

OBSTACLES AGAINST GOOD GOVERNANCE

A CASE BY CASE SUMMARY
ENERGY AND CONSTRUCTION SECTORS

TRANSPARENCY
INTERNATIONAL TURKEY

OBSTACLES AGAINST GOOD GOVERNANCE

A CASE BY CASE SUMMARY IN THE ENERGY AND CONSTRUCTION SECTORS

A BRIEF OVERVIEW

An analysis of construction and energy sectors in Turkey is conducive for identifying both corrupt ties between ruling and business elites, and for systemic deficiencies and mechanisms that enable and (re)produce these ties. Rent creation and distribution in these sectors reveal systemic practices of cronyism, discretionary power mechanisms and networks, state party fusion. Political elites employ privatization practices, public private partnership concessions, public bids and procurements, preferential credits from public banks and/or Treasury, tax policies, licensing, registration, inspection and permits as tools that facilitate the rapid growth of companies that belong to these power networks. Systemic corruption is mutually beneficial for both parties in two main ways. First of all, power networks formed between actors of these sectors and ruling elites have defining impacts for political financing which in turn assure sustainability of status quo for the captured state. Secondly, through strategic cross ownership, overlapping actors of these two sectors also control and/or influence mainstream media outlets either through direct ownership or through financing. Along inciting corruption that undermines core democratic values, the nature of state capture in these sectors among the main sources of social inequalities and the social impact in a range of fields from labour deaths to environmental problems is destructive.

Rent creation and distribution mechanisms and dynamics of government- business relations have been radically transformed during the rule of AKP governments. Corruption has evolved to a form of state capture which reveals itself clearly in the construction and energy sectors. Asset distribution has been a strategic tool for the ruling party to create its own loyal capitalist class and power network. Most influential actors of this network generally operate in and dominate both sectors. The capture is both executive and judicial as these business actors enjoy legal immunity and a wide range of benefits of crony capitalism established in the past decade. The abundant evidence of patronage and clientelistic networks and the enormous rent created and distributed in these sectors that make up more than 40% of the national GDP (including the sub sectors) provide a clear picture of the mechanisms and functions employed. In this regard, the report analyzes state capture mechanisms in construction and energy sectors between 2004 and 2014. The main mechanisms analyzed are public procurement, privatization, public private partnerships and urban gentrification. The main actors whose relationship with the political elite is analyzed in the case studies are Kolin, Limak, Cengiz, Çalık, ERG, Torunlar and Rönesans holdings.

The Public Procurement Law (No:4734) introduced in 2002 provisioned efficient, transparent and depoliticized public spending. The law was changed over 200 times in the past 15 years. 175 of these changes occurred between 2004 and 2014. Most changed article is the one that regulates the exceptions. The scope of exceptions which give the public authority the arbitrary flexibility to award procurements is widened extensively and, in the end, open, transparent and fair procurement processes themselves have become exceptions. Overall, both the number and the value-share of public procurement contracts those fall outside the relatively more competitive public procurement procedures (open auctions) increased substantially during the period of 2005 and 2014. While the number of contracts awarded via open auctions fell from 100,820 in 2005 to 65,016 in 2014, the number of contracts awarded through less competitive and less transparent methods and those covered by exceptions rose from 41,157 to 58,680. Heavy majority of these exceptions are related to construction and energy sectors. The increasing percentage of goods and services acquired without procurement processes have become 44% in 2014. For the periods between 2005-2015 instances of exceptions and direct purchases to the total share of public

purchases have increased by almost 10 percent, but decreased in total value from 27% to 13%. These figures suggest that as the scope of the PPL has been narrowed over the years; the exceptions that were previously reported under the PPL are now being excluded from these statistics. In 2005, public purchases made through the tender process constituted 73.03% of the total value; this ratio increased to 86.4% in 2015. The threshold value requirements for public tenders in certain state-related companies are presumably driving the increase. 27.17% of total number of tenders made in 2016, was under the scope of exception. The article 21/b is defining the cases that the exemption can be used such as: "Negotiated procedure may be applied, where it is inevitable to conduct the tender procedures immediately, due to unexpected and unforeseen events such as natural disasters, epidemics, cases entertaining risk as to lives or properties or events that could not be predicted by the contracting entity." The reward for supporting the government could be business contracts, but the punishment for not supporting it is not 'no contracts;' it is getting tax fines and possibly facing bankruptcy. The study of a researcher from Harvard university, Gürakar, showed that the firms connected to AKP enjoyed high levels of discretion and higher contract prices in public procurements compared to the non-connected other firms. The results also reveal that the AKP majority government has used public procurement as an influential tool both to increase its electoral success, build its own elites and finance politics. The AKP majority government, through using public procurement as an influential tool, seems to reconfigure the networks of dependencies and privileges. The corrupt privatization process and structural changes made to the Mass Housing Administration of Turkey (starting with reorganizing the administration directly under Prime Ministry) has boosted the handful actors which constitute the business side of the power network. So called mega projects that are undertaken via PPP arrangements are predominantly conducted by a handful of holding companies which constitute majority of both sectors. The fusion within these sectors and between their actors and politics portray a striking case of state capture.

