hareketle, kentin eskiyen dokularını ve yerleşim alanlarını, kültürel miras değerini korumak, koruma/kullanma dengesini sağlayarak sosyal donatı alanlarını büyütmek ve sağlıklılaştırmak, otopark sorununu çözüme kavuşturmak, günümüz konforu ve kullanım şartlarını içeren konut, ticaret, kültür, turizm ve sosyal donatı alanları oluşturmak, tarihi ve kültürel dokuyu geleceğe taşımak amacıyla restore ederek kullanmak, böylelikle kentlerin merkez alanlarının sağlıklı bir şekilde iskan edilerek şehrin güvenliğini tehdit eden denetimsiz bölgeler olmaktan çıkarıp yenileştirmek ve günümüz gereklerine uygun olarak kullanılabilir hale getirmek amacıyla bu alanları “kentsel dönüşüm ve gelişim alanı” ilan etmek ve bu alanlarda uygulama yapmaya imkan vermek gerekliliği ortaya çıkmıştır. Yenilenen alanın yaşanabilir bir bütünlük temin etmesi için kentsel dönüşüm ve gelişim alanı ilan edilecek bölgenin belediye sınırları içerisinde bulunması ve en az 10.000 metrekare olması gerekmektedir.

Bu bölgelerin yenileştirilmesi ve etkin bir şekilde kullanımı gerek kent, gerek yaşayanların ekonomik düzeyinin ve yaşam standartlarının yükselmesini sağlayacaktır.

Kentsel dönüşüm ve gelişim alanı ilan edilen yerler için hazırlanan plan ve projelerin hızla uygulanabilmesi, kurum ve kuruluşlar arasında yetki ve mülkiyet çatışmasını önleyebilmek için bu alanların bu Kanun çerçevesinde yapılan çalışmalara ve hazırlanan plan ve projelere tabi olmasını ve diğer planların durdurulmasını gerektirmektedir. Ayrıca, belediyelerin bu uygulamaları hızlı ve etkin bir şekilde yürütebilmeleri için normal kamulaştırma sürecinin dışında daha etkin yetkilere sahip olmaları gerekmektedir.

Yukarıda belirtilen sorunların en belirgin şekilde hissedildiği yerlerden birisi de İstanbul'dur. Uzun yıllar boyu İstanbul, Süleymaniye ve Zeyrek gibi bölgelerin tüm çalışmalara karşı korunamaması ve yenileşme çalışmalarına başlanamaması giderek İstanbul'un, UNESCO tarafından tehlike altındaki kültür mirası düzeyinde değerlendirilmesi tehdidine yol açmıştır. Bu durum mevcut yasal düzenlemelerin var olan problemleri çözmekte yetersiz kaldığını göstermektedir. Bu nedenle mevcut yasal düzenlemeler içerisinde tarif edilen alanlarda yenileştirme çalışmalarının hızlı ve etkili sonuca ulaştırılmasının zaman alacağı ve çalışmaların tamamlanamayacağı düşünceleriyle, bu konudaki yetki ve sorumlulukların uygulama yapan belediyede toplanmasının etkili sonuç alınabilmesi için gerekli olduğu sonucuna varılmıştır. Bundan dolayı mevzuatın izin verdiği sınırlar içerisinde yetkinin söz konusu alanlardaki yapılaşmalar için kullanımı amaçlanmıştır. Bu yetkilerin, tek elden kullanılması yenileşme çalışmalarının kesintiye uğramaması, kaynak kaybına neden olmaması ve çalışmaların yarıda kalmaması için gereklidir.

Bu yetkinin sınırsız bir şekilde kullanımına neden olmamak ve denetim altında tutmak amacıyla kentsel dönüşüm ve gelişim alanı ilan edilecek bölgelerin sınırlarının Bakanlar Kurulunca kabul ve ilan edilmesi şartı getirilmiştir.

