



Turkish Court of Accounts

Performance Audit Report

THE PLANNING AND AUDIT OF THE COASTAL UTILIZATION



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ABBREVIATIONS

EPASA : Environmental Protection Agency for Special Areas

EIA : Environmental Impact Assessment

CELS : Coast Edge Lines

TRI : General Directorate of Technical Research and Implementation of the Ministry of Public
Works and Settlement

DSİ : Water Works General Directorates

TCK : Turkish Republic General Directorate of Highways

PART I

INTRODUCTION, SUMMARY AND RECOMMENDATIONS

INTRODUCTION

1. Turkey has a coast line of 1785 km in Black Sea Region, 1089 km in Marmara Region, 2805 km in Aegean Region, 1577 km in Mediterranean Region and 1067 km in islands. The geological features of the seas surrounding our country are different from each other. While the Mediterranean Sea is one of the eldest, the Aegean Sea is one of the youngest seas of the world. The coasts, which are one of the most important natural resources of our country, are used for various purposes such as industrial and tourism investments, water products, construction of domiciles, ports and docks. Thus, due to dense construction activities; coasts are facing with the threat of destruction of the natural environment. Especially in recent years, the practices in the coastal zones have been conducted without due care to the coastal features and because of this situation, our coasts are seriously destroyed. Deterioration of the natural structure of our coasts shall pave the way for the risk of threat to our revenues from tourism and economy in the near future.
2. The legal definition of coast in Turkish Law System and the principles of coastal protection were first stated in the Civil Code No: 743 adopted in 1926. The comprehensive arrangements regarding coasts was started to be realized in 1970s. With the Ministerial Decree No: 7/52 dated 01.12.1970; the sale of the public lands at sea sides and by lakes, allocation of these lands for camping, transfer to real and legal persons by means of right of easement are forbidden. The first legal arrangement concerning the zoning legislation about the development and planning on coastal strip was made with the Additional Article 7 added to the Law No: 1605 dated 07.11.1972 and coastal zones are included in the physical plan. In this way, it is decided that building that is not open to public can not be constructed by private individuals and adding stories to the existing ones is forbidden within the distance stipulated by the Ministry of Public Works

and Settlement provided that it is not less than 10 meters by seas, lakes and rivers. With the statement in Article 43 of the 1982 Constitution that “*Coasts are under the sovereignty and disposal of the state. In the utilization of sea coasts, lake shores or river banks and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority. The width of coast and coastal strips according to the purpose of utilization and conditions of utilization by individuals shall be determined by law.*”; the protection and utilization of the coasts are safeguarded under the Constitution. The Coastal Law no: 3086 was adopted on 12.01.1984. However; the Constitutional Court annulled several important articles of this law and its decree of annulment was published in the National Gazette No: 19160 dated 04.17.1987. During the period passed until the adoption of the new Coastal Law No: 3621 dated 04.17.1990; the practices regarding the coasts were conducted under the Circular No: 110 and dated 07.15.1987 issued by the Ministry of Public Works and Settlement. Afterwards, due to the frequent amendments to the coastal legislation; so far several institutions have been put in charge of coastal activities in terms of different aspects. Thus, a unified coastal administration could not be established and within the legal arrangements made at that time, only what type of buildings and at which distance they could be constructed was defined.

3. Other coastal countries suffering from similar problems have started to take measures for the protection of the coasts since 1970s and tried to implement special types of management by attaching great importance to this field. In this context, it is observed that they are applying arrangements such as encouraging protection through establishing laws and main policies on the management of coastal strips, forming coastal commissions, establishing the private laws concerning the planning of coastal lands and the laws in general, defining the coastal strips and the buffer zones broadly. In our country, the issues regarding the coasts are regulated with more than one law rather than a comprehensive arrangement and a special institutional structure about coastal management does not exist. Due to the fact that the administrative policies ensuring the protection-utilization balance of the coasts have not yet been established, that the studies of the scientific world have not been taken into consideration properly and that our legal arrangements have focused solely on the utilization and obtaining revenue from the coasts and not on the good use of the coasts; the provisions of our legislation on the protection of the coasts have been ignored and haphazard

practices performed without getting permission, which damage the natural structure ,can not be prevented.

SUMMARY

4. A separate management model specific to coastal zones has not yet been produced in our country. The authority and duty to plan the utilization, to approve the plans and to give opinion are distributed among different institutions. The fact that different institution are entitled with the authority by laws in the field of planning leads to disputes among the institutions that are brought to courts. Besides, there are disputes on the authority regarding the utilization of coastal zones among the institutions. (paragraph 33-36)
5. The Environmental Physical Plans, which lay down the principles that are to be applied by planners, implementing institutions, investors and individuals in the planning of coastal lands, have not been finalized. The lack of the higher scaled guiding plans constitutes a risk for the preparation of healthy plans. There are several problems encountered in the acquisition of the maps and other data necessary for the planning activities. It is observed that the communication among the institutions is not adequate in this field. (paragraph 37-41)
6. In the protection of coastal lands, the balance between protection and utilization cannot be secured and it is seen that mostly the purpose of utilization is focused on. Despite the fact that there are provisions concerning the protection of coasts in the legislations of the institutions whose field of activities are relevant to coasts; these provisions are not considered when it comes to execution phase. It is seen that some problems have occurred due to the fact that the principles of planning are the same for each and every coast, that they are not flexible and that the plans are not updated. In the approval of the plans regarding the coastal filling it is not investigated whether the criteria such as “public interest”, “non-existence of better alternatives”, “inadequacy of coastal lands” are taken into account or not. The common practice in this field is generally the submission of the actual situation for approval only after the filling is completed. Whether the fillings supposed to be completed according to plans comply with the plans in reality is not audited. (paragraph 41 - 44)

7. In addition, there are problems in the designation of the Coast Edge Lines (CELs), which is the first and foremost element for the planning, and implementations in the coastal lands. Updated and compiled data on which coasts the edge line is designated does not exist. Due to lack of maps and inadequate allocation; the programs for the designation of CELs cannot be prepared; only upon demand and when the holders of the demands have the required maps prepared; the studies can be conducted. (paragraph 49)
8. There are not any arrangements that include the scientific criteria that form the basis of the work of the commission established for the designation of CELs. This situation leads to faulty designations and incorrect implementations in planning and structuring. In addition, there is not any data regarding how many of the coast edge line designations have been changed due to error, what are the reasons of the errors, how many of them were sent to court and their results that can be helpful for analysis. The courts may take different decisions on the CELs designations of the same coastal strip and this situation leads to hesitations in the implementation. Standards have not yet been established for the minutes to be drawn up for coast edge line designation and these minutes have no detailed information both for the examination performed with a view to giving approval at the Ministry of Public Works and Settlement and for the trials in courts. The existing map layouts in which the CELs are designated are not filed and cannot be found when required. This situation results in repetitions in the studies conducted in the same field. (paragraph 50 - 55)
9. The actions for rescission of the title deeds concerning the private ownership in the coasts, which are under the sovereignty and disposal of the state, is generally brought long time after the designation of CELs. During the period passed until the actions for rescission are brought, the properties in coastal lands are transferred and become subject to legal disputes. A system has not yet been established which prevents the unjust treatments to the owners of the fixed assets which were constructed and used in compliance with the land registers, physical plans and licenses; but found out to be within the coastal lands after the designation of the CELs. (paragraph 56-58)
10. There are many legal arrangements relevant to coastal lands. These legal arrangements hold different institutions responsible for the coastal lands and

these institutions perform audit activities in terms of different aspects without any coordination among themselves; thus, this situation is reducing the effectiveness of the audit. The institutions auditing the same coastal lands do not take action against the infringements and wait for the others to do it. The exchange of letters among these institutions is excessive and time taking and this in return leads to the continuity of the illegal acts. (paragraph 65 - 66)

- 11.** It is observed that the institutions which have the function to control the acts at the coastal lands; especially the municipalities are in need of personnel who are eligible and well informed about the coastal legislation. Some municipalities have hesitations concerning their limits of authority of control. In addition, the local administrations have technical problems; mutual aid among the public institutions cannot be ensured and in some regions due to technical impossibilities, infringements cannot be abolished. The extended legal and administrative procedures, in compliance to the court decisions pose risk to the preventive activities against the infringements at coastal lands and have negative effects on those responsible for auditing and preventing such kind of acts. (paragraph 67 - 74)
- 12.** Due to irregular audits at coasts and getting information only when there are complaints regarding the illegal acts destroying the natural structure; at which regions such acts are common, their reasons, increasing and decreasing trends are not known; policies can not be established to take effective measures; measures can not be taken in due time. Identified infringements at coasts have been the subject of time-consuming exchanges of letters and in general, no action is taken against these acts. It is hard and costly to prevent such kind of acts that were not prevented at the initial stage and it is getting impossible to restore the destroyed natural structure back again. (paragraph 75 - 85)
- 13.** The fact that the illegal acts are still going on through taking mesne profits at the coastal lands, which are under the sovereignty, and disposal of the State shows that these areas are not adequately protected or that occupations are condoned for the sake of profit. The acts that are subject of the issue of mesne profits have been continuing for so many years and in general, the occupations are not removed. These acts are not only unjust utilizations, but also the acts that destroy the natural structure of the coasts. Increase in the occupations in terms of number and area shows that the amount of the mesne profit is not discouraging apart from

the inadequacy of audits in this field. There are areas in which the occupations have not yet been identified and continuing for long years and the mesne profit is not taken. Instead of taking mesne profit, lately the practice of renting has become more common at coastal lands and the acts that destroy the natural structure of coasts are still going on. (paragraph 86 - 89)

14. Not only the individuals and private companies but also the public institutions and organizations are utilizing from coasts in a way that is unlawful, that harms the natural structure and limits the equal and free utilization. Especially even the institutions responsible for the audit of the practices at coasts are acting in violation of coastal legislation and thus, this decreases the effectiveness of the controls being conducted at coastal lands. (paragraph 90 - 91)
15. In order to take the opinion of the relevant institutions; our draft report was sent to General Directorate of Technical Research and Implementation under the Ministry of Public Works and Settlement and to the Directorate of Local Administrations of the Ministry of Interior on the date of February 9, 2006. It is stated in the responding letter dated March 3, 2006 of the General Directorate of Technical Research and Implementation under the Ministry of Public Works and Settlement that *“The studies concerning the institutions authorized in planning that are mentioned in the so-called report, problems, contradictions among these institutions about planning and the issues regarding the filling activities are handled by our Ministry within the framework of the Draft Bill on the Amendments to Some Articles of Coastal Law No: 3621 and these studies are still ongoing.”* The draft Bill was received in the annex of the letter. In the response letter dated April 20, 2006 received from the Directorate of Local Administrations of the Ministry of Interior, it is stated that *“We are sharing the same opinions on the issues laid down in report.”* The evaluation of the opinions of the institutions is in Annex 1.

RECOMMENDATIONS

16. It is necessary to make regulations that are to rearrange and simplify the separation of powers on planning. The authority on planning which is given to different institutions by different laws should be reorganized under one single arrangement and delegation of this authority to an institution specialized in this

field is thought to be favorable. With a view to preventing the time and money losses caused by the long lasting exchange of letters among the institutions and organizations whose opinion are taken at the planning phase; it is thought that it would be beneficial to work with a committee composed of the representatives or experts of the institutions whose opinions are to be taken.

- 17.** The characteristics of the coasts and which type of utilization is appropriate for them should be identified and large scaled plans should be produced. An information system should be established which shall ensure that the institutions take correct decisions and which shows all the characteristics and priorities of the coasts. The up-to-date maps and information required for the planning studies must be ensured to be stored within a system open to the access of all the relevant institutions.
- 18.** The provisions of the legislation on the protection of the coasts must be executed in the planning studies. In order to ensure the balance between the protection and utilization of the coasts; what shall be the effects of the types of utilizations provided for in the plans to the coasts and how the negative effects can be decreased must be searched and accordingly, measures must be taken.
- 19.** At which coasts the studies on the detection of CELs have been completed must be identified by the Directorate of Public Works and Settlement and these detections must be communicated to the Ministry of Public Works and Settlement which is the authority for approval and at which coasts these studies have not yet been finalized must be clearly seen. Especially, prioritization must be given to the regions which has importance in terms of tourism and is likely to be expanded due to housing and CELs must be detected. Maps must be supplied to the governorships in coordination with the public institutions producing maps.
- 20.** With a view to conducting healthy studies for detecting the CELs; the scientific criteria must be established regarding the determination of the natural borders of the areas formed with movements of water by taking the opinions of the scientists who are conducting studies and researches on coastal issues. Which data are to be studied by which occupational group in the detection commissions; what type of measurement and analysis are to be conducted must be identified and a form must be prepared with a view to ensuring that the minutes of detection have detailed and comprehensive content. In order to prevent the errors in the

detections of CELs; statistical study on the reasons of the errors and which type of coats these reasons are more common should be conducted and according to the results to be obtained the members of the commission should be provided with training seminars. A system must be established in order to ensure that the approved samples of layouts of the coast edge line detections are sent to the relevant institutions. For the detection of ownerships; the layouts should also be sent to the Directorate of Land Registry and the properties within the coasts should be detected and this information should be communicated to the local financial institution as well.