With the Law No. 5162 enacted in 2004, Mass Housing Administration of Turkey (TOKİ) has been radicalized into two different types: One by taking the authority of "expropriation in the urban transformation, making the zoning plan" and by taking for free the real property owned by Treasury with the approval of Prime Ministry.

Use of privatization to rent distribution contributed to the creation a group of loyal businessmen to AKP. The construction sector is strengthened not only by public goods but also by legislative regulations and incentives. Urban transformation, tax and VAT incentives contributed to the wealth of the companies through legal regulations. In Turkey the total value of the privatisation in 1986-2003 years is \$8.240.000.000. During AKP era analyzed in this report (2004-2015), \$ 58.616.000.000value privatization has been realized. The share of privatizations during the 58th, 59th and 60th AKP governments in total privatization amount was 80 percent. The 3 holdings with close ties to the government acquired approximately 15% of the total value privatization concessions.

RECOMMENDATIONS

- Law No. 4734 on Public Procurement should be revised in accordance with EU public procurement directives to limit the scope of exceptions and no new exceptions should be added to the law.
 - Concepts such as “state secret” and “trade secret” should be defined in the legal framework to prevent abuse and arbitrary rulings used to block information requests should be eliminated.
 - The executive body should cease practices that bypass Public Procurement Authority and avoid the procurements' supervision by the institution. All applications to procurements should be published in detail, and the practice of allowing companies to arbitrarily exceed their financial provisions should be avoided. The 2010 amendments that give the authority to the government to forego procurement process should be abolished and the exceptions to purchase goods or services without procurement should only be recognized within the limitations of the law.
 - Oversight mechanisms for public institutions should be improved and public trust in complaints mechanisms should be restored. The Right to Information Law No. 4982 should be made more effective and the non-response rates should be lowered.
 - The Ombudsman’s Office should be given the rights to audit the legislative body.
 - Privatization process should follow transparent and accountable measures. The process should be open to supervision of independent organizations.
 - The 2010 amendments that give the authority to the government to forego procurement process should be abolished and the exceptions to purchase goods or services without procurement should only be recognized within the limitations of the law.
 - During all electoral periods (Presidential Elections, Deputies’ Elections and Local Elections), the campaign budgets, revenue sources – contributions in cash and in kind – and expenditures of political parties and candidates should be recorded in detail. Such records should be audited by specialized auditors, and the audit reports be published timely.
 - The financial auditing of political parties should be revised to include the details of expenditures; the procedures and documentation for final accounts should be aligned with international standards, and adequate manpower should be allocated to the auditing process.
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The case of this section is to give a brief overview of Build-Operate-Transfer Model (BOT) which has been increasingly instrumentalized as an output focused form of public private partnerships in Turkey recently. BOT Model is commonly used for large scale energy and construction projects, such as nuclear energy plants, infrastructure and transportation.

According to the World Bank, with the help of PPP, between 1990-2016, developing countries have concluded 7132 projects, which have costed 2.6 billion US Dollars. Another figure of the World Bank shows that Turkey has ranked third when it came to PPP investments with 165 billion US Dollars. Despite the investment rankings, Turkey ranks number eight on amount of projects with 185. Where China has 145 billion US Dollars worth of PPP investments but ranked number one with 1326 projects. This concludes that on average a single PPP project in Turkey costs more than a project in China, Brazil or India.¹

In Turkey, history of PPP dates back to 1980s where small scale privatizations and PPP projects have begun and BOT model was embraced in 1994 for the first time. However escalation of privatization and PPP have started after the 2001 double-crisis. In 2014, scale of PPP had reached 88 billion US Dollars with 167 projects.² PPP practice have passed beyond typical large infrastructure projects. Currently BOT model is used for construction of private prisons, major airports, ports, hydroelectric power plants, nuclear energy, dams, highways, city hospitals, bridges and tunnels. Some major projects are; 3rd Bosphorus Bridge, 3rd Istanbul Airport, Osman Gazi, Yavuz Sultan Selim and Çanakkale Bridges, dozens of hydroelectric power plant constructions, Marmaray and Avrasya tunnels in Bosphorus.