#### MADDE GEREKÇELERİ

Madde 1.- Ulaşım, oluşum ve gelişim açısından kentin işlevsel ve yaşamsal standartlarını oluşturan bazı şehir merkezleri, tarihsel süreç içerisinde, sosyal ve kültürel doku açısından zarar görmüş, özelliklerini kaybetmiş, çöküntü alanları haline gelmiş, şehrin ve şehirlinin can ve mal güvenliğini olumsuz etkileyip tehdit eder bir duruma gelmiştir. Bu tür alanların kentin gelişimine uygun olarak geçmişten gelen özellikleri ve mevcut kültürel miras değerleri de göz önüne alınarak, restore ve yeniden inşa edilmesi, konut alanları, ticaret alanları, turizm ve kültür alanları, sosyal donatı gibi alanların oluşturulması sağlanarak bu alanların kente, kentliye ve ekonomiye kazandırılması gerekmektedir. Aynı zamanda yıkıntı ve çöküntü alanı haline gelmiş olan bu tür bölgeler deprem riski açısından da çok büyük bir tehlike arz etmektedir. Tarihsel süreç içerisinde yapısal, işlevsel, kullanım ve kültürel özelliklerini kaybetmiş bu alanların çağdaş kent ve çağdaş yaşamsal özelliklerine kavuşturulması açısından acil olarak yenilenmesi gerekmektedir. Kanunu amacı yukarıda belirtilen hususları içerecek şekilde ifade edilmiştir.

Madde 2.- Madde ile, kentsel dönüşüm ve gelişim alanlarını belirleme yetkisinin, yerel bir konu hakkında karar alma söz konusu olduğu için, belediyelere verilmesi ancak, alanların Bakanlar Kurulunca da onaylanması öngörülmektedir.

Ayrıca, uygulamaların yetki çatışmasına meydan vermeyecek şekilde yürütülebilmesi için bu alanlarda tek bir planının uygulanması gerekmektedir.

Madde 3.- Madde ile, kentsel dönüşüm alanı olarak belirlenen bölgelerde belediye tarafından hazırlanan veya hazırlatılan dönüşüm ve gelişim projelerinin belediyeler, kamu kurum ve kuruluşları, gerçek kişiler ve özel hukuk tüzel kişileri aracılığı ile yapılarak veya yaptırılarak uygulanması ve denetim yetkisinin belediyelerde olması öngörülmektedir.

Kentsel dönüşüm ve gelişim alanlarındaki yeni yapılanmalar ile korunması gerekli kültür ve tabiat varlıklarına ilişkin uygulamalar hakkında karar vermek ve hazırlanan projeleri onaylamak, plan ve projelerin başlangıç safhasından uygulamanın bitimine kadar yetkili olmak, uygulama aşamalarını periyodik olarak denetim altında tutmak ve gerektiğinde alternatif çözüm önerileri geliştirmek üzere mevcut koruma kurullarının iş yoğunluklarının fazlalığı da dikkate alınarak yalnızca bu bölgeler için gerektiği kadar koruma kurulunun oluşturulması yoluna gidilmiştir.

Madde 4.- Madde ile, uygulama alanlarındaki taşınmazlar üzerinde tasarrufta bulunma hakkının geçici veya sürekli olarak kısıtlanması ve projelerin etkili ve süratli bir şekilde uygulanması için belediyelere olağan kamulaştırma sürecinin dışında bir süreç olan iskan projelerinin gerçekleştirilmesi amaçlı kamulaştırma yetkisinin verilmesi öngörülmektedir. Keyfi uygulamaların önüne geçmek için geçici ve sürekli kısıtlamaların uygulamanın amacı ile sınırlı olması gerekmektedir. Ancak, amaç için yeterli olduğu takdirde kamulaştırma yerine taşınmaz üzerinde başka tasarruf yöntemlerinin uygulanabilmesine imkân sağlanmaktadır.

Ayrıca, kentsel dönüşüm ve gelişim alanı içerisinde kalan Hazineye ait taşınmazların, ilgili belediyeye bedelsiz olarak devredilmesi, uygulama bütünlüğünün bozulmaması açısından gerekli görülmektedir.

Madde 5.- Madde ile, projelerin uygulanması esnasında veya sonucunda iktisap edilen taşınmazlar ile hak ve imtiyazların tasarruf ve değerlendirilmesinde belediyelerin Türk Medenî Kanunu ve diğer ilgili mevzuata uygun hareket etmeleri öngörülmektedir.

Madde 6.- Bu Kanun kapsamında yer alan bölgelerde, münhasıran bu Kanun hükümlerinin uygulanacağı, özel ve genel kanunların bu Kanuna aykırı hükümlerinin uygulanmayacağı belirtilmiştir.

