AN INTEGRATED ANALYSIS OF LEGAL AND SOCIOECONOMIC ASPECTS OF THE SULUKULE URBAN REGENERATION PROJECT

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Abstract

Urban transformation in Sulukule, the first practices under the Code No. 5366 that is handing extensive authorization over to municipalities was the first and most ineffective regeneration project in Istanbul, Turkey. According to the local authorities, the inhabitants would benefit from the outcomes of the project, even without leaving Sulukule that is a historical place and the most important neighbourhood of Roma in Turkey. On the contrary, expropriation, forced eviction and demolishment of their homes carried a group of vulnerable Roma people along by a great wave of deterritorialization to different places outside Istanbul where memories, nostalgia and sorrow melt together. Long lasting processes and heated struggles on many platforms eventually led to many conflicts related with the current debates in sociology of law; like gentrification, identity of minorities, right to the city, housing and property rights of the vulnerable social groups, urban identity and culture.

It was not an ordinary regeneration project like those embracing social developments as often witnessed in other parts of the city. It took place through waves of bulldozer renewal on a historical and cultural site, ignoring social and cultural assets. The judicial processes that would be resulted with annulment decisions were not as fast as the constructions in the built-up area or the prompt changes of the plan notes bowing to the construction firm's demands to finish new "villas" adorned with vernacular architectural features. Therefore, the judicial system was not able to prevent the unfortunate consequences such as discrimination, displacement, coerced removal of the urban Roma community, be deprived from the right to adequate housing and finally gentrification, which was not as anticipated.

This thesis details the advantages and disadvantages of the urban regeneration practices in Sulukule, in the context of urban sustainability, socio-legal, socioeconomic and political-judicial dynamics. The first chapters highlight socio-legal dimension of the community of Roma in the context of gentrification, social stratification and economic impacts, mostly influenced by the violations of minority rights and housing rights, and right to the city. Field surveys indicated that Sulukule is still one of the most problematic areas of the city. In the end, the thesis dwells on the legal dynamics of the Turkish law system with some brief comments in the context of their impacts, deficiencies, ineffectiveness, and finally delays and interruptions in the jurisdiction processes as experienced in this specific case. The thesis also interrogates the latest judicial and socio-legal phenomena after the approval of the annulment decision for this neoliberal project by the Council of State in 2018, declaring that the project did not serve the protection of Roma culture and was not suitable with the public interest.

Keywords: Urban Regeneration; Urban Transformation Practices; Housing Rights; Sustainability; Gentrification; Social Stratification; Turkish Administrative Jurisdiction Procedures; Right to the City

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Abbreviations

CCCA: The Committee on Conservation of Cultural Assets in Turkey

ECHR: The European Court of Human Rights

FACI: The Fourth Administrative Court of Istanbul

FM: Fatih Municipality-Istanbul

ICCPR: The International Covenant on Civil and Political Rights

ICESCR: The International Covenant on Economic, Social and Cultural Rights

IMM: Istanbul Metropolitan Municipality

KUDEP: Municipality's Conservation Implementation and Control Bureau

NGOs: Non-profit organizations

RBPCNH: Regional Board for Protection of Cultural and Natural Heritage (general)

RCDSA: Roma Culture Development and Solidarity Association

SP: Sulukule Platform-Istanbul

SURP: Sulukule Urban Regeneration Project

TC-1982: The Turkish Constitution of 1982

TOKI: Turkey's Mass Housing Administration

UCTEA: The Union of Chambers of Turkish Engineers and Architects

UNESCO: The United Nations Educational, Scientific and Cultural Organization

1. INTRODUCTION

Starting with the new millennium, a number of inner city regions of Istanbul, mostly the historical districts close to the main business centres, became the attraction spots for entrepreneurs and gained popularity between high-income society, upper and middle class who were boosted by the recent political and economic issues. In these terms, Sulukule is one of those districts in the Historical Peninsula. It is the most important neighbourhood of the community of Roma in Turkey. The easiest way that can help achieve the target of reclaiming the inner city neighbourhoods is urban transformation. Sulukule is the first neighbourhood subjected to urban transformation under the Code No. 5366 that entered into force in 2005. The transformation practices (2005-2013) were resulted in the demolition of houses of the Roma minority, coerced or involuntary removal of the inhabitants and a significant spatial metamorphose of the authenticity of Sulukule.

On the national and international platforms, many researches look at the Sulukule Urban Regeneration Project (SURP) from different dimensions such as a) cultural landscape (Roma, living style, and social identification), b)engineering issues (geography, geology, architecture, urbanization, and urban transformation), c) social accentuation (actors, civic engagement, impacts of urbanization, urban identity, urban tourism, right to the city, discrimination, gentrification, social state, and sustainability), d) administrative affairs (process management, local and central administrations), e) socio-economic development (urban rent, globalization, and financial modelling), and finally f) legal criticism (urban transformation at the legal level, political power, and right to the property). Most of these researches were clustered within the period between 2005 and 2015. This is a period started with the implementation of the project, continued with the civic struggles of NGOs, the involuntary removal of the inhabitants, the destruction of the neighbourhood, and ended in 2013 with the construction of the re-modelled houses, now sheltering their new homeowners (Figure-1).

The delayed legal processes and annulment decisions of the administrative court during the SURP were ineffectual in practice. In 2018 the Council of State approved the annulment decision given by the administrative court in 2012, declaring that the project did not serve the protection of Roma culture in Sulukule and was not suitable with the public interest. This final decision emphasizes once again that basic humanitarian rights of the Roma and other inhabitants in Sulukule were violated. In this context, a holistic approach was used in this thesis as a prescriptive method in order to achieve an integrated analysis of the socio-legal consequences of the SURP. Both primary and secondary sources were utilized. Individual formal and semi-structured face-to-face interviews were conducted to seek answers about the feelings of the former inhabitants of Sulukule and their expectations on the possibility of any legal demand for a financial compensation. Along with the literature, primary and secondary sources and individual interviews, this thesis dwells on the socioeconomic and socio-legal aspects through the SURP with its actors. Their consequences were analysed within the broad spectra of minority rights, right to housing, property rights, right to protection of displacement, gentrification, social stratification and right to the city. All legal aspects and their consequences observed throughout the judicial reviews, and considering the last annulment decision of the Council of State, were evaluated.



Figure-1. Sulukule in A) 2007 (courtesy of Ezme, 2009), B) 2019 (B.C.Alpar)

2. COMMUNITY OF ROMA IN TURKEY

This chapter introduces the Turkey's Roma. Although they are Muslim and they have all humanitarian rights, and also their responsibilities of the citizenship in Turkey (their supra-identity), they are a partially marginalized population and vulnerable to discrimination (their sub-identity).

2.1. Roma in Turkey and Their Vulnerability

The communities of Roma (Romani, Romany, Roman or Çingene) are characterized as non-agrarian society due to their nomadic identity. Many people perceive it that they can be displaced from their homes if necessary (Gökçen &Öney, 2008:132-135).

The estimated population of Roma in Turkey is at least 500,000. The majority are lower class and live usually in underclass environment. They usually work in the informal labour market (paper-collection, basketry, scrap dealing, horse raising and street-floristry). Marsh (2008:53-54), who worked with many advocacy organisations of Roma, reported that the most critical problems of Roma are housing due to social exclusion, poverty and un-employability. Moreover, their living quarters at the polluted areas or near pollution sources adversely affect Roma citizens (Çetin, 2017:97).

The most important Roma neighbourhood in Turkey is in the centre of Istanbul, and considered as if the national capital of Roma. It was a lower-class but historical neighbourhood until it was wiped off the map in 2009. An immediate expropriation and coerced removal of the inhabitants for a land development plan wiped out the entire urban memory of Sulukule, literally larger than violations of minority, housing, property and socio-economic rights, as most of the Roma citizens, who are obliged to live in other regions of the city under worsened socioeconomic conditions, think today. In this point, there occurs a significant question if the urban regeneration project in Sulukule caused any de facto or de jure segregation. In order to reach a satisfying answer, we have to discuss the minority rights of Roma.

2.2. Political Representation of Roma, Minority Rights and Discrimination

The community of Roma in Turkey is not accepted as a minority group juristically, neither in the TC1982 nor in the legal codes. The State always follows the policy that promotes the official acceptance of the minority groups by the bilateral or multilateral international treaties.[1] Therefore, Treaty of Lausanne has the key role on defining which ethnic groups are considered as minority groups in Turkish legal system. Turkish politicians, who attended to the negotiations in Lausanne Conference of 1922 and 1923, supported the idea that religion must determine the identity (Kolukırık, 2008:72-73). In another words, the Muslim communities who are not ethnic Turk have not been accepted as minority groups in Turkey. According to the third part of Treaty of Lausanne (Articles 37-45), Turkey protects the rights of the minority groups like equal citizenship, civil rights, political rights, freedom of travel, education right in mother tongue, and freedom of religion.

The Roma community in Turkey are overwhelmingly Muslim, so that they do not have the right to take advantage of the protection for minority groups, regulated in the Articles 37-45.

[1] TBMM Araştırma Merkezi. *AB Ülkeleri, ABD ve TC Anayasalarında Azınlıklar ile ilgili Düzenlemeler*. Nov.2011. Retrieved from https://anayasa.tbmm.gov.tr/docs/anayasalarda_azinliklar.pdf. p.26.

The community of Roma is not much opposed to the nationalist demands of Turkey, so the governmental officials do not regard them as a politically problematic group (Gökçen &Öney, 2008:132-135). Some radical differences between the segregated life styles and traditions of Roma and some other Muslim communities, however, attributed a marginal status to Roma. Political representation of Roma in Turkey is almost absent. Under these circumstances, the Roma in Turkey is a partially marginalized and vulnerable group, even subject to social exclusion by other segmented social groups

3. URBAN RECONSTRUCTION IN SULUKULE

This chapter will benefit from several writings that focus on Sulukule, urban transformation strategies, policies, actors and its economic impacts. The story of Sulukule will be quoted in the context of an urban regeneration project, which would help the urban Roma community to have houses in a healthy environment. Nevertheless, its present state and the interviews in this study show that the end is not as anticipated.

3.1. Sulukule Neighbourhood, the Home

The neighbourhoods of Neslişah and Hatice Sultan, known as Sulukule in public, stay within the natural borders of the Historical Peninsula of Istanbul, at the western margin of the Fatih District along the fortified Theodosian Land Walls. The region is governed by the Fatih Municipality (FM). It was a settlement area of the community of Roma, with a special urban identity characterized by a ramshackle network composed by unique physical and social structures. There were a small number of manufacturing workshops, grocers and the like, and a few of market gardening zones.

This special ethnical community lived around the city walls since the Byzantine time; it dates back to 1054 outside the city walls and 1826 inside the city walls. They settled in Sulukule after the successive massive fires in 1918 and 1919, which swept through many district in the Fatih District. Many upper and middle class people from the Ottoman Empire were living there before the fires.[2] Therefore, the historical heritage to be preserved in Sulukule was not only the need of a physical transformation but also a social one (Baştürk, 2013:288). There have not been any legal attempt to evacuate them from 1918 to 2005; even Roma meant Sulukule.

The traditional entertainment culture of the community continued with the establishment of so called "*entertainment houses*" in the 1950s (Ataman, 1997:437). The daily performances in the courtyards of the entertainment houses, where their homes, songs and dances interpenetrate, were much attracting the customers. In a way, they became a local private sector employee in their homes. Their job opportunities decreased in 1990s, when the Istanbul Metropolitan Municipality (IMM) closed down the entertainment houses. Until designated as a tourism-led regeneration area in 2005, Sulukule still stayed as a historical Roma neighbourhood (Figure-2).

[2] Personnel communication with Mrs. S.T., an old homeowner of one of the 34 registered architectural civilian buildings in Sulukule, see Appendix B.

