Planning A, 0(0), 1–26. https://doi.org/10.1177/0308518X16664730

Kampen, J. K., & Tamás, P. (2013). Overly ambitious: contributions and current status of Q methodology. Quality and Quantity, 1–18. https://doi.org/10.1007/s11135-013-9944-z

Lloyd, G. (2015). Provenance, planning and new parameters.

Loh, C. G., & Norton, R. K. (2014). Journal of the American Planning Association, (May), 37–41. https://doi.org/10.1080/01944363.2013.883251

McCann, E. J. (2001). Collaborative Visioning or Urban Planning as Therapy? The Politics of Public-Private Policy Making*. Professional Geographer, 53(2), 207–218. https://doi.org/10.1111/0033-0124.00280

Raje, F. (2007). Using Q methodology to develop more perceptive insights on transport and social inclusion, 14, 467–477. https://doi.org/10.1016/j.tranpol.2007.04.006

Robbins, P., & Krueger, R. (2000). Beyond Bias? The Promise and Limits of Q Method in Human Geography*. Professional Geographer, 52(4), 636–648. https://doi.org/10.1111/0033-0124.00252

Saint-Martin, D. (1998). The New Managerialism and the Policy Influence of Consultants in Government: An Historical–Institutionalist Analysis of Britain, Canada and France. Governance, 11(3), 319–356. https://doi.org/10.1111/0952-1895.00074

Schepker, D. J., Oh, W.-Y., Martynov, a., & Poppo, L. (2014). The Many Futures of Contracts: Moving Beyond Structure and Safeguarding to Coordination and Adaptation. Journal of Management (Vol. 40). https://doi.org/10.1177/0149206313491289

van der Veen, M., & Korthals Altes, W. K. (2011). Urban development agreements: Do they meet guiding principles for a better deal? Cities, 28(4), 310–319. https://doi.org/10.1016/j.cities.2011.03.001

ID 1595 | FLEXIBILITY IN URBAN RENEWAL PRACTICES: THE CASE OF TURKEY

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ABSTRACT: In Turkey, urban planning is provided through the regulatory planning system. However, significant changes in the planning system since 2000 have triggered a shift in the planning system which is defined as regulatory in theory, towards a flexible planning system in practice. A flexible system is also evident in urban renewal practices. Flexibility in urban renewal implementations occurs in two different ways. Firstly, urban renewal practices are excluded from the regulatory planning system due to a project-led approach instead of a plan-led approach. Urban renewal practices are applied in accordance with special laws that have been in effect since 2004. These special laws bypass the hierarchy that exists within the regulatory planning system. Moreover, development rights, which are prepared in accordance with the regulatory planning system, expire once an area is declared an urban renewal area. This situation enables a great deal of flexibility in urban renewal practices, in sense of giving of new development rights. Secondly, the legal regulations regarding urban renewal differ from the legal tools of the regulatory planning system in that the former give both the central and local administrations discretionary power on various issues, such as the identification of the renewal area or the completion of the implementation.

KEYWORDS: Flexibility, regulatory planning, urban renewal, practices, Turkey

1 INTRODUCTION

Cities are affected and governed by various internal and external factors, such as processes of capital accumulation in the country, along with efforts for institutionalisation this brings about, in addition to the demands of their administrators. Differences in the process of capital accumulation between countries create differences in terms of not only opportunities, but also of problems. This difference also varies

depending on the countries' periodic characteristics, as well as the qualitative and quantitative data. As changes occur in factors such as international relations, political structure, mode of production and social structure, they create differences within the dynamics of space and therefore the problems and expectations of its users. Consequently, this process brings about discrepancies in administrative structures and planning actions (Tekeli, 1994; Ramazanoğulları, Turgut, 2004).

The purpose of this paper is to analyse this flexibility and its consequences that have resulted from the legal regulations regarding urban renewal via examining actual urban renewal practices. The extent and content of such a flexibility, which has emerged due to legal instruments regarding urban renewal since 2004, have changed over time in Turkey. This situation directly affects the results of the implementations.

In the first section of the paper, the features and characteristics of the regulatory planning system in Turkey are evaluated. In the second section, we will go through how flexibility has increased in Turkey's planning system and urban renewal practices from past to present. In the third section, flexibility and its consequences that have emerged in the legislation about urban renewal practices since 2004 are comparatively evaluated through various examples. Finally, in the fourth section, the structure and consequences of such a flexibility provided by the legal resources in urban renewal practices in Turkey are evaluated.

2 CHARACTERISTICS OF TURKEY'S PLANNING SYSTEM

Planning systems are divided into plan-led regulatory planning systems and project-led discretionary planning systems (Özkan and Turk, 2016). The plan-led planning system is designed to lead the development of space in accordance with the decisions of the plan. It is transferred to the development plan of the new use decisions of the land in order to apply these decisions which have definite results (Rivolin, 2008). Rivolin (2008) defines the planning system in his study as being based on "hierarchy," and technically "legally binding," characterised by "certainty" and "rigidity."

One of the important characteristics of the plan system in Turkey today is the existence of a "hierarchical" order (Demir, 2009). Planning legislation consists of hierarchically interdependent planning scales (Demir, 2009; Kanlı, 2003; Özkan, 2012). In addition, each subscale is expected to involve more information and detail compared to the scale above and include the necessary information and data of its unique scale, while at the same time preserving the main decisions of the scale above (Ersoy, 2000). However, since the regulatory planning system cannot respond to the dynamics of a city within the last 25-30 years of planning history in Turkey, it is a fact that the upper scale planning approach has been disregarded by the local administrations, and urban space development has become dependent on small-scale projects instead of plans, due to the influence of neoliberal policies. Today, especially the development of big cities, it is almost entirely dependent on small scale projects (BIB, Urbanization Forum, 2009). There is a view suggesting that for a plan to be binding for all real and juristic persons and to acquire a legal document status, it needs to be adopted and approved by political decision makers (Keles, 2012). In Turkey, Reconstruction Law No. 3194 states that local spatial plans shall go into effect following the approval of the city council. In this sense, the framework presented by the planning approach and implementation is a regulatory system that highly depends on "certainty" and that sets the standards for all cities at the national level (Ünlü, 2006). In addition, plans that reach the suspension time limitation and are finalised are worthy of legal document status, with significant consequences that bind real and juristic persons (Keles, 2012). For this reason, each local spatial plan is a whole within itself and has its own legal qualifications (Özkan, H. A., 2012). Therefore, it is evident that Turkey's planning system is a regulatory plan-led system that depends on precision in terms of development legislation. However, today's planning processes are evolving towards a more project-led approach, which is becoming increasingly preferred as an alternative (Munoz Gielen & Tasan-Kok, 2010). Urban renewal practices in particular stand out with project-led approaches.

3 AN EVOLUTION TOWARDS "FLEXIBILITY" IN PLANNING SYSTEMS AND URBAN RENEWAL PRACTICES IN TURKEY

In Turkey, the most significant transformation particularly for the big cities was through the immigrations in the 1950s, resulting in housing, employment, and transportation becoming the main problems of the metropolitan areas. Cities began transforming horizontally and vertically at a fast pace (Özden, 2008). The increasing emergence of gecekondus in the suburban areas also took place in this period. These gecekondu areas are among the first areas where a need for urban renewal in Turkey emerged (Kütük İnce, 2006). The gecekondu phenomenon, which sheds light on the social history of the cities and encompasses the foundation of social and physical life, is going through a different phase following the urban renewal policies of today (Şen & Türkmen, 2014).