Madde 7.- Madde ile, kamu kurum ve kuruluşlarının ellerinde bulunan tarihi eser niteliğindeki binaların tahsis amaçlarına uygun olarak dernekler, vakıflar, diğer kamu kurum ve kuruluşları, üniversiteler ve gerçek kişiler ile özel hukuk tüzel kişilerine en fazla 49 yıllığına tahsis edilmesi öngörülmektedir.

Madde 8.- Kanunun uygulanmasını göstermek amacıyla hazırlanacak yönetmeliklerin Kanunun yayımı tarihinden itibaren üç ay içinde İçişleri Bakanlığının teklifi üzerine Bakanlar Kurulunca yürürlüğe konulması öngörülmektedir.

Madde 9.- Yürürlük maddesidir.

Madde 10.- Yürütme maddesidir.



## AMAÇ VE KAPSAM

MADDE 1.- Bu Kanunun amacı, büyükşehir belediyeleri, büyükşehir belediyeleri sınırları içindeki ilçe ve ilk kademe belediyeleri ve il belediyelerince, eskiyen ve özelliğini kaybetmiş kent bölgelerinin, kentin gelişimine uygun olarak yeniden inşa ve restore edilmesi, konut alanları, ticaret alanları, turizm ve kültür alanları ve sosyal donatı alanları oluşturulması, deprem risklerine karşı tedbirler alınması veya kentin tarihi ve kültürel dokusunun korunarak yenilenmesidir.

Bu Kanun, yukarıda belirtilen amaçlar doğrultusunda oluşturulacak olan kentsel dönüşüm ve gelişim alanlarının tespitini, teknik alt yapı ve yapısal standartlarının belirlenmesini, projelerinin oluşturulmasını, uygulama, örgütlenme, yönetim, denetim, katılım ve kullanımına ilişkin usul ve esasları kapsar.

## ALANLARIN BELirlENMESi

MADDE 2.- Kentsel dönüşüm ve gelişim alanları, o bölgenin belediye veya mücavir alan sınırları içerisinde bulunması ve on bin metrekareden az olmaması kaydıyla belediye meclis üye tam sayısının salt çoğunluğunun kararı ile belirlenir.

Belirlenen bu alanlar Bakanlar Kuruluna sunulur. Bakanlar Kurulunca kabul edilen alanlardaki uygulama bir plan ve program dahilinde ve bir yapı adasından az olmamak kaydıyla etap etap planlanabilir.

Etap plan ve programları, meclis üye tam sayısının salt çoğunluğunun kararı ve belediye başkanının onayı ile uygulamaya konulur.

Belirlenen alan sınırları içindeki tüm taşınmazlar, bu Kanunun yürürlüğe girdiği tarihten önce mevzuata uygun olarak yapılmış ve onaylanmış herhangi bir ölçek ve türdeki imar planı kapsamında kalsalar dahi, bu Kanuna göre yapılacak plan hükümlerine tabi olurlar.

## UYGULAMA

MADDE 3.- Kentsel dönüşüm ve gelişim alanları olarak belirlenen bölgelerde belediye tarafından hazırlanan veya hazırlatılan dönüşüm ve gelişim projeleri ilgili belediyeler, kamu kurum ve kuruluşları, gerçek kişiler ve özel hukuk tüzel kişileri aracılığı ile yapılarak veya yaptırılarak uygulanır.

Uygulama esnasında her türlü kontrol, denetim ve takip işlemleri, belediyenin ilgili birimlerince yapılarak sonuçlandırılır.

Kentsel dönüşüm ve gelişim alanlarındaki uygulamalar her türlü vergi, resim, harç ve ücretlerden müstesnadır.

Kentsel dönüşüm ve gelişim alanlarındaki yeni yapılanmalar ile korunması gerekli kültür ve tabiat varlıklarına ilişkin uygulamalar hakkında karar vermek ve hazırlanan projeleri onaylamak üzere söz konusu alanlar için yalnızca bu uygulamalarla ilgili olarak 2863 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanununun 51 inci maddesine göre gerektiği kadar Kültür ve Tabiat Varlıklarını Koruma Bölge Kurulu oluşturulabilir. Bu kurulca onaylanan projeler, başka bir onaya gerek olmaksızın uygulanır.

#### TAŞINMAZ TASARRUFLARININ KISITLANMASI VE KAMULAŞTIRMA

MADDE 4.- Belediye, kentsel dönüşüm ve gelişim alanı ilan edilen yerlerdeki taşınmazlar üzerinde, uygulamanın amacıyla sınırlı olarak o yerin özelliklerine göre her türlü yapılaşma, kullanım ve işletme konularında geçici veya sürekli kısıtlamalar uygulayabilir.