There are two critical debates that requires deeper analysis in Turkey. Whether projects that began with PPP and BOT model damages or benefits the Turkish public and economy, and whether the AKP Government is using these methods to transfer wealth and create its own economic elite in Turkey. In order to discuss these issues, IC İÇTAŞ Construction Company's growth over the course of 2002-2014 is selected as a case. It is one of the companies that has been very dominant with the share of the PPP projects and have been considered as a politically connected firm.

Before delving into the case study, it is important to discuss the criticisms towards the AKP Government on this issue. The relationship between the governing party and politically connected firms, benefits the party during the election campaigns in social aid and media dominance aspects. Businessmen with close ties to the ruling party allegedly have been encouraged by the government to purchase media outlets which were sold by their owners after enormous tax fines or other financial ways of clampdown. Over the years the disproportionate pro-government coverage on media has reached concerning levels that undermine core democratic values. Another criticism regards the campaign finance system not being transparent. Therefore it becomes difficult for analysts to see the exact amount of donations AKP gets from the business sector representatives.

17-25 December corruption scandal have surfaced crucial allegations about the relationship between several businesses with the AKP government. IC İÇTAŞ owner İbrahim Çeçen together with several other businessmen who have close relations with President Erdogan was under investigation and had to give hearings to the officials. According to the official records, he was among the several businessmen who transferred 100 million US Dollars each to a funding-pool in order to purchase Turkuaz Media (ATV channel and Sabah newspaper).³

¹ <http://www.tasav.org/kamu-ozel-isbirligi-projeleri-turkiye-ve-diger-ulke-ornekleri.html>

² <http://www.sozcu.com.tr/2014/yazarlar/mustafa-sonmez/90-milyar-dolarlik-imtiyaz-projeleri-555937/>

³ <http://www.hurriyet.com.tr/ibrahim-cecen-ifade-verdi-25825970>

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Several projects IC İÇTAŞ have built or is building alone or in a consortium are;⁴

- *Ordu-Giresun Airport- In partnership with Cengiz Holding- 144 Million Liras,*
- *3rd Bosphorus Bridge- (BOT model) 10 years and 2 months of operation rights in partnership with Astaldi JV ICA,*
- *Ankara-Istanbul high speed train track 2nd stage,*
- *Antalya Airport Renewal (Management) Project- 17 years and 3 months of operation rights which includes: 1st and 2nd zones of international terminals, CIP, domestic terminal complementary goods. In partnership with Fraport,*
- *International Zafer Airport- (BOT model) operation rights until 2044,*
- *Çeşme Marina- (BOT model) operation rights for 25 years in partnership with Camper and Nicholson's Marinas International,*
- *Karasu Port- (BOT model) operation rights for 17 years and 8 months,*
- *Bağıştaş 1 Dam/ Hydroelectric Power Plant- (BOT model),*
- *Niksar Hydroelectric Power Plant- (BOT model).*

Until 2001, the company has not been involved in any energy projects. Also the scope and finances of the projects have enlarged exponentially after 2002, the year AKP came to power.⁵

Closer look will be given to two IC İÇTAŞ projects. 3rd Bosphorus Bridge construction and Zafer International Airport. Both projects are concluded with BOT model with state guarantees given to the operators. Treasury credits and disproportionately advantageous public bank credits enabled politically connected businesspeople to sustain the projects throughout the years that have way exceeded concession terms. None of the passenger or kilometer guarantees were met after the first year of the projects. For the 3rd Bosphorus Bridge, 135 thousand passing cars on a daily basis were given as a guarantee to the operators.⁶ In 2017, the guarantee was not met, therefore the government had to pay the rest from the budget. This model has proved itself to be a huge burden on public revenues for years to come and it will cost more in the end with these guarantees and the businesses will end up profiting more than they would be doing under normal circumstances. Another issue with this PPP project was at first it was exempted from Environmental Impact Assessment (EIA) report with the addition of a provisional clause to Environment Law.⁷ This decision was cancelled by the constitutional court. Therefore the project had to get an assessment since it was also requested by international creditors. The hardship had been overcome by the widely criticized and challenged reports given by private firms.