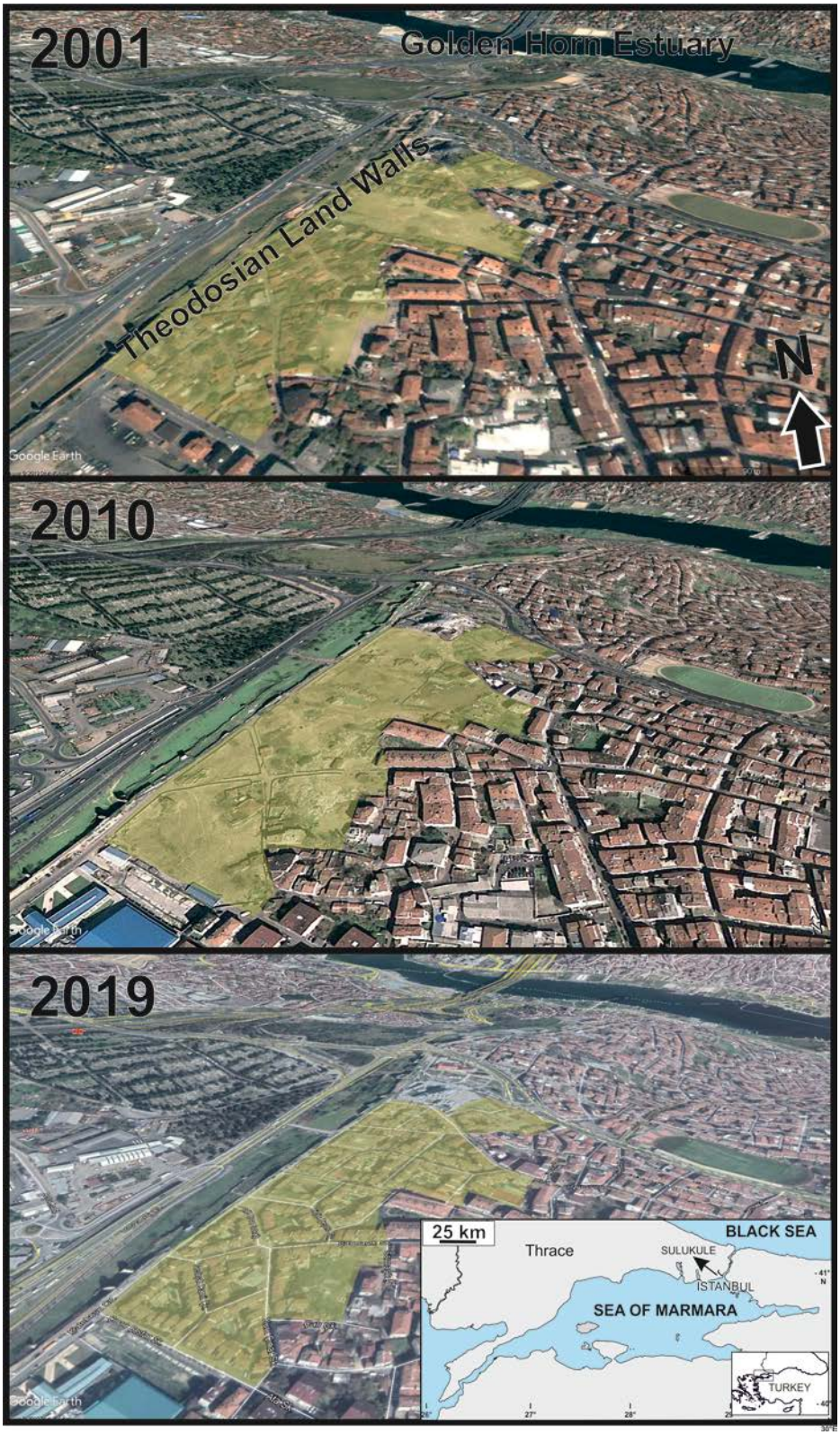


Figure-2. The SURP handled the neighbourhood (645 dwellings and 45 shops) as an empty area. Natural properties of the structure were changed. The chance of homeowners to repair their houses was impossible. Images from Google Earth. Inset shows location.

3.2. Urban Transformation, Strategies, Policies and Actors

Urban transformation is a kind of reusing a built-up area in city, in case of natural disasters, irregular urbanisation, illegal building, or simply changing, reshaping and improving it in a modern way. The main idea is to improve the living conditions in house and neighbourhood without changing the demographic structure of the built-up area, usually with master remedies to the social, physical, economic and environmental conditions at the present and in future (Thomas, 2003). While there is certainly not a simple formula to give a solution if the urban transformation practices were good or bad, it should evidently protect the historical buildings, respecting "the right to housing and the right to live in a healthy environment". Politics is more of a determining factor in controlling urban transformation policies and methods, because they should be suitable with the public interest.

Urban transformation strategies (reconstruction, renewal, redevelopment, renovation, regeneration etc.) slightly differ from each other depending on the type of intervention, physical space, and built-up area. The interventions differ according to vision, purpose, strategy and applied methods defined by social, legal, administrative and economic structures of the states.[3] A good urban transformation strategy can include a combination of these practices.

Urban transformation strategies in Turkey differ from the practices in Europe and USA, within the cultural and socioeconomic context, and in terms of the legal process driven by the political forces. They have been motivated by the recent earthquake disasters. Shanty settlements, illegal housing, adaptation to EU standards, and keeping up with the increments in the international investment evolve the strategies in Turkey. The number of urban transformation practices increased after the earthquakes in 1999, forcing establishment of new laws and regulations mostly aiming to strengthen constructions and reduce economic losses. Urban transformation practices, however, should use the most convenient scientific and social databases and allow all collected data to be shared by its actors including civic engagement (Turok, 2005).

Urban transformation practices in cultural and historical zones, like in Sulukule, should provide a common platform for all of its actors. The starring characters are the municipality and relevant public institutions. Local governments should always work collaboratively in innovative ways by implementing plans and projects, and making investment decisions for more sustainable, inclusive and just cities. They should consider all ecological, economic and social/cultural sustainability factors. The success depends on a cross-sector collaborative approach of local government with the other actors. The practitioners are also top actors of urbanization for accurate design and implementation practices. The Mass Housing Administration (TOKI) is the official practitioner of Turkey who is authorized by the Code No. 5162 and the regulations adapted in 12.05.2004, for building, credit support, and planning of transformation projects. The voluntary sector and local actors are property owners, inhabitants, social groups, professional organizations, NGOs, people in construction works. Urban planners, architects, engineers and real estate investors are professional groups that perform urban applications. Participatory governance and effective collaboration between organizations can only be managed by giving priority to public interest and increasing citizens' participation.

[3]European Union.(2004). *EU Guidance on Urban Rehabilitation*. Council of Europe Publishing. p.7-146.

3.3. Story of the Sulukule Urban Regeneration Project

The story in Sulukule started in September 2002 when it was included in the "Urban Design Program" by IMM. In other words, the urban space had been included in capital accumulation processes. However, Sulukule was a "historical protected area" in the master conservation plans, by the decision of the First Board of Conservation of Cultural and Natural Heritage of Istanbul (6848-dated 12.7.1995), and under the Code No. 2863. That is why the community of Roma was not allowed to make any change to their houses. This explains poor condition of the houses and proves that Sulukule is a cultural and heritage site. The "Regional Board for Protection of Cultural and Natural Heritage" (RBPCNH) approved and promulgated the new master plan on 21.5.2005. The protocol signed by the local municipalities and TOKI in July 2006 was approved by the Council of Ministers.[4] On 13.12.2006, the Council of Ministers issued an immediate expropriation decree, causing the region (19,500-m^2) to become an attraction centre for the real estate sector. The expropriation relied on the Article 27 of the Code No. 2942, regulating immediate expropriation decree. However, this tool might only be used for exceptional cases; e.g. earthquake hazard and danger of disruption in public services. Geological reports and micro seismic data indicated that the earthquake risk was not different from the other regions in Istanbul.[5]

Many houses were earmarked for demolition work. The local authorities knew that the poverty-stricken community of Roma could not create a public opinion against the project, mostly due to their so-called bad reputations. The first demolitions started in 2007 before the approval of the new plans by the RBPCNH[6].

The legal initiatives concerning coerced or involuntary removal of the inhabitants can be undertaken within the framework of "formal law" or "international conventions". It is the duty of the states to ensure that evictions are authorized by law and undertaken solely by public interest (Home, 2012:179). Considering the appeal of the UCTEA, the administrative court annulled the approval of the RBPCNH on 29.11.2007. Then, the RBPCNH adopted the principles and terms of use of the transition period for the region on 26.3.2008, which was also nullified by the administrative court decision. In this context, there were no construction plans or principles when the neoliberal project of SURP started with a nostalgia for a phantasmal Ottoman past.

The ideas imposed by the FM against the opponents were relied on the theses such as; a) othering and criminalization due to low-income living conditions, b) inhabited or invaded neighbourhood by minorities, c) prevent disintegration of subcultural groups with other type of life styles, and d) integration of community by replacing former housing with modern apartments (Karaman & Islam, 2012:242). Roma have always been the subject of many socio-legal studies because of their ethnicity, social exclusion and marginalization. The case of Sulukule stimulated many academic and non-governmental organizations in the context of minimizing similar potential damages to Roma. They held many informative meetings to encourage the residents to follow up the ongoing processes. A number of protocols were signed with the local authorities in making efforts to ease the processes. The inhabitants of

[4]"CNN-Türk".Istanbul Sulukule'de 9 ev daha yıkıldı. 13.03.2008. Retrieved from "https://www.cnnturk.com/2008/turkiye/03/13/Istanbul.sulukulede.9.ev.daha.yikildi/437608.0/index.html"

[5] Human Rights Council, A/HRC/10/7/Add.1,17.02.2009,p.69.

[6] Ozan, B. (2009). Sulukule'de Kentsel Dönüşüme Yakalanan Hayatlar… Bianet, 17.06.2009. Retrieved from "https://m.bianet.org/bianet/siyaset/115273-sulukule-de-kentsel-donusume-yakalanan-hayatlar"

Sulukule, however, could not take part in the project within the scope of the Code No. 5366. The legal initiatives in this respect, before the Competition Board and the Council of State, have always been dismissed. The Helsinki Commission in American Congress in April 2008, asked for ensuring the Roma in Sulukule to be treated with dignity and respect, and provided shelter.[7] The Autonomous Planners without Borders, an independent professional initiative, prepared an alternative project plan in order to keep all residents in the neighbourhood. The TOKI rejected the plan claiming it was too utopic (Ezme, 2009:62-65). UNESCO Commission visited Sulukule and published a report[8].

The FM, with the fresh power provided by the Code No. 5366, did not hesitate to apply the powerful tool of immediate expropriation. Many houses had legal title deeds. The FM offered some new finance models at discount prices to 503 homeowners. Due to the preliminary regeneration plan, it was impossible to rehabilitate or restore their houses. Instead, either they would buy a flat staying in the regeneration area by paying extra money with monthly instalments or they would sell their share to the municipality. The third choice was property speculators. Because of the immediate expropriation pressure, poverty-stricken families had to accept the lower expropriation fees given by the municipality or sell their joint-owned properties to the land speculators for higher price. Almost half of the houses were sold to the speculators, who paid twice of the compensation for land expropriation, even before the SURP had started (Karaman & Islam, 2012:242).

The story of Sulukule goes on with enduring destructions. Most of the traditional houses with characteristic courtyards and facades were destroyed. The UNESCO Report (2009) demanded protection of cultural heritage. The KUDEP assisted some owners of historic buildings who could have done with their own conservation projects. The EU Progress Report (2009) pointed out that the human standards had not been taken into consideration by demolition of Roma houses[9]. The Roma Initiative launched in 2009 was a political attack related with the law of harmonization code of the EU (Onbaşı, 2013:56).

A private firm won the bid for the construction rights in September 2009, 29 million Euros for 577 housing.[10] Their architectural surveys, while Sulukule is wiped off the map street by street, have indicated that it was significant primarily to protect the street patterns and to preserve the historical monuments and some vernacular architecture.[11] On the other hand, the buildings that had lost their characteristics through severe damage or renovation were not worth protecting in the context of spatial organisation and effectiveness of the SURP. In the end, spatial organisation was developed with respect to old habits and some of the expectations of the community of Roma. A number of vernacular architectural elements were used; such as bay windows on front façades, stony grounds, extroverted staircases, façade colours, wood and roof materials.

Many families moved to the TOKI houses outside Istanbul (Taşoluk and Kayabaşı). They had to pay monthly instalments for 15 years without any advance payment. Some other families preferred to move to nearby neighbourhoods (Balat and Karagümrük) where they feel

[7] "https://www.csce.gov/international-impact/press-and-media/press-releases/us-helsinki-commission-troubled-treatment"

[8] "https://issuu.com/euroma/docs/sulukule_unesco_report"

[9] EU Progress Report, 2009:29

[10] "https://emlakkulisi.com/ozkar-group-sulukulede-577-konut-yapacak/28016"

[11] Brown, A. (2014). "Sulukule: A community destroyed through construction". Retrieved from: https://vimeo.com/81175447

better. However, the practices ignored the social status of the community and their adaptability to the existing urban form. The ECHR accepted the application of the SP, even if the domestic remedies were not finished yet, putting forward the grounds for human rights, protection of family life and discrimination, in August 2010 (Uysal, 2012:20).