Kentsel dönüşüm ve gelişim alanlarında bulunan yapıların boşaltılması, yıkımı ve kamulaştırılmasında anlaşma yolu esastır. Anlaşma sağlanamayan hallerde gerçek kişilerin ve özel hukuk tüzel kişilerinin mülkiyetinde bulunan taşınmazlar ilgili belediye tarafından kamulaştırılabilir. Bu Kanun uyarınca yapılacak kamulaştırmalar 4.11.1983 tarihli ve 2942 sayılı Kamulaştırma Kanununun 3 üncü maddesinin ikinci fıkrasındaki iskan projelerinin gerçekleştirilmesi amaçlı kamulaştırma sayılır. Tapuda mülkiyet hanesi açık olan taşınmazlar ile varisi belli olmayan, kayyım tayin edilmiş, ihtilafı, davalı ve üzerinde her türlü mülkiyet ve mülkiyetin gayri ayni hak tesis edilmiş olan taşınmazlar için de aynı madde hükümlerine göre kamulaştırma işlemleri yürütülür. Kamulaştırma işlemlerinin yürütülmesinde belediyeler veraset ilamı çıkarmaya veya tapuda kayıtlı son malike göre işlem yapmaya yetkilidir.

Taşınmaz mülkiyetinin kamulaştırılması yerine amaç için yeterli olduğu takdirde satın alma, kat karşılığı ve 4721 sayılı Türk Medeni Kanununun ilgili maddeleri içeriğinde intifa hakkı veya üst hakkı kurulması yolu ile de uygulama yapılabilir.

Kentsel dönüşüm ve gelişim alanı içerisinde kalan Hazineye ait taşınmazlar başka bir işleme gerek kalmaksızın projeyi yürüten belediyeye bedelsiz devredilir. Devre ait işlemler belediyenin talebi üzerine ilgili tapu sicil müdürlüğünce resen yapılır. Bu işlemler her türlü vergi, resim ve harçtan müstesnadır.

Millî Savunma Bakanlığına tahsisli arsa, arazi yapı ve tesisler, 2565 sayılı Askeri Yasak Bölgeler ve Güvenlik Bölgeleri Kanunu kapsamında bulunan yerler ile sivil ve askeri hava alanları ve mania planları kapsamında kalan yerlerde bu Kanun hükümlerinin nasıl uygulanacağı Milli Savunma Bakanlığı, ilgili bakanlık ve belediyece müştereken belirlenir.

## DEĞERLENDİRME

MADDE 5.- Kentsel dönüşüm ve gelişim alanlarında uygulama esnasında veya uygulama sonucu belediye adına iktisap edilen taşınmazların, hak ve imtiyazların tasarruf ve değerlendirmeleri Türk Medeni Kanunu ve ilgili diğer mevzuat çerçevesinde yapılır.

## İSTISNALAR

MADDE 6.- Bu Kanun kapsamında yer alan bölgelerde, özel ve genel kanunların bu Kanuna aykırı hükümleri uygulanmaz.

## TAHSİS

MADDE 7.- Kamu kurum ve kuruluşlarının ellerinde bulunan tarihi eser niteliğini haiz bina ve müstemilatı, tarihi özelliklerine uygun olarak restore ettirmek ve/veya tarihi özellikleri korunmak ve mülkiyeti ilgili kamu kurum ve kuruluşunda kalmak suretiyle;

a) Eğitim ve kültür amaçlı olmak üzere kamu yararına çalışan dernekler, vakıflar ve diğer kamu kurum ve kuruluşları ile üniversitelere,

b) Ticari faaliyetlerde kullanılmak üzere gerçek kişiler ile özel hukuk tüzel kişilerine,

en fazla 49 yıllığına tahsis edilebilir.

Tahsislerle ilgili esas ve usuller ile tahsis bedeli ve kullanma süresi, ilgili kamu kurum ve kuruluşları tarafından belirlenir.

## YÖNETMELİKLER

MADDE 8.- Bu Kanunun uygulanmasına ilişkin yönetmelikler İçişleri Bakanlığının teklifi üzerine Bakanlar Kurulunca Kanunun yayımı tarihinden itibaren üç ay içinde yürürlüğe konulur.