With the influence of neoliberal policies at the end of the 1970s, urban development was increasingly shaped by private sector dynamics. As the private sector settled into a more and more influential role, the public sector became more and more passive (Tasan-Kok, 2008). Consequently, an illegal urban texture emerged during the 1980s due to general building amnesty legislation that aimed to solve the issue of gecekondus; while destructions also took place on a large scale and functional transformations began (Özden, 2008). For example, in Istanbul's Başıbüyük District, 48% of the area benefited from the amnesty law and received 'land allocation certificates' (tapu tahsis belgesi). Gecekondus that received land allocation certificates began transforming into apartment blocks (Şen & Türkmen, 2014). Consequently, structures that arose thanks to the amnesty law, especially in Istanbul, shaped the discourse in urban renewal approaches (Dinçer, 2011). Furthermore, legal and institutional structures of urban planning were deregulated with the introduction of neoliberal policies (Gür & Türk, 2014). Even though central planning has always been crucial for determining urban and regional policies in Turkey, a new era emphasising local administrations began with the help of institutional regulations during the neoliberal economic transformation process that started in the 1980s. Nevertheless, these regulations also adopted an inflexible, normative and rigid approach and no new regulations were introduced that could respond to the ever-changing real estate investment and implementation styles (Tasan-Kok, 2006). To manage the change in urban space, the planning system offers a perspective based on plan-led approaches. "Local spatial plans" at the urban scale are inflexible and rigid (Ersoy, 2000; Keleş, 2012, Özden, 2008; Tasan-Kok, 2006; Özkan and Türk, 2016; Famous, 2006). In this sense, in the process of change management in the urban space, it was far from providing the necessary flexibility, potential for interpretation or opportunities for contribution (Ünlü, 2006). The bureaucratic restrictions were then overcome in alternative ways, due to these shortcomings in the regulations.

In the 1990s, changes in the urban space began with the influence of globalisation, and large office buildings and shopping malls led to extensive transformations in the urban space (Özden, 2008; Güzey, 2016). For example, several changes were made in the residential areas in Istanbul and their usage: With the construction of the second bridge over the Bosphorus and peripheral highways, financial centres were built on these axes (Ergün, 2006). In addition, during this period faulty urbanisation policies and partial implementations have increased in urban areas, whereas central and local governments failed to develop urban spaces, construct residences and establish mechanisms to inspect the urban structures in terms of their eligibility for local spatial plans. As a result, this horizontal one-storey illegal housing turned into a vertical multi-storey illegal configuration. The need for urban renewal thus increased, given all the aforementioned negative developments (Köktürk & Köktürk, 2007).

Moving towards the 2000s, urban renewal was emphasised again as a risk mitigation tool for natural disasters following the sensitivity after the Marmara and Düzce earthquakes. There emerges the issue of both modernising the settlements that are already built and reconfiguring the earthquake-prone residential quarters, especially in the metropolitan areas. For this reason, urban renewal has been an important component of urban development. Special urban renewal projects were introduced by the local administrations, and developed through a cooperation between the public and private sectors. These projects were implemented in high-rent areas and considered as the only alternative for the improvement development plans (ıslah imar planları) for squatter settlements (Genç, 2014). However, the flexibilities and open negotiation processes in the relations between local administrations and the private sector, as is the case in countries with discretionary planning systems, did not emerge here. On the other hand, the stable and rigid framework of local spatial plans, compared to the dynamism of the social space, might fail to produce urban spaces (Ünlü, 2006). At this point, urban renewal projects have progressed on project-

led approaches, developing a dynamic structure in contrast to the static local spatial plans. This situation was also supported by new legislation concerning some special urban renewal projects.

In the recent years, Turkey's planning system has adopted an approach that makes decisions based on fragments of the cities instead of considering the city as a whole. This situation encompasses an increasingly flexible and project-led approach. For this reason, planning becomes an implementation tool that can accommodate different and flexible applications according to market demands. New land use decisions that are requested in fragments across the urban land, or changes to the existing land use decisions, spread rapidly and create differences across the city (Tasan-Kok, 2006). However, the pressure to increase the capital/land ratio due to the rising land prices in rapidly growing cities, and the resulting demand for high density reconstruction of the non-functional or decentralisation of industrial zones into urban fringes, and an increased demand for the reconstruction of licensed or unlicensed residential buildings, along with the projects of local administrations that are in competition to receive the capital in the era of globalisation have raised the momentum of urban renewal practices (Kocabaş, 2005). For this reason, numerous large-scale, mixed-use, prestigious redevelopment projects have been proposed by the private sector. Haydarpaşa, Galata Port and Dubai Towers projects can be given as examples for these implementations. Some of the urban renewal practices today are considered to be due to commercial developments in central areas, where the private sector has a high demand, and of housing projects that target the high-income group (BIB, Urbanization Forum, 2009).

4 "FLEXIBILITY" IN THE LEGISLATION ON URBAN RENEWAL

The concept of planning has changed through the impact of transformations and dynamics created socially, economically and politically, on a national and international level. Also, decision-making systems are affected by macro-level structural changes, such as globalisation and neoliberal policies (Munoz Gielen & Tasan-Kok, 2010). The discussions between planning systems are about the dilemma of flexibility versus certainty. In the planning literature, there is a reoccurring pair between the concepts of regulatory planning and strategic planning (Rivolin, 2008). Faludi (1987, p. 260), on flexibility, states that "Flexibility helps to achieve as much certainty as possible in a world." Moreover, the regulatory planning system has shown a move away from certainty towards flexibility. At the same time, the developments regarding sustainability and economic growth have led to rigid, inflexible discretionary planning systems that fail to realise the strategic policy vision (Steele & Rumig, 2012). In a comparative study, the European Commission found a two-way trend in planning practices: countries with regulatory planning systems actually tend to be flexible. On the other hand, countries with strategic planning systems are seeking greater certainty (European Commission, 1997). In fact, many planning systems show a combination of the features of regulatory and strategic planning systems. This two-way trend suggests that the ideal planning system is somewhere in between deterministic and flexible (Steele and Ruming, 2012).

Over the past 30 years, more flexibility and less rigid rules have become a common trend in planning practices (Munoz Gielen & Tasan-Kok, 2010). In cities that have a planning system based on rigid rules, planning seems to be challenged in developing a creative approach that will balance the needs of the market with the public interest given the new developments. Instead, it appears that there is a corrective-regulatory trend to approve new developments within the rules and constraints of the existing system. Within this framework, local governments have made efforts to revise existing plans by evaluating individual requests rather than developing strategies for new developments in the city as a whole (Tasan-Kok, 2006).

Generally speaking, flexibility has developed both as a reason and a consequence of the legal change in the political, institutional-administrative, and plan-making processes. Nevertheless, this has become more evident when local governments turned towards a more entrepreneurial and participatory approach. Inclusion of the partnership between the public and the private sector at each stage of the supply and development of services on the urban land to the processes of plan making and implementation has affected the concept of flexibility. In this respect, factors such as the balance between neo-liberal policies and public and private sector actors in urban planning, countries' unique planning approaches, economic processes, financial strength of the public sector and the investment demands of the private sector affect the tendency towards the concept of flexibility (Özkan, 2010).

A flexible system also comes forward in terms of urban renewal practices. Flexibility in urban renewal practices occurs in two different ways.

