

**AGFE**

**ADVISORY GROUP ON FORCED EVICTIONS**

**Mission to Istanbul, Republic of Turkey**

**June 8 to 11<sup>th</sup> 2009**



**REPORT TO THE EXECUTIVE DIRECTOR OF THE UN  
HABITAT PROGRAM**

**FINAL**

## Acronyms

AGFE - Advisory Group on Forced Evictions to the Executive Director of UN-Habitat  
CBO – Community Base Organization  
CESCR - Committee on Economic, Social and Cultural Rights  
GUO - Global Urban Observatory  
IAI - International Alliance of Inhabitants  
IDP – Istanbul Development Plan  
IMDP - Istanbul Neighborhood Associations Platform  
JDP - Justice and Development Party (AKP)  
KHK - *Konut Hakkı Koordinasyonu* / Housing Right Coordination  
LUO - Local Urban Observatory  
MHA - Mass Housing Administration  
MDGs - Millennium Development Goals  
NGO – Non Profit Organization  
STOP - *Sınır Tanımayan Otonom Plancılar* / Autonomous Planners Without Borders  
TOKI - MASS HOUSING ADMINISTRATION  
UN-HABITAT- United Nations Human Settlements Programme  
UNESCO – United Nations Educational, Scientific and Cultural Organisation  
UT – Urban Transformation Area

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This report was prepared by the team mission members: Cihan Uzunçarşılı Baysal, from the AGFE pool of experts and the AGFE members Arif Hasan and Yves Cabannes who in addition, provided the final editing. The contributions made to this report by Yasar Adanali and Cassidy Johnson to the chapter analyzing and documenting the various cases visited are duly acknowledged.

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## 1. PRESENTATION OF THE AGFE MISSION

From June 8th to 12 2009, the Advisory Group on Forced Evictions to the Executive Director of UN-HABITAT carried out a mission to Istanbul Metropolitan Region to address the problem of forced evictions. Reports from various sources over the last few years indicated that forced evictions are taking place in various neighborhoods across the Istanbul Metropolitan Area. In addition, various reports by local organizations warned of further evictions that are expected to take place. Various invitations letters from a broad range of Turkish organizations were sent to the Advisory Group on Forced evictions and gave quite a preoccupying image of the current and expected situation. (see an example of such request signed by 20 organizations and institutions in Appendix 4)

Three typical situations were identified at that early stage: (i) Neighborhoods where projects have been approved by the Council of Ministers and where evictions have already started; (ii) Neighborhoods where projects have been approved but where evictions have not started, yet under high risk of eminent forced evictions and (iii) Neighborhoods not under immediate threat but still under risk . The visits were organized in order to cover each one of these typical situations.

### *The objectives of the mission*

A first objective was of normative nature and aimed at extracting lessons learnt and generate generic knowledge that can inform AGFE's future work, and in particular its advice to the Executive Director of UN-HABITAT, on forced evictions in the following contexts: (i) Urban renewal and regeneration; (ii) Cultural mega-events (Istanbul 2010 European Capital of Culture); (iii) Unclear legal frameworks and (iv) Ethnic/religious minorities.

At the same time, the AGFE mission to Istanbul had the following operational objectives:

- (i) Verify and map ongoing events and provide evidence;
- (ii) Assess the existing legal framework and the mechanisms by which the evictions are taking place and measure their conformity with international legislation signed by the Turkish Government;

- (iii) Identify the duty-bearers responsible for implementing forced evictions as well as the rights and obligations of all parties involved;
- (iv) Meet with and listen to the various stakeholders involved in the planned and implemented evictions, including Government, courts and other relevant institutions of the judiciary, NGOs, representatives of civil society and CBOs, affected residents and researchers.
- (v) Conduct visits to the following sites: Ayzama relocation site; Sulukulé and neighbouring areas (to where the evicted people have gone back); Relocation tenements; Threatened communities in Kurtköy, Güzeltepe, Derbent, Yeşilkent, Ayazma (a neighborhood different from the previous one mentioned), Tokatköy (Beykoz).
- (vi) Identify positive and innovative approaches, if any, taken so far by which evictions have been successfully addressed;
- (vii) Assess the mechanisms and tools for relocation of evicted communities and the reasons why the tools and mechanisms of allocation of relocation have not been working and have been de facto excluding communities from achieving their rights;
- (viii) If the opportunity arises, encourage constructive dialogue between the stakeholders of current or planned evictions with a view of promoting alternative solutions, for instance, by setting up a forum for dialogue among all parties concerned to discuss possible alternatives;
- (ix) Report to the Executive Director of UN-HABITAT on the findings and recommendations of the mission according to the standard format.