- 21.** It is thought that the disputes on property in this field shall be decreased when the detections of the CELs are conducted before or simultaneously with the studies of land registry. It is necessary to make arrangements in this field since annulment of deeds leads to unjust treatments to the owners after it is clarified that the property obtained legally before the coast edge line detections is within the coastal zone.
- 22.** In order to carry out an effective audit over the implementations at coasts, legal arrangements should be made so as to prevent the institutions to abstain from their duties regarding the prevention of infringements at coasts and to simplify the audit system and it is necessary to define the powers and duties clearly.
- 23.** The personnel of the local administrations responsible for the control of the practices at coastal zones must be provided with training services on the issues such as which types of practices can be performed at which conditions, how the audit should be performed, which procedures are to be applied for the irregular acts that damage and destroy the natural structure of the coasts. The local administrations must be ensured to act in unison in the field of implementation. It is thought that the effectiveness of the studies are to be increased when the units to be established under the governorships conduct the activities towards the follow-up and collection of the information on the infringements of coastal law, finalization of the legal and administrative procedures on due time, follow-up of the execution of the court decisions, alerting the relevant institutions about the possible delays and ensuring cooperation and coordination among the institutions.
- 24.** The number and nature of the acts that destroy the natural structure at coasts, at which regions they are more common, their increasing and decreasing trends and

reasons must be identified by the governorships and municipalities within cooperation, measures should be identified and implemented in the light of the data obtained and the infringements must be detected at initial phase and ensured to be prevented.

- 25.** The utilizations that harm and destroy the natural structure of the coasts by means of mense profit or renting practices should not be permitted to continue. The coasts should not be rented if this limits or abolishes other's right to utilize equally and freely from the coasts.
- 26.** It is considered that the necessary sensitivity shown by the public institutions regarding the compliance with coastal legislation and removal of the existing occupations shall be a role model and have positive effect on the studies towards the prevention of other infringements at coastal lands.

PART II

AUDIT ISSUE, MANAGEMENT, OBJECTIVE

AUDIT ISSUE

27. In the audit carried out by the Performance Audit Group, “the efficiency of the Activities towards the Planning and Audit of Coastal Utilization” is evaluated. Coasts are non-renewable natural resources that are providing considerable input to the national economy, used for various purposes and destroyed due to rapid population growth and dense construction activities as in the case of many coastal countries. In order to utilize from the sea, lake and stream shores in a rational way through protecting their natural features; sound planning studies should be conducted and it should be ensured that these plans are applied at first hand.

28. The activities for the preparation of the plans on coastal lands are relevant to many institutions such as the Ministry of Public Works and Settlement, the Ministry of Culture and Tourism, the Ministry of Environment and Forestry, the Ministry of Transportation, General Directorate for the Construction of Railways, Seaports and Airports, relevant municipalities and Governorships and the Undersecretariat for Maritime Affairs. Auditing the utilization of the coasts in accordance with the existing plans is mainly carried out by the Governorships and Municipalities. Through considering the negative implications to be brought by the widespread working area, this audit is limited with the sea shores and the activities of;

- Ministry of Public Works and Settlement
- Ministry of Environment and Forestry
- Relevant Governorships and Municipalities

29. In this audit ;

- To what extent the practices at the coastal regions are planned, whether the plans are appropriate for the coastal features, what type of problems occur during the planning activities;

- To what extent the shore edge line detections that is the first step of planning and implementation are made soundly,
- Whether the practices at coasts are audited effectively or not are examined.

AUDIT MANAGEMENT

- 30.** The legislation was examined in order to find out what the legal basis of the planning and audit activities at coasts are, how they are carried out and to determine the risks and audit criteria in this field. Interviews were made with the authorities from General Directorate of Technical Research and Implementation of the Ministry of Public Works and Settlement (TRI), Ministry of Culture and Tourism General Directorate of Investments and Establishments, Environmental Protection Agency for Special Areas, the Ministry of Interior Civil Service Inspection Board, General Directorate of National Estate and General Directorate for the Construction of Railways, Seaports and Airports. The documents and papers receive from them were examined and the publications of academicians concerning this issue were used.
- 31.** Studies were carried out at the provinces of Muğla, İstanbul, İzmir, Antalya, İçel, Hatay, Trabzon and Rize, Directorates of Public Works and Settlement, Directorates of National Estate, Directorates of General Directorates of Proceedings, 54 municipalities of provinces and districts. In order to examine how the planning and audit activities are carried out, interviews and structured interviews were made; correspondence files, minutes and other documents related to our topic were examined and analyzed; observations and detections at coasts were made.

AUDIT OBJECTIVE

- 32.** The objectives of this audit are;
- To find out the problems encountered during the planning activities concerning coasts and develop solutions to them,
 - To set out the guiding recommendations with a view to taking the necessary legal and administrative measures in order to ensure that our coasts are used efficiently without their natural structure being destroyed,

- To set the measures required to be taken in order to carry out an effective audit with a view to preventing illegal utilization of coasts and the deterioration in the natural structure.

PART III PLANNING OF COASTAL UTILIZATION

In this part of our report; the following issues are examined: which institutions are authorized to make planning of coasts, whether there are clear arrangements in this field or not, how the distribution of authority effects the planning activities carried out at coasts, whether there are disagreements over the sharing of authority, to what extent the plans are based on sufficient, correct and updated data and are practicable, whether the standards concerning the protection of the natural structure of coasts are applied considered during the preparation of the plans.

Institutions Authorized in Planning

33. The authority to plan at coastal lands is distributed among various institutions.

Followings are the leading ones:

- ✓ Municipalities,
- ✓ Governorships,
- ✓ Ministry of Public Works and Settlements,
- ✓ Ministry of Environment and Forestry,
- ✓ Ministry of Culture and Tourism,
- ✓ Environmental Protection Agency for Special Areas,
- ✓ Presidency of Privatization Administration and Privatization High Board,
- ✓ Ministry of National Defense,
- ✓ Boğaziçi Directorate of Development, İstanbul Metropolitan Municipality

34. Coasts are used for different aims such as housing, tourism, and industrial facilities, seaport and shipyards construction. Due to the fact that most of the time special environmental protection regions, natural and historical protected areas, forests and coastal lands are mixed and are not separated, several number of institutions share the authority of planning of these areas. Principally, municipalities are responsible for planning of the areas within their borders. For the planning of the areas outside the municipal borders, the governorships (as of the date 04.03.2005 special

provincial administrations) are authorized. However for environmental arrangement plans, besides the Ministry of Public Works and Settlement, The ministry of Culture and Tourism at places announced as culture and tourism protection and development areas, Environmental Protection Agency for Special Areas for places which are declared to be special protection area; for the areas included within the privatization Presidency of Privatization Administration and Privatization High Board; the relevant administrations in cases where the organized industrial sites and free regions are located at coasts, for wooded lands the Ministry of Environment and Forest, at the military zones the Ministry of National Defense and at the Bosphorus, Directorate of Development İstanbul Metropolitan Municipality are responsible and authorized. Moreover; the plans must also be approved by the Board of Protection of Cultural and National Heritage in cases where there are cultural and historical heritage to be protected within the area.

- 35.** Different institutions may have authority of planning if the same utilization types are applied to coasts with different statute. For instance, despite the fact that the Ministry of Public Works and Settlement have a general authority covering all the coasts concerning the planning of docks and reclaimed lands; the Ministry of Culture and Tourism is invested with the authority to approve and make all the plans at the culture and tourism protection and development areas. During the construction of the docks and marina and coastal landfilling activities, the authorities are overlapped. The plans of the municipalities of touristic centers and areas are approved by the Ministry of Culture and Tourism. On the other hand; for coastal landfilling, the opinions of various institutions are taken and the correspondences made for this issue take long time. For dock constructions, opinions of Undersecretariat for Maritime Affairs and General Directorate for the Construction of Railways, Seaports and Airports are separately received.

Disagreement among the Institutions on Planning

- 36.** That different laws entrust authority to various institutions in terms of planning leads to conflicts which are brought to courts among these institutions. When the plans become a subject of trial due to disagreements among institutions or other reasons, the works are delayed and the lands are used without planning.
- 35.1** It is observed that at Marmaris Bozburun Manucipality, unplanned structuring has been seen since the foundation of the municipality; because the coast edge

line and then the implementation construction plan at a scale of 1/1000 was cancelled by court verdict.

35.2 The disagreement arised between Environmental Protection Agency for Special Areas and the Ministry of Public Works and Settlement concerning the Implementing Regulation on the Preparation of Construction Plan and the Principles of its Amendments issued by the Ministry of Public Works and Settlement. The changes made to this Implementing Regulation was brought to court.

35.3 Concerning the authority to plan at coasts with high tourism intensity, there is disagreement among Environmental Protection Agency for Special Areas, Ministry of Public Works and Settlement, the Ministry of Culture and Tourism and the municipalities. During the studies conducted at the relevant agencies, some of the disagreements detected are shown below as sample cases.

35.3.1 Following the Antalya Belek tourism center 2. extension border modification, tourism area and the special environmental protection area are overlapped. Thus, a disagreement was arised among Environmental Protection Agency for Special Areas, Ministry of Public Works and Settlement, the Ministry of Culture and Tourism and this conflict was brought to court. The trial process of this conflict is continuing.

35.3.2 Since different construction plans at different scales of 1/1000 for the same area concerning Köyceğiz Yacht Dock were drawn up by both the Environmental Protection Agency for Special Areas and the Ministry of Public Works and Settlement, the disagreement arised between two institutions was brought to court.

35.3.3 The construction plan belonging to İstanbul Beyoğlu Tophane Salıpazarı Port, which is within the scope of privatization and a tourism area and the plans of Ataköy Marina, was approved by the Ministry of Culture and Tourism in 2004. However, the Presidency of Privatization Administration, the Ministry of Public Works and Settlement and the Ministry of Culture and Tourism claim that they have the authority to give approval for the part of coast edge line relevant to seaside.

35.3.4 The Ministry of Public Works and Settlement approved the plans prepared for the Pendik Ro-Ro Port and Dock, the license was given and it started to operate. However, despite these facts, legal action was taken against the mentioned plan, two coastal landfilling and dock plans and the court decided on a stay of execution.

35.3.5 The Governorship of İzmir opened lawsuit at administrative court to nullify the decision of the municipal council concerning the plans with the justification that the coast edge line was included to the plans prepared by İzmir Metropolitan Municipality without approval. Besides, the coastal landfilling and construction plans for the area between Konak – Alsancak was brought to courts at past and the plans were cancelled.

Disputes among Institutions on Coastal Utilization

37. Apart from the authority to plan, there is also conflict of authority in terms of coastal utilization among the institutions.

36.1 The region that is reflected as facility area located at Fethiye in the plans prepared by the Environmental Protection Agency for Special Areas and which is in fact a forest area was started to be organized and operated by the municipality on the basis of the protocol signed between the municipality and the Environmental Protection Agency for Special Areas. Thus, General Directorate of Forestry opened a lawsuit against this practice.

36.2 Similar disputes were also seen between the Prime Ministry and the Ministry of Finance which rejected the interpretation that the right of easement of the coasts within the special environmental protection is passed to Environmental Protection Agency for Special Areas according to the Decree Law No:383.

36.3 The legal process is continuing which is related to the disputes concerning the operation of Dalyanağzı and Belceğiz facilities between the Environmental Protection Agency for Special Areas and Dalyan and Ölüdeniz Municipalities.

36.4 So far there has been dispute among the Environmental Protection Agency for Special Areas and the Ministry of Environment and Forestry, the Ministry of Agriculture and Rural Affairs, the Ministry of Energy and Natural Resources and Water Works General Directorates (DSİ) on the annulment of the allocations at

the Special environmental Protection regions made by these institutions previously.

- 36.5** With the justifications that an area near to Manavgat district Çolaklı village was allocated to the use of military but it is not used and cannot be used for this purpose and no facility can be established there since it is in front of the hotels and at the coast; a disagreement was arised among the Environmental Protection Agency for Special Areas, Municipality, the Ministry of Finance and the Ministry of National Defense. It could not be solved through correspondences and thus brought to court. The legal process of this issue has not yet been completed.