Situation with Zafer International Airport is worse when compared to the third bridge. The airport costed 50 million Euros for IC İÇTAŞ. The guarantee was 850 thousand passengers in the first year. According to the contract, the guarantee increases every year and it will reach roughly 1.3 million passengers at the end of 10 years. In the first year, only 84 thousand passengers have landed. There is an approximate 800.000 passenger gap in the guarantee. Several politicians in Turkey raised

⁴ <http://www.ictas.com.tr/TR/Insaat/page/karayolu-and-otoyol-and-kopruler-27>

⁵ <http://www.ictas.com.tr/TR/Insaat/page/diger-eski-projeler-arsivi-22>

⁶ <https://odatv.com/3-kopruden-buyuk-zarar-2104171200.html>

⁷ <https://www.birgun.net/haber-detay/3-kopru-nun-ced-i-nerede-67580.html>

their concerns and argued that the 850.000 passengers a year is an impossible number to reach for this airport. Therefore the government would have to pay millions of euros to IC İÇTAŞ. It is calculated that, if the numbers are similar to this every year, the government would have to pay around 190 million Euros in total to IC İÇTAŞ at the end of the operation term. This case shows the deal IC İÇTAŞ gets from the state and amount of profit it gains from an airport that does not even function as much as expected.⁸The first year alone, the state had to pay 4.1 million Euros to the operating company.

⁸ <http://www.diken.com.tr/kutahyaya-yilda-850-bin-kisi-ucmayinca-devletin-kasasindan-4-1-milyon-avro-uctu/>

OVERVIEW OF PRIVATIZATION AND THE ELECTRICITY DISTRIBUTION COMPANY PRIVATIZATION PROCESS

Republic of Turkey started the discussion of liberalization of state owned enterprises (SOE) in the mid-1980s, which has been followed by concrete steps from the beginning of the 1990s. The announcement of Turkey's EU candidacy in 1999 led to a rapid reform process in the first years of the new millennium.

Turkey adopted a series of new energy regulations in response to the EU acquis and International Monetary Fund (IMF) requirements starting from 2001. The financial crises in November 2000 and February 2001 underlined the necessity of tackling the long lasting roadblocks in the energy sector with a regulatory framework that complies with the EU standards.

Legislation and Implementations

The first set of legislation on privatization of state-owned or affiliated assets were Law no. 2983 ("Law on the encouragement of savings and acceleration of public investments") and decree with the force of law (Decree-Law for short) no. 233 (decree-law on state economic enterprises), both adopted in 1984. Because of the inadequacy of these pieces of legislation, in 1986 law no. 3291 was enacted. This was the first law where the word privatization was explicitly used. Law no. 3291 remained as the main privatization law until 1994. Governments tried to reassign decision making authorities on privatizations through a number of laws and decree-laws in the period 1990-1994. After 1994's currency crises in Turkey, Law 3987 was enacted but Constitutional Court cancelled it. And finally, Law 4046, which still governs the privatization process in Turkey, was enacted in October 1994.

Turkey's energy sector structure has been subject to many changes in the last 20 years. The vertically-integrated state-owned company Turkish Electricity Authority (TEK) dominated the Turkish energy sector until early 90s. In 1993, following the liberalization wave in EU energy markets, TEK was divided into TEAŞ (generation, transmission, and wholesale) and TEDAŞ (distribution).

When it comes to reform and restructuring program for electricity sector, the legal basis is Law No. 4628 (Electricity Market Law, later changed to Energy Market Law or EML) that was enacted in 2001. With the enactment of the Electricity Market Law, TEAŞ was separated into EÜAŞ (generation), TETAŞ (wholesale), and TEİAŞ (transmission), each being a legal entity on its own. In the same year, Turkey established the Energy Market Regulatory Authority (EPDK) as an administratively and financially autonomous public institution to regulate the energy market. - EPDK is allowed to issue licenses and draft performance standards, setting out the pricing principles and ensuring infrastructure development. It holds the authority to determine the principles for setting the regulated prices and tariffs as well as publishing regulations, preparing communiqués, and managing license auctions.

Following the enactment of law 4628, a Strategy Document issued by the High Planning Council in 2004 redesigned the distribution regions and created 21 distribution regions, 20 of which were to be privatized. Later, a law passed in 2005 removed all restrictions on distribution companies and privatization of electricity production and distribution process has continued rapidly for last ten years.

After several revisions, a new EML numbered 6446 ("the new EML") was enacted on 30 March 2013.

Value-Share

In Turkey the total value of the privatization in 1986-2003 years is \$8.240.000.000. During AKP era analyzed in this report (2004-2015), \$58.616.000.000 value privatization has been realized. The share of privatizations during the 58th, 59th and 60th AKP governments in total privatization amount was 80 percent.