The mission was conducted by a team comprised of three experts appointed by U.N Habitat: Prof. Yves Cabannes, head of the mission, AGFE Chairperson and Professor at the Development Planning Unit at the University College London; Prof. Arif Asan, AGFE member, advisor the Asian Coalition for Housing Rights and Professor at Karachi University and Cihan Uzunçarşılı Baysal, political scientist, MA student at Istanbul Bilgi University Human Rights Law Department AGFE Pool of Technical Experts. Various national and international professionals backed up the mission and a reference group composed of community members organized each one of the field visits.

## 2. URBAN, LEGAL AND POLICY CONTEXT OF THE DEMOLITIONS AND EVICTIONS IN ISTANBUL

### 2.1 Istanbul city context:

Three major factors need to be taken into account to understand the dramatic pressure on land that Istanbul has increasingly been facing over the past 50 years:

#### *Very high and maintained population growth rate*

The population growth rate of Istanbul since the early 50's has been extremely high. The city hosted 1,1 million inhabitants in 1945, 4,75 in 1980 and around 15 millions in 2008, according to the OECD<sup>1</sup>. This growth continued to be explosive over the recent years: Istanbul had the highest rate of urban growth among a selection of 78 OECD metro-Regions during the 1995-2002 period<sup>2</sup>. This phenomena is not limited to Istanbul in Turkey as the second and the third highest population growth among the OECD selection are Izmir and Ankara. The pressure on land resulting from this growth is at the scale of the growth and at the scale of the rural to urban areas migrations movements that will be analyzed in the next sub-section. With 63% of its current population that was not born in the city, Istanbul is still a city of migrants and of a late migration process, quite different in that sense from most OECD Metro-regions where the population growth is primarily an internal natural growth, and not so much the result of rural to urban dynamics.

#### *A very high rate of economic growth with social inequities*

The Growth rate of Istanbul has been higher than the average population growth and is well above the OECD average for the 1995-2202 period. Istanbul “concentrates 20% of Turkey population, but produces 38% of total industrial outputs and more than 50% of services”<sup>3</sup>. Out of the 500 largest industrial companies in Turkey, 242 are located on Istanbul. One could expect that this sustained growth and the accumulation of wealth could have benefitted the population as a whole through redistribution mechanisms. In real terms, Istanbul disparities

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<sup>1</sup> Population numbers vary significantly according to sources but do not change the conclusions of the analysis. OECD is indicating 15 millions for 2008 (OECD Policy Brief, Territorial Review, Istanbul, Turkey, Policy Brief, 2008, p 2) whereas Planners met during the mission agreed that the numbers are more in the range of 12,5 millions for the same year.

<sup>2</sup> OECD, *ibid.*

<sup>3</sup> OECD, *ibid.*

mirror Turkey as a whole that has the largest regional disparities among OECD countries. As expressed during the mission, most of the growth has been speculative. The accumulation of wealth has brought a very impact on land markets and, as far as housing is concerned, upper end housing development and gated communities have been exercising a pressure on existing well located settlements

### *Willingness to transform Istanbul into a Global First Class City*

This two-sided growth, in economic and population terms, went along the transformation of an 8000 years old prestigious city with a unique civilization into one more Global City. The attributes for becoming a Global City have increased and continue to exert a dramatic pressure on land: the new airport on the Asian side of Istanbul, the Formula 1 circuit or the new highways and bridges to connect the newly developed areas are example of projects that are related to the evictions that were examined during the mission. The recent and extremely rapid shift from an industrial to a service city, and primarily to a Global Tourism destination is contributing to reshaping the city and transforming its traditional neighborhoods, pushing away their ages old inhabitants: from 1980 to 2007, Istanbul passed from 2000 bed capacities of 5 stars hotels to 10199, and 34 out of the 44 shopping malls were constructed after 2000<sup>4</sup>.