Planning Activities

- 38.** The most important plan produced while regulating the coastal areas is the environmental regulation plan that guides the other plans and sets the principles necessary to be implemented by the planners, implementers, investors and persons in terms of the protection and limitation decisions introduced by it. However, plans covering our coasts are not completed. The lack of higher scale plans which guide the planning activities constitutes a risk for the preparation of sound plans. Since the possible utilization ways are not specified through higher scale plans, demands for utilizing from any land through coastal landfilling or as port can be seen without any limitation. The plan decisions stated in the annex of the environmental regulation plans cover in general the objective, scope, definitions, general provisions, the provisions concerning the lower scale plan and project implementations. The opinions of the relevant institutions are taken for main city plan and implementation plans that are required to be prepared in compliance with the environmental regulation plans. In the plan notes annexed to these plans, the plan decisions are given in which the activities that can be and cannot be performed are listed.
- 39.** Preparation of sound plans is closely related to obtaining the updated maps of the area to be planned and other data correctly. It is observed that information sharing among the institutions in this field is insufficient. During the inspections made at Technical Research and Implementation (TRI), it was detected that the existing layouts at a scale of 1/25.000 have been used for 45 years, there is a need for updated maps; but the maps with this quality can not be obtained from the institutions producing them without free of charge and that in 2005 budget

no appropriation was allocated for map purchase. The authorized persons of TRI stated that there is no higher scale plans which have a leading role in coastal planning, the requirements of the coastal legislation is tried to be fulfilled during planning, there is no information flow concerning the plans drawn up at coastal regions by other authorized institutions, thus repeated planning studies can be conducted.

- 40.** It is observed that during the planning studies, the Metropolitan Municipalities of İstanbul and İzmir obtained ready maps through using the air photos, over these maps the title data was transferred through utilizing from the cadastral maps and coast edge line was manipulated with a view to establishing a City Data Center. At some regions, there are problems due to shifts in the coordinates and the CELs coordinates belonging to these places cannot be given by the Directorate of Public Works and Settlement of İzmir, thus the issue was communicated to TRI in order to be solved. The dispute arised between the İzmir Metropolitan Municipality and Governorship over the transfer approvals of map and CELs which are necessary to be put on the maps in numeric format and which was caused by the reasons that the implementation of electronic signature has not yet been initiated and how the numeric maps are approved is not known. This dispute is still trying to be solved through correspondence.
- 41.** It is observed that the data on the numeric maps at İstanbul and İzmir Metropolitan Municipalities are in electronic environment. The softwares used by mentioned municipalities were procured. Despite the fact that the up to dateness and accuracy of the existing data are in general not tested, certain plans have been drawn up based on these data.
- 42.** Studies towards detecting which coasts are appropriate for what type of utilization and the features of the coasts are not carried out and data that can be used during planning activities cannot be obtained from the relevant institution. There is no sound data concerning to what extent the coast edge lines are designated that are required for planning activities and how correctly these are reflected on the layouts.
- 41.1** So far information and opinions required in the planning activities have been collected through exchange of letters among the institutions. For instance, the data needed during the planning activities performed at Environmental Protection Agency for Special Areas was collected from various institutions.

Namely, the data on military zones was collected from the Ministry of National Defense, on flood prevention from Water Works General Directorate, on forestation and erosion control implementation fields and national parks from Provincial Directorate of Environment and Forestry, data on the forest cadastre studies at the region from the Ministry of Environment and Forestry and from the relevant engineering departments of various universities through correspondences. Certain geological studies were performed by the personnel of the institution and verified by General Directorate of Disaster Affairs.

41.2 The licenses were issued and constructions were made on the basis of the plans prepared by Yalıkavak Municipality of Bodrum district without considering CELs. The implementation of the plan was stopped by court verdict with the justification that the plan was prepared without CELs detection. Thus, the Municipality suspended the implementation of the plans and studies towards modifying the plans in accordance with the court decision have been initiated.

41.3 At Marmaris İçmeler Municipality; the CELs designated in the year 1976 was not transferred to construction plan modification layouts produced in 1996. The plan in this circumstances was approved by the Ministry of Culture and Tourism and coastal landfilling activities and port constructions were carried out and it is observed that the operations are being conducted on the basis of these plans. The new plans drawn up in 2004 were sent to the Ministry of Culture and Tourism for its approval; however, they have not yet been approved. It was stated by the authorized persons from the municipality that the legal procedure concerning the coastal landfilling conducted unduly by the municipality for use as heli pad shall be completed after the penal actions are taken.

41.4 CELs designated for the first time in 1975 within the borders of Fethiye Municipality were transferred to layouts during the plan revisions made later by EPASA. However, some of the approved CELs layouts could not be found although they were searched from all the authorized units. It is observed that upon the objection of the Ministry of Public Works and Settlement to the fulfillment of transfer by EPASA, correspondences were done between two institutions and instead of approved layouts that could not be found, the coast edge line was re-determined and put into effect following the approval of the Ministry. Besides, CELs that were missing or not set were transferred to one single layout afterwards and put into effect after the approval of the Ministry.

41.5 In Fethiye, a place, which was displayed as a recreational facility, was shown as a touristic facility area in the new plan drawn up by the Environmental Protection Agency for Special Areas (EPASA). Thus, the new plan was rendered null and void by the court since transformation of a recreational facility into a touristic facility area is deemed inconsistent with public interest.

41.6 some of the municipalities which were audited on site stated that their opinion concerning the coastal landfilling plans within their borders were received, however their opinions were not considered most of the time and the plans were approved by the Ministry. The plans concerning dock construction and coastal landfilling by the settlement area in Pendik Güzelyalı were approved by the Ministry of Public Works and Settlement despite the negative opinion of the municipality. It was understood that the plans were not sent to municipality and the municipality of the district took information on the issue from Metropolitan Municipality and brought this issue to the court and the court decided on a stay of execution.

43. It is observed that protection-utilization balance cannot be maintained during coastal planning and coastal utilization is more emphasized. In the legislations of the institutions authorized for planning, it is envisaged that the coasts cannot be used in a way that damage coasts, the protection of these sources, detection of activities having adverse effects, protection of ecological balance, prevention of lives from negative effects in line with the utilization aim; however, these provisions are not taken into account considerably.

42.1 In the studies, it is seen that when tourism contributions to national economy is considered, the provisions for protection that should be included in the plans are given secondary place. In a circular No: 49500 dated 26.12.1985 sent by then Minister of Culture and Tourism to all governorships and municipalities, it was stated that “In order to increase the capacity of the touristic facilities, the proposals concerning the changes to plan and construction plan should be received favorably, construction licenses of those who want to raise storey and construct outbuilding should be issued diligently.”

42.2 During the examinations made at regions audited on site, it is seen that the implementation construction plans do not include risk assessments and these assessments are reflected in the plans. Only in the plans prepared by EPASA,

it is mentioned that such studies are conducted in the plan notes, but there is not any detailed information concerning these studies.

- 44.** It is observed that planning principles are same for every coastal regions, there is no flexibility and plans are not updated create problems in the practice. There are places where the principle of coast line of 100 meters can not be applied.

Coast line is the area which is at least 100 meters with from the CELs of seas, natural and artificial lakes.

- 43.1** Following the annulment of implementation construction plan with a scale of 1/1.000 drawn up by Marmaris Bozburun municipality by the Council of the State in 1992; most part of the district fell inside the coast line which was shown as 100 meters in the new plan prepared by the Environmental Protection Agency for Special Areas (EPASA) and problems shall occur in the implementation of this plan with its existing situation.

- 43.2** Mersin Metropolitan Municipality whose borders was expanded six times with the Metropolitan Municipality Law No: 5216 and has become an area with a radius of 20km and the number of the villages affiliated to it has increased from 3 to 22. During the investigations carried out in this municipality, it was found out that the Environmental Organization Plan with a scale of 1/25.000 dated 1980 which was revised in 1996 at latest was not updated and its actual implementation is not possible. According to the information given, preparations for higher scale maps with a scale of 1/25.000 over the actual maps and those with a scale of 1/5.000 in compliance with these have been started, parliamentary decision has been taken and its procurement process is still going on.

Actual maps are the maps that show the main natural and artifact features of an area and are taken as the starting point for all plans and planning activities.

- 43.3** A parliamentary decision was taken concerning the amendment made to the plan, which was drawn up in order to extend the length of the coastline to 20 meters, which was previously decreased from 20 to 5 meters. The areas within

the coastline have been specified and the situation has been notified to the authorized persons via the council decision.

43.4 In Marmaris Turunç which become a municipality in 1999 and whose plan revisions were approved in 2002 by the Ministry of Culture and Tourism and put into effect; the coast edge line passes near some buildings. It is observed that there are buildings within the area that is shown as coastal line in the plan, the principle of a coastline of 100 meters can only be applied in Asarcık (Amos) region and at other places, and this length is 10 meters.

43.5 Within the coastal line, which is defined to be 100 meters in the construction plan with a scale of 1/1.000 approved by EPASA in 2004, it is seen that there are buildings the construction of which are completed and thus, the municipality has hesitations in implementing this plan with its existing status.

43.6 It is identified that the precedents and heights specified in the Implementing Regulation on the Enforcement of Coast Law are complied during the planning phase and these are reflected in the plans. The precedents and heights of the filled area owned by Pier Shopping Center, which was constructed at the area of old fish market hall in İzmir Konak are not complied. The area is used completely and its filling layout is not complete; however, it was still approved.

Coastal Landfilling

45. The most common and effective way in coastal utilization is reclaiming land through filling sea at coasts. The practice that damages the natural structure should be used where its is required by public interest, there is no other appropriate alternative to it and where coastal area is not adequate.

44.1 It is found out from the files examined during on site audits that the conditions of “public interest”, “non-existence of better alternatives”, “inadequacy of coastal lands” defined in the legislation are not investigated before the plans on filling areas are approved. The first authority whose approval is necessary is the governorship; however, governorships do not consider the condition of public interest during their assessments on these demands. During the examination of the file of correspondences, it is seen that general statements are stated such as “evaluation of the issue by our Ministry”. Likewise, there are no explanatory arrangements that

clarify which institution decides on the conditions of “non-existence of better alternatives” and “inadequacy of coastal lands” and how. Moreover, there are no records in these files showing that studies on this matter were carried out. In general, the governorships give approval to coastal landfilling if the facilities to be constructed at the coastal landfilling area comply with the Implementing Regulation.

44.1.1 Some part of the Blacksea coastal way was built on an old coastal landfilling land and for its other parts, unplanned coastal landfilling was made and the plans were approved later. The authorities from Trabzon Governorship stated that they approved the plan because Regional Directorate of Highways demanded it to be approved considering that there is public interest. The governorship did not consider the conditions of “non-existence of better alternatives” and “inadequacy of coastal lands”. Besides it is seen that there is no compliance with the provision that “Highways can be built at the area falling behind the building construction border on the land side of the coastal area” which is in the 5th Article of the Coast Law No:3621 regulating the general principles of coastal utilization. Before coastal landfilling activities were carried out at Blacksea coastal way, detailed studies were not made. At which areas coastal landfilling should be made to what extent and what environmental effects it shall have were not detected. The experts who studied on this issue stated that this status has damaged the ecological structure at some areas where there is a very rich ecosystem, has adverse effects over the tourism and fishery sectors and prevents coastal utilization.

44.1.2 In the Implementing Regulation on the Enforcement of Coast Law, it is stated that ecological balance must be protected and seas, their surroundings and living species in this environment cannot be damaged; however, there is not any clarification concerning the criteria that are to ensure these principles.

44.2 Due to the fact that there are not any principles and procedures concerning the detection of features of the coastal landfilling in terms of the features of coasts, in practice, this issue is determined by the owner of the proposal. In the audits carried out on site, it is observed that especially the tourism enterprises filled the area along the front line of their facilities.

44.3 During the audits conducted on site, it is observed that especially the coastal landfills made by the municipalities were not based on plans. The plans for such landfills are drawn up and the required procedure is completed later. In other words, plans are prepared in accordance with the actual situation. Thus, the conditions aiming at the

more effective utilization of coastal lands and minimum damage to coasts such as “public interest”, “non-existence of better alternatives” and “inadequacy of coastal lands” cannot be enforced. Moreover, the environmental effects of the coastal landfills that were not planned although coast edge line is obligatory for the landfills of 10.000 m² and higher and whose plans were drawn up later are not known.

44.3.1 The coastal landfilling plans of İzmir-Alsancak port operating for many years were approved in 2002. It is observed that General Directorate of Highways filled the area between İzmir Konak and Alsancak without an approved plan and the plans were approved after completion of landfilling.

44.3.2 The plan concerning the coastal landfills made previously in Mersin Mezitli was approved in 1996 and the plan of another very old landfill located at the South of Adnan Menderes Boulevard was approved in 2002.



A view of coastal landfill in Mersin

44.3.3 A fisherman shelter built at Kapusuyu village (Çevlik) of Samandağ district of Hatay province by General Directorate for the Construction of Railways, Seaports and Airports 10 years ago was tried to be based on plan in order to be rented by the Ministry of Finance and its plan has not yet been approved.

44.3.4 In the studies conducted in İstanbul, 100.4 km of the coast length, which is 174.1 km at European side and 217.7 km at Asian, is coastal landfilling. Most of the coastal landfills are unplanned and their planning procedures are still going on. The plans of the landfills finalized in 1994, 1996, 1997, 1998 and 1999 were sent to the Ministry of Public Works and Settlement for its approval in November 2004. The compliance of the plans with the actual landfill cannot be evaluated since the plans were drawn up after landfilling. In addition, such a study to detect the compliance of plan to landfill was not carried out.

44.3.5 During on site audits, it is observed that the municipalities approve the landfill plans although they do not have the authority to approve, these plans are considered in

practice and the Ministry of Public Works and Settlement warned these municipalities on the invalidity of these plans.