The case of TEDAŞ privatization is quite interesting in terms of value, with a share of 20 % of the total privatization revenue carried out in 1986 to 2014. It seems that privatization is used for rent distribution by AKP government to the AKP-linked companies.

According to TESEV report, even though energy market transformation succeeded in adding more stakeholders and beneficiaries to the competition de jure, energy policies de facto present examples for clientelism and favoritism where rent is transferred to preselected private entities in return for political support.⁹ Privatization value that 4 of the companies analyzed in this report received is close to %20 of the total share in the period analyzed.

TURKISH ELECTRICITY DISTRIBUTION COMPANY PRIVATIZATION PROCESS

On April 3, 2004, TEDAŞ was included in the privatization program with the decision The Privatization High Council.

Privatization of TEDAŞ has an important share compared with the total value of all privatization implementations. The total value of privatization is \$ 64.8 billion for the period between 1986-2014. The total value of TEDAŞ privatization is \$ 12.9 billion. 80 % of the total value of all privatization implementations carried out in 1986 to 2014, was from other privatization implementations, while 20 % was obtained from the privatization of TEDAŞ.

Corruption in electricity distribution privatizations made headlines in several cases. Distribution and retail license, which is a pre-requisite for companies willing to bid, is issued by EPDK. Allegedly, EPDK is already making this patronage relationship by giving the necessary licenses to certain nearby companies with limited energy sector know-how.

For instance, the Court of Accounts 2013 review of Fırat and Meram Electricity Distribution Companies and the comparison of the accounts before and after the privatization show that energy SOEs were sold to the private enterprises with remaining cash on hand and stock. Plus, TEDAŞ paid the remaining debt of the company. Before the privatization, the bank accounts of Meram and Fırat Electricity Distribution had negative balances, the Courts of Accounts points out. The final report of the investigation, delivered to the Court of Accounts, revealed that both enterprises were left to private entities with 10-30 million TL cash on hand and stock. However on 30 January 2013, with the changes in Law No: 6353 Article 22 and Law No: 4628 Article 2/Clause 2/Paragraph 8, authorization to finalize any sort of investigation activity on the electricity distribution companies was yielded to the Ministry of Energy and Natural Resources. This change in law eliminated further evaluation and utilization of TEDAŞ Inspection Board and The Court of Accounts reports.

In 2014, by utilizing the financial data presented in TCA reports, Republican People`s Party (CHP) MP Aykut Erdoğan stated that the government has had an almost \$2 billion loss due to unpaid loans during privatization of 10 distribution arms of TEDAŞ.

The spending of 600 million euro amount credit borrowed from European Investment Bank has also been investigated in the TCA reports.

There are other claims about TEDAŞ's privatization process. Radikal Newspaper, published a detailed article in 2006, listing all active politicians, politician's executive assistants, municipality mayors, and head advisors of politicians who became a member of executive boards of 19 electricity distribution companies after they started to become privatized. Examples: AKP Deputy Chairman Salih Kapusuz's relative İbrahim Kapusuz became Başkent Electricity AŞ General

⁹ *Assessment of Turkey's State-Owned Energy Enterprises Report*, TESEV, 2016

Manager Assistant; Mr. Erdoğan's advisor Hasan Tahsin Fendeoğlu assigned to Uludağ Distribution AS Executive Board Member; Minister of Energy Hilmi Güler's advisor appointed to Çamlıbel Distribution AŞ; Minister of Energy Hilmi Güler's advisor appointed to Dicle Distribution AS. It can very well be argued that all of the companies below are politically connected but the particular handful construction and energy companies that will be analyzed in this report enjoy a total population share that exceed %60.