## **2. 2. Neighbourhoods and housing context:**

### **2.2.1. The *GECEKONU*<sup>5</sup> and the evolution of its legal framework**

#### **The first wave of migrations and the emergence of the *Gecekondu*.**

Turkey has almost always had a social housing deficit problem in its big cities, causing the formation and multiplication of informal neighborhoods called *Gecekondu*<sup>6</sup> over the years. As industrial and commercial centers with employment facilities, big cities have acted as magnets attracting the unemployed thousands starting from the post '50's (Marshall Aid years when agriculture is mechanized in rural settlements) up until the mid- 80's, with populations arriving

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<sup>4</sup> Erbatır Çavuşoğlu, *Istanbul, Planning system, actors and recent agenda*. Power point presentation to the AGFE mission, June 2009, Mimar Sinan Fine Arts University.

<sup>5</sup> The exact number of gecekondu is a controversial issue. T. Kuyucu reflects that İstanbul Metropolitan Municipality has announced the number as 85,000 in 2004 while a research by State Institute Statistics has given the number as at least 400,000 in 2000. On the other hand, as Kuyucu underlines, TOKI argues that 1 million units must be demolished due to legal problem for low quality.

<sup>6</sup> Gecekondu, as different from slum, is a 1 or 2 storey building, in the outskirts of the city, usually with a garden. It is built either solely by its owner or with the help of other neighbours; and, usually the owners improve their dwellings as they become more settled, thus it becomes a permanent residence for low income groups. In İstanbul most of the gecekondu areas have infrastructure facilities undertaken by municipalities.

solely for economic purposes. The policy of the state for the *Gecekondu* dwellers, as can be viewed from the 'legislatures' enacted during the era, was one of tolerance and inclusion. Because labor force was needed to run the industries of the big cities and because providing mass housing for populations was viewed by governments as more costly than letting populations solve their own shelter problems via settling on state land, a policy of 'not seeing the illegal encroachments' was adopted (Basibuyuk, Gulsuyu /Gulensu,K.Bakkalkoy) during this time.

### **Gecekondu related laws and amnesties**

Amnesties, one after the other were enacted for *gecekondu* dwellers to solve their entitlement problems before 2000s<sup>7</sup>. Various theoretical researches on the phenomenon of *gecekondu* (squatter housing) as an individual solution to the shelter requirements of the population migrating from the rural areas into the cities, and the problems it poses has been carried out<sup>8</sup> and since the 1940s various legal, managerial and practical precautions were employed against it. The policies implemented from 1940s through to 1960s were in the line of municipalities providing land bought at a cheap rate or for no price at all from the national treasury and various public institutions, that was distributed to those in need to be paid in long terms and low interest rates, disallowing the building of new squatter housing and legalising the ones built previously. With the first amnesty law<sup>9</sup> that was enacted in 1949 all housing without titles that was built prior to that date were legalised. This law was followed by the amnesties of 1953<sup>10</sup> and 1963<sup>11</sup>. Under the protection of the amnesties the numbers of the houses in Istanbul grew rapidly and they were counted to be 5000 in 1949, 8239 in 1950, 61.400 in 1959 and reached 120.000 in 1963. It was established that in the year 1963, 35% of the population of Istanbul were living in *gecekondu* areas (Tekeli, 1994). The 'Gecekondu Law' 775, enacted in 1966 was prepared with a different outlook from the previous amnesty laws. In the law where the term '*gecekondu*' was used for the first time, the existing squatter houses were granted a pardon and also *gecekondu* areas were classified under areas of abolishment, rehabilitation and prevention. Even though there has been evident increase in the quality of the *gecekondu* areas after the Law 775, prevention of the building of new

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<sup>7</sup> An evaluation on squatter housing and ownership patterns in two quarters of Istanbul Prof. Dr. İsmet Kılınçaslan, Prof. Dr. Gülden Erkut, Prof. Dr. Nuran Zeren Gülersoy, Prof. Dr. Ahsen Özsoy, Doç. Dr. İclal Dinçer, Doç. Dr. Ferhan Gezici, Dr. Ebru Kerimoğlu 2008