- 44.4** The landfills that are made without planning, authorization and conducting necessary studies not only damage coasts, but also they are highly endangered areas at earthquakes. For instance, during İzmit earthquake in 1999, the landfill of 100 meters width in Değirmendere was shifted to sea with all the buildings, park and way over it.
- 44.5** In order to issue certificate of construction to be made on the lands claimed through landfilling and drainage the approval of the Ministry of finance must be taken. The ministry demand the statement of the relevant unit that the landfill is in accordance with its plan and project in order to give this permission; however, at this stage the control system does not function properly. On the other hand, there is no legal validity for the approved plans. For this reason, the approved plans may not be realized for many years and approvals for landfills may be used for the aim of obtaining unearned income.

RESULTS and RECOMMENDATIONS:

- 46.** Various institutions have voice in the planning of the coastal areas. When the areas with the same features are in different statuses, their plannings are made or approved by different institutions. This not only prevents an integrated approach towards the planning in coastal areas but also leads to conflicts regarding authority among the institutions. Conflicts that are transferred to the courts prolong the process of planning and lead to unplanned utilization.

Legal arrangements are needed for the simplification and reorganization of the current scattered structure in the authority regarding the planning of coastal areas. It is believed that the planning authority which was granted to various institutions with different laws should be centralized and the authority be given to an institution specialized in this field.

- 47.** Lack of higher scaled plans, which play a guiding role in the coastal plannings and lack of information regarding the features of the coasts, and to which utilization they are convenient affect negatively to the applicability and correctness of the lower scaled plans. Problems exist in the provision of information and maps needed for the planning works.

Features and convenient types of utilization for all coasts and coastal strips, primarily of the areas where can be used for settlement and tourism investments should be detected and an information system including the data necessary for the planning works and up-to-date maps should be established and made accessible to the related institutions.

- 48.** Protection of the coasts and utilization of them for the public welfare could not have been realized although they are stated among the basic principles of the legislation regarding the planning and management of the coasts. In the planning of coastal regions, protection – utilization balance cannot be ensured with an incline to excess utilization and provisions of protection in the related laws are not taken into consideration in implementations.

For the provisions in the legislation regarding the protection of the coasts become operational, Implementing Regulations concerning the implementation of some principles like the “conservation of the ecological balance” and “protection of the coastal features” are needed in the planning works. Researches should be carried

out to find out how the utilization types stipulated in the plans to ensure protection-utilization balance will affect the natural structure and how the negative effects can be minimized; and in this regard measures should be taken

- 49.** In the land reclamation through land filling, which should be implemented only in mandatory conditions, criteria regarding the protection of coasts should be taken into account. It has been determined that most of the fillings are unplanned. To bring unplanned fillings under plan afterwards, i.e. to adjust the plans to the actual circumstances renders the principles aiming to ensure the protection – utilization balance of coasts and control systems meaningless.

In the authorization and planning of fillings, how and with which principles will the conditions of “inadequacy of the coastal area” and “not being able to find more convenient alternatives” be evaluated should be determined and the opinions in this regard should be based on the documents and researches of the authorized units. Principles regarding the width, length and height of the filling areas for each utilization type should be established. In places where no other alternative except filling to benefit from the sea exists, it should be ensured that the implementations are being carried out with projects prepared according to the conditions to be least harmful to the natural structure.

PART IV DESIGNATION OF THE COAST EDGE LINES

How the detection of coast edge lines (CELs), the first work necessary for the planning and implementations regarding the coasts, are carried out; adequacy of the establishment and working styles of the detection committees; to what extent detection of CELs of the coasts has been completed; and the kinds of problems occurred have been analyzed in this part of our report.

50. CELs is an important factor in the planning of the coastal areas. According to the Coastal Law, detection of CELs is necessary for the planning and implementations in the coasts and coastal strips. There exists no sound and reliable data regarding to which extend detection of CELs of our coasts has been accomplished. In TRI (Directorate of Technical Research and Implementation), facts concerning the CELs began to be transferred into computers at the end of January 2005. Detection works for the areas without any approved coast edge line should be carried out by the governorships under the framework of the annual detection programs; but upon the request of the concerned, regardless of the fact that it is in the annual program or not, detection has to be made within three months after the date of request.

Coast line means the line, which is the combination of the points where water meets the land, except the overflows, in sea, natural and artificial lakes and rivers;

Coast edge line, means the natural line of sandy, pebbly, rocky, stony, reedy and marshy , etc .areas formed with the water activities in the direction of land behind the coast line of sea, natural and artificial lakes and rivers;

Coast, means the area between the coast line and the coast edge line.

49.1 On-site works ascertained that the governorships do not carry out any annual plans regarding the detection of CELs. The reason of this was established as the high cost of making maps necessary for the detection works and the lack of appropriation for maps. In the audits in Istanbul, it was found out that

general statements were used in the “2005 Detection Program for the Whole Province” prepared by the members of CELS committee and although it was stated that the detection work would be carried according to a program, there was no program prepared.

- 49.2 In practice, CELs detections can only be carried out upon request and when the claimant provides the necessary maps. Works started upon the request of the concerned can not generally be completed within three months as stipulated with the provisions of the related legislation. Only in Rize among the places where on-site audit was made, there exists an example which the detection and approval of the Ministry were carried out only in 25 days. In the 56.6 km of the Rize coast, which is 95 km, detections of CELs have been completed.
- 49.3 In the works carried out in the Governorship of Trabzon, Directorate of Public Works and Settlement, it has been found out that detections of CELs for 10 km of the coast, which is 85km, were not made and the maps for that part are not available. In the Trabzon part of the Blacksea coastal way, CELS could not have been determined because of the lack of up-to-date 1/1.000 scale maps and thus the filling construction plans could not have been made.
- 49.4 In the inspection of files in the Governorship of Izmir, Directorate of Public Works and Settlement, it has been found out that the detection of CELs for a part of 492km of the 875km coast was completed and the length of CELs transferred to digital environment is 47,9 km. Except the military and protected zones, the part of the coast that the detection of CELs should primarily be made is 55km and as calculated by the Directorate in 2001 the provision of the maps costs 587.000,00 YTL. However, because of the lack of appropriation, working program could not have been made. In some places where CELs detection has not been carried out yet, there exist shanty settlements.
- 49.5 In some provinces where on-site audits were made, there was no sound information concerning the extend of the coastal parts where the detection of CELs was completed. Authorities interviewed, stated that the detections of CELs were completed in % 90 of Mersin, % 95 of Istanbul and % 80 of Hatay; but it has been understood that these rates are approximate and not based on any research.

- 49.6 In Istanbul, that the Metropolitan Municipality started to work on the detection of the CELs for all the coastal area and with that aim opened a tender for maps has been stated as an example of good practice. Within the framework of the digitization of the CELs of Istanbul province by the Municipality's Directorate of Cartography, layouts for the areas whose CELs has not been detected yet were announced as per boroughs to the Directorate of Public Works and Settlement and the detection of CELs for these parts were asked. In the written reply of the Directorate of Public Works and Settlement, it was stated that 1/1.000 scale layouts and technical personnel are needed and the works could not have been completed yet.
- 49.7 In the works carried out in the Governorship of Antalya, Directorate of Public Works and Settlement it has been determined that there are some parts in the coasts of Patara, Kalkan, Kas, Demre, Finike, Kumluca, Manavgat and Gazipasa whose CELs have not been detected yet.

Establishment of CELs Detection Committee and Its Works

- 51.** In accordance with the Coastal Law, CELs is detected by a committee established by the governorships and composing at least five public officers. This committee consists of a geological engineer, geologist or geomorphology, surveyor and topographic engineer, agricultural engineer, architect and urban planner and civil engineer. Coast edge line layouts detected by the committee and sent with the assent of the governorship become finalized after the approval of the Ministry of Public Works and Settlement. CELs approved in accordance with the TRI (Directorate of Technical Research and Implementation) Circular no. 11080/7018 dated 30.06.1998 were suspended for a month. However, who can object to this detection and what kind of procedures should be followed upon these objections are not clearly defined.
- 52.** According to the Coastal Law, working procedures and principles of the CELs detection committee should be established with an implementing regulation to be prepared by the Ministry of Public Works and Settlement. This issue is regulated not with a separate implementing regulation but with the general statements in the articles under the title of "Organization, Working Procedures and Principles of the Committee, Detection and Approval of the Coast Edge Line " of the

second part of the implementing regulation on the Implementation of the Coastal Law. In these regulations, there are not any statements concerning how the works will be carried out by the committee members and how and what kinds of data will be evaluated by each professional group. This gap in the field has been tried to be filled with the bulletins of the seminar on coasts organized by the Ministry.

51.1 In the bulletins of the seminar on coasts, general statements exist explaining issues such as that the geologist carries out the geological and geomorphologic analysis of the region and the land examined and determines the limits of effects of the water movements in the direction of land by establishing the features of the ground and conditions of formation; agricultural engineer determines the flora of the land generally; and the topographic engineer is responsible for the determination of the coordinates of the working site. However, procedures and principles about how the determined tasks shall be carried out and how the findings will be assessed by the above-mentioned professional groups have not been fixed yet. There is no clear information for the type of works to be undertaken by the urban planner, civil engineer and architect and how these professions will contribute to the works of detecting CELs.

51.2 In the provinces where on-site audits were made, members of the CELs detection committee were interviewed; and it has been found out that the committee members carry out works through superficial examinations and observations based on their professional knowledge and experiences, benefit exceptionally from excavation and drilling and conclusions are reached by making use of former documents and acquirements. Members of the committees stated that the implementing regulation and bulletins are not clear enough and it is compulsory to establish scientific criteria to be taken into consideration in the detections. In addition, there exists a necessity to provide laboratory support to the works.

51.3 It has been seen that the members of the CELs detection committees had not have any vocational trainings either before or during their working periods. Officers assigned to the committee, acquire information and experience regarding the field during their works in the committee. In the interviews made, it has been found out that only one member of the

detection committees in Hatay, Mersin and Mugla attended the seminars organized by the Ministry of Public Works and Settlement but none of the members of İstanbul, İzmir and Rize detection committees attended such kinds of seminars.

Defects seen in the detection of CELs

53. There may be defects in the detection of CELs. Defective detections result in defective decisions in planning and structuring. There is no information enabling the analysis that to what extent does the CELs determinations differ because of the defects, the reason of the defects, to what amount these defects become a matter of law, and the results of the defects. In places where on-site audits were carried out, up-to-date map layouts were examined and it was found out that different detections had been stated for coasts with similar features.

52.1 Sample layouts were examined in İstanbul Bosphorus Construction Directorate, it has been ascertained that in places where the parcels stretches inside the sea, CELs was detected defectively as to be inside the sea including the CELs; and in some places CELs is in the same line with the coast line; and in some, CELs intersects the buildings registered as examples of civil architecture to be protected.

52.2 In Alanya two different CELs detections were carried out; one in 1976 and the other in 1986. The detection of 1986 tightens the coast by getting many of the places with buildings out of the detection of 1976. Urban design project was prepared according to the 1986 detection but the Ministry of Public Works and Settlement considered the detection of 1976 as valid because of the fact that 1986 detection was found to be defective and reiterated.

52.3 As a result of the examinations carried out upon complaint through applications to the ground and by opening an observation hole, of the CELs approved in 1987 in Yalıkavak Borough of Bodrum Province, it was found out in file analyses that in 2004 the agricultural land was partially detected to be in the coast.

52.4 In the works carried out in TRI, it was specified that in İzmir Kordon whose

fillings had been made before the CELs detection, CELs was detected as to be the edge of filling; and in Rize CELs intersects the filling. In Samsun two separate CELs detections were made and approved in 1976 and only in 2003 this could have been corrected. It was also stated by the officers of the Ministry of Public Works and Settlement that there are many public and private buildings constructed between these two CELs.

54. CELs detections are examined primarily by the TRI Coast Group in the working center but when deemed necessary as on-site, and then the appropriate ones are presented to the Ministry for approval and become valid after the approval. Coast Group carries out its works in the working center through the minutes of the detection committee and the present map layouts with which the detections were made. Detections which are found to be defective as a result of the examination are sent back to the local authority. However, there is not any information ascertaining the number of detections sent back and the reasons of the defects. In all of the regions where on-site audits were made, there were CELs detections sent back as they were found defective by the TRI as a result of the examinations. Defects detected by TRI were mostly because that the CELs was detected to be on the sea or on areas where water movements are not effective, CELs does not follow bevel top edge, or the filling area is out of the coast. In the CELs detection minutes examined in TRI by sampling, it was found that there exists no standard for the minutes, there is not any information regarding the type of data analyzed, type of measurements and analyses, the results obtained through these, and the evaluation of the each professional group; so that the information included is mostly not enough for the approval of TRI.

55. Layouts regarding the approved CELs detections are send to the concerned governorships, then to directorate of land registry and to the local finance organization and if the detection was made within the municipality, to the concerned municipality. However, directorates of land registry cannot alter approved CELs layouts and the directorates of cadastre that can alter them do not receive the layouts. In addition, the finance organization receives technical assistance from the directorates of cadastre to detect the properties in the coast. Approved CELs layouts are not sent to the Environmental Protection Agency for Special Areas and to the Ministry of Culture and Tourism which are responsible

for the planning task and these institutions try to get layouts needed through their requirements in writing.