	ELECTRICITY DISTRIBUTION COMPANY	BID DATE	INVESTOR COMPANY	TENDER PRICE (\$)	TRANSFER DATE
1	Göксу Elektrik Dağıtım A.Ş.	07.01.1999	AKEDAŞ	60,000,000.00	23.06.2000
2	Menderes Elektrik Dağıtım A.Ş.	17.07.2008	AYDEM	110,000,000.00	17.07.2008
3	Başkent Elektrik Dağıtım A.Ş.	01.07.2008	ENERJİSA-VERBUND	1,225,000,000.00	28.01.2009
4	Sakarya Elektrik Dağıtım A.Ş.	01.07.2008	AKCEZ	600,000,000.00	11.02.2009
5	Meram Elektrik Dağıtım A.Ş.	25.09.2008	ALARKO-CENGİZ	440,000,000.00	30.10.2009
6	Osmangazi Elektrik Dağıtım A.Ş.	06.11.2009	ETİ GÜMÜŞ	485,000,000.00	31.05.2010
7	Çamlıbel Elektrik Dağıtım A.Ş.	18.02.2010	LİMAK-KOLİN-CENGİZ	258,500,000.00	31.08.2010
8	Uludağ Elektrik Dağıtım A.Ş.	18.02.2010	LİMAK-KOLİN-CENGİZ	940,000,000.00	31.08.2010
9	Çoruh Elektrik Dağıtım A.Ş.	06.11.2009	AKSA ELEKTRİK	227,000,000.00	30.09.2010
10	Yeşilirmak Elektrik Dağıtım A.Ş.	06.11.2009	ÇALIK ENERJİ	441,500,000.00	29.12.2010
11	Fırat Elektrik Dağıtım A.Ş.	18.02.2010	AKSA ELEKTRİK	230,250,000.00	31.12.2010
12	Trakya Elektrik Dağıtım A.Ş.	09.08.2010	IC HOLDİNG	575,000,000.00	30.12.2011
13	Akdeniz Elektrik A.Ş.	12.11.2012	LİMAK-KOLİN-CENGİZ	546,000,000.00	28.05.2013
14	Boğaziçi Elektrik Dağıtım A.Ş.	14.12.2012	LİMAK-KOLİN-CENGİZ	1,960,000,000.00	28.05.2013
15	Gediz Elektrik Dağıtım A.Ş.	19.12.2012	ELSAN KARAÇAY -TÜMAŞ	1,231,000,000.00	29.05.2013
16	Aras Elektrik A.Ş.	25.09.2008	KİLER ALIŞVERİŞ HİZ.	128,500,000.00	28.06.2013
17	Dicle Elektrik Dağıtım A.Ş.	15.03.2013	İŞKAYA-DOĞU	387,000,000.00	28.06.2013
18	İstanbul Anadolu Yakası Elektrik D.A.Ş.	15.03.2013	ENERJİSA	1,227,000,000.00	01.09.2013
19	Toroslar Elektrik Dağıtım A.Ş.	15.03.2013	ENERJİSA	1,725,000,000.00	01.09.2013
20	Vangölü Elektrik Dağıtım A.Ş.	15.03.2013	TÜRKERLER	118,000,000.00	01.09.2013
			Total:	12,914,750,000.00	

CENGIZ HOLDING CASE

Previous section provided several examples on only one politically connected firm in Turkey and how it benefits from the government's policies. This section is dedicated to tax-cuts and several other benefits Cengiz Holding gets from the AKP government.

Cengiz Holding has been widely discussed for the major concessions it has won from the privatization bids and PPPs. Despite these projects, the company has received 424.4 million Turkish Liras remission of tax. This benefit was followed with the decision of Turkish Energy Market Regulatory Body. The institution also allowed Cengiz Holding owned Oymapınar Hydroelectric Power Plant to sell 50% of their produced electricity, which is limited to 20% for autoproducers. This decision helps Cengiz Holding to profit 300 million US Dollars in 5 years from this power plant. It is important to note that this power plant with an annual income of 90 million Dollars was transferred to the Cengiz Holding for free when the company won the tendering for Eti Aluminum for 305 million Dollars.¹⁰ It should also be noted that recent regulation in the parliament proposes to exempt business that are responsible from building city hospitals and bridge projects from paying stamp tax and legal fees.

The tendering for the 3rd airport project in Istanbul took place in 2013. Consortium made up of five business groups including Cengiz Holding won the bid. It is considered as the most expensive project in the country's history. Before the construction began, the agreed 90 meters of excavation to keep the airport away from the sea levels was decreased to 60 meters and this helped the consortium to keep 2.5 billion Euros.¹¹ The losing consortiums and the opposition members in the parliament have opposed this decision and called it a give-away for the politically connected firms in the winning consortium.

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Use of privatization to rent distribution contributed to create a group of loyal businessmen to AKP. The construction sector is strengthened not only by public goods but also by legislative regulations and incentives. Urban transformation, tax and VAT incentives contributed to the wealth of the companies through legal regulations.

According to prominent economist Mustafa Sönmez, in Turkey the total value of the privatisation in 25 years is 42.033.904.000 \$. During AKP era, 34.000.000.000 \$ value privatization has been accomplished. The share of privatizations during the 58th, 59th and 60th AKP governments in total privatization amount was 80 percent.

The Public Procurement Law (PPL) No. 4734 that was enacted in 2002 and put into force in 2003 and has been repeatedly amended over time, and as a result, has significantly deviated from its original structure over the years. 43 amendments to the Law had been made in the course of 15 years, marking 205 instances of changes to the (sub)provisions.