In the court case (2000/719) for annulment of the project, the panel of experts reported, *"The construction is not in the public interest, spatial organisation not protected"* in March 2012.[12] In April 2012, the Fourth Administrative Court of Istanbul (FACI) accepted unanimously the case file of the UCTEA; that was cancelling the SURP on the occasions of *"the project is against public interest; it is not respecting, and even violating, the Roma culture in Sulukule"*.[13] The preliminary project was breaching of the land use planning system and conservation board decisions and it could not be approved based on the Code No. 5366 and Code No. 2863 and considering the UNESCO's criteria for historical heritages.[14]

Therefore, the FM had to stop constructions within one month, and develop a new project in line with the court decision. They applied for the issue of a stay order. This appeal was rejected by the Fourth Chamber of the Council of State in August 2013 (and later in April 2015)[15], unanimously upholding the decision of the FACI because there was no public benefit or any legal misconduct.[16] In the meantime, before the arrival of the judgment of the Council of State, the FM drafted a new preliminary project, with only a few minor changes. The new implementation project was quickly approved by the RBPCNH in August 2013.

The Chamber of Architects filed a lawsuit on behalf of the Sulukule residents against the second project. However, the private construction firm had already completed new apartments where new homeowners, completely new visages, had started to move in July 2013[17]. According to the TOKI contract, homeowner cannot sell his or her house until 2018. I have spotted at least 45 houses for sale during my visits in 2019, mostly the bigger ones at the top floors and probably owned by the real estate speculators.

3.4. Economic Impacts

The resources diverted to urban transformation projects comprise a large share of Turkey's economy. The economic capital of Turkey, Istanbul, is much prone to the commercial type of gentrification; an urbanization tool which will be discussed later. In the case of Sulukule, the topmost expectation was to protect living culture and ensure economic development. The single-type procedural planning of the SURP, a formal top-down process ignoring the others, could not evidently protect the living cultural heritage and texture of the neighbourhood.

In the context of economic development, the authorities first announced that Sulukule would be an attraction centre, without any clues how to achieve it. The TOKI increased the down-payment period by 50% for titleholders. The standard TOKI contract bans the house sell for one year. Many poor people sold their houses in Taşoluk to the third parties illegally,

[12] Osseiran,N, 2012. "Transformation for whom?" "https://vimeo.com/41657784"
[13]Doğan, R. (6.11.2018). "Geç gelen adalet:Sulukule projesi altı yıl sonra iptal". *Artı Gerçek*.Retrieved from "https://www.artigercek.com/haberler/gec-gelen-adalet-sulukule-projesi-alti-yil-sonra-iptal"
[14] FACI, E.2009/758,K.2012/783,K.T.26.04.2012.
[15] D.14.D.E.2014/2299,K.2015/1443,K.T.26.02.2015.
[16] Benmajor, G. (2015). Delayed justice for Sulukule, Hürriyet Daily News, 14.04.2015. Retrieved from: http://www.hurriyetdailynews.com/opinion/gila-benmayor/delayed-justice-for-sulukule-81004
[17] Koca, A. (2013). "Sulukule Projesi Bitti Mi: Bu Maket Evlerde Kim Oturur?" 30.07.2013. "http://www.yapi.com.tr/haberler/sulukule-projesi-bitti-mi-bu-maket-evlerde-kim-oturur_111185.html"

even before they moved in. Later the TOKI abolished this clause, which increased the house price by 700-800 percent (Islam and Enlil, 2010:325). They are one-off profits; only an economic gain but not an economic development as promised earlier. The excessive rise in the property values in Sulukule and rent gaps may reflect some economic growth; but the most of the low-income residents, homeowners or tenants, were suffered due to the negative economic force of the gentrification. Almost all of the people in Taşoluk returned to the city near Sulukule, a few migrated to the other towns in Thrace.

For the central and local governments, urban transformation means to increase the value of Istanbul, the European city of culture in 2010, in line with the expected material returns. This is only handled with its economic dimensions, trying to recover the cost presenting a new image of the city, without any attempt to solve arising social and cultural problems. Even the archaeological excavations and near-surface geophysical surveys, focussed on the old underground water-transport channels, which should be connected with the "*Sulukule Maksem*", a vaulted water tank with spillways and distribution chambers, could not stop the constructions[18]. Moreover, it was not so clear how to transfer the value difference generated by the urban renewal and how it would serve the public interest. The governments only used arguments for prevention of informal and illegal housing and near-future earthquake threat to justify their actions. The planners ignored other critical benefits expected from an urban transformation, such as reconstruction and restoration of old and lost urban areas according to the Code No. 5366 or gaining an acceptable appearance of Sulukule.

The residents of Sulukule have been the losers of neoliberal urbanisation, low-income with no tie to any social security system and the rent levels. The constructors knew that most of the inhabitants could not afford to survive, especially under the threat of expropriation, and they paid to the homeowners only 6,000-22,000 Euros (200 Euros per square meter). The new flats, presented as "villas in the heart of Istanbul" in the commercials even they were still under construction, were sold to middle-high income group (%90 outsiders) for 415,000 Euros (3500 Euros per square meter)[19]. We can see the reflections of this price boost on the value taxes in Sulukule, which are appraised on street-base by the FM (Figure-3). The land prices increased excessively in 2010 (demolition) and 2014 (after the SURP). The rate of increment slowed down in 2015, and later on, decreased because of the depreciation of Turkish Lira against Euro.

[18] Personal communication with Dr. Bedri Alpar.

[19] Gürsel,D. (2012). "Sulukule'de proje iptal edildi,inşaat sürüyor,fiyatlar tavan yaptı", Hürriyet, 20.09.2012. "http://www.hurriyet.com.tr/ekonomi/sulukule-de-proje-iptal-edildi-insaat-suruyor-fiyatlar-tavan-yapti-21513856"

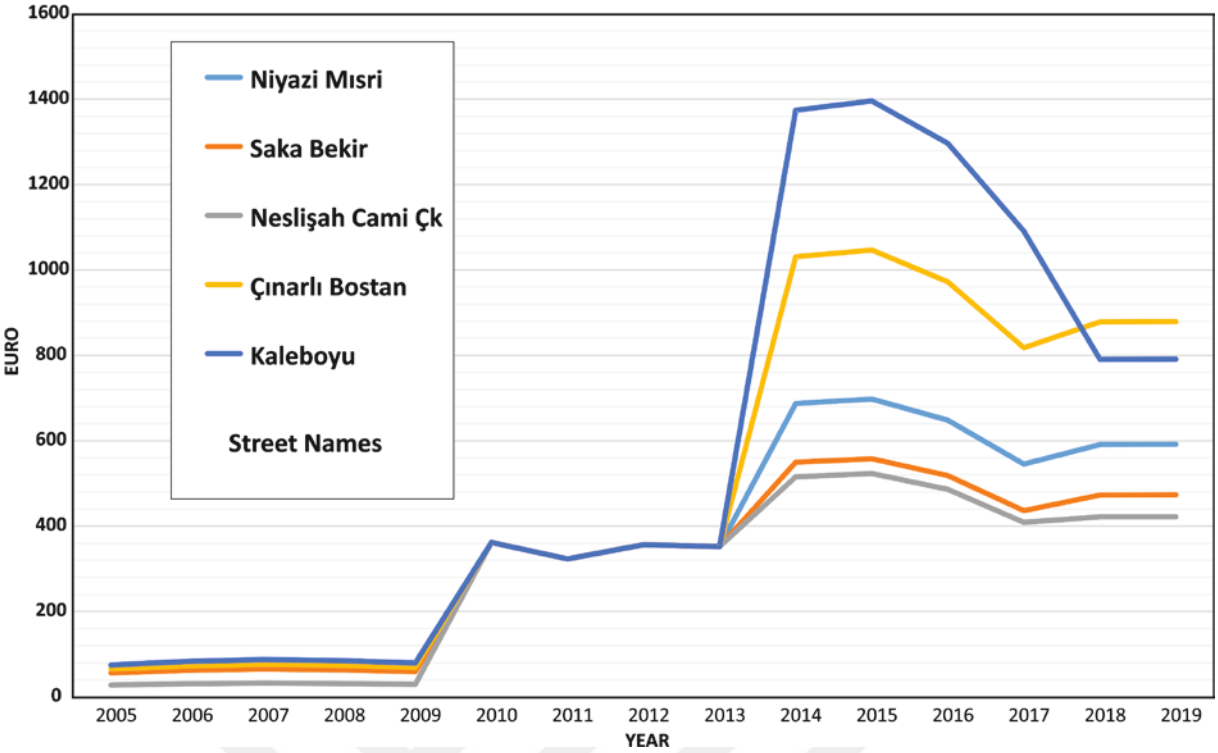


Figure-3. Increment of the land unit prices (Euros per square meter) in Sulukule. Data is retrieved from the official website of the IMM.

3.5. Recent State of Sulukule and its Reflections on Interviews

The researches on long-term profitability and sustainability of urban regeneration reveal debatable results (Moulaert et al., 2003). They generate fast returns for private investors and governments. Contrarily, well-known unfair consequences affect the disadvantaged communities. The story in Sulukule ended with social exclusion, involuntary removal of the community and gentrification due to unfettered capitalist expansion. Based on discursive resources concerning the arguments put forward by the community of Roma and the local authorities, Baykal (2009:122) evaluated the unjust treatments to the human, social, cultural, economic and historical rights of the community of Roma and their oppositions against the gentrification process in detail. Only a few, mostly non-Roma, homeowners could keep their ownership. Some inhabitants had been able to buy a house usually in substandard conditions. According to the decisions of the FACI in 2012 and 2015, the administrative actions (e.g. expropriation, coerced removal of the inhabitants etc.) were against the law and public interest. This implies a violation of housing and property housing rights, which will be discussed later.

There are a lot of interviews and discursive resources in the course of Sulukule, published in daily journals, scientific thesis, magazines and web pages. As it would be much distracting for readers to read them within the body of the thesis, I preferred to present some critical, explanatory and sometimes emotional interviews in Appendix-A. My comments were also given in the footnotes with necessary references.

For a qualitative type of research, I gathered information from some participants affected by the SURP, through formal and semi-structured individual interviews. I have visited Sulukule three times in June-August 2019. My first visits were to get to know and take some pictures

in the new Sulukule, which was looking like a recovered zone within the barbed wire walls. There was not much to do there. The streets were empty, the realtors were waiting for rich Arab customers, and the only grocery in the neighbourhood was a Syrian who self-identified himself as first Muslim and then Ottoman. My second visit was to Karagümrük where some of the former residents of Roma had been settled during the demolitions or after their short experiences outside Istanbul, they firstly moved. I found a coffeehouse, the spot of closed community of Roma where men hang out as a daily lifestyle. I entered the coffeehouse giving a traditional Muslim salute and responded. I sat there for a few hours, made some passive observations while thinking strategies for building trust with them while feeling the staring eyes on my back. My last visit was to the same spot with almost same customers. I interviewed four respondents according to qualitative research principles. All of the respondents, one woman, were former residents of Sulukule. They have been given the basic information about the scope of the interview. They all read the informed consent form before the enrolment and accepted to participate by signing. Ethical strategies were used to disclose participants. I designed the questionnaire survey to explain; their self-identification, former positions, the way they dealt with the effects of the gentrification, latest legal processes and their expectations (Appendix-B). The answers to my first questions were almost same with those in many previous interviews published elsewhere, as I discuss in Appendix A. The last questions were on their feelings about the latest annulment decision of the Council of State, and their expectations for financial compensation (Appendix B). It took me a three long hours to talk to the president of Roma Culture Development and Solidarity Association, as it was much beyond the context of the 7-item questionnaire (Appendix B).

The deep scars on socio-economic and cultural rights were the most outstanding reflections of the survey. Almost 60% of the inhabitants were homeowners; some of them receiving rent from their 2-3 storey house. These people had a chance to have a small condominium if only they had to promise to pay a significant amount of money. The conditions for tenants, who always preferred to move a cheaper house if they could find, were worse than that. Some could not even proof their tenancy, because electricity or water subscriptions stayed on the name of the homeowner or one of the former tenants to avoid paying at the transactions. The FM did not accept institutional documents, such as school registration, neighbourhood registry, military enlistment paper or even criminal record as a proof of tenancy (Appendix B).