- 56.** On-site works revealed that the present map layouts with which the detections are made are lacking, not filed properly, cannot be found when needed, and thus there exists a risk to repeat the work as done in Fethiye. Layouts stated to be lacking in the examinations in Yalıkavak Municipality were completed with its parts, some found in the Bodrum Fiscal Directorate and some in Bodrum Municipality.

CELS Detections, becoming a matter of jurisdiction

- 57.** Detection of CELs is a matter of administrative jurisdiction as it is an administrative act and a matter of judicial jurisdiction because of the actions for the infringement of title deeds. Courts reassign expert witness teams for the CELs detections becoming a matter of action. In the analyses of files, it has been found out that the administrative jurisdiction adjudicates based on layouts and the judicial jurisdiction, on parcels. In the annulment decisions based on parcels, it has been witnessed that the change of parcels in the layout size does not coincide with the other parcels. Decisions of administrative jurisdiction regarding the CELs detections are available in the directorates of public works and settlement, and thus the administration acts accordingly. Nevertheless, as the directorates of public works and settlement are not a part of actions in the civil courts, they are either not informed or informed later about the decisions of the court. In the examinations made, it has also been found out that CELs having had detected by the courts were later detected by the governorships and approved by the Ministry; thus there exists two separate CELs detections. This creates an important weakness in the planning and implementations.

- 58.** It has been witnessed that administrative and judicial jurisdictions may result in different decisions regarding the same CELs detection and this leads to hesitations in implementations. For example, the Administrative Court rejected the complaint regarding the CELs detection in Hatay and the decision was finalized with the approval of the Council of State. For the same area, in the action for the infringement of title deeds for the properties in the coast, the court decided that the fixed assets, which are deemed to be in the coast according to

the previous CELs are not in the coast. Thus, the alteration of CELs for some parcels, which were a matter of action and finalization of this decision upon the approval of the Court of Appeals, resulted in two definite CELs for the same area. Similarly in Seferihisar, the Administrative Court annulled CELs approved in 1978 and the new CELs detection was approved by the Ministry in 2003. However, for the same area, Civil Court had a new CELs detected and this decision was approved by the Court of Appeals, resulting in hesitations regarding the validity of each CELs. When the same parcels is considered, it is totally in land according to the Administrative Court, partially in coast according to the Ministry of Public Works and Settlement and totally in coast according to the Civil Court. This shows that sufficient scientific criteria have not been established for the detection of the CELs.

59. As the coasts are under the decision and disposal of the State, they cannot be subject of private property. After the detection of CELs, procedures regarding the action for the infringement of title deeds of the private fixed assets between the CELs and coastline are carried out by the finance organization. After CELs is finalized, it is transferred to the concerned revenue offices (fiscal directorates) with the copy of the related layout. Fiscal directorates detect the properties in the seaside of the CELs either with their own technical personnel or generally with the cooperation of the directorates of cadastre. After the detection of the areas in the sea part, documents necessary to sue a action for the infringement of title deed for this area are sent to the concerned treasury solicitorship. Although this is the procedure to be followed, it has been found out in the on-site examinations that the actions for the infringement of title deeds are generally sued upon the detections and complaints of the auditing officers.

58.1 After the on-site examinations 122 actions for the infringement of title deeds were sued in Marmaris; 34 in Ortaca; 35 in Kusadası, 51 in the center of Izmir; and 85 in Seferihisar. Because of the analysis of the court files, it has been understood that for the properties detected to be in coast according to the 1976, 1980, 1983 CELs detections, actions for the infringement of title deeds were sued in and after 2000. It was also witnessed that after the detection of the CELs, until the annulment of the title deeds, the properties in the coast might have passed to other people. Later on, these led to legal disputes and after the finalization of the decisions regarding infringement of title deeds, the owners of the immovable, which were constructed and used

in accordance with the land registries, construction plans and licenses, applied to European Court of Human Rights. It was also discovered that in some places where on-site examinations were made, directorates of cadastre required the detection of CELs before the cadastre works but the directorates of Public Works and Settlement rejected them because of the lack of appropriation.

Results and Recommendations:

- 60.** There are still some places in coasts where CELs have not been detected yet and the coasts where CELs has been determined, how many of them annulled and how many of them become a matter of action and what changed as a result of the action are not known. Governorships do not carry out CELs detection programs.

In which coasts CELs has been detected should be found out by the directorates of public works and settlement and thus, it should be clear for which coasts CELs detection is lacking. Detection of CELs should be completed with a program giving priority to the places important for tourism and bearing the risk of an increase in the number of settlements and the map need of the governorships should be met with coordination among the public institutions that manufacture maps. CELs detection committees should operate constantly until the detection works in the province level are completed.

- 61.** There are not any regulations establishing the working procedures and principles of the CELs detection committees and guiding them regarding the scientific criteria to be taken as basis in their works. CELs detection minutes are far from having a standard form including sufficient details. Because of this, when the minutes are transferred to the Ministry or/and to the courts in case of an action, the concerned departments can not be provided with the necessary information.

Scientific criteria concerning the detection of the natural borders formed by the water activities should be established by also benefiting from the opinions of the scientists working or carrying out researches on coasts; types of the measurements and analyses to be carried out and kinds of data to be researched by each professional group should be determined; and a format should be set, ensuring that all the detection minutes include sufficient details and content.

- 62.** In the detection of CELs, similar defects can be seen in different regions. However, there is not any statistical data ascertaining the most common subjects of the defects, features of the coasts that these defects are mostly seen and the reasons of them.

It is deemed necessary that in order to avoid defects in the detection of CELs, statistical studies should be made regarding the number of detections rejected, reasons of the defects and the features of the coasts that these defects are mostly seen; and according to the results obtained committee members should be trained.

- 63.** Present map layouts with CELs detected, are not generally available in the institutions that should have them and this bears the risk of reiteration.

A system should be established to follow the transfer of approved CELs layouts to the concerned institutions and to ensure proper filing in these institutions.

- 64.** CELs detections may become a matter of administrative and judicial jurisdictions, which may end in different decisions for the same detection, causing hesitations in implementations. In actions that the Ministry of Public Works and Settlement is not a part, CELs detected or altered with the decision of the court is not known by the Ministry and this may lead to the reiterations in the detections, problems in the implementation and new legal disputes.

To get rid of the doubts resulting from the different decisions of the courts regarding the CELs detections, it is considered to be beneficial that the issue is regulated with legal arrangements. It should be ensured that the conclusions of the actions whose subject is CELs are passed to the directorates of public works and settlement.

- 65.** That the actions for the infringement of title deeds are sued long after CELs detections, and the annulment of the title deeds given before the detection of CELs or during the above-mentioned period, of the immovables used according to the legal procedure, without any compensation result in legal disputes which may be transferred to the European Court of Human Rights.

It is considered that the number of disputes will decrease when the detections of CELs are carried out before or simultaneously with the cadastre works, and when the concerned people are warned during the title deed procedures about the immovables in the coasts by ensuring the regulation and coordination necessary to ascertain CELs detections in title deeds. Annulment of the title deeds of the properties detected to be in the coast even they were obtained according to the land registry before the CELs detection and according to the

legal conditions, causes unjust treatment for the people relying on land registries; thus it is considered that there appears a necessity for the legal arrangements.

PART V THE AUDIT OF THE COASTAL UTILIZATION

In this part of our report, the condition of our coasts with respect to implementations harmful to the nature and illegal, to what extent does the institutions responsible for the audits achieve their tasks and the kinds of the problems arising when there are many institutions auditing the same field from different aspects have been analyzed.

Legal Status

- 66.** Basic rules regarding the coastal utilization have been detected in the Constitution and how the coasts shall be utilized and the types and conditions of the buildings to be constructed in these areas have been regulated with the Coastal Law and the Implementing Regulation on the Implementation of the Coastal Law.

Article 43 of the Constitution; *“The coasts are under the sovereignty and disposal of the state. In the utilization of the sea coasts, lake shores or river banks, and of the coastal strip along the sea and lakes, public interest shall be taken into consideration with priority. The width of coasts and coastal strips according to the purpose of utilization and the conditions of utilization by individuals shall be determined by law.”*

Article 5 of the Coastal Law; “Coasts are open to everybody for free and equal utilization.”

- 65.1** General rules regarding the coastal utilization have been stated in the Coastal Law no. 3621 and in the Implementing Regulation on the Implementation of the Coastal

Law. The mentioned Law and Implementing Regulation can be summarized as follows;

- The coast is open to everybody for free and equal utilization and there, no building is allowed to be constructed, and barriers such as wall, fence, bar, wire fence, ditch or stakes cannot be erected.
- Excavations that will alter the coast or extraction of sand or pebbles, etc. are not allowed.
- Waste or residuals, which have contaminating effects such as rubble, soil, slag and garbage, are not allowed to be dumped in coasts.
- Buildings to be constructed in the coastal strips that include an area of at least 100 meters wide horizontally from the coast edge line can be constructed only 50 meters close to the coast edge line.

65.2 Coastal Law, implementation construction plan decision allows coastal utilization for public interest, construction of substructures and facilities aiming to protect the coast, and construction of the facilities which can not be constructed anywhere but coasts due to the characteristics of their activities. According to the provisions of the Implementing Regulation on the Implementation of the Coastal Law, Apart from the ones mentioned above, removable shower baths, canopies, dressing cabins, and kiosks maximally 6 m² and 150 meters distant from each other and mobile closets which do not necessitate septic tanks and have contaminating effect, and wooden wharfs can be constructed before the implementation construction plan is made,

65.3 Istanbul Bosphorus is separately considered in the legislation and the implementations there have been regulated with the Bosphorus Law no.2960. In the Law, it was stated that the buildings in the Bosphorus district, which are not in conformity with the provisions of this Law and the construction plans shall be pulled down or have pulled down immediately; the coasts in the Bosphorus area can only be used for public interest; only recreational, hiking and tourism facilities can be built for the benefit of the public in condition that they are in line with the construction plan; guardrooms, kiosks and tea houses of maximally 40 m² are allowed to be constructed in the areas allocated for public service and facilities in the front view, back view and susceptible regions.

Audit Authority and Duty

66 In the Article 13 of the Coastal Law, it was stated that *“the audit of the implementations in the areas covered with this Law is executed by the municipality for the areas within the municipality and the adjoining areas ; and by the governorships for the areas outside”*. Although the authority and duty to audit the utilization of the coasts and coast strips belong principally to the governorships and municipalities, laws assign duties directly or indirectly to the other institutions in the control of coasts adjoining forests; natural and historical protected areas; and areas, mostly specially protected environment areas, used for various aims such as settlement, tourism, industrial plants, harbor and construction of naval docks,

66.1In the Article 2 of the Law No.4856 on the Duties, Competences, and Responsibilities of the Ministry of Environment and Forestry, the duty *“to follow and audit all activities nation-wide, affecting negatively to the environment”* was listed among the duties of the Ministry and also in the Article 9 *“to determine and audit all kinds of activities affecting negatively to the sea and soil and to cease them in the conditions deemed necessary or dangerous”* was stated as the duty of the Ministry of Environment and Forestry. However, it has been found out that in practice, the Ministry do not execute any activities for the audit of the coastal utilization.

66.2In the Bosphorus, the duty to control buildings and constructions and the duty to execute the decisions to pull down buildings violating construction legislation were given to the Bosphorus Construction Directorate. As a result of the comparison of layouts, it has been found out that some buildings were constructed after the enforcement of the Law but it was also detected that these buildings are not in the coast.

66.3In the Article 19 of the Decree Law no.383 on the Establishment of the Environmental Protection Agency for Special Areas (EPASA), it was decided that all kinds of buildings and facilities to be built in the special environmental protection areas shall be subject to the permission and audit of the EPASA within the framework of the principles determined by the High Board of Environment of the Ministry of Environment; that the expenses for buildings not pulled down within the determined period shall be procured from the owner of the building and the pulling down of the building shall be executed by the Agency by also benefiting from the possibilities of the neighboring public institutions; and that legal proceedings shall be conducted for the responsables who are delaying the proceedings. In practice, it

was seen that the governorships and municipalities were informed with minutes to act duly, about the violations detected by the technical personnel in the audits.

66.4 General Directorate of Investments and Establishments under the Ministry of Culture and Tourism has duties related with the coasts such as the audit of the tourism enterprises, researching the resources that can be allocated to tourism, detection of the preceding ones, carrying out of the works regarding the protection and utilization of the natural resources that can be used in the tourism sector and related to this, cooperating with the other public institutions and private organizations. However, in practice when the audit personnel encounters with the violations of coasts during their duties, they do not start any procedure as the legislation do not assign any duty to them, regarding the issue which is under the authority of municipalities and governorships.