## YÜRÜRLÜK

MADDE 9.- Bu Kanun yayımı tarihinde yürürlüğe girer.

## YÜRÜTME

MADDE 10.- Bu Kanun hükümlerini Bakanlar Kurulu yürütür.

## **APPENDIX F:**

### **YIPRANAN TARİHİ VE KÜLTÜREL TAŞINMAZ VARLIKLARIN YENİLENEREK KORUNMASI VE YAŞATILARAK KULLANILMASI HAKKINDA KANUN**

#### **AMAÇ VE KAPSAM**

MADDE 1.- Bu Kanunun amacı, büyükşehir belediyeleri, büyükşehir belediyeleri sınırları içindeki ilçe ve ilk kademe belediyeleri, il, ilçe belediyeleri ve nüfusu 50.000'in üzerindeki belediyelerce ve bu belediyelerin yetki alanı dışında il özel idarelerince, yıpranan ve özelliğini kaybetmeye yüz tutmuş; kültür ve tabiat varlıklarını koruma kurullarınca sit alanı olarak tescil ve ilan edilen bölgeler ile bu bölgelere ait koruma alanlarının, bölgenin gelişimine uygun olarak yeniden inşa ve restore edilerek, bu bölgelerde konut, ticaret, kültür, turizm ve sosyal donatı alanları oluşturulması, tabii afet risklerine karşı tedbirler alınması, tarihi ve kültürel taşınmaz varlıkların yenilenerek korunması ve yaşatılarak kullanılmasıdır.

Bu Kanun, yukarıda belirtilen amaçlar doğrultusunda oluşturulacak olan yenileme alanlarının tespitine, teknik altyapı ve yapısal standartlarının belirlenmesine, projelerinin oluşturulmasına, uygulama, örgütlenme, yönetim, denetim, katılım ve kullanımına ilişkin usûl ve esasları kapsar.

#### **ALANLARIN BELirlENMESİ**

MADDE 2.- Yenileme alanları, il özel idarelerinde il genel meclisi, belediyelerde belediye meclisi üye tam sayısının salt çoğunluğunun kararı ile belirlenir. İl özel idaresinde il genel meclisince, büyükşehirler dışındaki belediyelerde belediye meclisince alınan kararlar Bakanlar Kuruluna sunulur. Büyükşehirlerde ise ilçe ve ilk kademe belediye meclislerince alınan bu kararlar, büyükşehir belediye meclisince onaylanması halinde Bakanlar Kuruluna sunulur. Bakanlar Kurulu projenin uygulanıp uygulanmamasına üç ay içinde karar verir.

Bakanlar Kurulunca kabul edilen alanlardaki uygulama bir program dahilinde etap etap projelendirilebilir.

Etap proje ve programları, meclis üye tam sayısının salt çoğunluğunun kararı ve belediyelerde belediye başkanının, il özel idarelerinde valinin onayı ile uygulamaya konulur.

Belirlenen alan sınırları içindeki tüm taşınmazlar, belediyece ve il özel idaresince hazırlanacak yenileme projelerinin kültür ve tabiat varlıklarını koruma kurulunca karara bağlanmasını müteakip bu Kanuna göre yapılacak yenileme projesi hükümlerine tâbi olurlar. Büyükşehir belediye sınırları içinde büyükşehir belediyelerinin yapacaklarının dışında kalan yenileme projeleri, ilçe ve ilk kademe belediyelerince hazırlanması ve meclislerinde kabulünden sonra büyükşehir belediye başkanınca onaylanarak yürürlüğe girer. Buna göre kamulaştırma ve uygulama yapılır.

Yenileme alanlarının teknik altyapı ve yapısal standartların oluşturulması, bu alanların yönetimi ile örgütlenme ve uygulama alanlarında bulunan hak sahiplerinin veya bölge halkının katılımına dair usûl ve esaslar yönetmelikte belirlenir.

#### UYGULAMA

MADDE 3.- Yenileme alanları olarak belirlenen bölgelerde il özel idaresi ve belediye tarafından hazırlanan veya hazırlatılan yenileme projeleri ve uygulamaları ilgili il özel idareleri ve belediyeler eliyle yapılır veya kamu kurum ve kuruluşları veya gerçek ve özel hukuk tüzel kişilerine yaptırılarak uygulanır. Bu alanlarda Toplu Konut İdaresi ile ortak uygulama yapılabileceği gibi, Toplu Konut İdaresine de uygulama yaptırılabilir.