My participants confirmed that a great amount of former inhabitants had been settled around Sulukule, which may imply the boomerang effect of gentrification. Instead of developing appropriate strategies within an integrated plan, protecting authentic characteristics, exchanging views with public and maintaining local economic activities, the local authorities preferred the establishment of urban regeneration projects on an individual basis during the second-generation structural reforms. The most essential objective of such rapid urban transformation projects, and of the SURP, is the rapid increase in value, without taking sufficient measurements to prevent gentrification, which may produce complex and contradictory effects. A great portion of Roma evicted from Sulukule, for example, united by with a sense of solidarity and commitment to their culture and they are now in every detail of daily life of the nearby streets and the surrounding neighbourhoods. This is a boomerang effect of gentrification, possibly the biggest unintended consequence of the SURP, especially for the FM and the conservative society in the Fatih District. Therefore, social rehabilitation and improvement policies should be prioritized instead of gentrification.

4. THE RIGHTS TO HOUSING, PROPERTY AND CITY

The welfare and development level of cities determine the quality of the democracy, human rights, legal system, politics and economy in the country. This chapter explains the rights to the housing and to the property, defending the right to a safe home, freedom from forced evictions, and the right to the city, which was not shined upon Sulukule.

4.1. Right to Housing

Housing was accepted as a right by "Universal Declaration of Human Rights" in 1948, having no binding force. The multilateral treaty of "International Covenant on Economic, Social and Cultural Rights", adopted in 1966, introduced the concepts of *"housing", "adequate standard of living"* and *"continuous improvement of their conditions"*. The development of environment and renewal of housing stock was achieved by the European Urban Charter of the Council of Europe adopted in Strasbourg on 17-19 March 1992. Making home a secure and safe place could be achieved through safety applications, eradication of insalubrious housing and close collaboration between social services. The Article 31 of the "European Social Charter (Revised), 03.05.1996", guarantees the right to own a solid and secure house; "t*he Parties undertake to take measures designed; a) to promote access to housing of an adequate standard; b) to prevent and reduce homelessness; and c) to produce affordable housing.*" Therefore, perceptible duties have been imposed on the States, to increase the choice, diversity and accessibility.

The Article 57 of the TC1982 guarantees, "*the State shall take measures to meet the need for housing within the framework of a plan that takes into account the characteristics of cities and environmental conditions, and also support community housing projects.*" It is not explicitly written, however, how the State will take these measures and which institutions will involve. The Article 65 (amended in 2001; Act No.4709) *"The state shall fulfil its duties as laid down in the Constitution in the social and economic fields within the capacity of its financial resources, taking into consideration the priorities appropriate for the aims of these duties."* Since Turkey is a country that adopts the principle of social state, it is the liability of the State to take measures to ensure that citizens enjoy the right to housing. However, the State takes the measures in accordance with the "material resources". Accordingly, the state will consider its own budget while providing housing. The State does not charge citizens for housing provided in natural disasters, while charging for housing constructed within the scope of urban regeneration practices.

4.2. Property Rights and Pinheiro Principles

Property rights define the legal ownership of resources and the benefits associated with ownership of the property. Private property owners exercise property rights to accumulate, hold, delegate, rent, or sell their property, on a voluntary basis. Therefore, the States define ownership and its related benefits and enforce necessary laws to secure property.

The Pinheiro Principles, presented to UNCHR in 2005, is a useful guidance for governments and other international organisations on the international standards (COHRE, 2005:10-11). They construct a frame of references for legal ownership of resources and coerced or involuntary removal of the inhabitants from their homes or lands.

4.3. Right to the City

Urban identity is to internalize all of the social, historical, cultural, functional, and environmental assets and characteristics of in urban space. The urban space, on the other hand, intersects with urban transformation practices in the context of economic, social, spatial, geographic, climatic and environmental dynamics. The practices ignoring these dynamics, or making one of them come to the forefront than the others, may pose serious threats to urban identity, especially in the hands of private interests and without democratic control.

The right to the city means the right to command the urban process. It is an idea proposed by Henri Lefebvre, in response to the question how a fair urban order could be ensured. Lefebvre argued that the users of the city should organize against those who make profit from the city and get back their rights through social struggle. A city should respect the human dignity, be sustainable, modern and healthy. Some modern urban theorists, as David Harvey and Peter Marcuse, said that Lefebvre's concept of the right to the city should not be reduced to the right to access the city's existing resources. Instead, these rights should be perceived as the social rights, that are established based on a fair reproduction of the city and intervene in the political and economic processes used in the regeneration of the city (Castree & Gregory, 2006).

4.4. Sulukule in the Context of the Fundamental Rights

In the context of housing and property rights, it was a clear gentrification of the Sulukule citizens. The SURP ended with the disappearance of Roma culture in Sulukule. The keeping of the Roma culture alive might only be possible by keeping social order, daily habits and practices of the neighbourhood intact; that is by keeping the property rights. Their habitat had always been an attraction zone, and selected as UNESCO World Heritage Site since 1986[20]. The TOKI houses outside Istanbul were not suitable for their traditional life style. Their regular payments were 2-3 times of the average rent levels in Sulukule. It was even more than the average monthly salary of 45% of the Sulukule habitants (Appendix-A). Therefore, the following Pinheiro Principles have been violated;

> **"*Principle 3. The right to non-discrimination:* *Everyone has the right to be protected from discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status*".
>
> ***"Principle 5. The right to be protected from displacement:* *Everyone has the right to be protected against being arbitrarily displaced from his or her home, land or place of habitual residence. …States shall prohibit forced eviction, demolition of houses and arbitrary expropriation of land*".
>
> ***"Principle 8. The right to adequate housing:* *Everyone has the right to adequate housing. States should adopt positive measures aimed at alleviating the situation of refugees and displaced persons living in inadequate housing"***.

In the context of right to the city, not even bringing into mind the right "participation for common urban decisions" mentioned by the modern urban theorists, the people moved to Taşoluk could not access to the city's existing resources and public services. There were no social facilities there in the form of school and hospital. As they could not get a job in Taşoluk, they had to go work in the city and in most cases it was impossible by public transportation (Appendix A and B).

[20] https://whc.unesco.org/en/list/356/bestpractice

In cases of a potential threat to private and family life and home, the ECHR give a ruling of violation, under Article 8 "*right to respect for private and family life"* and Article 1 of Protocol No. 1 "*protection of property"*. In the case of Sulukule, there was no any interest on "*national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others*". The ECHR also guaranteed the right to property "*except in the public interest and subject to the conditions provided for by law and by the general principles of international law*". Such a violation seems to be likely in case of the SURP, and the court may determine that the right has been violated, even the project provided solution to the housing problem of other people. The Case of Yordanova and Others V. Bulgaria (Application no. 25446/06), the applicants were removed from their homes in Batalova Vodenitsa, can be given as a similar case.

5. GENTRIFICATION AND SOCIAL STRATIFICATION

This chapter describes the reflections of the gentrification and social stratification of the urban regeneration in Sulukule, which started with the evaluation of property and demand of the new middle - upper social classes, and resulted with the movements in social stratification, displacement of people without adequate resources and lower social classes.

5.1. Gentrification

The gentrification is an urban transformation policy that changes the nature of an area by renewing the buildings; with solutions, serious adverse effects and aftermaths (Godsil, 2013:329). The character of gentrification depends on not only by displaced persons but also by who has moved to the neighbourhood (Freeman & Braconi, 2004:39). House prices will rise and the texture of the city will change. This concept can also be related with the discrimination process to minorities, by drawing boundaries. People draw boundaries to protect a community that feels the hostility of the surrounding environment. However, this is not the only reason because men also create boundaries to cross them. An effort without any mutual recognition and negotiation means a virtual destruction or assimilation of otherness (Stavrides, 2010:17-18).

5.2. Social Stratification and Social Class

Social stratification is a feature of the society, refers to hierarchical layers, and categorises human beings hierarchically. It arises from the interaction between the social differentiation and social evaluation (Ergil, 2012:106). Social stratification is also a result of social inequality, uneven distribution of income and other economic assets. In general, social values, which are formed by the social roles and important in determining social stratification, can include social inequalities. Therefore, social stratification has a significant role in social inequality. Societies may create some sanctions and rewards for protection of social values. Sanctions and rewards, which are regulated by the rulers and elites of the society, strengthen social inequalities and stratifications. The difference between rulers and elites of the society and the rest of the society also promotes the social stratification significantly.

5.3. Reflections of Gentrification and Social Stratification in Sulukule

The formation of the new type of gentrification in Istanbul is directly related to the economic, cultural, demographic and spatial restructuring that it has been going through since 1980s. The inward-looking development policies were replaced by neo-liberal policies in 1980s and opened up to global capital flow. These are the years that gentrification began in Istanbul, and it took place in different parts of the city, first on housing basis, and then in 1990s, it continued like continuous succession of waves in bad settlement areas, mostly on historical inner city districts.

Gentrification can be regarded as a saviour for cities, if it is the only and depoliticized key strategy to approach complex urban problems. The gentrification in Sulukule, however, was triggered by the political dominance that was influenced adversely by the local capital flow through the streambed of the neoliberal policies. It was not any result of individual preferences or consents aiming at the improvement of the quality of their life. Before the SURP, for example, there were 620 houses in the transformation area. In the initial stages of the project (in 2007), 102 houses had already reached agreement with the FM. Only 6 out of

102 right holders were from the original inhabitants. The remaining 96 people were company owners, executives and contractors (Foggo, 2007:128). These figures explain clearly the extent of gentrification and social transformation in Sulukule. The resulted construction exhibits only a physical regeneration. It is obvious that the SURP created horizontal and vertical movements in the context of demographic structure and separated population from the space.

Social stratification is one of the most important notions in the explanation of the case of Sulukule. The main social group here is a different socio-economic class (poor, lower-level education, struggling and disadvantaged) and ethno-cultural group (Roma). They have completely different moral values than those living in the surrounding neighbourhoods; even they belong to the same social class within the changing socio-economic context of Turkey. The gentrification and new economic conditions after the SURP deeply changed the social stratification in the district, with a radical change in ethnic demography. Most of the Roma citizens affected by the worsening economy still stay, even become weaker, in the lower stratum of the lower social class. New forms of social stratification occurred, resulting with social deterioration. The middle class, who are not ethnically Roma, has taken place in Sulukule.

In 1990s, the share of bien-pensants increased in the social life of Turkey, especially in Istanbul. As a result, the middleclass population increased in number. The increasing global surplus in Turkey expanded the inequality between the upper and lower classes to the disadvantage of the lower classes. The middle class has increased both in number and in terms of their mobility. The mobility has not always been upward in every situation. Upward movements have also made downward movements possible. This indicates that the rising middle class will be more affected by possible crises, in other words, higher amount of middleclass will be affected by the consequences of the bad economy (Yılmaz, 2013:104). The people who bought renewed houses in Sulukule are generally belong to middle class who are interested in investing in every opportunity they find, usually in their micro level environment, for their own benefit. House sale to high-class people in Sulukule was probably due to increase the brand value of the neighbourhood.

The projects like SURP and their practices make the middle class the determinant actor of the city. However, the middle class, who settled in the built-up area, feels like imprisoned in small but secure parcel boundaries. The houses in the New Sulukule are bounded by long and tall barbed wires based on parcels, streets and even pavement, triggering an annoying reaction in terms of urbanism, tourism and humanity.

6. LEGAL REGULATIONS AND JUDICIAL PROCEEDINGS IN THE CASE OF SULUKULE

This chapter explains the legal regulations that establish administrative and organizational structures in Turkey, with the milestones concerning urbanization and urban transformation. The evaluation of the SURP will be discussed in the context of Turkish Administrative Law. The judicial processes and the effectiveness of judgment will be discussed.

6.1. Relevant Laws of Turkey Concerning Urban Transformation

Legal regulations on the fundamental rights related with urbanization and urban transformation in Turkey can be classified into two main eras. The first era spans the time before the 1999 earthquake disaster while the following second era is characterized by the structural reforms related with about urban transformation.

The First Era (First Generation Structural Reforms)

The earlier era is consisted from three periods; a) the period covering the foundation of the nation state, b) the period of migration to the big cities and, c) the period in which the capital market established its hegemony in the cities (Çoban, 2012:76).

The first period (1923-1950) started with the Turkish Constitution of 1924 (TC-1924), with no provisions on social rights. The laws were mainly on the placement of immigrants of exchange policies, construction for civil servants, and associated loans. The Code No. 5431 enacted in 1949 targets prevention of shanty housing.