66.5 Finance organization determines occupied areas generally with the work of national real estate controllers and auditors. However, these works do not aim to audit coastal utilization but to determine occupied areas. National real estate directorates follow occupied areas with separate files. The files include first-detection minutes, and drawings attached to these minutes, identity of the occupier, determination of the mesne profits and information regarding the declaration and collection of it, correspondences, documents if there exists any actions sued or converted to rental revenue and later detections.

66.6 In coastal regions, municipalities carry out controls and audits with their personnel in municipal police offices and construction directorates, and governorships with the personnel of the directorates of public works and settlement. It has been witnessed that the local authority has executed various kinds of implementations after the violation of the coast determined. In some places, provisions of the Squatter Law no. 775 are followed for the procedures regarding every kind of violation of coasts, but in some Reconstruction Law no 3194 is applied. According to the Reconstruction Law, when the buildings non-licensed or violating the annexes of the licensees are ascertained in any way, condition of the construction shall be detected by the municipalities and the governorships and then the construction shall be ceased and the building shall either get a licensee or adapted to the conditions stated in the licensee within a month. Otherwise, these buildings shall be pulled down by the municipality or the governorship upon the decision of the borough council or town council of administration and the expenses shall be procured from the owner of the building. In the Article 18 of the Law no. 775, it was stated that

“permanent or temporary, all unlawful buildings constructed in the places under the sovereignty and disposal of the state shall be pulled down immediately by the municipal police of the state or the municipality without a need to any decision, even they are settled or still under construction”. Local administrations generally apply to courts to abolish the violation of coasts but in some places, it has been also witnessed that the violations were abolished directly. This implementation aiming to abolish violations for the areas without any disputes regarding properties leads to the continuation of the violations because of the long durations of jurisdictions and of being contended with the fines rather than applying the decisions of pulling down.

Problems encountered in the abolishment of the violations at coasts

67 It has been established that there had been much correspondence regarding the violation of coasts between the institutions responsible for auditing, but these do not aim any coordination, information flow or mutual aid but to avoid fulfilling the tasks. The institutions responsible for the coasts expect that some violations are prevented by other institutions and this leads to an increase in the number and prevalence of violations rendering the problem more difficult to solve.

67.1 Buildings violating the construction legislation and plan decisions in the Datca – Bozburun Special Environment Protection Area, were detected upon the written request of the EPASA by the mayoralty of Datca, district administration of Datca, and Mugla directorate of public works and settlement. in 2003. After ten correspondences among the mentioned institutions, the Governorship was informed with the letter of the EPASA no. 3168 dated 19.10.2004 that no proceeding was followed for a total of 271 unlawful buildings; and in the written reply of the Governorship, it was stated that the pulling down of the buildings could not be executed because of the lack of appropriation and annulment of the bidding for pulling down, and EPASA can execute pulling down with its authority given by the Decree Law no. 383. It was established that the majority of the mentioned violations were continuing at the time of on-site audits.

67.2 Based on the minute prepared by the personnel of the Directorate of Public Works and Settlement on 22.03.2005, it has been understood that no proceeding was conducted for the unlawful settlements in the coast of Antalya province, Kumluca borough, Cavuskoy District, including armored concrete buildings such as hotels

and boarding houses although they had been detected and specified in a minute by the national real estate auditors in 1998, and although much correspondence was carried out among TRI, Ministry of Interior, Directorate of Public Works and Settlement, Ministry of Culture and Tourism, and the General Directorate for Local Authorities.

67.3 Upon complaint it was detected with an examination by the Mugla Directorate of Public Works that in “Zeytinkahve” island which is among the protected areas in Bodrum – Torba, a wood covered wharf on metal stands was constructed, sun beds were built and a transition way was established to connect the continent and island and with regard to this District Administration of Bodrum and Mugla Directorate of the Cultural and Natural Heritage Protection Board were informed with the letter no 4994 and dated 25.08.2003. Based on the file examination, it was understood that the same Directorate informed the District Administration of Bodrum and the Mayorality with the letter no 6951 dated 29.09.2004 that the related correspondence should be carried out by the municipalities. In the investigation of October 2004, it was determined that the actions specified in the correspondences still continue just the same.



A coast strip where structuring occurred within CELs

67.4 It has been witnessed that the correspondence between the Cesme Fiscal Directorate and District Administration of Cesme to demolish the buildings occupying and restraining the coastal passage in Izmir Cesme continued between the years of 1996 and the end of 2004 but no result was obtained until the date of on-site audit.

- 68** In the coastal area, there are many municipalities in short of personnel and vehicle. Especially the municipalities of the districts have problems in obtaining technical personnel. It has been determined that there are not sufficient and knowledgeable personnel in most of the municipalities of problematic coastal utilization.
- 69** Municipalities execute auditing through municipal police officers and technical personnel. However, officers especially the municipal police officers carry out their duties without any sufficient knowledge on the coastal legislation. In some municipalities, there are not any personnel who are capable of auditing coasts and even, the officers substituting the authority of municipal police office do not have any information regarding the coastal legislation. It is also not possible to conduct auditing without any information on which conditions which implementations should be preferred in coasts. Among the places where on-site audits were executed, only in Trabzon a seminar was organized for the municipal police officers and although in the model program prepared by the Metropolitan Municipality of Istanbul, topics of Coastal Law and the Implementing Regulation existed, the seminar program of Trabzon Municipality did not include them. The efforts of the Ministry of Public Works and Settlement in 2001 to organize scientist training and development courses for the municipalities could not have been carried through.
- 70** In some district municipalities, it is thought that the auditing authority for the coastal areas belongs to the national real estate directorates and thus, no work is done for the audit of the implementations in the coast. Despite the provision in the Article 13 of the Coastal Law, that *“the audit of the implementations in the areas covered with this Law is executed by the municipality for the areas within the municipality and the adjoining areas ; and by the governorships for the areas outside”*, it has been found out in the inspections that in some municipalities, the authority of auditing the facilities to be built with respect to their conformity to the Coastal Law and the Implementing Regulation on the Implementation was transferred to the fiscal directorates and revenue offices with the protocols on the operation and having operated of the kiosks in the coasts.
- 71** TRI Directorate of Technical Research and Implementation has the duty to ensure that the implementations in the coast and coastal strips are in conformity with the coastal legislation but the directorate executes its duty as to provide opinions regarding the problems and questions addressed by the governorship and municipalities and as to communicate the issue to the Ministry of Interior when deemed necessary.

72 It has been found out that the local administration has also technical problems regarding the demolition of the unlawful buildings in the coasts and the coordination and provision of mutual aid among the public institutions are not at the desired levels. In some regions it has been detected that there still exists some buildings not demolished because of the lack of equipment.

72.1In the files examined in the Municipality of Kemer, it has been found out that an application was made to the District Administration stating the lack of equipment for the demolition of the unlawful wharfs and the District Administration forwarded it to the Antalya Province Directorate of Rural Services. However, in the written reply of the Province Directorate it was stated that in their engine parks there is not any equipment or machinery for the demolition of wharfs and no companies attended the tender opened for that reason and thus, the wharfs could not be demolished up to the date of on-site audit (23.04.2005).

72.2In the file examinations, it was detected that 11 separate possessory actions were sued in 1997 and 1999 for the fillings incompatible with the coastal legislation, and which are in the seaside of coast edge line and on the cliffs in the center of Antalya province. Although it was succeeded in the actions, the public institutions negatively replied the request for the construction equipment, of the National Real Estate Agency and thus the mentioned fillings could not be demolished up to the date of on-site audit (23.04.2005).

72.3It was found out that the Municipality of Cavuskoy asked support from the District Administration of Kumluca in its letter dated 10.01.2005, with the aim of ensuring life safety and security for property during the demolition works to be carried out with the required construction equipment and technical personnel, of the unlawful buildings including double-storeyed armored concrete buildings in the coast; but no reply was received until the date of on-site audit.

72.4It is known that not only district municipalities but also borough municipalities of bigger provinces experience deadlocks in eliminating the violations. For example based on the file examinations, it has been understood that the unlawful buildings in the Kadıkoy Zulfupasa Quarter cannot be demolished by the Kadıkoy Municipality because of the technical inabilities.

73 Prohibition of the buildings incompatible with the coastal legislation may sometimes be affected by the difficulties encountered in the incompleteness of the legal procedures.

For example, in Mersin one hotel is completely in the coast. As it is a private property it is necessary to sue an action for the infringement of title deed. However, in 1996 the Ministry of Finance did not allow the suing of an action for the infringement of title deed with the reason that it was not a no of public interest but in 2002 as a result of the audits of the national real estate auditors, the necessity to sue a case was stated and Mersin Directorate of Processings re-consulted the Ministry of Finance and as no reply, either negative or positive, was received from the Ministry up to the date of on-site audit (18.05.2005) the action was not sued and thus, the building was not demolished.

- 74** It has been witnessed in the on-site audit that in Marmaris Bozburun Municipality founded in 1992, CELs on which the 1/1.000 scale implementation plan is based and later on the plan itself were abrogated by the court and unlawful settlements still continue for 12 years, many buildings are still being constructed and the municipality hesitates to intervene them.
- 75** In some places where on-site audits were carried out, local administration personnel responsible for the audit of the coastal implementations stated that they are exposed to pressure during the elimination of the violations. In the works carried out in the Fiscal Directorate of Datca, it was determined that despite the decision dated 29.10.1990 of the Datca District Administration as the “prohibition of the invasion” and the decision dated 10.11.1993 of the court as “the prohibition and stop of the invasion”, regarding the invasion of 12 donum (a land measure of about square meters) coastal area by a holiday residence in the Gullik locality, execution of the demolition was suspended twice upon the letters of the Ministry of Finance and on 07.03.2002 demolition was partially executed because of the lack of construction machinery needed.
- 76** Especially in district municipalities, regular coastal audits are not executed. Therefore, the regions where the implementations incompatible with the legislation and harmful to the coasts intensify, the reasons for this, their tendencies to increase or decrease are not known; a policy to adopt effective measures can not be determined; measures can not be taken in time, and thus such kind of actions can not be prevented beforehand. These are got to known generally upon complaints. In the on-site audits carried out with the municipality officers, it has been understood that the municipalities are uninformed about some of the violations determined. For example, it was detected that an armored concrete building of 140 m² is being built in the coast within the borders of a district municipality in the Mediterranean coast, which is

incompatible with the coastal legislation and being built without informing the municipality officers who stated that no application for that was made.

77 Current conditions of seven tourism facilities in Alanya, Belek and Avsallar, detected with respect to their sizes, were compared with their projects and it was found out that six of them have new buildings incompatible with the projects and the coastal legislation.

77.1 In four of the facilities examined, it was found out that supplementary buildings were added to the sea side even though they were not stated in the projects.

77.2 One of the facilities examined, adopted a completely different construction type than it stated in its construction license provided in 1971 and that facility got construction and settlement license together in 1984 after the detection of the coast edge line, by benefiting from the Construction Amnesty Law No. 2981 but anyway it continued the construction of unlawful buildings, being also incompatible with the license obtained with the construction amnesty.

77.3 In one of the facilities examined it was found out that the place where a stream parallel to the sea meets the sea was altered by using armored concrete blocks and filling material and thus, the natural condition of the coast was destroyed. With related to this, an examination was carried out by the Directorate of Public Works and Settlement of Antalya and the concerned municipality was informed about the issue but nothing was done by the municipality after this.

78 Most common types of violations in our coasts are unplanned and unlawful fillings harmful to the nature like wharfs, sun bed terraces, and buildings used for various aims, and excession of the limits detected with legal arrangements. In almost all of the coasts audited, such kinds of implementations were observed and also seen that no procedure was followed for most of them, some detected and notified in writing could not be demolished, legal proceedings have not concluded yet, violations still continue after the determination of mesne profits by the national real estate auditors.

78.1 In the works carried out in the Municipality of Kemer, it was found out that construction dates of only two of the 23 unlawful wharfs with fixed stands whose sizes change between 59 m² and 1379 m² is known and they are fined but for the others no proceeding was followed.

78.2 In places where the seashore is narrow and rocky like Kas and Bodrum, almost all of the facilities constructed coastal landfills and wharfs. Within the borders of the Municipality of Bodrum Gol-Turkbuku which became a municipality in 1999, it was found out that there are many wharfs all of which are unlawful and close to each other, covering the surface of the sea; and not only the facilities but also the people built private wharfs for their own use. It was that the municipality officers also do not intervene this as they think that the wharfs are necessary for the narrow beach area.



Unlawful fillings in Kas

78.2.1 In the layouts examined in the Municipality of İskenderun, it was determined that all of the wharfs belonging to the hotels and residences are unlawful; and the works carried out in the Harbour Master's Office ascertained that the Office detected 42 unlawful wharfs and jetties. The works in the İskenderun National Real Estate Authority revealed that there are occupied areas like with fillings since 1987 and no proceeding was followed to demolish them.

78.3 In the documents examined it was found out that the violations detected in the Municipality of Kalkan in 29.4.2005 together with the municipality officers, had also been detected by the National Real Estate Officers and science officer of the Municipality and specified in a minute dated 17.10.2003. It was also seen that a letter was written on 1.12.2003 to the Mayoralty by the District Administration to eliminate the violations but no other proceeding was followed after that date.