Büyükşehirlerde, büyükşehir belediyeleri tarafından başlatılmayan uygulamalar ilçe ve ilk kademe belediyelerince tek başına veya müşterek olarak yapılır veya yaptırılır.

Yenileme alanı içinde yapı parsellerindeki uygulamalarda kendi parseli ve yapısı aynen korunarak yenilenecek yapılar, projenin bütünlüğünü bozmamak şartıyla belediyece kabul edilen projeye bağlı kalmak ve il özel idaresi ve belediyenin belirleyeceği amaçta kullanılmak kaydıyla parsel sahibince yapılabilir. Bu durumlarda uygulamanın projeye eş zamanlı olarak başlatılması ve tamamlanması esastır. Aksi takdirde il özel idaresi ve belediyece bu Kanun hükümleri uygulanır.

Yenileme alanlarında yenileme projelerinin uygulanması sırasında tabîî afet riski taşıdığı Bayındırlık ve İskan Bakanlığınca belirlenen bölgelerde gerekli tedbirleri almak üzere il özel idareleri ve belediyeler yenileme projelerinde tasfiye de dahil olmak üzere gerekli düzenlemeleri yapabilir, yasaklar koyabilir. Bu konudaki esas ve usûller yönetmelikte belirlenir.

Uygulama esnasında her türlü kontrol, denetim ve takip işlemleri, ilgili il özel idaresi ve belediyece yapılır veya yaptırılarak sonuçlandırılır. Bu işlemler, projenin özelliğine göre konuyla ilgili uzman kişi, kurum ve ekiplere yaptırılır.

Yenileme alanlarındaki uygulamalar her türlü vergi, resim, harç ve ücretlerden muaftır.

Yenileme projelerini onaylamak üzere 2863 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanununun 51 inci maddesine göre gerektiği kadar Kültür ve Tabiat Varlıklarını Koruma Bölge Kurulu oluşturulur. Kurulca onaylanan projeler, il özel idaresi veya belediyece uygulanır.

Yenileme alanlarında yapılacak uygulamalarda her türlü mal ve hizmet alımları ile yapım işleri, ceza ve ihalelerden yasaklama hükümleri hariç olmak üzere 4734 sayılı Kamu İhale Kanunu hükümlerinden muaftır.

Yenileme projeleri, uygulama alanı içerisinde bulunan taşınmaz kültür ve tabiat varlıklarının rölöve, restitüsyon, restorasyon projeleri ile onarılacak veya yeniden inşa edilecek yapıların imar mevzuatında öngörülen projelerinden oluşur.

#### TAŞINMAZ TASARRUFLARININ KISITLANMASI VE KAMULAŞTIRMA

MADDE 4.- İl özel idaresi ve belediye, yenileme alanı ilan edilen yerlerdeki taşınmazlar üzerinde, her türlü yapılaşma, kullanım ve işletme konularında proje tamamlanıncaya kadar geçici kısıtlamalar uygulayabilir.

Yenileme alanlarında bulunan yapıların boşaltılması, yıkımı ve kamulaştırılmasında anlaşma yolu esastır. Anlaşma sağlanamayan hallerde gerçek ve özel hukuk tüzel kişilerinin mülkiyetinde bulunan taşınmazlar ilgili il özel idaresi ve belediye tarafından kamulaştırılabilir. Bu Kanun uyarınca yapılacak kamulaştırmalar 2942 sayılı Kamulaştırma Kanununun 3 üncü maddesinin ikinci fıkrasındaki iskân projelerinin gerçekleştirilmesi amaçlı kamulaştırma sayılır. Tapuda mülkiyet hanesi açık olan taşınmazlar ile varisi belli olmayan, kayyım tayin edilmiş, ihtilaflı, davalı ve üzerinde her türlü mülkiyet ve mülkiyetin gayri aynî hak tesis edilmiş olan taşınmazlar için de aynı madde hükümlerine göre kamulaştırma işlemleri yürütülür. Kamulaştırma işlemlerinin yürütülmesinde il özel idareleri ve belediyeler veraset ilamı çıkarttırmaya, kayyım tayin ettirmeye veya tapuda kayıtlı son malike göre işlem yapmaya yetkilidir.