Uncontrolled migration of labour force to big cities (1950-1980) increased the number of slums and illegal buildings. The Code No. 6188 entered into force in 1953 to prevent shanty housing and increase construction by allocation public land. In 1958, the Roma community in Sulukule had to move slightly northward to make way to new avenues along the city. After the military coup of 1960, the National Unity Committee seized all powers of the Assembly by a provisional constitution. The TC-1924, which continued to be in force until the military coup of 1980, regulated freedom and fundamental rights, including the social rights. According to the Article 49, the State takes measures for the housing rights of low-income families and for sanitary. In this context, the Turkish Constitution of 1961 supported fundamental rights and freedoms of a social state system. The Squatter Act 775 came into force in 1966 to prevent further squatter constructions and provide public housing, and then a small-scale demolition occurred in Sulukule.

The capital market established its hegemony in the cities at the last period (1980-1999). The new Turkish Constitution (TC-1982) did not approach the right of house with an understanding of social rights and social state (Kaboğlu, 1995-1996:37). The urban transformation attracted local and foreign investments; the first signs of gentrification. The Amnesty Law 2805 entered into force in 1983 to protect and improve the cultural and historical assets and natural beauties of the Bosporus Strait region. In 1984, the Amnesty Law 2981 came into force to improve the land use planning system for slum settlements. The Metropolitan Municipalities were formed for the first time. In a sense, this was the first sign of allowing them for the implementation of urban transformation projects, albeit indirectly.

The Mass Housing Law 2985, entered into force in 1984, defines the fundamental principles, organization and funding. The TOKI established in 1984 for developing social projects and

credit supports. With the amendment in 2003[21], it has also undertaken the task of making profitable projects and employ private sector, and became virtually a private sector investor on behalf of the public. According to the TOKI reports in August 2019, the investments scattered at the wealthier regions, with 17% (837.572 houses) at the slum transformation areas and 5% to the lower income groups in Istanbul. This seems to conflict with the concept of public weal (Péreuse, 2013:81). The Code No. 3194 (1985) was one of the first tools in implementation of urban transformation, which regulated land administration and methods of acquiring immovable property without expropriation and using it for public interest.

The Second Era (Second Generation Structural Reforms)

The second era spans the time after the 1999 earthquake disaster. On the basis of increasing demand to earthquake-resistant buildings, it is characterized by the structural reforms put into practice which triggered investments and interventions on urban lands and created value over urban land (Göksu& Bal, 2010). The second era is also consisted from three periods; a) the period formulating the legal infrastructure of the process (1999-2004), b) the period of involvement of the private sector in the implementation process (2004-2012) and, c) the period in which the capital market established its hegemony in the cities (Özden, 2016:17).

The first period of the second era (1999-2004) was the period of lessons learnt from the earthquake disaster and gaining experience. Along with the changing political and economic flux, urbanization and housing policy, this period was shaped under the leadership of the public order, while the private sector has remained distant to the phenomenon of urban renewal. Facing an intensive urbanisation process and targeting low-rise slum and squatter inner city residential areas, the new government of Justice and Development Party led to a number of urban renewal projects, mostly with non-participatory planning approaches.

The second period of the second era (2004-2012) started with the amnesty Code No. 5104. It provides legal background for a socio-economic transformation for a special region in Ankara. Separate, one-off laws issued for solving individual problems do not constitute an effective method of either legislative or executive execution (Özden, 2010:202). The government put the amnesty Law 5216 into force in 2004, which abolished the Code No. 3030 (Özden, 2016:314), for restructuring the legal status of metropolitan municipality administrations, ensuring efficient implementation of public services and introducing the term “Urban Transformation” officially.

The Code No. 5393 (2005) targets at decentralization with more autonomous and democratic construction of municipalities, within the context of the European Charter, to ensure that services are provided in an efficient and consistent manner and defining provisions on urban regeneration projects. According to the Article 73, the municipal council was the sole authority to decide on urban regeneration and development area, within the boundaries of the metropolitan municipality and contiguous area. The article did not include any regulations concerning on-site transformation approaches or house/land sales in the nearest place to the urban development region, while regulations ensure solely separation of inhabitants, contrary to the principles (Özden, 2010:3).

The Code No. 5366 (2005) considers renewal of worn-out protected areas with the establishment of residential, commercial, cultural, tourism and social facilities. It included

[21] 31/07/2003-4966-SK/4

the historical neighbourhoods, while the Code No. 5393 concerned only the working procedures of municipalities and renewal of the existing building stocks (Mutman and Turgut, 2018:169). The central state was authorised to develop decisions on building stocks of historical neighbourhoods. Local municipalities, TOKI and special provincial administrations shall take the lead in revitalizing neighbourhoods (Özden, 2010:6). The Code No. 5366 was not associated with the Code No. 2863 (1983), for protection of cultural and natural properties and regulation of proceedings and activities of the organisations. Within such perspectives, and inheriting insufficiency about social and human aspects, the implementation in Sulukule is based on the regulations in this federally mandated law. Through passage of the law, the municipal government would be able to transcend bureaucracy by progressing more quickly and they identified Sulukule as a potential site for cultural preservation, thus necessitating rehabilitation. The Article 24 had given municipalities the privilege of urgent expropriation if they consider that a regular one would cause delay. The practices left to local authority were far from the purpose of regeneration by preserving the unique historical and cultural texture. The shantytown areas, with more than 5000 residents, were divided into large parcels, violating many fundamental rights. The right to housing evolved into an effort 'get higher benefit from transformation and negotiate on the purchase price'. The prevailing system, under the indispensable pressure of powerful foreign and local business, led to land speculation by transferring land or remodelled houses to higher social class, instead of original residents (Seeman, 2019:386).

The government changed the Article 4 of the Code No. 2985 by the Omnibus Bill 5793, in order to transfer the space planning rights of the municipalities and related institutions, as well as the rights given to them by the Code No. 3194, to the TOKI. The law took effect in August 2008. Thus, the transference of this authority would cease the contradictions, tensions and even competitions between the central and local authorities. The central government, together with the TOKI and the certifying authorities (governors and metropolitan municipalities) would be able to control space-planning mechanism for the implementation of neoliberal practices at first hand, especially by removing potential restraints in the master plans to accelerate urban transformation, but possibly blocking the development of sustainable human settlements. Moreover, the TOKI could approve the plans ex-officio, possibly without organising the public display of the plans. This amendment gives the TOKI and cooperating local governments tremendous power over all municipal and contiguous territories.

The Code No. 5998 (2010) changed the Article 73 of the Code No. 5393, giving broad powers to the metropolitan municipalities; such as determining urban renewal and development areas, making plans and parcels, permitting building construction etc. This situation disqualifies the district municipalities. The metropolitan municipalities, by taking the necessary decisions in the council, could determine almost any area for urban transformation. This is against the basic purposes of urban transformation given by Roberts (2000:9-37). Briefly, these regulations are in violation of the Constitution's right to property, equality, fundamental rights and freedoms (Atalay, 2013). Upon the objection of the opposition party, the regulation was cancelled with the decision of the Constitutional Court dated 18.10.2012[22].

[22] E: 2010-82 K: 2012/159

The last period of the second era started in 2012, with the Amnesty Law 6306 including rudimentary rules on the urban transformation. In this last period, the public actors in urban transformation left their place to private sector, just taking care of organising and supervising processes (Özden, 2016:317).

6.2. Evaluation of the SURP in the Context of Turkish Administrative Jurisdiction Procedures

The case of SURP is in the scope of The Code Administrative Jurisdiction Procedures (Code No. 2577), which is regulated in the TC-1982. The Article 123 details, "*the administration is a whole with its formation and functions*", and "*shall be regulated by law*".[23] This provision refers to the principle of legality in the administrative law, highlighting that administrative act or action must be legal. The defendant must be the administrative body with a public legal entity. The Article 125 details, "*Recourse to judicial review shall be available against all actions and acts of administration*".[24] Therefore, administrative acts or actions are unilateral and have legal results on real or legal persons.

According to the Article 2 of the Code No. 2577, there are three types of lawsuits, which are "annulment actions", "full remedy actions" and "actions relating to disputes arising from administrative contracts signed to carry out public services".[25]

The annulment actions are objective and must be filed by the real or legal person whose personal, legal or actual interests are violated only by administrative acts. The annulment of an administrative act can only be demanded by the claimant. The violation of the interests is an obligatory requirement for filing the annulment action. An annulment decision is valid for everybody not only for the claimant (Çağlayan, 2016:411-414). The court cannot give order to the administration or take its actions. The annulment decisions in administrative jurisdiction are retrospective and have significant legal effects. They eliminate the relevant administrative process effectively. Its results affect not only the parties but also everyone (Çağlayan, 2016:523-547). In some legal or actual situations it may be impossible to abide by the court solution.

The full remedy action is for legal demands like enforcement of the right, which was violated, and compensation of legal damages. It also provides the rule of law and the effectiveness of the judicial inspection. The person whose personal rights are directly violated by the action of the administrative acts or actions can only file the full remedy action for compensation. The court decision is effective for only the parties of the lawsuit (Çağlayan, 2016:479-584). The administration has the legal responsibility about the damage, which must be actual, certain and economically assessable; pecuniary or non-pecuniary. The court decision in the full remedy action can dismiss the case or accept the case and judge some amount of compensation (Çağlayan, 2016:654-692).

Urban regeneration practices necessitate public service and law enforcement. The Article 3 of the Code No. 5366 states that "*The municipality shall perform all kind of inspections,*

[23] TC-1982, Article 123.Retrieved from "https://global.tbmm.gov.tr/docs/constitution_en.pdf.p.50".
[24] TC-1982, Article 125.Retrieved from "https://global.tbmm.gov.tr/docs/constitution_en.pdf.p.51".
[25] Code of Administrative Procedure, Article 2, p.1.Retrieved from "http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2577.pdf".

controls and legitimate proceedings or get those done and resulted." In that case, a natural person who involved to urban regeneration process may sue in his or her own name before the administrative court for compensation of damages that may arise from the defects of concerning persons or institutions. On the other hand, under the Article 129, "*the public servants and officials are obliged to carry out their duties." In addition,* "c*ompensation suits concerning damages arising from their faults in the exercise of their duties shall be filed only against the administration in accordance with the procedure and conditions prescribed by law, as long as the compensation is recoursed to them*". Their prosecution for alleged offences shall be subject to the permission of the administrative authority. If the superior do not recourse the compensation to *the public servants and officials*, this means that the superior did not execute the constitution neglecting the duty or the superior did not fulfil the judicial review. Therefore, the superior faces the threat of full remedy action under the Article 28 of the Code No. 2577. In such a case, a natural person who suffered damage from personal errors should be able to file a claim against the superior or local authorities, or both, for compensation (Yerebasmaz, 2013:258).

In the case of Sulukule, the legal processes were designed and executed by the FM. The administrative acts of FM and their reasons were pointed out clearly in their official promises, which were claiming the SURP would help Roma in many ways. Therefore, an aggrieved party can file a case towards the administration, but not to real persons. Many annulment actions and full remedy actions were filed in different times (Arıkan, 2010:57-60). The annulment decision of FACI (26.04.2012) could not be implement because the project had been almost finished while it must be applied immediately as a rule of law, if it is not overturned (Baştürk, 2013:306-307). The local authorities claimed it was *de facto* impossible. Then the SURP continued, as there was no risk arising from non-compliance with laws and regulations; because the Administrative Court had not issued of stay order before their annulment decision. The benefits of an annulment decision come from two forward-looking expectations; a) completion of the remaining part of the project could be prevented, b) filing a claim would be possible for compensation. In the latter case, some people who have acted *bona fide* might receive some compensation due to neglect of duty. However, the damage to the urban identity and its cultural and historical assets cannot be compensated.

Sulukule provisions of the Conservation Master Plan for Historic Peninsula that was approved by IMM on 14.12.2011 were cancelled with the decision of the Eight Administrative Court of Istanbul on 8.07.2018. The Council of State upheld this ruling that the SURP is not able to serve the preservation of gypsy culture and its use and survival, therefore not suitable with the public interest. It was the legal end of the SURP, but the construction project had already been completed in 2013 much before the court decisions, and the new homeowners had just gained the right to sell their houses in 2018.

In this point, there occur two significant questions;

a) Why did they not apply the stay of execution before the SURP was completed?
b) Why the court decisions and legal system could not protect Sulukule in practice although the court judged that the SURP does not serve the protection of Roma culture and public interests?