First, urban renewal practices are excluded from the regulatory planning system due to the project-led approach instead of a plan-led approach. Urban renewal practices since 2004 are applied with special purposed laws. These special purposed laws bypass the hierarchy that exists within the regulatory planning system. Thus, development rights, which are prepared in accordance with the regulatory planning system, expire once declared to be in an urban renewal area. Urban renewal practices are a tool of intervention that affects directly property rights. The 35th item of the Turkish Constitution states the entitlement to property rights by persons and that these rights cannot be limited except for public benefit. Although the right to property is protected by the Constitution, establishment of healthy living spaces is enabled by the renewal projects that aim to restore 'derelict' and 'obsolescent' areas economically, socially, physically and environmentally in the long term. From this point of view, the right to property, which is protected by law and can only be restricted for the public welfare, is interfering with the urban renewal projects (Tarakci and Turk, 2015). For this reason, the concept of "property rights" has been key since the beginning of urban renewal projects and determines the way in which urban renewal projects are managed through categorising its residents. Property rights are a concept based entirely on the document of property and defines the extent to which the inhabitants are involved in the projects. Since Turkey's urbanisation policies depend on day-to-day politics, the periods during which the property documents were received have resulted in the formation of various types of properties even in the same neighbourhood. Urban renewal practices are constructed on a system based on the legal status of property (Şen & Turkmen, 2014), such as holders of land allocation certificates, holders of land titles and those without any certification. The land allocation certificates distributed in the 1980s with the amnesty law allocate the right for actual utilisation to gecekondu owners. Thus, the owners of the gecekondus have gained some legal rights. This confusion of property consequently creates profound distinctions between those who have land allocation certificates and land registration (title) documents, and those with no documentation. Those who have legal property are equipped with the power to refuse the offers of municipalities. On the contrary, those who have no documents are more willing to participate in the projects by accepting offers in negotiations (Kuyucu & Ünsal, 2010). Moreover, changes occur in the structure of property and actual situations arise due to numerous unlicensed constructions (Göksu, 2006). The existence of different property structure gives the power of discretion to authorities on both important issues such as valuation and expropriation. This situation enables a great deal of flexibility in urban renewal practices.

Second, urban renewal legislation gives discretionary power to both central governments and local administrations on various issues, such as determination of the renewal area or completion of the implementation, unlike the legal instruments of the regulatory planning system. The main actors of the urban renewal implementations are central and local governments. TOKI and the Ministry of Environment and Urbanization are the most important actors for urban renewal in terms of central governments. In 2004, TOKİ received significant authorisation in urban renewal areas with Law No. 5162. Relocation of the low-income groups both living in gecekondu areas and collapsing city centres to remote areas by TOKI has become one of the staple policies during this period. Finally, the Ministry of Environment and Urbanization has become the main actor of urban renewal projects with Law No. 6306 since 2012. The ministry takes the authorisation for the determination of urban renewal areas, making and approving plans regarding these areas and certifying the constructions to be built on these areas. In short, the Ministry is the sole authority in the implementation of an urban renewal project from the beginning to the end (Gür, Türk, 2014). For example, the risk of earthquake is the most emphasised rationale for urban renewal in Turkey. The JICA report regarding the risk of earthquake (IBB-JICA, 2002) stated that there were more than 400 districts that required large-scale redevelopment or strengthening. The Istanbul Earthquake Master Plan (METU, ITU, BÜ, YTÜ and İBB, 2003) has further improved this analysis. However, Tarakci and Türk (2015) revealed in their study conducted throughout Istanbul that the urban renewal areas declared by the Ministry were not identified in light of the results of the JICA Report and the Istanbul Earthquake Master Plan, but instead based mainly on the housing market. This situation was enabled by the power of discretion given to authorities by the urban renewal legislations. From the point of view of the local administrations, it is stated that the contribution of the public sector to the partnership is the planning of land use and supply of land, municipal services and infrastructure services, and most importantly, establishing and sustaining the communication between the public and the private sector (Özden, 2008). With the introduction of the recent legal instruments, the authority of the central government has increased, while the role of local administrations has decreased regarding urban renewal. This situation demonstrates that discretionary powers are mostly held by the central government.

The above-noted situation clarifies that the central and local government units have played important roles in urban renewal practices. These roles have been shaped by the special legal resources listed below, targeting urban renewal that have gone in effect since the beginning of the 2000s:

- North Ankara Entrance Urban Transformation Project Law No. 5104, dated 2004
- Law on Protection and Usage of Historical and Cultural Immovable Assets by Renewal Law No. 5366, dated 2005
- Municipalities Law No. 5393 Item 73, dated 2005 and Amendment Law on Municipalities Law No. 5998, dated 2010 acting on the aforementioned item.
- Transformation Law for Areas at Risk of Natural Disaster Law No. 6306, dated 2012

The common point of the aforementioned legal arrangements is that they redefine planning as a structure that is flexible and that regulates spatial development taking into account market dynamics, instead of an obstacle that impedes project implementation. In this respect, the flexibilities for urban renewal projects by these laws are explained in detail below.

4.1 FLEXIBILITIES THROUGH THE NORTH ANKARA ENTRANCE URBAN TRANSFORMATION LAW NO. 5104

The North Ankara Entrance Urban Transformation Law that came into effect in 2004 aims to restore the spatial structure of the implementation areas of the North Ankara Entrance Urban Transformation Project, improve the appearance of the environment, and provide a healthier residential layout to ultimately increase the standard of living.

The key aspect of the North Ankara Entrance Urban Transformation Project is its aim to create an identity for the area around the protocol road and northern peripheral areas that suits the image of the capital city (Kütük İnce, 2006). The project has a total area of 1580 hectares and has a projected population of 70,000 people. The project is implemented in stages, and the first stage covers an area of 400 hectares. Within the first stage, there are 18,000 housing units, 47 hectares of special recreation area, 2 hotels and congress centres, 18 hectares of pond area, a total of 3 km-long roads, tunnels and viaducts (www.toki.gov.tr). The project is carried out through a public-private sector partnership. A company named TOBAS and the Metropolitan Municipality are the main actors in the project. The financing of the project is mainly through the cooperation between the private sector and the local administration (Kütük İnce, 2006).

With the law, hierarchy and authority in Turkey's planning system have been intervened by allocating the authorisation of making plans to the municipality. Moreover, flexibility has been ensured by granting the power of discretion to the municipality about whether the current plans would be continued or new plans be developed. According to this law, old development rights will no longer be valid and new development rights will be determined by the local spatial plan.

According to this law, the project is implemented within the framework of the agreements made between the property owners and title holders. In cases where no agreement can be reached, real estate properties owned by land owners can be expropriated by the municipality.

In addition, owners of uncertified constructions and gecekondus who do not have a land allocation certificate but who certify that it was made before 1 January 2000 can also be entitled to the right of property. The title holder whose land allocation certificate states an area of 400 square metres can take a residence whose size is determined by the city council. The owners of the property with fewer than 400 m² in the land allocation certificate are charged with the housing contract.

The North Ankara Entrance Urban Transformation Project is developed in an effort to satisfy the land owners instead of owners of the gecekondus. The approach for renewal suggests getting rid of the gecekondus in the area completely and building common spaces and high-rise buildings (Kütük İnce, 2006). Moreover, the city council holds the authority of the distributions at the end of the project and there are no objective criteria for distributions, as it is based on agreements. That is, the city council has been authorised to determine the qualifications of houses and workplaces that will be given to real estate owners in accordance with the land amounts, the size that is required for property right ownership and the qualifications of the houses that will be given to owners of the gecekondus with land allocation certificates.

However, the criteria for application of these acts are not explained by the law or its regulations. At this point, flexibility in the distribution of ownership at the end of the project has been enabled by allocating a great deal of discretionary power to the municipalities.

4.2 FLEXIBILITIES INTRODUCED BY LAW ON PROTECTION AND USAGE OF HISTORICAL AND CULTURAL IMMOVABLE ASSETS BY RENEWAL NO. 5366

Regarding the areas declared as protected areas in 2005 and the renewals to be made in these areas, the Law on Protection and Usage of Historical and Cultural Immovable Assets by Renewal No. 5366 has gone into effect as an important tool for carrying out urban renewal implementations.