The number of subsections of the article of the PPL that defines exempted institutions has climbed with these amendments. For instance, the exemption of goods and services purchases of state-owned enterprises and state-related companies have been tied to the total value of the procurement.

¹⁰ <http://www.merhabahaber.com/cengiz-insaatta-ihale-skandali-184805h.htm>

¹¹ <https://www.birgun.net/haber-detay/ucuncu-havalimani-insaati-icin-her-haneden-850-lira-calindi-184803.html>

For the periods between 2005-2015 instances of exceptions and direct purchases to the total share of public purchases have increased by almost 10 percent, but decreased in total value from 27% to 13%. These figures suggest that as the scope of the PPL has been narrowed over the years; the exceptions that were previously reported under the PPL are now being excluded from these statistics. In 2005, public purchases made through the tender process constituted 73.03% of the total value; this ratio increased to 86.4% in 2015. The threshold value requirements for public tenders in certain state-related companies are presumably driving the increase.

27.17% of total number of tenders made in 2016, was under the scope of exception. The article 21/b is defining the cases that the exemption can be used such as: “Negotiated procedure may be applied, where it is inevitable to conduct the tender procedures immediately, due to unexpected and unforeseen events such as natural disasters, epidemics, cases entertaining risk as to lives or properties or events that could not be predicted by the contracting entity.”

The reward for supporting the government could be business contracts, but the punishment for not supporting it is not ‘no contracts;’ it is getting tax fines and possibly facing bankruptcy. The study of a researcher from Harvard university, Gürakar, showed that the firms connected to AKP enjoyed high levels of discretion and higher contract prices in public procurements compared to the non-connected other firms. The results also reveal that the AKP majority government has used public procurement as an influential tool both to increase its electoral success, build its own elites and finance politics.

The AKP majority government, through using public procurement as an influential tool, seems to reconfigure the networks of dependencies and privileges.

Some of the infrastructure and large scale construction concessions given to this holding by invitation method are as follows.

- *Batman-Siirt cities bridge construction (with Nuro): 136 million TL*
 - *Genç-Servi road work (with Ozaltin): 78.9 million TL*
 - *Samsun-Sinop ayr. Güzelçay road work: 78.8 million TL*
 - *Kastamonu-Çankırı (Ilgaz tunnel construction): 213.3 million TL*
 - *Trabzon-Aşkale- Maçka-Karabava road construction: 44.8 million TL*
 - *İkiçdere ayırımı-Ovit tunnel construction: 390.5 million TL*
 - *T26's unopened parts and YHT road connection (with IC İctaş): 793 million TL*
 - *Bandırma-Bursa-Ayazma-Osmaneli railroad project: 891.6 million TL*
 - *Kastamonu-Çankırı road construction: 607.3 million TL*
 - *Trabzon-Aşkale-Köstere Deresi Gümüşhane road work: 527.4 million TL*
- TOTAL: 3.8 BILLION TL**

It is important to note that, this list does not contain airport, mining activities, dams, electricity distribution, nuclear power plants projects. 3.8 billion TL is only for road, bridge and railroad projects.

Privatizations that Cengiz Holding won since 2000

- *100% of Eti Copper- \$21.879.000*
- *100% of Eti Aluminium- \$305.000.000*
- *Samsun business of Karadeniz (Blacksea) Copper Businesses- \$11.121.000*
- *Murgul business of Karadeniz (Blacksea) Copper Businesses- \$37.600.000*
- *Mazıdagi phosphate facility of Sumer Holding- \$28.000.000*
- *Properties in the parcel of lands in the Maltepe district of Istanbul that belongs to the treasury of the Exchequer, land identification 290-ada 15, 28, 30, 39, 43, 62, 63 and 80- \$1.450.888*
- *Property in the parcel of land in the Bodrum district of Mugla near Golkoy that belongs to the treasury of the Exchequer, land identification 423.- \$143.233.880*
- *Property in the parcel of lands in the Maltepe district of Istanbul, Cumburiyet neighbourhood that belongs to the treasury of the Exchequer, land identifications 1306-ada and 40.- \$574.865*
- *Property in the parcel of lands in the Maltepe district of Istanbul, Cumburiyet neighbourhood that belongs to the treasury of the Exchequer, land identifications 290-ada and 48.- \$1.450.888*
- *Property in the parcel of lands in the Mazıdagi district of Mardin, Poyraz neighbourhood that belongs to the treasury of the Exchequer, land identification 145-ada and 98.- \$1.677.059*
- *Properties in the parcel of lands in the Maltepe district of Istanbul, that belongs to the Turkish State Railways, land identifications 1305-ada, 1 parcel, 1306-ada, 23 parcel, 1277-ada, 1 parcel.- \$8.197.642*
- *Inebolu harbour reach. Hopa thermal power plant properties. The parcel of lands in the Besiktas district of Istanbul, Ortakoy neighbourhood that belongs to the treasury of the Exchequer, land identification 1382-ada, 15 parcel. Parcel of land in the Eynup district of Istanbul, Gokturk neighbourhood that belongs to the treasury of the Exchequer, land identification 1016 parcel and parcel of lands in the Mazıdagi district of Mardin, Poyraz neighbourhood that belongs to the treasury of the Exchequer, land identification 145-ada, 96 and 97 parcels.- \$26.581.791*