<sup>8</sup> (Abrams 1966, Alpar and Yener 1991, Adam 1979, Acar 1981, Aslan 1989, Aslan 1998, Atalık et. al 1986, Dursun and Sağlamer 1996, Eke 1981, Erder 1996, Ergun 1990, Erkut 1991, Ersoy 1985, Görgülü 1998, Gülersoy Zeren et. al 1999, Gürel et. al 1996, Hard 1966, Heper, 1977, Karpat 1976, Kartal 1981, Kongar 1973, Özsoy 1983, Özsoy et. al 2001, Şenyapılı 1981, Şenyapılı 1985, Şenyapılı 1998, Tekeli 1971, Tekeli et. al 1976, Tekeli 1992, Tekeli 1994)

<sup>9</sup> 5431 numbered "Law on the Abolishment of Unauthorised Buildings"

<sup>10</sup> 6198 numbered "Law on Construction Encouragement and Unauthorised Buildings"

<sup>11</sup> 327 numbered "Law on the Addition of a Temporary Article to the Building Code number 6785"

squatter housing could not be achieved with it. Due to the rapid increase of the population in the *gecekondu* areas developing in close proximity to the industrial areas on the eastern and western sides of the metropolitan area new municipalities were formed between 1970 and 1975, bringing infrastructure services to these areas...In 1976 a new amnesty law <sup>12</sup> was enacted, preventing the demolition of *gecekondus* built on public land between 1966 and 1976. Parallel to these developments towards the end of the 1970s and in the 1980s the process of squatter housing and the physical appearance of the *gecekondu* areas have changed, and new multi-storey squatter houses resembling apartment buildings emerged. With another amnesty <sup>13</sup> enacted in 1983, all *gecekondus* built before June 1981 were legalised. And with a law <sup>14</sup> enacted the next year, the owners of *gecekondus* were given the right to build up to 4 storey high buildings on their plots and a new concept of rehabilitation development plan was introduced. This new implementation has altered the characteristics of the *gecekondu* areas greatly and the old *gecekondu* quarters have transformed into areas of apartment buildings.’ Law 2981 was a conditional law based on the implementation of an improvement and development plan by the municipality .The *gecekondu* dwellers had to apply to private technical offices to get pre-title deeds. Pre-title deeds were to be changed to title deeds after the municipality made the development and improvement plans of the area. Due to financial reasons or bureaucratic procedures, not all could benefit from this development while those who could pay and make their applications correctly got their pre-title deeds. However, the municipalities did not make the necessary development and improvement plans for all areas, taking a selective stance. Thus, in the end, some ended up with title deeds, some with pre-title deeds (Küçükbakkalköy) and some with no deeds at all (Ayazma). In 1986 the span of the law <sup>15</sup> was expanded to grant a pardon to all *gecekondus* built before 1985 and the precondition was lifted<sup>16</sup>.

Each of the 5-year national plans covering these periods reference to the need of low-income groups for social housing and to the initiative role the municipalities and the responsible ministries have to undertake to produce low-cost housing for the poor. However, these plans

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<sup>12</sup> 1990 numbered “Law on Amendments to the Gecekondu Law number 775”

<sup>13</sup> 2805 numbered “Law on Procedures to be Implemented on Constructions Contradicting Building and Gecekondu Regulations”

<sup>14</sup> 2981 numbered “Law on Procedures to be Implemented on Constructions Contradicting Building and Gecekondu Regulations” and 6785 numbered “Law on Amendments to an Article of the Building Code”

<sup>15</sup> 3290 numbered “Law on Amendments to certain Articles of the Law number 2981 and the Addition of Certain Articles to the Mentioned Law”

<sup>16</sup> ‘Prof. Dr. İsmet Kılınçaslan, Prof. Dr. Gülden Erkut, Prof. Dr. Nuran Zeren Gülersoy, Prof. Dr. Ahsen Özsoy, Doç. Dr. İclal Dinçer, Doç. Dr. Ferhan Gezici, Dr. Ebru Kerimoğlu ‘ An evaluation on squatter housing and ownership patterns in two quarters of Istanbul’ 2008 pp.2-3

have never been implemented let alone taken seriously. Cooperatives took up this duty and became successful in some parts of the country, primarily, for middle-income groups though.