It is a well-known fact that ‘derelict’ and ‘obsolescent’ areas in the historic parts of the city host the poorest groups. These areas have been abandoned by upper income groups and have become a shelter for the poor. These regions provide easy access to workplaces because of their central location, while offering cheap accommodation facilities. After the 1980s in Turkey, these regions have drawn investors' attention due to the potential of rents and have become the most important targets of transformation and renewal projects with the support of local governments (Türkün & Sarıoğlu, 2014).

By the law, municipalities are given broad authority with regards to the establishment of renewal project zones, preparation of projects and implementation of these projects. The renewal zones are identified by the absolute majority vote of the total number of members of the municipal general assembly in special provincial administrations and of the city council in cities whose decisions (and in the case of metropolitan cities, upon the approval of the decisions of the district city councils by the metropolitan city council) are then presented to the cabinet by a proposal from the Ministry of Environment and Urbanization. Even though the local administrations are the first authority for identifying the area, it may be implemented with the decision of the central administration. Here, the broadened authority given to local governments with regards to urban regulations is thus indirectly under the control of the central administration.

For example, Tarlabaşı in Beyoğlu, Istanbul was declared a "Renewal Zone" with the decision of the cabinet on February 20, 2006, with a similar rationale to those in other parts of the world. Twenty-one city blocks were declared urban renewal zones with this decision. In the first stage, the implementation procedures and principles of the Tarlabaşı Stage One Renewal Project, consisting of only nine city blocks, with the decision of the Beyoğlu City Council on November 10, 2006 (Türkün & Sarıoğlu, 2014). The Tarlabaşı project is also part of the protected area of Beyoğlu. For this reason, after being declared a renewal zone based on the law, "renewal protection" was implemented in parts of the area, while other parts were under "conservation only", in accordance with the Law on the Conservation of Cultural and Natural Assets.

Nevertheless, the renewal zone, prepared for approval by the cabinet, which is the highest policy maker of the government, is grounds for debate on the basis of urban rights, urban governance, and that its boundaries are based on observational and subjective data (Dinçer, 2010). The fact that the declaration of the urban renewal zone is not based on scientific criteria is one of the problems brought about by the law (Özden, 2008). Since the criteria for determining the area are not identified in the law and its regulations, local governments have been given the power of discretion in this respect and flexibility is provided.

In a process starting for the first time with the declaration of renewal zones in the Beyoğlu District on February 20, 2006 with reference to the law in question, five more renewal zones were identified within the same year. The renewal zones in the Beyoğlu District vary greatly in size and location. Those in Fatih and Eminönü, on the other hand, are located near the coasts and city walls, with the historical heritage site of Süleymaniye and Kapalıçarşı sections being the biggest renewal zones in the centre (Dinçer, 2010).

One of the most important aspects of this law is the common emphasis on "project" rather than on "planning". This is to such a degree that the law in question mentions simply "renewal projects", without reference to local spatial plans, drawing up a plan, and approval, or in short, with no information on anything with regards to planning (Özden, 2008). The law in question makes no mention of a relation between the projects and the local spatial plans in use for the zone the projects refer to. As things stand, it is understood that the urban renewal projects will be implemented individually in the determined protected areas and that areas of reinforcement such as housing, commercial etc. will be formed in accordance with

the principles stated in the zoning plan (Üstün, 2014). Various decisions made by the state council state clearly that for the implementation of local spatial plans, it is an absolute requirement to include a local spatial plan and that implementations in violation of the purposes prescribed by the current local spatial plans are unlawful (Üstün, 2014). This shows that the law offers in general an approach far from an integrated approach of planning, in refusal to be a natural part of the planning process, and promoting fragmented/small scale solutions (Özden, 2008).

Even though the regulations in the law do not specify a plan-project relation, it specifically emphasises the concept of a preliminary project. The regulation of the law entitles the approval of the preliminary project following the approval of the renewal project. Furthermore, it rules that renewal implementation projects should be prepared on the basis of renewal preliminary projects. However, with regards to principles of urban planning, it is unacceptable that a renewal zone declared in a protected area is described only in terms of architectural preliminary projects and implementation projects. This is because in renewal zones that are restricted to regulating the physical space, detracted from the planning discipline, not only are historical and cultural heritage values threatened but also implementations emerge which cause the deterioration of the socio-economic equilibrium (Dinçer, 2010a). Current practices indicate that the protection-renewal relationship in conservation areas is not properly constructed in some places, and that renewal applications do not take the original texture of the area sufficiently into consideration (BIB, Urbanization Forum, 2009). For instance, in Neslişah and Hatice Sultan neighbourhoods (Sulukule), an area of about 9 hectares was declared a renewal zone in 2005. By law, the project was carried out jointly, in accordance with a protocol signed by the Fatih Municipality, the Istanbul Metropolitan City, and TOKI. Even though the said project was cancelled on the basis that it was "not in line with urban development principles and not in public interest", it was completed by the time the decision was approved (Üstün, 2014).

Within the scope of this law, for evacuating and demolishing the structures within renewal zones during the implementation process of the projects, the primary method is agreement. Where no agreement can be reached, the method of expropriation for the estates in the possession of juristic persons is used. However, in order to expropriate, a public interest ruling is required. Still, in areas declared as renewal zones, the matter of possession casts a much broader impact than simple expropriation. Following the declaration of a renewal zone, the sales and leasing values of the estates reach a much different price level than the free market rates (Dinçer, 2010a). For example, it is known that the price per square metre for the 360 Ofis Project built and sold after the Tarlabaşı Urban Renewal reached $7,500. All five-storeys of the registered building right next to this project, on the other hand, was expropriated for 760,000 Turkish liras ($420,000). This means that this person whose building was expropriated will be unable to buy even a 100m2 office from this project (Türkün & Sarıoğlu, 2014).

On the other hand, the regulation of the law in question states that if it turns out that the usual expropriation process leads to delays in the implementation of the project, urgent expropriation may be employed following the provisions of Article 27 of Expropriation Law No. 2942, consulted when under extraordinary circumstances; in addition to the criteria with which to determine possible delays not having been explained. This way, administrations are provided with a certain flexibility to tend towards urgent expropriation.

When the regulations in the law are considered as a whole, an approach emerges that regards the renewal zone as an entire project area. At the same time, it is stated that the renewal project can be made in the parcels, provided that the authorised person considers it appropriate and the integrity of the project has not deteriorated. However, the expenditure of this renewal project or its permit processes is not defined. Moreover, it is also ruled that individual projects that are not completed on time may be completed or expropriated by the administration in order to preserve the integrity of the project. The administration is provided with a discretionary power with regards to this choice. When considered in terms of the right to property, this situation restricts the individuals' right to disposition of their properties in their own discretion and allows the right to an individual project only with approval from the administration (Üstün, 2014).

Likewise, the law in question suggests that in addition to municipalities and public or private institutions, implementations of renewal projects may be carried out by a partnership with TOKI. Nevertheless, it is stated that all inspections and supervisions during the implementation would be performed by the municipality. Since there are no detailed instructions in the law and regulations that refer to which principles this relation is based on, a project partnership will be formed, a certain flexibility that may allow

differences in individual implementations. That being said, it encourages implementations in renewal zones via exemption from all kinds of taxes, levies, duties and fees.