Privatizations that Limak Holding won since 2000

- *%100 assets of the state-owned Çamlıbel Electricity Distribution inc. were sold to Çamlı Energy Distribution and Retail Sale Services inc. which was founded with Limak's partnership of %24.- \$258.500.000*
- *%100 assets of the state-owned Uludağ Electricity Distribution inc. were sold to Uludağ Energy Distribution and Retail Sale Services inc. which was founded with Limak's partnership of %51.- \$940.000.000*
- *100% assets of the state-owned Akdeniz Electricity Distribution inc. and Akdeniz Electricity Retail Sale inc. were sold to Ak Den Energy Distribution and Retail Sale Services inc. which was founded with Limak's partnership of %33.33.- \$546.000.000*
- *%100 assets of the state-owned Boğaziçi Electricity Distribution inc. and Boğaziçi Electricity Retail Sale inc. were sold to Beda Energy Distribution and Retail Sale Services inc. which was founded with Limak's partnership of %33.33.- \$1.960.000.000*
- *%100 assets of the state-owned Hamitabat Electric Production and Trade- \$105.000.000*
- *Kemerköy and Yeniköy Thermal Power Plants were sold to Yeniköy Kemerköy Electricity Production and Trade inc. which was founded with Limak's partnership of 50%.- \$2.671.000.000*
- *Transfer of operation rights of Iskenderun Harbor to Limak.- \$372.000.000*

TORUNLAR CASE

The 'Mall of Istanbul' shopping mall construction project and the procedure that took place in order to kick off the project draws attention on the basis of corruption. According to the news, the piece of land that the mall was built on was taken in order to build schools and dorms. The company that took the land, "Torunlar", was expected to build 'social facilities' including libraries, dorms etc. However there are skyscrapers now, which are none of the expected facilities.

The project process began in 2007. The land lies in the 'Kucukcekmece' district of Istanbul. The government owned several parts of the land and other owners were individuals. Kucukmece mayor Aziz Yeniay held a meeting with the individual owners in his office in order to purchase the land but they did not want to sell it. After that TOKI (Housing Development Administration of Turkey) got involved but once again the owners kept the land. As a strategy to obtain the land, public planning was changed and the land was labelled as a school and education area, and the property value was decreased and the owners were forced to sell it. On top of what was done to purchase the land, another strategy was to scare the owners. According to the news, TOKI have contacted the owners and warned them that their land was labelled as an 'urban transformation project' zone and they would be taken to court if they do not attend the bargaining meeting. The news report that the owners sold their lands, but they found out when they were ready to finalize the deed work, they were selling their land to Torunlar company, they did not know this before. Afterwards, TOKI told them that the schools were going to be built by Torunlar and they would pay the owners.

In 2011, the previous land owners were shocked, since they found out that the biggest shopping mall was being built on their previously-owned lands. So it can be concluded that they were forced to sell their lands for way cheaper prices. One of the owners have taken this to court and accused TOKI, Kucukcekmece Municipality, Istanbul metropolitan municipality and Torunlar for organized corruption. But the court rejected the application.

Torunlar GYO is the company which had built the Torun Center where work elevator carrying workers construction in Istanbul's Mecidiyeköy district fell from floor 32, leaving 10 workers dead. The scandals of security permits and licences were covered up and no one held accountable. Torunlar GYO is owned by Aziz Torun an allegedly close friend of the President since his term as the mayor of Istanbul.

Privatizations that Torunlar GYO won since 2000

- *Parcel of lands in the Beykoz district of Istanbul, Pasabahce neighbourhood that belongs to the Gayrimenkul inc. (formerly known as TEKEL) , which is in the scope of privatization , land identifications 195, 7 parcel, 209, 3 parcel and 200. Properties in the parcel of land, identification 3 parcel.- \$196.458.218*