## **The second wave of migrations**

From the mid-80's, big cities faced a new wave of migration from rural areas different from the previous one. After the September'80 Coup, the Kurdish population from the South-East and East of Turkey had to flee or were forced to flee from their homes due to security reasons, all unprepared, vulnerable and unwillingly. IDPs became the agenda of the country and it is no wonder that the statistics of the squatter settlements in major cities reflect a jump after the '80's<sup>17</sup>. For those migrating to Istanbul, the time of their arrival was the time when the big city was beginning to lose its characteristic of an industrial and commercial center, as a result, these new migrants could only find jobs in the informal sectors without any social security and at very low rates or worked as street vendors, living on the brink of survival in the big city. For this group, living in gecekondu neighbourhoods (Ayazma, Guvercintepe, Kurtkoy) or in dilapidated historic areas (Tarlabasi, Suleymaniye) was the primary reason of their survival in the big city. Inexpensive living conditions of the area, solidarity ties with the neighbours from the same hometown/village and low rents and housing expenditures made their lives easier. Today, urban transformation projects affect the lives of these populations, deepening their economical, social and cultural vulnerability, propelling them for a third migration to the outskirts of the city, as they cannot continue their livelihood in the relocated sites, oppressed under economic burdens.(This is also true for the Roma community of Sulukule). These factors will be examined in the next section dealing with the neighbourhoods visited during the mission.

## **2. 3. The TOKI model for urban and housing development.**

### **2.3.1. Transformation of the role of the Mass Housing Administration (TOKI)**

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<sup>17</sup>According to the statistics published by State Planning Institute: 1965-1970:3,2 million; 1970-1975: 3,4 million;1975-1980: 2,7 million; 1980-1985 2,9 million; 1985-1990 : 4,1 million people left their villages, hometowns to migrate to other cities. 2009 report from Göç-Der (Association of Internal Migration): 85% of the migration from East & South East to Istanbul happened in the last 11-20 years.

'The Mass Housing Administration (MHA), TOKI, is a governmental institution that was formed in 1984 to regulate the housing sector, prevent the expansion of unauthorized dwellings (gecekondu) and to provide sustainable solutions to the stark housing shortages in Turkish cities. Until 2001, the MHA has shaped the housing market by providing state-subsidized credits to housing cooperatives, whose numbers drastically increased after the founding of the MHA. The resources to finance these subsidized credits came from the Mass Housing Fund and the state-owned Turkish Real-Estate Bank, both of which has been abolished after the 2001 economic crisis, which has decimated the Turkish economy. Between 1984 and 2001, the MHA has provided cheap credits to around 950,000 families housing units all around Turkey and, in addition constructed about 45,000 on its own. But, the massive amounts of credits allotted to cooperatives and the extensive building activity instigated has failed to provide any long-lasting solutions to the 'housing problem' of the urban poor mainly because these credits have mostly been used by middle and upper-middle classes. In other words, through the MHA, the government has subsidized middle-class housing rather than supplying affordable housing to the poor. One important consequence of this policy has been the intensification of the 'gecekondu' problem throughout the 1980s and 90s. The fact that large amounts of state funds were transferred to middle classes also had a negative impact on the increasing levels of economic inequality in Turkish society.'<sup>18</sup>

After coming to power,' the JDP significantly restructured the MHA and made it into the most powerful institution in the remaking of real-estate markets and the construction sector. As a result of several legal and institutional reforms passed between 2002-2008 the MHA acquired the right to (i) regulate the zoning and sale of almost all state-owned urban land; (ii) form subsidiary construction firms and/or engage in partnerships with existing private firms; (iii) construct 'for-profit' housing on state land either through its own subsidiary firms or through public private partnerships in order to raise revenues for public-housing construction; (v) sell its mortgaged claims to private mortgage-brokerage firms; (vi) execute 'urban renewal' and 'gecekondu transformation' projects; and (vii) revise planning and zoning regulations in 'transformation' zones. Perhaps the most controversial and consequential items in this list are the last 2 ones. With these new powers, the MHA can directly intervene in and 'clear' any low-income urban area that MHA considers as 'dilapidated' or 'obsolete' through what is in Turkey called as 'urban transformation project'. With these projects, the inhabitants of such areas are relocated to public housing blocks and their neighborhoods are 'regenerated' and marketed to

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<sup>18</sup> Tuna Kuyucu, 'The Paradox of Turkey's New Low-Income Housing Policy: The Mass Housing Administration as a Vehicle of State-Led Property Transfer'. University of Washington.



stronger and more resourceful actors<sup>19</sup>.