4.3 FLEXIBILITY FROM AMENDMENTS TO MUNICIPALITY LAW NO. 5393 AND MUNICIPALITY LAW NO. 5998

Municipality Law No. 5393, which regulates the duties, powers and responsibilities of city municipalities as well as their working procedures and principles in 2005, was one of the studies carried out within the scope of the Local Administration Reform studies. Article 73 of the law defined the roles and responsibilities of cities with regard to urban renewal, and cities started acting as the local authority in urban renewal. When Municipality Law No. 1580 and Reconstruction Law No. 3194, which were in force before Municipality Law No. 5393, are inspected, it is observed that the matter of implementing renewal projects is not defined in clear terms and that the cities are not authorised for renewal projects. It should also be noted that before Municipality Law No. 5393, there were significant restrictions with regard to intervention by cities in earthquake risk zones (Tarakçı and Türk, 2015).

In 2010, Amendment to the Municipality Law No. 5998 went into effect for amendments to Article 73. With this law, the authority of the metropolitan municipalities has been extended. The law in question rules that the area to be declared an urban renewal zone should be no smaller than 5 and no bigger than 500 hectares and that more than one place related to the project area may be declared one urban renewal zone, provided that the total is no less than 5 hectares. On the other hand, there are no parameters for determining the size of the area. For example, in the Maltepe district of Istanbul, a 93-hectare area has been declared Başıbüyük Neighbourhood Urban Renewal Zone. The initial work on urban renewal in the area started with the "Protocol Regarding the Urban Renewal Project in Maltepe, Istanbul" signed by TOKI, the Istanbul Metropolitan Municipality, and the Maltepe Municipality on February 24, 2006 (Şen & Türkmen, 2014). A total of six 14-storey blocks were built in this area by TOKI in the first stage and the process is ongoing. The most recent development is the approval of the land use plan for the area by the Istanbul Metropolitan City Council on March 18, 2017. This law assigns to metropolitan municipalities the authority to declare urban renewal zones within metropolitan borders, to make plans of any scale and the implementation of these plans, to grant construction and occupancy permits and undertake all sorts of development processes as such for the declared zone, and to exercise authorities given to cities with Reconstruction Law No. 3194. With this law, the authority of district municipalities in urban renewal zones is reduced and almost all of the authority is transferred to the metropolitan municipalities. For example, 66% of the urban renewal zones in Ankara belong to the Ankara Metropolitan Municipality due to this law (Bektaş, 2014). This provides the cities with a broad discretionary power for urban renewal practices, which completely disregards the integrity brought about by the Reconstruction Law. The decision of the Supreme Court dated October 18, 2012 and numbered E:2010/82 and K:2012/159 states that “It is a requirement that the power of discretion in the implementations of urban renewal and development projects should be given to cities through the rules in question. As cities are areas of constant change and improvement, which leads to difficulties in predetermining the ever-changing needs of a city, it is not possible for the law to prescribe in detail how these needs might be satisfied,” acknowledging the existence and necessity of the power of discretion.

Bektaş (2014) reveals that following Municipality Law No. 5393 in 2005 and Law No. 5998 in 2010, declarations of urban renewal zones gathered momentum and that when the years of declaration in Ankara are examined, a 26% section was concentrated in the year 2005. At the same time, an 80,000-hectare residential area of Ankara includes about 45% urban renewal zones, which further proves the extent of these zones. In addition to urban renewal implementations being a planning option, declarations of urban renewal zones cover nearly half the city's residential area (Bektaş, 2014). This shows that in a city as important as Ankara, half of the city is under a regulatory planning system whereas the other half is under a discretionary planning system. However, this distinction is not in two different areas, but the renewal areas are located in different parts of the city. For this reason, regulatory planning dominated by 50% of the city is ineffective with fragmented interventions.

4.4 LEGISLATIVE FLEXIBILITY ABOUT THE TRANSFORMATION LAW FOR AREAS AT RISK OF NATURAL DISASTER LAW NO. 6306

In 2012, the Transformation Law for Areas at Risk of Natural Disaster (Law No. 6306) entered into force as an important and controversial legal tool for urban renewal. The main purpose of the law is stated as identifying areas of disaster risk and structures outside of these areas, and thus improving and/or disposing of them in order to create healthy and safe living environments in accordance with the rules of science and art, as well as with common standards in those fields and lands where risky structures are located. The ultimate goal stated is to ensure that no further casualties occur in the face of any disaster, and to transform cities into healthy and safe living environments (www. csb.gov.tr).

The purpose of this law is to identify risky areas for disaster, as well as other urban and rural lands in which risky structures outside these areas are located, and to specify the procedures and principles of improvement, liquidation, and renewal. Risky areas and risky structures, which constitute the basis of the law, are defined in Article 2. According to this definition, risky areas are those that bear the risk of causing loss of life and property due to the ground structure or the construction on the ground. These areas are determined by the Ministry or the Administration and later confirmed by the cabinet upon the proposal of the Ministry. Risky structure refers to a structure, within or outside the risk area, that has completed its economic life or is determined to bear the risk of collapse or serious damage on the basis of scientific and technical evidence.

With this law, upon identification of "risky areas" and "risky structures," a generalised authorisation is given to the Ministry of Environment and Urbanization for the "improvement", "liquidation" and "renewal" of structures existing in all risky areas for disaster across the country. It has been stipulated that municipalities and special provincial administrations or TOKI can only utilise these areas and structures upon assignment by the Ministry.

Here, the most fundamental change introduced by Law No. 6306 is the authorisation of the central government in the process, while in all laws enacted since 2004 local administrations had been granted discretionary powers and the flexibility in the planning system had been regulated for local administrations. Especially considering the broad framework of the definitions for risky structures, risky areas and reserve spaces, the greatest flexibility is provided in the authorisation for planning; and thus, the Ministry of Environment and Urbanization is granted the flexibility to conduct any type and scale of plans as preferred.

Article 57 of the Constitution imposes important duties on the state in terms of housing legislation. The state is obligated to take necessary precautions for the residence of its citizens in healthy housing. The measures taken under Law No. 6306 can be considered as measures to meet the need for healthy housing (Simsek, 2015). Based on this reason, Law No. 6306 grants administrations a very broad authority and with this authority, flexibility is provided both in planning and implementation. This flexibility is especially in terms of the central government. In addition, construction companies seem to have a significant say in these processes. However, there would be much benefit in including the municipalities in the implementation. The municipalities' coordination of relations between the construction companies and their owners can facilitate implementation. The law prevents this function of the local administrations by giving more authority to the Ministry (Üstün, 2014).

The first of the flexibilities in the law relates to the identification of risky areas, reserve spaces and risky structures, which forms the basis of the law. Thus, according to Law No. 6306, the Ministry of Environment and Urbanization, municipalities, metropolitan municipalities and special provincial administrations have been authorised to identify the urban renewal areas. A risky structure can be identified on the basis of certain concrete criteria, despite being impossible to be fully defined. However, the criteria for identifying risky areas have not been determined in concrete terms, but are left to the discretion of the administration. For example, the Derbent district (Şen & Öktem Ünsal, 2014), which is located next to the Maslak-Büyükdere Hill and has the highest land prices in Istanbul, 92% of which is composed of gecekondus, is worthy of attention for its unresolved urban renewal issues especially since the beginning of the 2000s. As a solution, the area was declared a "risky area" on 03.01.2013 by the decision of the Council of Ministers. This verdict for a risky area was annulled as a result of the lawsuit filed by the residents of the neighbourhood, in 2014, by the 13th division of the state council on the grounds that the area was declared risky based on "observational and general information, not a technical report." However, with another decision of the Council of Ministers on 03.01.2017, the area was once more announced as risky.

Likewise, the characteristics of the reserve space, whether it is risky or not, were not clearly defined in the law, and the appointment of reserve spaces was left to the discretion of the administration. The Ministry of Environment and Urban Planning has identified 8 reserve areas of 34,704 m² in the European side of Istanbul.