According to the Article 27 of the Code No. 2577, filing a case against an action of the administration before the administrative courts, or the Council of State, does not stop this ongoing execution.[26] The second paragraph of the article, however, rules "stay of execution", a *sui generis* legal term as another administrative option. It is an interlocutory judgment, not a definitive sentence (Çağlayan, 2016:551-552). The action of administration stops working after the decision of stay of execution. The main legal reasons are the protection of "rule of law", "fundamental rights", "freedoms" and "legality of the administration" (Aslan, 2017:19-22). The Council of State or the administrative courts can decide to the stay of execution in case of damage, which cannot be recovered or can be extremely hardly recovered and the action of the administration is clearly against the law.[27] Two obligatory conditions must exist together; a) the strong possibility of the damages which are impossible to recover or hardly possible to recover and, b) the obvious violation of law by the action of the administration. The stay of execution has a protective effect on the rights but it decision does not abolish the existence of the action of administration in legal aspect. The decision is also effective to past. The decision of the refusal or annulment of the stay of execution automatically abolishes the stay of execution. Those kind of decisions are also effective to the past (Çağlayan, 2016:559-573). In the case of Sulukule, where annulment action filed and stay of executions demanded, the court has never issued a stay of execution.

Considering the conditions in Sulukule, it is clear that damages cannot be recovered. According to the decisions of Council of State in 2015 and 2018, the Turkish Law System protected public interests because the SURP did not serve the protection of Roma culture. Therefore, the actions of administration can be qualified against the law. The two main conditions of the stay of execution were together in the case of Sulukule but the decision for stay of execution did not given by the administrative courts.

6.3. Evaluation of the Judicial Processes Concerning the SURP

The sufficiency of the judicial process to protect property rights and the compliance to the principle of rule of law in executive branch of the state, a milestone of modern democratic societies, can be questioned for the SURP. Tamanaha (2012:233-237) explained the rule of law as "*government officials and citizens are bound by and abide by the law; there must be mechanisms or institutions that enforce the legal rules when they are breached"*. He gave the description of two visible senses of the notion that government officials should work within a restrictive law; "*officials must abide by the positive laws currently in force"* and *"even when government officials wish to change the law, they are not entirely free to change it in any way they desire*". Citing Dicey and Hayek (1944), Tamanaha (2012:242) expressed; *"Expansion of administrative decision-making by government officials is antithetical to the rule of law, because they are not strictly determined by rules and because final decisions in the administrative context were not made by ordinary courts"*. Licht et al. (2007:663) stated,

[26] Code of Administrative Procedure, Article 27, p. 12. Retrieved from "http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2577.pdf".
[27] Code of Administrative Procedure, Article 27, p. 12. Retrieved from "http://www.mevzuat.gov.tr/MevzuatMetin/1.5.2577.pdf".

"*This institution encompasses broad societal respect for and protection of legal entitlements including ownership in tangible and intangible property (contractual rights, patents, etc.)*". Later Hayek (1945:57) mentioned, "*…rules make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances and to plan one's individual affairs based on this knowledge. Thus, within the known rules of the game, the individual is free to pursue his personal ends, certain that the powers of government will not be used deliberately to frustrate his efforts*". Therefore, the rule of law protects the property rights, and provides socioeconomic and socio-legal security. If the judicial system works properly and effectively, it helps the implementation of the rule of law and protecting the fundamental rights.

In the case of Sulukule, Turkish judiciary system gave the annulment decision, emphasizing the violation of the housing rights and socioeconomic rights of the community of Roma due to the SURP. However, the local authorities did not apply the annulment decisions properly. According to the related provisions of the Code No. 2863 (Protection of Cultural and Natural Assets), Code No. 5393 (Article 73) and Code No. 5366, the local authorities undertake to abide by the final solution of the administrative court, which is a constitutional duty assigned to the administration (Article 63) to protect historical, cultural and natural assets.

Although, the local authorities violated the court decision and the rule of law, the judicial proceedings remained slow until the annulment decision of The Council of State in 2018. The Council accepted unanimously that the decision of CCCA and other administrative actions in Sulukule (e.g. immediate expropriation, coerced removal of Roma etc.) were against the law and public interest.[28] According to this judgment, the project was not serving for the protection of the Roma culture in Sulukule, so the project was cancelled. The SURP, however, had already been completed leaving irremediable effects on the property rights and socio-economic situation, and the new homeowners had already moved to their new-modelled houses in 2013.

The judicial proceedings remained slow, late, ineffective and inadequate in protecting the fundamental rights of Roma and the public interest. Theoretically, the court decisions of the FACI in 2012 and 2015 respected the rule of law, property rights and public interest, but in practice, the court did not enforce its provisions. In practice, the effect of the court decisions was almost nothing. This is the indicator of the violation of the rule of law. Therefore, the judicial system was inadequate in protecting property and economical rights and the rule of law. Another administrative control mechanism in judicial interpretations of housing and property rights would be to find similar case laws rather than arguments on inefficient and slow judicial proceedings. I hope the annulment decisions given in 2012, 2015 and 2018 will be the burgeoning case laws to be considered and used in urban regeneration practices in future.

Some possible external factors may have affected the judicial process, such as adaptations of judicial reviews to the capital movement and adaptation of plan notes. The former can be

[28]Doğan, R. (6.11.2018). "Geç gelen adalet: Sulukule projesi altı yıl sonra iptal". Artı Gerçek. Retrieved from "https://www.artigercek.com/haberler/gec-gelen-adalet-sulukule-projesi-alti-yil-sonra-iptal"

done so as not to slow the influx down, especially under unbearable top-down pressures. The latter is also a cunning method in affecting the judicial process. When it is understood that an annulment decision will be taken against the plans, some subtle changes can be made in the plan notes that will not spoil the former one. In the case of Sulukule, the FM prepared a new preliminary project, at the same time with the annulment decision of the FACI in April 2012. The CCCA upheld this new preliminary project draft even just before the judgment. Actually, there was no significant difference between the new preliminary project and the previous one rejected by the Administrative Court. Then the UCTEA filed a new case against the FM. In this way, the project can continue based on the new plan even if there is a decision to suspend and/or cancel the execution. This method act to nullify judicial decisions, like in the case of Sulukule.

7. CONCLUSIONS

Despite some attention paid to protect the historical and cultural texture in Sulukule by healing unfavourable conditions, the Sulukule Urban Regeneration Project (SURP) could not been a successful action plan. The practices in Sulukule did not help a sustainable development. The most important causes are; a) the cultural heritage was destroyed, b) the impoverished residents of Sulukule could not be able to reside in their former settlements, c) social balance in the settlement area could not be maintained, and finally d) a central prestige area could not be established in which various activities could be organized. Single-type procedures ignored the cultural meaning of space, unique texture of architectural heritage and demographic structure. The project could not ensure an economic development for the partially marginalized population of Roma, while increasing their vulnerability; partly estrange them from their identity.

The very first sign of gentrification was to launch a cruel smear campaign against the inhabitants as if they were land occupiers. The result is the demolition of Sulukule, "*the home*" of Roma, accompanied with violation of the fundamental rights; such as adequate housing and protection from displacement due to expropriation. It was an intervention on purpose not only for economic development but also due to cultural differences, meaning the violation of the right to non-discrimination. Accompanied by heated and long-lasting legal struggles against the state, the first determined resistance by Roma in Turkey and their voluntary defenders, it took local authorities three long years (2006-2009) to raze the entire quarter to the ground. Almost all of the residents, except those in the houses protected by law, had to leave Sulukule. A great portion of the inhabitants, the most disadvantaged group of the SURP, moved to the TOKI houses outside the city, practically losing their right to the city. Less unlucky ones moved to the neighbouring quarters.[29]

Even after the gentrification, the neighbourhood remained one of the most problematic areas of the city. In recent years, some families and refugees, who have fled from war zones due to recent uprisings in the Middle East, have joined to the new ethnic and social class groups in Sulukule as a new social group. Sulukule has undergone a physical change, but the illegal life (e.g. theft, prostitution, drug trafficking, etc.) appears to be on a much different path and in a much different dimension.[30] Now, a neighbourhood has emerged with iron gates along its streets, houses surrounded by barbed wires, a place even a domestic people would be reluctant to pass by. The most important factors that played role in this failure are summarized below in the context of political, social and legal issues.

The first factor is the lack of a holistic approach in the Code No. 5366, which is necessary for the protected sites and the settlements in them. The Code defined the regeneration areas independent from the Protection Law, a situation potentially open to abuse in practices. The Code ignored socioeconomic dimension, scientific criteria to be applied in the selection of urban regeneration areas, and previous conservation plans. It allowed planning based on the islands, as well.

[29] ERRC, "ERRC report on Turkey for the 2010 EU Progress Reports", 01.06.2010.

[30] Yeniçağ Gazetesi, 'Sulukule Mülteci Kampına Benzedi', 14/06/2014 Retrieved from "http://www.yenicaggazetesi.com.tr/sulukule-multeci-kampina-benzedi-98458h.htm".

The second factor is the attitude and behaviour of city governors who possessed the menacing force given by the Code No. 5366. Because the city governors can better assess the local needs, they can obtain new opportunities by the transfer of governmental capacities and responsibilities to sub-national scales. The role of the central government in this system should be limited to partial financial support, supervision and coordination. In the second period of the second-generation structural reforms, however, the institutional arrangements and practices for urban transformation have all been concerned with centralizing the powers. The legal regulations of the central government enabled different models for different areas of transformation (e.g. disasters, renewal, transportation, valuation of areas taken out of forest area borders, etc.), so the transformation processes gained legitimacy. According to the Code No. 5366, the city governors have the rights to choose almost any land area including historical sites for regeneration, to prepare the project and to perform it. Unfortunately, they transformed Sulukule according to their own needs, instead of a) learning about the local people and their needs, b) developing common objectives to improve their socioeconomic conditions, c) establishing effective social partnerships, and then d) producing socio-legal strategies based on multidisciplinary comprehensive data before transforming the place. Urban regeneration projects change the face of the city by influencing the elements of common culture. Therefore, they should be done with patience, meticulousness and extreme attention to every detail of socio-legal issues in order to prevent the loss of urban identity and minimize probable harms. The opinion of the public should be taken in advance, and if necessary, referral for the projects should be done.

The third factor is the resulted social stratification. The SURP is the agent of the gentrification, leading to new social stratification, as well as the demarcation of the boundaries. The boundaries mean a virtual destruction of Roma, but not any assimilation of otherness. The character of this gentrification has been described by those who moved to the neighbourhood, mostly Syrians and other foreigners, but not the former residents of Roma (see Appendix A and B). This exhibited a dramatic shift in the ethnical composition. Therefore, the social identities are better to be considered as interdependent and communicating areas, instead of taking them as bounded regions.

The gentrification of Sulukule has never been a well-planned collective process. The communications between its actors, sometimes their roles, were not so clear. The neoliberal state, for example, lost its regulation role, and became an agent of the market. The pioneers of the gentrification process are now the people who search a new lifestyle in the capitalist production of revanchist urbanism. The new neighbourhood could not contribute to the identity of the city and to the dissemination of the urban policy objectives of the city, as they have no relationship with the city or nearby quarters. The tourism potential of the region has been set to zero.

In terms of social stratification, replacement of the community of Roma by new middle-class residents caused the destruction of intangible cultural heritage and loss of identity. Real inhabitants lost their sense of belonging to the city as their housing and property rights were violated with expropriation, coerced removal of the inhabitants, and cultural interruption. The community of Roma could not be adapted to live in standardized conditions and official environments.

Meanwhile, the gentrification in Sulukule had also some favourable consequences; even they were not so intentional. These are a) to become aware of their rights as citizens for the

first time, b) to bring members of the community together and get in touch with NGOs, and c) to develop associations that would make them stronger to seek their fundamental rights with joint campaigns. I have taken notice that the dislocated residents of Sulukule, whom I interviewed in August 2019, were anxious more about their economy, instead of possible cultural erosion under the negative and positive effects of gentrification. In this context, I can express that the dislocated urban Roma community felt the damaging effects of being able to survive financially rather than the victimization and cultural erosion caused by the fact that they stayed away from their neighbourhood. The Roma culture has powerful structural bonds that will not change easily with any intervention; therefore, the economic concerns have come to the forefront, rather than the cultural concerns.

The forth factor explaining why Sulukule remained one of the most problematic areas of the city is the interruptions that delayed resolution and tactical manoeuvres. The local authorities, who guessed or knew the annulment decisions in advance, tactically prepared new preliminary plan notes apparently with trivial details. New plan notes were approved immediately by the concerning boards for protection of cultural and natural heritage, ensuring that the construction did not slow down and completed before the procedural measures. It is also meaningful that the final resolution came after the deadline in the TOKI clause passed that paves the way for selling the houses in Sulukule.