78.4 In the file examinations, it has been found out that fifteen breakwaters detected to be built between the years 1988 – 1992 within the borders of the İskenderun

Karaagac Municipality were fined in 1993; the Municipality sent notifications to the owners of these buildings to demolish them, and reports regarding the unlawful buildings in the coasts were prepared by the inspectors of the Ministry of Finance in 1994 and 1996. However, the investigations revealed that the mentioned fillings were not demolished. Moreover, it was noticed that the residues of the constructions were dumped to the seashore so as to harm the natural condition and the municipality officers stated that they are unaware of this.

78.5 It has been seen that the conditions stated in the coastal legislation are not followed in the implementations regarding the removable shower baths, canopies, dressing cabins, and kiosks maximally 6 m² and 150 meters distant from each other and which can be built without any implementation construction plan. It was determined that some of the kiosks built as 6 m² in the area between the Antalya Lara City Park and “Beach Park” were enlarged later. In the examinations made, it was determined by the municipality that the “Beach Park” complex do not have a construction license, commercial building blocks near the eastern entrance and all the implementations regarding structure and grounds, except the kiosks and WC-shower baths, are not in conformity with the Coastal Law and the area also do not have a construction plan.

78.6 It was established that the kiosks of 6 m², built by the municipality on the fillings within the borders of the Municipality of Fethiye were enlarged up to 200 m² .

78.7 The Municipality of Marmaris was regarded as the *good practice example*, as some of the kiosks were demolished and some were united to confirm with the conditions of 150 meters and 6 m² as stated in the Coastal Implementing Regulation.

78.8 In the works carried out in the Construction Works Directorate of the Municipality of Kadıkoy, the files of Fenerbahce Peninsula and Cadde Bostan coast, where some buildings not confirming with the Coastal Law exist, were examined and on-site investigations were made with the officers of the construction directorate. The Chamber of Architects of Turkey notified the Metropolitan Municipality on 20.08.1998 of an unlawful building built by a sports club and which is partially in the filled area and then, Metropolitan Mayoralty wrote a letter on the issue to Kadıkoy Mayoralty on 20.05.1998 stating to start the proceedings according to the Coastal Law no. 3621; and for the mentioned construction, officers of the Metropolitan Municipality drew up a construction detection minute on 27.07.2002 and officers of the Kadıkoy Municipality drew up a construction closure minute on 08.07.2003. It is

understood from the reports dated 27.10.2003 of the technical personnel of Metropolitan Municipality that the construction, which was decided to be demolished on 09.09.2003 by the Kadıköy Municipal Committee and which was fined 5.000,00 YTL on 12.09.2003, still continues. On 04.11.2003 Metropolitan Mayorality notified the Municipality of Kadıkoy in writing that the auditing regarding the issue is not sufficient; continuation to the construction of the sealed building should be prohibited; and a criminal complaint should be sent to the Office of the Director of Public Prosecutors; and on 30.01.2004 the decision of the committee regarding the mentioned construction should be fulfilled; otherwise, a criminal complaint will be drawn up regarding the municipality officers to the Ministry of Interior. Therefore, the Kadıkoy Municipal Committee fined the mentioned sports club again 10.000,00 YTL on 19.02.2004. On the other hand, it was detected that the sea was filled for an area of 3750 m² in the same place; and legal procedures should began to be realized. Moreover, upon the letter dated 07.05.2004 of the Istanbul Revenue Office, National Real Estate Directorate, officers of the Metropolitan municipality drew up a minute stating that the filling works were ceased on 25.03.2004; however they were detected to be completed at the audit dated 28.05.2004 and on it, continues the construction of a swimming pool and armored concrete structures; and also the surrounding area was afforested. The Mayorality of Kadıkoy informed the Metropolitan Mayorality with its letter-dated 17.3.2005 that the mentioned buildings are occupied and demolition works cannot be carried out due to the technical inabilities. In the correspondence file, there exists no detection or request regarding the technical facilities needed for the elimination of the mentioned violations.

78.9 18 slip way areas , 3 shelters and 8 fisherman shelters of the 61 constructions consisting of slipway areas, shelters and fishermen shelters which are among the coastal constructions in Trabzon and Rize Provinces were examined on-site based on their projects, with the officers of the Trabzon Regional Directorate of Transportation. The officers stated that conformity assessments were not made during the implementation of the projects but it was also found out that no auditing was carried out at the end of the project also.

Slipway area; *is a coastal structure which provides the possibility to take fishing vessels to the shore in streams, lakes and bays without waves or within the fishermen shelters, for maintenance and restoration; which has equipment; and sufficient beach or armored concrete sloping area for the maintenance and restoration after the boats are taken into shore.*

78.10 It was detected that 1/1.000 scale implementation construction plan of the superstructure facilities of Surmene Soguksu slipway was not approved by the Ministry of Public Works and Settlement; and that despite the letter of the General Directorate of Railways, Harbors and Airports Construction to the District Directorate and the letter of the District Directorate to the Surmene Fiscal Directorate stating the necessity to demolish the second storey of the double storeyed shelters and shelters incompatible with the condition project, these were not demolished until the date of audit.

78.11 In the works carried out in the Construction Directorate of Rize Cayeli Municipality, it was found out that with the license given by the Municipality of Cayeli in 1998, a cement firm constructed an administration building of 9,50 meters height and two cement silos of 46 meters height and built a ready-mixed concrete manufacturing station even though they were not stated in the plan which was approved as the area of jetty, slipway and fillings. As a result of the examinations based on the correspondence file, it was established that in addition to the two silos, the mentioned firm asked permission for the construction of the third silo with a capacity of 2600 tons; but TRI informed the Rize Governorship that the request in question is not in conformity with the coastal legislation and the approved 1/1.000 scale plan. However in the on-site investigations it was seen that the third silo was also constructed.

79 Constructions like jetties and fishermen shelters, which were built without license or any plan, and research needed block the coastline flows and result in beach erosions. When the coastline flows which ensure the formation and continuousness of beaches by spreading the sand brought by the rivers to the deltas are blocked, erosion occurs because of the fact that the natural progress of the sand is hindered, as it was in the Alanya Kleopatra beach. On the other hand, experts state that cutwaters, which are generally unlawful and constructed to provide sandy areas, harm the nature and do not serve the aim; as they are constructed without taking the wave and flow movements into account.

80 Unlawful constructions such as wharf and breakwaters not only harm the natural structure of the coasts but also cause visual pollution. As these buildings are not prevented during their construction phases; cost of eradicating them gets higher later on and even when they are demolished the natural structure does not return into its previous condition. For example, it has been witnessed that the fillings in Antalya can not be demolished without any harm to the nature for more than ten years and nobody attended the tender opened for the demolition of the unlawful wharfs in the Municipality of Kemer. Expert witnesses detected the cost for the recovery of the coast and the demolition works of the breakwater and marine that began to be built in 1973 in Mersin without a license and decided by the court in 1990 to be demolished so as to return the coast to its previous condition. In the report prepared the cost was established as 3.000,00 YTL according to 1993 unit prices; 103.000,00.- YTL according to 1999 unit prices and 1.203.000,00.- YTL according to 2005 unit prices and it was also stated that as the demolition is technically difficult and the cost is high, it is reasonable that the coast stay as it is.



Jetties at the entrance of *Trabzon- Carsibasi*

81 There are some conditions proving that it is not enough for the prohibition of unlawful buildings, to warn the people acting as such and draw up a “construction closure minute” in accordance with the provisions of the Construction Law. For example, it is known that in the village of Sogut in Marmaris which is under the authority of the

Governorship, a hotel was detected to be built without license and it was sealed in 1996 but despite this, the hotel was completed; and although it was tried to be demolished with explosives, only the first storey collapsed and the other storeys became out of use. Again, in the village of Orhaniye, Kecibuku locality, the unlawful filling and wharf built by a marina administrator were sealed in 1999 but an additional filling was attached to the sealed part in 2001; and also a stone construction and fuel oil pumps were built on the filling.

82 Despite the provision of the Article 6 of the Coastal Law, stating that *“Excavation that will alter the coast or extraction of sand or pebbles, etc. are not allowed Waste or residuals which have contaminating effects such as rubble, soil, slag and garbage, are not allowed to be dumped in coasts.”* it was found out in the on-site audits that there exist some implementations incompatible with this provision and the audits regarding the issue are not sufficient.

82.1 In the works carried out in Istanbul Metropolitan Municipality, Planning and Construction Department Presidency, satellite photos of 1996 and 2004 were compared and it was found out that the natural structure of the northern coast of Istanbul has changed because of the extraction of sand, and dumping of rubble and residuals. It was figured out that the piece of land stretching into the sea in the coast of the village of Agaçlı and which was in the F21B23A layout in the 1/5.000 scale satellite photo can not be seen in the 2004 satellite photo and so, that this area was covered with sea water and turned to be a bay. Moreover, a piece of land in the coast of the village of Akpınar totally disappeared, as it did in Karaburun and the beach in Agaçlı F21B23C layout also disappeared. Furthermore, when the 1996 and 2004 satellite photos of F21B16C, F21B16D, F21A20C layouts in İmrahor and Yeniköy coasts are compared, it is seen that the coasts have been filled. No proceeding was followed for these actions that harm the natural condition of the coasts.

82.2 It was that sand was extracted within the borders of the Municipalities of Antalya Muratpaşa and Manavgat where on-site audits were carried out; and unlawful excavation works were fined in the Alanya Borough. However, it was found out that for some places, no legal proceeding was followed, as the municipalities were unaware of the implementations. For example, it was observed that in Karaağaç locality, construction residues were dumped into coast so as to harm its natural structure; and the municipality was unaware of the implementation. It was also determined that there exist some places for which no legal proceeding was followed

regarding the extraction of sand detected generally upon the notification of the public or media.

82.3 In some of the districts of Trabzon and Rize where on-site audits were carried out, it was determined that the wastes are dumped into sea.



A dumping ground between Trabzon, Carsıbası – Vakfıkebir

83 National Real Estate Directorate also carries out some works to determine the occupations in coasts. Although the detections give detailed information on the occupations, they do not aim to protect these areas and prevent the implementations incompatible with the legislation but to implement mesne profits. However, it has been determined that these cannot be fully accomplished because of the lack of personnel.

84 Although the coasts are open to everybody for free and equal utilization, and there should not be any barriers such as wall, fence, bar, wire fence, ditch or stakes, it was determined during the on-site audits that in many districts, tourism facilities and some public institutions act against. It was found out that there are public institutions preventing to pass through the coast or to the coast with their personnel, doors or wire fence with the reason of ensuring the safety of the consumers; and that there are private facilities taking fees to pass to the coast.

85 Separate commissions were established by the Municipal Police Office under the Control Department of Istanbul Metropolitan Mayorality with the aim of listing the work places in the coasts and coastal strips and drawing up notifications for the determination of legal statutes and concerning procedures about these work places. It was witnessed that the demolition of the unlawful buildings started after the works

carried out by the Commission. However, it was determined that the places of some of the buildings started to be demolished, had previously been rented by the Metropolitan Municipality or the borough municipalities; and some enterprises obtained license from the district administrations.

- 86** As a result of the examination of the sample reports and discussions in the Ministry of Interior, it has been seen that details regarding the examinations for auditing the coastal activities by the municipalities were defined in the in the Municipality Inspection Guide of the Ministry of Interior, Civil Service Inspection Board. However, the officers stated that it is not common that the Board audits but acts upon complaints or requests.

Implementations regarding mesne profits

- 87** Mesne profit is the usage charge claimed from the occupier upon his occupation of the immovables belonging to the state or under the sovereignty and disposal of the state. To pay mesne profits does not render the action right but ensures the right to continue using the immovable. Mesne profit implementations commonly seen in our coasts for years, turned out to be like the implementation of renting and thus, the occupations cannot be eliminated. When the evacuation of the places occupied is asked after long periods, some users transfer the matter to the courts claiming that they have been paying mesne profits regularly and this engages both public institutions and jurisdiction for years.

Article 75 of the Law no. 2886: *the Mesne profits which are determined and approved by the commission specified in the Article 13 of this Law and with the assent of the institutions stated in the Article 9 of this Law, are taken from the unwarranted user upon the occupation of the immovables under the sovereignty and disposal of the State, by real or legal persons.*

- 88** In the national real estate directorates where on-site audits were carried out, files regarding the occupations in the coasts were examined and it was found out that actions which are subject to mesne profits payments generally continue for years; these actions are not only unjust utilizations but also mostly incompatible with the legislation and harmful to the natural structure; and there exist some public institutions among the occupiers which also pay mesne profits. The files examined in each district, do not include the same information; and in some, there is not any information regarding the duration, and decreases and increases in the numbers of occupations.