The second flexibility granted by this law is the restriction of use. The Ministry may request from the relevant authorities not to provide electricity, water and gas to the structures in risky areas or to risky structures. This restriction of use was not found contrary to the Constitution. According to the decision of the Constitutional Court dated 27.02.2014, numbered E: 2012/87 K: 2014/41, it is considered reasonable action to stop providing electricity, water and gas services for residents who refuse to evacuate the buildings that are at the stages of "evacuation and destruction," and thus force their evacuation. However, withholding the services of electricity, water and gas in accordance with this regulation is a threat to an individual's right to health. This may lead to the abnegation of a public benefit (health) which is superior in terms of ensuring the continuity of the project. On the other hand, the above-noted regulations are not compatible with the principle of uninterrupted provision of public services or the social state principle (Üstün, 2014).

The third flexibility presented by the law relates to the stakeholders of the risky areas, real estate where the risky structures are located and reserve spaces. The law states that decisions can be made by at least two thirds of the stakeholders after liquidation in these risky areas, on the real estate where the risky structures are located, and at the reserve spaces. The land shares of the stakeholders not participating in the decision making are then sold to the rest of the stakeholders by auction based on their market value. In cases where sales are not made to the stakeholders, it is purchased by the Ministry for its market value. The ratio of 2/3 stipulated by law has been criticised for not being based on objective data and life experiences (Özsunay, 2015). However, the explanation has been that this regulation was made out of the ordinary with a broader perspective on the law, due to an intention to accelerate the procedures. However, the most fundamental issue here is the obligation to take the shares of the stakeholders who do not participate in the majority. This is considered a new situation where the consequences of non-participation are outlined as exclusion from that community (Kürşat, 2013).

The fourth power granted by this law that provides flexibility concerns the expropriation of private property (land) on which a structure has been demolished. It is stipulated by law that such land can be urgently expropriated by the Ministry, TOKI or the Administration, if at least two thirds of the property owners cannot reach an agreement. Urgent expropriation in such cases has been included in the decision of the Constitutional Court dated 27.02.2014 numbered E: 2012/87 K: 2014/41. It is stated in the court decision that the expropriation by the relevant public institutions and organisations of real estate at disaster risk not utilised by their owners at their own will, as part of the reorganisation of the real estate's residential status, is of public benefit.

The fifth of the flexibilities provided by the law is that persons for whom rent or temporary work or housing allowance can be made are: owners and tenants of the structures evicted by agreement, or workplace owners. It is unclear whether it is possible to grant discretionary power to the related institutions and organisations within the boundaries specified by the rule in the "can be made" statement (Simsek, 2015).

5 GENERAL EVALUATION AND CONCLUSION

While Turkey has a plan-led regulatory planning system (Özkan & Turk, 2016), a project-led system is adopted with laws relating to urban renewal. In addition, a discretionary planning approach becomes evident in the laws, with discretionary powers given to the central government but also to the local administrations. The purpose of this report is to analyse the flexibility created by the legal regulations on urban renewal and its consequences based on actual urban regeneration practices. As summarised in the table above, the flexibility resulting from the legal means of urban renewal has increased over time and has shifted from local administrations to the central government. Throughout the process, discretionary powers have been increased with every law. However, negotiations, which are the basis for discretionary planning systems, have never been defined in the law. Although all laws presume that "agreement forms the basis", the right to expropriation and even urgent expropriation creates pressure on property owners. Negotiations for agreements in cases where there are no equitable and equal rights do not have the attributes of an actual negotiation.

The scale and content of the flexibility that emerged in Turkey due to the legal means related to urban renewal, which has emerged since 2004 up to the present day, have changed over time. When this situation is considered in terms of planning systems, we find that while the planning system was initially a regulatory system instead of a discretionary one, the laws for urban renewal areas have developed a discretionary system. A project-led approach has been adopted in urban renewal practices, moving away from the previously more plan-led system. Especially the concept of a preliminary project mentioned in the law creates loopholes in the planning system. That is to say, a phrase stating that a preliminary project will be implemented in the designated area ensures that there are no limitations on structure heights and population densities and enables the developer to identify design criteria to a great extent. Thus, municipal planning units cannot interfere with building heights, dimensions and shapes of structures, floor areas, architectural features, residential typologies, etc., based on plan decisions. In actuality, these specifications are made very strictly in the traditional planning approach in Turkey. The freedom granted to the developer by the planning unit, with no guidance or restrictions imposed, causes the implemented projects to develop in an incompatible fashion to the texture of the surrounding residential areas (Özkan & Türk, 2016). Furthermore, loopholes are created through urban renewal plans in the planning approach of laws referring to the regulatory planning system. This is because these plans have been made in a fragmented fashion. Moreover, authorising only one institution throughout the process, starting with planning of any type and scale until the end of the building license procedures causes a lack of supervision.

On the other hand, starting with the identification of the area to undergo urban renewal, a significant amount of discretionary power is given to the administrations in the restriction of use and the identification of property right ownership. The process involves granting discretionary power first to the municipalities, which are then transferred to metropolitan municipalities, and finally to the central government. The latest legal regulations in particular seem to transfer the powers held by local administrations to the central government, causing almost all of the urban renewal areas to be managed, identified and planned by the central government. For example, the first findings of research done in Ankara reveal that 94% of risky areas fall within regions previously declared as urban renewal areas according to Article 73 of Municipal Law No. 5393 (Bektaş, 2014). This demonstrates that the wide-reaching authority assumed by the central government has been used without changing the quality or the justification of the urban renewal areas. The latest legal regulations in particular seem to transfer the powers held by local administrations to the central government, causing almost all of the urban renewal areas to be managed, identified and planned by the central government. As deduced from the Constitutional Court's decision published on 23rd of July 2012 in the Official Gazette, both the aforementioned discretionary power and the project-led approach to the planning system are found reasonable.

It appears that all of the flexibility gained through both a project-led approach and discretionary power benefits the private sector. Most of the flexibility interventions seem to increase the profit of the private sector, accelerate the process, and provide the land. On the other hand, it is evident that as a result of such flexibilities caused by law, the leaseholders as well as property owners especially in gecekondu areas and historic city centres suffer financial as well as psychological damage.

Another important issue is gentrification, which is the most discussed issue for urban renewal practices in Istanbul. The most fundamental problem of urban renewal areas such as Tarlabaşı, Sulukule, and Ayazma has been the gentrification in these areas. Studies show that gentrification is not a problem caused by local governments, but rather a consequence of greater powers to restructure and regulate urban production, and thus the displacement of the urban population (Uzun, 2015). In urban renewal practices, the newly created social and technical infrastructures cause the unit prices of housing to increase, and the actual property owners cannot live in the area; the projects are conducted according to the demands of national and international capital, and as a result, these areas are gentrified. In the urban renewal applications on a single building scale, however, the property owners become residents along with other people in the same income group preferring to reside in the area, and thus, there is less gentrification (Gür & Türk, 2014).

Differences in urban problems require different scenarios and different methods to be applied in urban renewal applications. For this reason, it is a good measure to create the appropriate arrangements for different cities and situations. However, general arrangements are necessary in terms of the procedures, duration, limitations on individuals, and the relationship of the plans and projects with plans on higher levels. Otherwise, the administration may have an unlimited discretionary power, as well as various

solutions for similar situations based on different laws, and the constitutional principle of equality will suffer (Üstün, 2014).

BIBLIOGRAPHIC REFERENCES

Ministry of Public Works and Settlement (2009). Kentleşme Şurası- Komisyon Raporları (Cilt 1). (Urbanization Council- Commission Reports, Volume 1) Ankara: Ministry of Public Works and Settlement (in Turkish).