In some cases, the judicial system and judicial reviews may not be adequate for protection of the public interest and the fundamental rights. This is especially so "where what is required is a challenge to a public participatory mechanism", as clearly pointed out by Birkinshaw (1997:22). Therefore, some new formulas, beyond the power or authority of a court or judge, can be developed for the protection of the rights. The new formulas are different from the conventional way of judicial reviews. They are not related with responsive governance "*which is dependent on organisational, economic, administrative and political arrangements that have their own influence outside the ambit of law and legal norms*" as pointed out by Vincent-Jones (1998:364-376).

The main point in a suitable urban strategy will be the optimum use of the scientific and social methodologies, and legal tools and documents to be applied in solving the problems. During the SURP, a series of political events, socioeconomic and socio-legal claims and conflicts intervened. As bounced between the laws, provisions and regulations, meanwhile, the Civil Society Organisations gained much experience during their struggle spreading over ten years. There were always lessons learnt. They have communicated and shared their experience with the other citizens who might be evicted from their homes. The lawsuits that could not be filed during the SURP, due to the deadline set by the law, could have been opened now immediately at the other parts of the city. The legal acquisitions of the Civil Society Organisations and concerning court decisions created important examples for other urban transformations in the other parts of Istanbul.

In conclusion, the SURP was a critical failure, if it is compared with the other examples in Istanbul, in Turkey and in the World. The experience gained in dealing with the SURP has shown that socioeconomic and socio-legal problems cannot be solved only by physical interventions. Protection programs including socio-legal policies to support the local residents can provide solutions that are more appropriate. The regulations concerning urban transformation should also be updated in order to produce solutions for socio-legal issues. They are all essential for the sustainable development of cities and society.

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Primary and Online Sources

The primary sources are given in the footnotes.

Last access of all online sources is August 28, 2019.

APPENDIX A

Some Preview Interviews with Roma/Sulukule Residents and My Footnote Comments

There are many interviews on Roma in Turkey, their historical neighbourhood in Sulukule, the recent urban regeneration project (SURP) and its consequences, spreading over 15 years from the very beginning to the recent court solutions. Many of these interviews have been published in daily journals, Master and PhD thesis, magazines, social media and web pages. I preferred to present some critical, explanatory and sometimes emotional dialogues in this appendix, to avoid probable interruptions and interventions through the manuscript. Otherwise, many interviews scattered within the body of the thesis would be much distracting for the readers. I added some explanations and comments in the footnotes with necessary primary or secondary citations.

Şükrü Pündük (President of Roma Culture Development and Solidarity Association)[31]: *First, we certainly did not oppose the urban transformation, and wanted better living standards. However, it destroyed our life opportunities. This was not an urban transformation for us.[32] We asked all necessary questions to be sure. The local authorities always replied 'no worry, this will be in your favour'. They asked the homeowners[33] to accept their conditions. They always warned us. Unless we sign a contract, they would apply the urban transformation law, deposit the money in bank, and demolish our houses. There would be no authority for us to apply, they added. This was a challenge actually.[34] On the other hand, the tenants had a chance to move to the TOKI houses in Taşoluk, 47 km out of the city centre.[35] UNESCO visited the neighbourhood in 2008 and 2009. The region had to be preserved physically, socially and culturally, according to their norms. After their UNESCO, the attitude of the local authorities did not change and the destructions continued street by street. They did not consider the suggestions by UNESCO.*[36] *Three hundred forty families were given home by lot. Municipality*

[31] Meltem Yılmaz on 31.10.2016, Retrieved from: "http://www.mimdap.org/?p=193697"

[32] The proposal of the Mayor in November 2005 declaring that Sulukule would be the first urban regeneration area, which had gained support from different milieus because of the specific social and history of Sulukule, was approved first by the local government in January 2006. Following the approval by the government in April 2006, the local authorities and TOKI signed a protocol in July 2006.

[33] Actually, it was only the titleholders.

[34] It is another face of Gramscian hegemony, a precautionary dissimulation or denial of practice becomes a tool for persuasion and hiding the decisions during planning and applications.

[35] Even though the UNESCO Report 2008 indicated that 51.5% were renters or users without paying rent, the municipality claimed that 2/3 of the Sulukule consists of the renters. They could own social housing 2 km outside the village Taşoluk after regular payments of USD 250-450 for 15 years. It was 2-3 times of the average rent levels in Sulukule and more than the average monthly salaries of 45% of the Sulukule habitants.

[36] It was important to be in the list of World Heritage of UNESCO, following the acceptance of Code No. 5366 on "Preservation by Renovation and Utilization by Revitalizing of Deteriorated Immovable Historical and Cultural Properties", entered into force in 2005 just after the approval of renewal plan by the Major. UNESCO reported that both the Code No. 5366 and the ongoing urban transformation project in Sulukule pose a threat to the preservation of the World Cultural Heritage sites. They recommended that the project had to be reviewed and the area with its population be protected. However, these recommendations were not taken into consideration by any institution. Meanwhile, scholars from the University of London College prepared a development plan on human and heritage

bulldozed our houses as crowds watched.[37] Following such a collective loss and an inevitable precipitate decline in our neighbourhood conditions, which continued 2.5 years between 2006 and 2009, we moved to the TOKI flats in Taşoluk where we had no social facilities in the form of school, hospital or regular transportation to the city centre. We used to live in courtyards. This was not our lifestyle. Finding an employment was almost impossible there[38], so we had to go work in the city to be able to pay our rents. We musicians return home late at night, which was impossible by public transportation. Why should I work then; to pay for taxi? Today, none of these families lives in Taşoluk. I lived there just only for six months. When we returned, almost everything had changed in Sulukule[39]. Many of us hired a house nearby Sulukule. Urban transformation broke up the families and ended our solidarity. The former Sulukule is now a Syrian Quarter. We know many families or individuals live in the same house. In 2011, we applied to ECHR; they accepted the case, even we had not exhausted domestic remedies yet. Then we have also sued the State. Now, my expectation is to win this case before the ECHR's solution and to show everybody the public justification.[40]

Cenk Kocaeli[41]: *The Ministry of Tourism approved the Entertainment Houses Project in 1985. The police raids on the entertainment houses started in 1990, when their number increased*

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dependence and a group of volunteers, the Autonomous Planners Without Borders, issued an alternative development plan on social, economy and space.

[37] This was relatively an easy job for the local authorities, because they made the people think it was a bad and dangerous place. Coerced or involuntary removal of the inhabitants of Roma from their houses and from all other assets they had, without planning long-term resettlements, did not comply with UN eviction norms and standards ("Basic Principles and Guidelines on Development-Based Evictions and Displacement", A/HRC/4/18). The Sulukule Platform claimed that two out of the 45 registered buildings were destroyed. The FM refused this charge by claiming that these houses were not registered in the "Suriçi Zoning Plan", approved by the Council in 2005. According to the EU-Turkey Progress Report for 2007, the State had not taken necessary steps to provide shelter and concerning services for the community of Roma. The CSOs appealed to the Administrative Court to stop the expropriation and evacuations "http://www.mimdap.org/?p=4799, 14.03.2008". Meanwhile, more than 65% of homeowners had already sold their properties to real estate opportunists and people close to the authority by April 2009.

[38] The inhabitants in Taşoluk excluded the Roma and refused to have social relationship with them. Bad reputations of some Roma have led to their stigmatization.

[39] Three hundred ten families out of 325 returned.

[40] The Turkish Chamber of Architects, Urban Planners, and the Sulukule Platform had appealed to the FACI for the cancellation of the project. They did not grant a motion for stay of execution, but in April 2012, they reviewed that "the project was not in the public interest". The FM, however, had already prepared a new "so called" project in August 2013, without waiting the decision of the Council of State. The Sulukule Roma Culture Development and Solidarity Association has also filed a lawsuit against this plan. Most of this studies and resistance were carried out by those who were not originally living in Sulukule. In summer 2013, they completed the "villas", as they called, gave them over to the new homeowners, despite of the court solution. In April 2015, the Council of State upheld the annulment decision on the grounds that it was "not comply with the Law 5366" and "not in the public interest". They always won in the courts, but they lost Sulukule.

[41] Interview by Filiz Gazi on 23.10.2018.
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"

due to high profit return. Later on, they blamed Sulukule as a recidivist to shut down the entertainment houses; it was on purpose just to stain us.[42]

Hakan Yağmur (47)[43]: *The Roma people in Sulukule are poor and uneducated. They usually drop out of school; they are unable to read or write properly. They do not have money so they cannot rate it. They have thought that the money offered them for their houses was really a good price. When they saw cash money, they sold their house. They closed the stable door after the horse has bolted. It was too late.*

Hasan Açar (63)[44]: *Some of the new houses in Sulukule are very small while some others big. The high-income people from Anatolia, as well as Arabs and Syrians buy them. Do not look at their beautiful façades; they do not deserve such exorbitant prices. A number of them were repaired recently or undergone some renovations.*

Muhammed Furkan[45]: *They sold two-thirds of the historical neighbourhood. Instead, festivals could be held, stands could be set up.*

F.G. (Security guard)[46]: *These barbed wire walls surrounding the new houses has actually been made for some of the former Roma who returned to the neighbourhood. At present, luckily, entering the neighbourhood is possible. No more security guards there are in the security cabinets. It is an interesting case of incompetence. Contrary to what it was expected, no reputation came in the neighbourhood.*

Aunt Nurcan (Grosser in Sulukule)[47]: *Sulukule was busy, alive and funny with its characteristic musical instruments. Suddenly, everyone was in suspense.*

Nuri Künteci[48]: *The State says that Sulukule was cleaned; but those who were removed from the neighbourhood moved to the houses two blocks away. Therefore, it is again the same. The people call the new neighbourhood as the Little Syria.[49]*

Kamil (33, Security guard)[50]: *They said they would give new house to the people who had a title deed. Instead, they displaced them. Then they made up excuses like there was a problem*

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[42] The region gained a notoriety for criminal activities, drugs and prostitution following the entertainment houses were closed.
[43] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[44] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[45] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[46] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[47] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[48] Interview by Filiz Gazi on 23 October 2018
"https://www.gazeteduvar.com.tr/turkiye/2018/09/23/nereye-gitti-bu-sulukuleliler/"
[49] Mostly Syrian, and partly Crimean, Tunisian, Egyptian, Iranian and Palestinian families live.
[50] *Yücel et al., 2012:p.4. Yücel, H., Aksümer, G., Çakır, S. (2012). "Konut için Yuva Olmak. Yıkım Tehdidi altındaki Gecekondu Mahallelerinde Mahalle ve Mahallecilik Algısı, Sarıyer Derbent Mahallesi Örneği", "Dünya Şehircilik Günü 36. Kolokyumu", "Mekânsal Değişim ve Dönüşüm", Gazi University, 7-9 November 2012, Ankara, Turkey.*

in the development plans, it was a protected area, so we moved you behind the city's fences, etc. We were supposed to pay our debts in 20 years. All these were completely trickery.

Metin[51]: *If the municipality had provided job opportunities to those people who settled in Taşoluk, they would earn their lives there.*

Anonimus (Tradesman in Sulukule)[52]: *It was bad to start the project with the structures (buildings). It would be better to start with the people.*

F.A. (Renter in Taşoluk)[53]: *They brought us here (Taşoluk) because we were poor. However, they treated us as if we were rich. We cannot even pay the monthly instalments, even the monthly condominium payments, electricity bills and water bills. They put in an execution and levy. Therefore, we flee to home (Sulukule, Fatih) on weekdays in case the officers from the debt enforcement office come and push us into foreclosure. We come over here (Taşoluk) only at weekends. It is the resort of Sulukule.* Her friend (interfering): *Sulukule was Paris, this place is a closed jail; we are nervous; we are slowly dying.*

Hacer Foggo (Activist)[54]: *You must learn about the people and their needs when you transform the place. However, you are transforming the place according to your needs. That is the issue.*

Murat (35-year-old resident, giving his views on the activities of the cultural organisation RCDSA and the Sulukule Platform)[55]: *There is no culture here anymore; the only culture that exists now is the culture of wickedness (immorality). I have nothing to do with their culture, and I have nothing to do with their association.*

[51] *İslam &Enlil, 2010:p.326. İslam, T.&Enlil, Z.(2010). "5366 Sayılı Yasa Merkezli Dönüşüm ve Sulukule Örneği: Belediye'nin Hedefleri ve Yaşanan Gerçeklik". In: "Kentsel Dönüşümde Politika, Mevzuat, Uygulama, Avrupa Deneyimi", İstanbul Uygulamaları, Ed: Özdemir, D. Nobel Yayın-No.1569, 317-334.*

[52] *İslam &Enlil, 2010:p.329. İslam, T.&Enlil, Z.(2010). "5366 Sayılı Yasa Merkezli Dönüşüm ve Sulukule Örneği: Belediye'nin Hedefleri ve Yaşanan Gerçeklik". In: "Kentsel Dönüşümde Politika, Mevzuat, Uygulama, Avrupa Deneyimi, İstanbul Uygulamaları", Ed: Özdemir, D., Nobel Yayın-No.1569, 317-334.*

[53] Sulukule Roman Orchestra wrote a song called TOKI with lyrics "Rock, rock, rocky, you burned us TOKI" Gazette Hürriyet, 25.03.2009, "Rak rak raki, yaktın bizi TOKI.