İl özel idareleri ve belediyeler taşınmaz mülkiyetinin kamulaştırılması yerine, uygun gördükleri takdirde satın alma, kat karşılığı ve 4721 sayılı Türk Medeni Kanununun ilgili maddelerinde düzenlenen intifa hakkı veya üst hakkı kurulması yolu ile sınırlı aynî hak tesis edebilirler.

Yenileme alanı içerisinde kalan Hazineye ait taşınmazlar başka bir işleme gerek kalmaksızın projeyi yürüten il özel idaresine ve belediyeye bedelsiz devredilir. Satış ve gelir getirici bir işe dönüştürüldüğünde proje ve uygulama giderleri çıktıktan sonraki gelirin yüzde yirmibeşi Hazineye verilir. Devre ait işlemler il özel idaresi ve belediyenin talebi üzerine ilgili tapu sicil müdürlüğünce resen yapılır. Bu işlemler her türlü vergi, resim ve harçtan muaftır. Yenileme alanı ilan edilen yerlerde, yenileme projesi kapsamında kalan taşınmazlar Hazinece satılamaz, kiraya verilemez, tahsis edilemez.

Yenileme alanlarında uygulanacak projelerin kamulaştırma, plân, proje ve yapım işlerinde kullanılmak üzere, 2863 sayılı Kültür ve Tabiat Varlıklarını Koruma Kanununun 12 nci maddesine göre oluşturulan Taşınmaz Kültür Varlıklarının Korunmasına Katkı Payı hesabından belediyelere aktarma yapılır.

Millî Savunma Bakanlığına tahsisli arsa, arazi, yapı ve tesisler, 2565 sayılı Askeri Yasak Bölgeler ve Güvenlik Bölgeleri Kanunu kapsamında bulunan yerler, sivil ve askeri hava alanları ve mania plânları kapsamında kalan yerler, mülkiyeti Milli Eğitim Bakanlığına ait bulunan okullar, mülkiyeti veya idaresi Vakıflar Genel Müdürlüğüne ait bulunan taşınmazlar ile tapu kayıtlarında vakıf şerhi bulunan taşınmazlarda bu Kanun hükümlerinin nasıl uygulanacağı Milli Savunma Bakanlığı, ilgili bakanlık veya Vakıflar Genel Müdürlüğü ve il özel idaresi veya belediyece müştereken belirlenir.

#### SINIRLI AYNI HAK TESİSİ

MADDE 5.- Kamu kurum ve kuruluşlarının ellerinde bulunan tarihi eser niteliğini haiz bina ve müstemilatı, tarihi özelliklerine uygun olarak restore ettirmek ve/veya tarihi özellikleri korunmak ve mülkiyeti ilgili kamu kurum ve kuruluşunda kalmak suretiyle; eğitim, sağlık, kültür ve sosyal amaçlı olmak üzere kamu yararına çalışan dernekler, vakıflar, kamu kurumu niteliğindeki meslek kuruluşları ve diğer kamu kurum ve kuruluşları ile üniversiteler ile ticarî faaliyetlerde kullanılmak üzere gerçek ve özel hukuk tüzel kişilerine sınırlı aynı hak olarak tesis edilebilir.

Sınırlı aynı hak tesisi ile ilgili esas ve usuller ile bedeli ve kullanma süresi, ilgili belediye veya ilgili kamu kurum ve kuruluşları tarafından Türk Medeni Kanunu, İl Özel İdaresi Kanunu, Belediye Kanunu ve ilgili diğer mevzuat çerçevesinde belirlenir.

#### YÖNETMELİK

MADDE 6.- Bu Kanunun uygulanmasına ilişkin yönetmelik, İçişleri Bakanlığının teklifi üzerine Bakanlar Kurulunca Kanunun yayımı tarihinden itibaren üç ay içinde yürürlüğe konulur.

#### UYGULANMAYACAK HÜKÜMLER

MADDE 7.- Bu Kanun kapsamında yer alan yenileme alanlarında, uluslararası hukuktan doğan yükümlülükler saklı kalmak kaydıyla, diğer kanunların bu Kanuna aykırı hükümleri uygulanmaz.

#### YÜRÜRLÜK

MADDE 8.- Bu Kanun yayımı tarihinde yürürlüğe girer.

#### YÜRÜTME

MADDE 9.- Bu Kanun hükümlerini Bakanlar Kurulu yürütür.