Bektaş, Y. (2014). Bir Kentleşme Stratejisi Olarak Yasanın Kentsel Mekanı Dönüştürmedeki Etkisi: Ankara Örneği (The Impact of Law on Transforming Urban Space as an Urbanization Strategy: The Case of Ankara) Planlama Dergisi (The Planning Journal), 3(24), 157-172 (in Turkish).

BIB, Kentleşme Şurası (BIB, Urbanization Council). (2009). Kentleşme Şurası (Cilt 1) (Urbanization Council, Volume 1). Ankara: Ministry of Public Works and Settlement (in Turkish).

Dinçer, I. (2010). Türkiye'de Kent Ölçeğinde Koruma ve Kent Planlamanın Yollarının Kesişmesi ve Yeniden Ayrılması: Protokol Alanından Yenileme Alanına. D. Özdemir içinde, Kentsel Dönüşümde Politika, Mevzuat ve Uygulama, Avrupa Deneyimi, Istanbul Uygulamaları (Policy, Legislation, and Implementation in Urban Transformation in The Intersection and Divergence of Protection and Urban Planning on an Urban Scale: From the Field of Protocol to the Field of Renewal. D. Ozdemir) Ankara: Novel Yayınevi (in Turkish).

Dinçer, İ. (2010). Türkiye'de 1980 Sonrası Yapısal Dönüşümün Mekânsal İzlerine Bir Örnek: Yenileme Alanları. (An Example of the Spatial Traces of Structural Transformation after 1980 in Turkey: Renewal Areas.) Mimarlık Dergisi (352) (The Architecture Journal) (in Turkish).

Dinçer, İ. (2011). The Impact of Neoliberal Policies on Historic Urban Space: Areas of Urban Renewal in Istanbul. International Planning Studies, 16(1), 43-60.

Ergün, N. (2006). Gentrification Kuramlarının Istanbul'da Uygulanabilirliği. D. Behar, & T. İslam içinde, Istanbul'da Soylulaştırma Eski Kentin Yeni Sahipleri (Gentrification in Istanbul: The New Owners of the Old City in The Applicability of Gentrification Theories to Istanbul, D. Behar & T. İslam) Istanbul: Istanbul Bilgi Üniversitesi Yayınları (in Turkish).

Ersoy, M. (2000). İmar Planlarının Kademelenmesi ve Farklı Ölçeklerdeki Planlar Arasındaki İlişki. M. Ersoy, & Ç. Keskinok içinde, Mekan Planlama ve Yargı Denetimi. (Space Planning and Judicial Control in The Staging of Zoning Plans and Relationships between Plans of Different Scales, M. Ersoy & Ç. Keskinok) Ankara: Yargı Yayınevi (in Turkish).

Genç, F. (2014). Gecekonduyla Mücadeleden Kentsel Dönüşüme Türkiye'de Kentleşme Politikaları. (Urbanization Policies in Turkey: From the Fight against the Slums to Urban Transformation) Adnan Menderes Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, 1(1), 15-30 (Journal of Adnan Menderes University Social Sciences Institute) (in Turkish).

Gür, S. & Türk, Ş. Ş. (2014). 6306 Sayılı Kanunla Yeniden Ortaya Çıkan Bina Ölçeğinde Kentsel Yenileme Pratiği: Bağcılar İlçesi Örneği (The Practice of Urban Renewal on a Building Level Reemerging with Law No. 6306: The Case of the Bağcılar District) 38. Dünya Şehircilik Günü Kolokyumu. (38th World Urbanism Day Colloquium) Istanbul: TMMOB Şehir Plancıları Odası (in Turkish).

Güzey, Ö. (2016). The last round in restructuring the city: Urban regeneration becomes a state policy of disaster prevention in Turkey. Cities(50), 40-53.

JICA (2002). Afet Önleme/Azaltma Temel Planı. (Basic Disaster Prevention / Mitigation Plan.) Istanbul: Istanbul Büyükşehir Belediyesi (in Turkish).

Keleş, R. (2012). Kentleşme Politikaları (Urbanization Policies) (12 b). Ankara: İmge Kitapevi (in Turkish).

Kocabaş, A. (2007). The Emergence of Istanbul's Fifth Urban Planning Period: A Transition to Planning for Sustainable Urban Regeneration. Journal of Urban Technology, 12(2), 27-48.

Köktürk, E. & Köktürk, E. (2007). Türkiye'de Kentsel Dönüşüm ve Almanya Deneyimi (Urban Transformation in Turkey and the Germany Experience) 11. Türkiye Harita Bilimsel ve Teknik Kurultayı. (11th Turkish

Scientific and Technical Mapping Symposium) Ankara: TMMOB Harita ve Kadastro Mühendisleri Odası (in Turkish).

Kuyucu, T. & Ünsal, Ö. (2010). 'Urban Transformation' as State-led Property Transfer: An Analysis of Two Cases of Urban Renewal in Istanbul. Urban Studies, 47(7), 1479–1499.

Kürşat, Z. (2013). 6306 Sayılı Afet Riski Altındaki Alanların Dönüştürülmesi Hakkında Kanunun Özel Hukuk Alanındaki Etkileri. M. Yasin, & C. Şahin içinde, Kentsel Dönüşüm Hukuku (s. 19-48). (Urban Transformation Law in the Impact of Law No. 6306 Regarding Transformation of Spaces at Risk for Disaster on Private Law. pp. 19-48), Istanbul: Istanbul Üniversitesi S.S. ONAR İdare Hukuku ve İlimleri Araştırma ve Uygulama Merkezi Yayınları (in Turkish).

Kütük İnce, E. (2006). Kentsel Dönüsümde Yeni Politika, Yasa ve Eğilimlerin Degerlendirilmesi “Kuzey Ankara Girişi (Protokol Yolu) Kentsel Dönüsüm Projesi (A Review of New Policies, Laws and Tendencies in Urban Transformation "North Ankara Entrance (Protocol Way) Urban Transformation Project) Ankara: Gazi Üniversitesi Fen Bilimleri Enstitüsü (in Turkish).

Munoz Gielen, D. & Tasan-Kok, T. (2010). Flexibility in Planning and the Consequences for Public-value Capturing in UK, Spain and the Netherlands. European Planning Studies, 18(7), 1097-1131.

ODTÜ-İTÜ-BÜ-YTÜ-İBB (2003). Istanbul İçin Deprem Master Planı (The Earthquake Master Plan for Istanbul) Istanbul: Istanbul Büyükşehir Belediyesi (in Turkish).

Özden, P. P. (2008). Üst Ölçekli Planlamadan Projeci Yaklaşıma Planlamanın Değişen Yüzü (The Change in Planning from Super Scale Planning to the Project Approach) (in Turkish).

Özkan, H. A. (2012). Planlama Sistemlerinde Esneklik Kavramı: Türkiye Üzerine Bir Analiz (The Concept of Flexibility in Planning Systems: An Analysis of Turkey) Istanbul: Istanbul Teknik Üniversitesi (in Turkish).

Özkan, H. & Türk, Ş. (2016). Emergence, formation and outcomes of flexibility in Turkish planning practice. IDPR, 38, 25-54.

Özsunay, E. (2015). 6306 Sayılı Kanun ve Kentsel Dönüşüm Uygulamalarına İlişkin Düşünceler (Thoughts on Law No. 6306 and Urban Transformation Practices) Istanbul : Vedat Kitapçılık (in Turkish).

Rivolin, U. J. (2008). Conforming And Performing Planning Systems in Europe: An Unbearable Cohabitation. Planning, Practice & Research, 23(2), 167-186.