[54] Osseiran, Najla, 2012. "Transformation for whom?" "https://vimeo.com/41657784"

[55] Kahraman (2010), p.109. An interview on 28.01.2009. In: Kahraman, O. (2010). "Remaking Space for Globalization: Dispossession through Urban Renewal in Istanbul", PhD Thesis, Faculty of the Graduate School of the University of Minnesota, 130p.

APPENDIX B

My Face-to-Face Interviews with the People of Roma from the Former Sulukule

This Appendix presents my interviews with the participants who were affected from the Sulukule Urban Regeneration Project (SURP). I have used a formal and semi-structured interview technique. In the footnotes, were given some of the stories told me by the participants, and by the leader of the community of Roma, after the questionnaire.

The Questions Asked

1. Have you been affected by any issues emerged during and after the SURP. If so, were you a homeowner or a tenant?
2. Please explain how you have been affected (relocation / migration / economy-ownership / social / cultural / occupation, etc.)?
3. Did you take any action to prevent them? E.g. claiming your rights?
4. What are the damaging effects on you?
5. If so, what have been done to reduce/heal your distress or pressure on your shoulders?
6. Would you like to return Sulukule (your home)?
7. Do you think you will be entitled to any possible compensation?

Mr. U.D. (working in a coffeehouse)

1. *I was a tenant in Sulukule. Although we were paying 250 TL (130 Euro) for rent, we were getting along.*
2. *We have been affected financially. We had to move to a neighbourhood we did not like. I was working as a designer at the shoe factory Kemal Tanca. I am currently working in coffee shop in the neighbourhood next to Sulukule.*
3. *I did everything to get my right. Even though some people who were not living in Sulukule entitled to some rights, I could not. The electricity subscription was on my mother. People who have never lived in Sulukule had electricity and water subscriptions upon them to prove that they were tenants.*
4. *Our social personality has been broken. There were resentments within the family.*
5. *They did nothing for us. It got worse and worse. You know the crash (slum areas) in the Aksaray District. Which district you would like to demolish first? Aksaray or Sulukule? Alternatively, Küçükpazar District?*[56]
6. *I would like to return to Sulukule. I wish I could.*
7. *No, I do not think. I hope the council does not charge us.*

Mr. H.K. (worker in local municipality)

1. *We have been affected. We had our own house in Sulukule;, my mother was the freeholder.*
2. *We moved to another neighbourhood (Hirka-i Serif). We are currently paying 1400 TL (220 Euro) rent. When we first moved in 2009, our rent was 800 TL (370 Euro). When*

[56] It is a neighbourhood in the Süleymaniye Regeneration Area, Historic Peninsula, Istanbul.

they took our two-storey house, they paid us 60,000 TL (30,000 Euro). We were living in the same house together with my brothers' family.

3. *We did not get our rights. They tied our hands, so we could not do anything.*
4. *Many negative effects happened on us. I still miss my neighbourhood. If I owed 300,000 TL (50,000 euros) now, I could return the neighbourhood. I consent to.*
5. *Nothing has been done for us. Although they knew us well, they destroyed the neighbourhood.*
6. *Of course, I would like to return Sulukule. None of our elders who tried to convince us in this business is living now. In less than ten years, they all died. Desire of God.*
7. *I do not think they are going to pay us any compensation.*

Mrs. S.T. (Female, knitting worker)

1. *I was the property owner. I have been affected by the project. My son dropped out of school, because we ran out of money.*
2. *We got a bank loan and repaired the house. It was a historical house, owned by an attaché; so it is supported by the Ministry of Culture and Tourism, Protection Implementation Inspection Bureau (KUDEP).*[57] *Later my brother and I had to sell our house, because it was a joint-owned property inherited from our parents.*
3. *They could not touch my house because it was historical. We had to sell the house because of financial difficulties. I bought a house in the District Silivri, 67 km away from Istanbul city centre. Now I am back in Karagümrük, a neighbourhood next to Sulukule.*
4. *Our biggest trouble is, you know, living difficulties. Nothing much happened other than that. This was not gentrification, but corruption (natural, cultural and social degeneration). We do not have the old order of us. They tried to make us forget our ancestor, our past.*[58]
5. *We did not see any support.*
6. *I would like to return Sulukule, but if only I had the same house. If I were a rich woman or I could borrow money, I would like to get my old house back. I have many memories there.*
7. *It is unlikely that I will be compensated. However, I would love to take it.*

Mr. Ş.P. (President of the Roma Culture Development and Solidarity Association)

1. *I was the homeowner. We have been affected seriously. First we heard "urban transformation" in 2005, without knowing the meaning. The new Code No. 5366 had given vast amount of authority to the local governments. They paid compensation fee*

[57] My cousin, Canay Tunçer, visited the house of Mrs. S.T. on 20.05.2011, when she was a student in the faculty of architecture, to prepare a relieve report. According to her field survey notes, the mother of S.T. had bought their house from an attaché. The KUDEP repaired their house in 2008. For this, Mrs. S.T. had to receive a bank credit. It was one of the entertainment houses of Sulukule which were closed in 1994. It was specially designed for the comfort of the guests. Mrs. S.T. had paid all of the concerning taxes to the municipality, and she was still keeping these documents as proof of ownership.

[58] The forced evictions took away their (especially for women and children) social capitals and vital mechanisms which they had developed by themselves mostly under the unmerciful conditions of being unregistered. Their solidarity practices and networks needed to live together were destroyed.

of 2000 - 3000 TL (1000-1400 Euro) to the tenants. The transformation here was not for urban practices but for money practices.

2. *My house was demolished, built and sold. I went to Bursa because I did not want to see when it is falling down. Even I did not get my stuff with me. They destroyed the house with my stuff. It was a single storey house, with a narrow second floor at the backside.*
3. *I filed a suit in the Constitutional Court. These cases are still pending. We also filed a suit for individual compensation. We are waiting for the court decision.*
4. *It was a huge destruction for us. My ancestry came here in 1480. We grew up under the influence of Ottoman and Istanbul cultures. We have nowhere to go. The demolitions affected my children very much; they could not still forget the destruction. When I went to school to pick my children up, they were playing in the park. Then they dropped out of school.*
5. *We did not get any housing benefit. Nothing was done. The local authorities promised that they would build houses in accordance to Ottoman civil architecture. They added that the transformation was for the community of Sulukule, for only homeowners. Instead, they destroyed our current culture. They did not give us anything.*
6. *I want to re-create Sulukule. It was our habitat. I wish they had let us reside there.*
7. *Off course. We will surely take our right, even if it is not a compensation. We will be waiting patiently.*

Mr. Ş.P. also addressed many additional issues beyond the enquiry;

We respect women in my family; we have many children. In order to keep our culture alive, the Sulukule Tourism Association and the Sulukule Folklore Association were established in 1967 and 1986, respectively. Now we have established the "Sulukule Roma Culture Development and Solidarity Association". I am the president. The local municipality rejected my personal request for a meeting with the major of FM. Then we established this association to request an appointment. As the president, I went to the European Parliament on the topic of Sulukule Urban Transformation. I gave a speech in Brussels. The major of Fatih was there as well and made a speech. For him, it was not true that they were going to destroy the 1000-year-old culture of the Roma. Well, what happened now?

There are at least 2.5 million Romani in Turkey. We are very good musicians. Our children, however, cannot pass the conservatory exam because they fail in the exam of general culture. We are a disadvantaged society. We established the Sulukule Roman orchestra, aiming to reflect the sounds that came under the rubbles when our houses falling down. We performed concerts in Germany, Malmö, Stockholm and Greece. There are 23 people in the orchestra, all self-taught artists. Only a few knows how to play notes. In the past, many romans used to live on "unkacılık"[59]. This is a special profession of us. Now it is almost finished. We had a carriage culture as well. We never went grocery shopping; we waited for a horse cart. Sulukule was actually the heritage of the whole world. It needed to be protected. This land (Turkey), this (Turkish) flag is our honour.

An area of 6000 m^2 was determined for the urban transformation. 620 households were destroyed and 627 households were built. However, we had the courtyard system, an indispensable element of our culture. You need at least 3 houses to have a courtyard. Some

[59] An unusual job, borrow goods (sweaters, coats, pants, shirts, perfumes, watches etc.) from store, sell them outside, and then bring money to store for the net settlement.

courtyards had been surrounded by five or more houses. The municipality, however, counted one islands as only one house. Now there is only a few former families remained in Sulukule, the rest are foreigners. 337 families were deported to the TOKI houses in Taşoluk, 45 km far away from the city centre. It is located in a water drainage basin. Under the neighbourhood of Sulukule, however, the ruins under the soil are from the Ottoman, Byzantine and Roman eras, from top to bottom. Some people even tried to find treasure in Sulukule during demolitions. Now there is no one from our community left in Taşoluk; all the Roma are back near Sulukule, distributed in the surrounding streets.

We must finish all our legal struggles here in Turkey to be able to apply to the ECHR. The new houses already completed. Negative prescription and vested rights in law bounds the right of bringing action[60]. Some of us are still waiting for the court decisions for our personal sues. Of course, we need sufficient political support. For the first time in our history, a Roma citizen (Mr. Şahin Kumralgil) was elected as a member of city council in the last local elections. The first Roma deputy entered the Turkish Parliament in 2015 (Mr. Özcan Purcu) and the second in 2018 (Mr. Cemal Bekle). I think, these MPs, both are from Izmir, are the reflections of our struggle on the responsive people of Izmir.

[60] Negative prescription and vested rights are two legal concepts. According to Merriam-Webster Law Dictionary, the former concept establishes time limits for when obligations and rights, such as obligations under a contract, are extinguished. The latter is a right that has secured to its possessor and is not contingent on any event that may or may not occur.

TRANSLATION OF THE INFORMED CONSENT FORM USED IN MY INTERVIEWS

Informed Consent Form

PLEASE TAKE TIME TO READ THIS DOCUMENT CAREFULLY

I invite you to the research carried out by Batu Can ALPAR about the effects of the Sulukule Urban Regeneration Process on you. Before deciding to participate in the research, you need to know why and how to conduct the research. Therefore, it is important to read and understand this form. If you do not understand and are not clear to you, or if you want more information, simply ask me.

Participation in this study is purely voluntary. You have the right not to participate or to leave at any time after participating. Your response to this Informed Consent Form will be interpreted as your consent to participate in the study.

Do not be under any pressure or indoctrination when answering questions in the forms provided to you. The information to be obtained from these forms will be used solely for the purpose of my Master's Thesis study at the ONATI INTERNATIONAL INSTITUTE FOR THE SOCIOLOGY OF LAW, Basque Country (Spain). The data will be used only for academic purposes and will not be copied. No data and information will be given to third parties.

Batu Can ALPAR:

Research Information:

a. Purpose:

This research was designed to analyse the results and effects of the urban transformation process in Sulukule. The objectives of this study are as follows.

1. To determine economic, social and psychological effects on the people of the region after the transformation
2. Evaluate the interventions of central and local administrations from the perspective of local people

b. Content of the Research: To determine the social perception of socioeconomic effects of urban transformation.
c. Reason of the Research: □ Scientific research □x Thesis
d. Projected Duration of the Study: 1 month
e. Number of Participants / Volunteers Expected to Participate in the Research: 3
f. Research Regions: Fatih, European Side of İstanbul

APPROVAL OF PARTICIPATION:

I have read the information above, which should be given to the participant before the survey, and fully understood the scope and purpose of this research that I was asked to participate, and my responsibilities voluntarily. Written and oral explanation of the right to work was made by the researcher himself (Batu Can ALPAR), to whom I had the opportunity to ask questions and arguments and I received satisfactory answers. I was also verbally told about the possible risks and benefits of the study. I understood that I could stop this interview at any time and without having to give any reason, and that I would not encounter any negativity if this happened.

In these circumstances, I voluntarily agree to participate in this interview / research without any pressure or coercion.

Participant (handwriting)

Name and Surname: Signature:

Note: This form is arranged in two copies. One of these copies is given to the volunteer in return for signature; the other is kept by the researcher.