- 88.1** In the 203 mesne profit files examined in Alanya National Real Estate Directorate, it was determined that in 105 of them, occupations still continue; in 34, the area occupied was enlarged and the number of the ones continuing before and since 2000 is 54.
- 88.2** The number of the places, which are in the coastal side of the Antalya city center and from which mesne profits is taken is 23. These are wooden, armoured concrete or steel constructions, all of which are built on cliffs.
- 88.3** The number of places detected within the borders of Kemer Borough and from which mesne profits is taken is 135. As a result, the examinations of the mesne profits files, it was found out that almost all of the occupiers are hotels, holiday villages and boarding houses. Occupations are mostly wharfs, restaurants, entertainment and sports facilities; swimming pools, anfi-theaters and additional constructions to the facilities.
- 88.4** Among the 334 occupations examined in Istanbul Maltepe, Kartal, Tuzla, Pendik Boroughs, it was determined that in 75 of them, the area occupied was enlarged; 156 of the occupations are continuing for five or more years and there are 11 public institutions among the users; and 34 of the occupations began to be rented. Among the utilizations that began to be rented exist jetties, armored concrete wharfs and fillings which change the natural structure and whose constructions are subject to permission and a determined procedure.
- 88.5** The number of occupied areas in the Iskenderun coast, from which mesne profits is taken is 50 and in 22 of them, the area occupied was enlarged. In comparison with the first detections, occupied areas were enlarged 2 storeys in 8 occupations, 10 in 1 occupation and 7 in 1 occupation. It was found out that 41 of the 50 occupations from which mesne profits is taken, have been continuing for ten or more years. There are four public institutions among the users paying mesne profits.
- 88.6** It was detected that the occupied area was enlarged in 5 of the 27 occupations in Izmir Foca, 5 of 18 in Seferihisar, 72 of 187 in Cesme and 7 of 32 in Urla; and there exist public institutions among the unwarranted users and there are occupations continuing since 1976.

- 89** As a result of the file examinations, it was found out that the mesne profits implementations can not be carried out as they should be; mesne profits was not taken for some occupations; determined mesne profits can not be taken for years and are brought to courts; and there are places which continued to be occupied without any mesne profits. That the occupations cannot be prohibited at the initial stage, results in legal disputes and correspondences, which cause a loss of time and resource.
- 90** It is common that the Ministry of Finance and the municipalities rent the coasts with protocols and share the renting income. Renting of the additional constructions of coastal facilities or condoning them by taking mesne profits leads, in practice to the closure of the coast to public. Among the places rented there exists armoured concrete buildings that cannot be constructed in accordance with the coastal legislation.

Violations of the Public Institutions at Coasts

- 91** Although the principles and procedures established regarding the coastal utilization are obligatory for the public institutions, it has been witnessed in the on-site audits that unlawful utilizations incompatible with the legislation and harmful to the natural structure, are not realized only by private individuals and enterprises but also by the public institutions. Intervention types of the public institutions to the coasts are in line with the private individuals and enterprises. The difference is that the public institutions act against the legislation by benefiting from the public authority and possibilities; and are not subject to any sanctions. This is not an example of good practice for the private individuals and enterprises. In the audits it was determined that the public institutions constructed buildings incompatible with the Coastal Law, made unlawful and unplanned fillings, prevented the passage to the or through the coast, acted so as to contaminate the coasts and harm the natural structure.
- 91.1** It was found out that 12 public institutions in the center of Antalya province are in the CELs.
- 91.2** Based on the files examined, it was established that the number of facilities belonging to public institutions and which are partially or completely in the CELs within the borough borders of the Iskenderun is 11; and 7 of them were accrued as mesne profits.

- 91.3** In Trabzon, service buildings or social facilities of some public institutions are in CELS. Based on the records of the Akcaabat National Real Estate Authority it was found out that six public institutions have fixed facilities within CELS.
- 91.4** In Bodrum, near the tourism facilities which have unlawful or unplanned fillings harmful to the nature, and which prevent the free and equal utilization of the coast, there exists a recreation facility of a public institution that realizes these violations to a greater extend.
- 91.5** Despite the provision in the Municipality Law no. 5393 that is in force and in the Municipality Law no.5272 and Municipality Law no. 1580 which were abolished, stating that the areas provided with fillings in the sea by the municipalities shall be given under the disposal of the municipalities *“with the condition of utilization in compliance with the Coastal Law and the legislation”*, it was found out in the examinations that the municipalities in charge of auditing the coasts can not fulfill their duties; act against the Coastal Law and the related legislation; rented the unlawful and unplanned fillings; constructed fixed facilities such as recreation and entertainment facilities, on the coasts and on the fillings. Despite the court decisions to demolish the fillings made by the municipalities, there exist places which these decisions have not been implemented. Some municipalities in Trabzon and Rize dump the waste into the sea or coasts. The Municipality of Rize, dumps the all solid waste of the province into the sea and creates fillings by covering them with various materials.
- 92** It was detected that the some of the public buildings like the buildings of the State Hydraulic Works and General Directorate of Highways in Finike and the Noncommissioned Officer’s Club in Iskenderun were demolished or are being demolished with the justification that they had been unlawfully built. This leads to inefficient utilization of the public resources because of the expenses arised both in the construction and demolition of these buildings.

RESULTS and RECOMMENDATIONS:

- 93** In the coastal area, various institutions carry out audits from different aspects. As a result of this, institutions auditing according to their own legislations expect the other institution to prevent the violations, and this leads to the continuation of the unlawful implementations in the coasts.

It is thought that it is necessary to prevent the institutions avoid working to effectively audit the coastal implementations; to bring legal arrangements rendering the audit system more simple; to determine the duties and authorities explicitly and clearly.

- 94** Some of the municipality officers who carry out the audits in the coasts do not have sufficient information regarding the coastal legislation. It is impossible to determine whether a building is in conformity with the legislation or not, without knowing the conditions of the implementations in the coasts. The officers of some of the districts have doubts about the limits of their auditing authorities.

Trainings for the municipality officers, regarding the conditions for different types of implementations in the coasts which can be carried out by the Ministry of Interior and TRI; execution of auditing in these areas; proceedings for the unlawful actions that harm or change the natural structure of the coasts; and also it should be ensured that the municipalities act uniformly in the similar implementations.

- 95** In most of the districts, coastal violations cannot be eliminated because of technical inabilities; and coordination and provision of mutual aid among the public institutions cannot be ensured. However, as the inabilities stated in the minutes and correspondences are not clarified or as in general, the types of construction machinery and equipment needed are not specified, it is thought that this issue is used as an excuse for self-defense by the municipalities, which have difficulties in preventing coastal violations under political and social pressure. Prolongation of the legal and administrative procedure results in the continuation of the unlawful interventions in the coasts.

It is thought that carrying out of the activities of following up coastal violations, implementing the court decisions and ensuring cooperation and coordination among the institutions by units to be established under the governorships will increase the effectiveness of the works in this field.

- 96** As the audits in the coasts are not regular, most of the unlawful constructions and harmful actions are realized without the knowledge of the administration in charge of auditing these areas; and thus, the extend of the coastal violations with regard to regions is not known. The elimination of these kinds of actions which can not be prohibited at the initial stage becomes impossible to do so later.

A coastal information system enabling the effective follow up of the coasts, implementations incompatible with the legislation and actions harmful to the nature; and including the information regarding the numbers, types, areas, effects and the legal proceedings followed should be established. Contribution of the public, non-governmental organizations and universities related with the issue should be provided in the establishment of this system. It is thought that frequently auditing the controls of the municipalities in coasts by the Ministry of Interior will be beneficial.

- 97** Allowing the continuation of the coastal utilization types that harm the natural structure, with mesne profits or renting causes the situation spread, increase the number and area of occupations, and limit the free and equal utilization of the coasts.

Utilization of the coasts so as to be harmful to the natural structure should not be allowed to continue with mesne profits or renting; and renting that will limit or remove the right of free and equal utilization of coasts for everybody should not be implemented.

- 98** In addition, public institutions use the coasts incompatible with the legislation and in a way to harm or destruct the natural structure.

It is thought that the public institutions avoid violating the coasts and eliminate the present violations will be a good practice example and also affect positively to the demolition works of other violations.

ANNEX 1

Evaluation of the Institutional Opinions regarding the Report

Draft report was sent to TRI (Directorate of Technical Research and Implementation) and Ministry of Interior Affairs, General Directorate of Local Authorities in 09.02.2006 to get the opinions of the concerned institutions.

In the written reply no. BPÇ-1/530/486 dated 03.03.2006 of the Ministry of Public Works and Settlement, Directorate of Technical Research and Implementation, it was stated that “ *Responsible institutions for planning, problems, interinstitutional disputes regarding the planning, matters concerning the fillings and the related works which were specified in the mentioned report, are being considered by our Ministry within the framework of the Draft Bill on the Amendment to some Articles of the Coastal Law No. 3621*” and the Draft Law Proposal was send in the attachment to the written reply.

Mentioned Draft Bill was evaluated only with respect to the matters stated in the report.

1. 1. Evaluation of the matters in the “Planning of the Coastal Utilization”
Part of the report:

- ✓ In the report it was stated that the planning authority was divided into different institutions and this causes disputes regarding the authority, which sometimes become a matter of law. For that reason it was also advised in the report that an institution expert in this field should be assigned for the planning works. In the last paragraph to be attached to the Article 6 of the Law with the Article 7 of the Draft Bill, it was stated that the planning for the areas covered by the Law will be approved by the Ministry of Public Works and Settlement. With this provision, problems stated in the 33-35th paragraphs of the report may partially be solved but it is thought that exclusion of the areas in the framework of privatization will later on result in new disputes regarding the authority.

- ✓ With the amendment proposed to be made in the Article 6, Subparagraph (b) of the Law with the same Article mentioned,

extensive utilization of the coasts as well as water area and fillings are allowed. This shows that the approach of “legal arrangements are to be focused on the utilization and earning of income, not on the good utilization of the coasts” still continues and the aim of legal arrangements is not to establish a will and policy to ensure protection-utilization balance in the coasts but to provide more and extensive use of the coasts.

✓ □ Article 3 of the Draft Bill proposes a change in the definition of the coastal strip. In the Article 4 of the Law no. 3621, coastal strip was defined as “an area of at least 100 meters from the coast edge line horizontally” and in the Draft Bill it is proposed to add the phrase: “an area of at least 50 meters in the residential area of the urban and rural settlements, according to their utilization aims”. In the 43rd paragraph of the report it was stated that there are places where a coastal strip of 100 meters was not allocated and there occurred problems in the implementations of the plans. It is considered that the proposed amendment will help to overcome this problem but also may lead to abuse of the regulation.

✓ □ As stated in the 41.1st paragraph of the Report, up-to-date information and opinions necessary for the planning works are tried to be provided through correspondence among the concerned institutions. Amendment to be made in the Article 6 of the Law with the Article 8 of the Draft Bill envisages the provision of the institutional opinions within 45 days asked from the concerned institutions. It is thought that with this amendment, institutional opinions of many institutions will be gathered in a short period of time in the Ministry of Public Works and Settlement.

2. 2. Evaluation regarding the “Detection of the Coast Edge Lines” Part of the Report;

✓ □ Issue regarding the objections to CELs has been regulated with the amendment to the Article 9 of the Coastal Law proposed by the Article 10 of the Draft Bill. In the 50th paragraph of our report it was stated that there is no sufficient clarity in this field.

- ✓ □ In the Draft Bill, it is proposed that the approval authority be transferred to the Governor from the Ministry of Public Works and Settlement. In this condition, control of TRI (Directorate of Technical Research and Implementation) is excluded and this decreases the possibility to correct the defects in the detections.

- ✓ □ There are regulations in the Draft Bill aiming to resolve the problems stated in the 57th paragraph of the report as “the administrative and judicial jurisdiction may result in different decisions regarding the CELs detections for the same area and this leads to hesitations in implementations” In the Article 9/b of the Coastal Law amended by the Article 10 of the Draft Bill, there is a provision stating that “...administrative jurisdiction is the responsible authority for the disputes regarding the coast edge line”. In the legal ground for the Article it was established that “*the aim of the provision rendering judicial jurisdiction responsible for the definite CELs in the actions of property is to resolve the deadlocks encountered in the implementations*”. In the Provisional Article 3 proposed with the Article 15 of the Draft Bill, it was stated that “*in the actions regarding the properties, sued in the Judicial Jurisdiction, CELs detected according to this Law shall be taken as basis. On the condition that there exists an action in the Administrative Jurisdiction regarding the definite CELs, it shall be a compulsory dilatory matter in the Administrative Jurisdiction regarding properties* ”.

- ✓ □ In the 58.1st Article of the Report, it was stated that the annulment of the title deeds of the private properties in the coast without any compensation leads to legal disputes sometimes even in European Court of Human Rights, and thus legal arrangements are needed in this field. Additional Article 3 proposed to be attached to the Coastal Law by the Article 13 of the Draft Bill, brings a regulation regarding the annulment of the title deeds of the private properties in the coast through expropriation or barter. It is thought that this regulation will decrease the number of legal disputes concerning the field.

In the written reply no. 3897/80571, dated 20.04.2006 of the Ministry of Interior Affairs, General Directorate of Local Authorities, it was asserted that “they generally share the same opinion regarding the detections stated in the Report” and the written reply also includes statements supporting the findings and opinions specified in our Report.