As this review shows, the MHA today has become the most powerful real-estate 'firm' in Turkey that can single-handedly determine and shape market dynamics through the vast resources and legal powers it has acquired since 2002. In other words, the MHA has become a public agency (directly tied to the Prime Ministry) that operates much like a private developer in the market. Some figures might help to grasp the immense powers that the MHA has gained: Between 2002 and 2008, 66 million square meters of state land have been transferred to the MHA at no cost. The agency has either sold this land to private developers or has used it to construct for-profit housing, subsidized public apartment and various other urban amenities. Throughout Turkey, the MHA, between 2003 and 2009, built 354.633 apartment units, 331 trade centers, 414 schools, 42 hospitals, 268 mosques and numerous other structures. A considerable portion of the apartments are 'for-profit' units, sold in the market to wealthy consumers. In Istanbul alone, a total of 71,126 apartment units have been constructed, more than half of which are 'for-profit' units. The MHA also undertakes mega-projects that are not related to housing. For example, it has built a 50,000 capacity football stadium in Istanbul on public land, and is planning to construct a theme park in the old Halkalı dumping yard in Istanbul, a project which has been postponed due to the 2008 financial crisis. As a result of the entrepreneurial strategy that the MHA has adopted, its assets have increased from \$980 million to \$9.4 billion between 2002 and 2007<sup>20</sup>.

### **2. 3.2 The new image of Gecekondu:**

The reshaping of TOKI as the sole authority has been achieved by a series of legislations This opened a new era for gecekondu dwellers. First, it meant a zero-tolerance approach to gecekondu which entailed the enforcement in these areas of private property laws, zoning regulations and construction codes.<sup>21</sup> Secondly, 'The new Criminal Code passed in 2004 clearly demonstrates this new approach towards gecekondu. The 184<sup>th</sup> clause of the Code, listed under 'Crimes against the Environment' and titled 'Causing Construction Pollution', punishes those involved in the construction of illegal buildings, including municipal officials, with 1 to 5 years in prison. Even though previous governments passed numerous regulations to deter gecekondu construction, it is the first time that gecekondu construction is defined as a

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<sup>19</sup> Tuna Kuyucu, Urban Transformation as State-led Property Transfer: Political Economy of Gecekondu Transformation Projects in Istanbul Phd. Thesis (Washington University, Sociology Dept.), Chapter 4

<sup>20</sup> *ibid*

<sup>21</sup> Tuna Kuyucu "Urban Transformation' as State-led Property Transfer: Political Economy of Gecekondu Transformation Projects in Istanbul" p.35 Phd. Thesis Washington Univ.

criminal act, showing the seriousness of the JDP government in its anti-gecekondu policy. ... More importantly, thousands of existing gecekondu started to be demolished after 2004. In Istanbul alone, a total of 11,453 units were demolished between 2004 and 2008, a record high for any given period. The radical change in the state's perception of irregular houses and their inhabitants can also be seen in the way that high-level state officials talk about them in this period. For example, Erdoğan Bayraktar, the President of the MHA (TOKI) explicitly associated gecekondu populations with crime and chaos during the 2007 Urban Land Institute symposium:

Today, the gecekondu is one of the most important two or three problems that Turkey faces. It is well known that such things as terror, drugs, psychological negativity, health problems and oppositional views all come out of gecekondu zones and irregular areas. For this reason, a Turkey that wants to integrate with the world, that wants to join the European Union must rid itself of illegal dwellings that are also highly risky due to the expected earthquake. Turkey can not speak of development without solving the gecekondu problem.'<sup>22</sup>

## **2. 4. Review of the Legal framework**

### **2. 4.1. Legislation empowering TOKI**

Below is a list of major reforms empowering TOKI . Of those, Law 5366 is of great concern for the issue of actual and potential evictions in neighborhoods like Sulukule, Fener-Balat, Süleymaniye and Tarlabası.