Steele, W. & Running, K. (2012). Flexibility Versus Certainty: Unsettling The Land-Use Planning Shibboleth in Australia. Planning, Pratice & Research, 27(2), 155-176.

Şen, B. & Öktem Ünsal, B. (2014). Derbent- Memeleketin İşçi Mahallesi ya da Küresel Kentin "Hukuksuz" Gecekondu Alanı. A. Türkün içinde, Mülk, Mahal, İnsan - Istanbul'da Kentsel Dönüşüm (s. 189-225). (Properties, Spaces, Humans - Urban Transformation in Istanbul in Derbent - The Blue-Collar Neighborhood of the Country or the "Unlawful" Slum Space of the Global City, A. Türk, pp. 189-225) Istanbul: Istanbul Bilgi Üniversitesi Yayınları (in Turkish).

Şen, B. & Türkmen, H. (2014). Başıbüyük- Bir Kentsel Dönüşüm Sınaması. A. Türkün içinde, Mülk, Mahal, İnsan - Istanbul'da Kentsel Dönüşüm (s. 143-188). (Properties, Spaces, Humans - Urban Transformation in Istanbul in Başıbüyük- A Testing of Urban Transformation. A. Türk) Istanbul: Istanbul Bilgi Üniversitesi Yayınları (in Turkish).

Şimşek, S. (2015). Türkiye’de Kentsel Dönüşüm Uygulamaları. (Urban Transformation Practices in Turkey) Ankara: Seçkin Yayıncılık (in Turkish).

Tarakçı, S. & Türk, Ş. (2015). Istanbul’da Deprem Riskinin Azaltilmasi Gerekçesine Dayali Kentsel Yenileme Uygulamalari (Urban Renewal Practices in Istanbul Due to Mitigation of the Risk of Earthquake) 8. Ulusal Deprem Mühendisliği Konferansı, 11 Mayıs-14 Mayıs, 2015. (8th National Earthquake Engineering Conference, May 11-14, 2015) Istanbul: TMMOB Harita Mühendisleri Odası (in Turkish).

Tasan-Kok, T. (2006). Küresel Bütünleşme Sürecinde Kurumsal ve Mekânsal Değişim: Budapeşte, Istanbul ve Varşova Örnekleri. A. Eraydın içinde, Değişen Mekan Mekânsal Süreçlere İlişkin Tartışma ve Araştırma Toplu Bakış: 1923-2003 (s. 307-339). (A Comprehensive Review of Changing Spaces, Discussion on Spatial Processes and Research in Institutional and Spatial Change in the Process of Global Integration: The Cases of Budapest, Warsaw, and Istanbul, A. Eraydın) Ankara: Dost Kitapevi Yayınları (in Turkish).

Tasan-Kok, T. (2008). Changing Interpretations of ‘Flexibility’ in the Planning Literature: From Opportunism to Creativity? International Planning Studies, 13(3), 183-195.Tekeli, İ. (2012). Türkiye Kent Planlamasının Yeniden Kurumsallaşmasını Düzenlerken Düşünülmesi Gerekenler Üzerine (On What to Consider as the Reinstitutionalization of Turkey's Urban Planning is Being Organized) Journal of the Chamber of City Planners (3-4), 53-65 (in Turkish).

Turgut Ramazanoğulları, S. (2004). Istanbul’un Yönetimi, Bir Kent Planlama Yönetimi Denemesi (The Governance of Istanbul, A Trial in Urban Planning Management) Istanbul: Anahtar Kitaplar Yayınevi (in Turkish).

Türkün, A. & Sarıoğlu, A. (2014). Tarlabaşı - Tarihi Kent Merkezlerinde Yoksulluk ve Dışlanan Kesimler Üzerinden Yeni Bir Tarih Yazılıyor. A. Türkün içinde, Mülk, Mahal, İnsan - Istanbul'da Kentsel Dönüşüm (s. 267-308). (Properties, Spaces, Humans - Urban Transformation in Istanbul in Tarlabaşı - A New History is

Written through Poverty and Marginalized Individuals in Historic City Centers, A. Türk) Istanbul: Istanbul Bilgi Üniversitesi Yayınları (in Turkish).

Uzun, N. (2015). Istanbul'da Seçkinleştirmenin Üç Aşaması: Cihangir, Galata ve Tarlabaşı Üzerinnden Bir Değerlendirme. B. Duman & İ. Coşkun içinde, Neden Nasıl ve Kim İçin Kentsel Dönüşüm (s. 431-451). (Urban Transformation - Why, How and For Whom in the Three Stages of Gentrification in Istanbul: A Review of Cihangir, Galata and Tarlabaşı, B. Duman & İ. Coşkun) Istanbul: Litera Yayıncılık (in Turkish).

Ünlü, T. (2006). Kentsel Mekânda Değişimin Yönetilmesi (Managing Change in the Urban Space) METU Journal of the Faculty of Architecture, 23(2), 63-92 (in Turkish).

Üstün, G. (2014). Kentsel Dönüşüm Hukuku (Urban Transformation Law) Istanbul: On İki Levha Yayıncılık (in Turkish).

ID 1608 | ADAPTING TO ADAPTATION: FLEXIBLE PLANNING, POLICY MAKING, AND THE TRANSITION FROM REACTION TO (PRO)ACTION

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1 INTRODUCTION

Traditional planning relies on a cycle of plan formulation/implementation/revision to keep planning instruments up-to-date and more or less effective in face of evolving planning contexts. The inability of static physical plans to respond to changes in the planning context (such as shifts in demographic trends, varying demands for certain land-uses, requests for new facilities or infrastructures, or the obsolescence of others) has been the subject of a long line of inquiry in planning theory. The frequent revision of a plan may help in increasing the plan's adherence to the changing reality, but in essence, a plan becomes increasingly obsolete from the moment it is crystalized in a fixed regulation and maps. As a response, several innovations have been introduced to the planning practice so as to allow the plan to remain as suited as possible to the evolving planning context, such as scenario planning or flexible planning (Friedman 2007).

Climate change and, more specifically, Sea-Level Rise (SLR), introduces a new dimension of variability which is yet to be adequately addressed by planning theory and, especially, practice. Our point-of-view is based on the idea that SLR is instilling the planning setting or context, with an uncontrollable (at the local/regional scale) change to the planning setting, and one that cannot be planned- or zoned-out.

The natural variability and uncertainty over the evolution of a given area are arguably the principal reason planning is required in the first place, so some degree of uncertainty over the outcome of a given planning cycle has always been a major preoccupation of the planning process. Nevertheless, we have developed solutions and means of averting or promoting certain outcomes (by way of zoning, by-laws, incentives, taxes and building restrictions). These solutions have tended to require that the outcomes be reasonably predicted from the onset, so that the planning solutions may be adopted in order to prevent them or promote them (Hopkins, 2001).

For most urban transformations, these outcomes are the result of purely anthropogenic actions, whether they be a single major decision from a public entity (such as the relocation of a container terminal) or the consequence of a multitude of individual decisions (the gentrification of a given neighborhood). Being the consequence of human action, most of these alterations can be planned for and, more importantly, controlled through the introduction of mechanisms encouraging or discouraging the said changes.

This is not the case with SLR. It cannot be controlled as a phenomenon, as it will occur regardless of any decisions one may introduce at the local level. And it is an undesirable change for most urban settings, as infrastructure and urban development were not designed to face it. But, unlike most other undesirable changes to the planning context, it cannot be "planned-out". It is unreasonable to ignore the effects SLR will have over shorelines and safety ratings of coastal protection infrastructure, and yet most planning