The Municipality Law 5393 which enables the municipalities to form partnership with TOKI is also of concern because actual or planned evictions not only in gecekondu settlements but in middle class-income group settlements like Tozkoparan<sup>23</sup> in Güngören Municipality and İç Kumsal Dış Kumsal<sup>24</sup> in Küçükçekmece Municipality, settlements with legal titles are based on this Law. The last two are areas whose land has gained an increase in value in recent years, so the threat of eviction and relocation based on 5393 has ensued with no logic or public-good behind it. By means of this law, metropolitan and local municipalities can form partnerships with TOKI to undertake Urban Transformation Project in gecekondu areas. The municipalities

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<sup>22</sup> Ibid p.35-36

<sup>23</sup> Tozkoparan is the first social housing Project area in İstanbul from the 60's and is taken under urban transformation, thus it is under risk of evictions and relocations which the habitants oppose.

<sup>24</sup> Middle-income group settlement with title deeds. Most have been in the neighbourhood since 70's.

select the land, TOKI undertakes the construction while communities are relocated if accepted as beneficiaries, if not they are left to streets.

#### **2.4.2. Milestones and evolution of legal framework**

*-By a statute in 2002*, the scope of work of TOKI was broadened to cover small-scale industrial enterprises, education, health, and tourism.

*-Law 4966/2003* gave TOKI the right to establish enterprises for housing, to form partnerships with private firms, to implement housing projects in Turkey or in foreign countries alone or with partners, and to implement profit oriented projects in order to find the necessary capital.

*-Law 5273/2004* gave TOKI all the invested rights of the former Land Office. What is more, after their dissolutions, the revenues and estates of the former Land Office and Real-Estates Bank-which used to be the main tools for the production of land and for the provision of low-cost credits to lower income groups-were transferred to TOKI. State lands have thus been transferred free (7.8 million m<sup>2</sup> land) to TOKI.

*-Mass Housing Law 2985/Added Article 5:*As a state institution, its financial activities have to be inspected by Say stay (The Supreme Council of Public Accounts); however TOKI was taken out of its scope, thus the policies of investment for housing are left to the politicians without any control mechanisms. TOKI is also out of the scope of Public Tender Law.

*-Law 5162/2004:* TOKI became the agent for making expropriations and development plans in the areas of urban transformation in gecekondu settlements.

**Article 2:** TOKI has the right to make, to have it made or to amend all kinds of development plans. These plans can either be approved or amended by local authorities and thus come into force. However, the plans not amended in 3 months will automatically come into force.

According to its duties as cited by law, TOKI has the power to expropriate all kinds of buildings or parts of buildings belonging to real persons or corporations

*Added Article 7:*The Presidency (of TOKI) can implement gecekondu transformation projects, can make arrangements for construction and finance. The value of the real estates owned by real persons or corporations are evaluated by the presidency and the presidency can make agreements with them. The procedures and principles of such agreements are determined by the presidency.

**-Municipality Law 5393/2005** : The Municipality Law of 1984 was amended and the municipalities were vested with the right to implement urban transformation projects in gecekondu areas via article 73 of the law.

**- Gecekondu Law 775** was amended by **Law 5069 in 2007** and all the authorities of the Ministry of Public Works and Settlement on the issue was transformed to TOKI. The Municipality has become dysfunctional on the issue.

**-Law 5793/2008** Has the right to implement, amend or have all kinds and all scopes of development plans implemented on state lands. These plans can either be approved or amended by local authorities and thus come into force. However, plans not amended in 3 months will automatically come into force.

By means of consecutive legislative changes, the power and authority of TOKI increased while its scope broadened over the years. 'The fact that TOKI has such vast powers to intervene into real-estate markets by either building for-profit housing units or by clearing existing low-income neighborhoods is generating strong criticism among professional chambers, NGOs, academics and also among private construction firms. At the center of the criticisms lie three arguments: 1) The new legal, financial and administrative powers that the MHA has acquired has turned it into a dangerously powerful institution directly at the service of the executive branch of the government; 2) The MHA is using public authority and public resources not to provide affordable housing to lower classes (i.e. public good) but to open up profitable investment areas either for the state or for certain private developers (i.e. private interest); 3) The 'urban transformation projects' that 'clear' densely populated low-income neighborhoods are forcefully displacing the poor from their living quarters, transferring their property to more wealthy groups and they are creating concentrated zones of poverty that are rapidly acquiring 'ghetto-like' characteristics.'<sup>25</sup>

#### GAP HABITAT

The Global Action Plan of HABITAT II gives many references to the 'affordability' criterion while enumerating the factors under 'Adequate Housing' in the HABITAT Agenda.

Article 39 explicitly states the

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<sup>25</sup> Tuna Kuyucu, 'The Paradox of Turkey's New Low-Income Housing Policy: The Mass Housing Administration as a Vehicle of State-Led Property Transfer'.

‘...Obligation by Governments to enable people to obtain shelter and to protect and improve dwellings and neighborhoods’ while standing up ‘... to the goal of improving living and working conditions on an equitable and sustainable basis, so that everyone will have adequate shelter that is healthy, safe, secure, accessible and affordable and that includes basic services, facilities and amenities, and will enjoy freedom from discrimination in housing and legal security of tenure’.

What is more, the implementation and promotion of this objective shall be ‘ in a manner fully consistent with human rights standards’.

Moreover, as in Article 40 (h)

‘Increasing the supply of affordable housing, including through encouraging and promoting affordable home ownership and increasing the supply of affordable rental, communal, cooperative and other housing through partnerships among public, private and community initiatives, creating and promoting market-based incentives while giving due respect to the rights and obligations of both tenants and owners’, the right to affordable housing is once more accentuated and strategies for its implementation are suggested.

Complementing this goal is the Article 68 which asserts in (a) that all plans should be made in such a way as to

‘ Employ broad-based participatory and consultative mechanisms that involve representatives from public, private, non-governmental, cooperative and community sectors, including representatives of groups that are considered to be living in poverty, at all levels in the policy development process’.

The right to ‘affordable housing’ is also referred to in Articles 85,90,91 and 142 while in 68 (g) promoting the supply of affordable rental houses is set forth as an alternative as in 40 (h).

As can be understood, ‘affordability’ is viewed as one of the most important aspects of right to housing in HABITAT Agenda while participatory and consultative mechanisms are proposed for the fulfillment of this goal.

### **2.4.3. Shortcomings of the two laws used for the implementation of urban transformation projects**

#### ***Law<sup>26</sup> - 5366***

##### ***(i) Neglect of social dimension***

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<sup>26</sup> Act on Renewal and its Implications on the Planning Processes in Istanbul. Bridging the Divide: Celebrating the City. ACSP – AESOP Fourth Joint Congress. July 6 – 11 2008 Chicago Illinois. Dinçer, İ. Z.Enlil, T.İslam (2008).

'The predominant tendency is to define the renewal project by giving reference only to the physical structure without any regard for social dimension. There are, however, defined principles in other laws, such as the 2004 Act on the Protection of Cultural and Natural Heritage (Act 5226), which introduced the concept of 'site management plan' and required the development of strategies to create employment opportunities for the residents in protected areas and improve the social and economic conditions. The Act 5366, on the other hand, defines the regeneration area only in reference of architectural projects.

**(ii) Lack of Participation**

The law does not define any principles for the participation of the local residents in the decision-making processes about their neighborhoods. Concepts like participation, governance, transparency or locality are not mentioned at all in the law. The district municipality becomes the only dominant actor who decides the location of the renewal area and produces, approves and implements the renewal projects.

**(iii) Violation of property rights**

The most problematic aspect of the law is the expropriation procedures. According to the law, the public authorities should first seek to reach an agreement with the property owners in the areas designated for renewal. But if the two parties do not come to an agreement, then the local authority has the powers to expropriate the property as defined in the Expropriation Law (Act 2942). These powers leave the property owner in a renewal area with two options: i) to be a partner of the renewal project prepared by the authority or a company assigned by the authority, ii) or to sell his property to the authority and take money or another property elsewhere in the city. But the important issue is that the property owner does not have the right to say "no thanks". If you do not make an agreement with the municipality by your own will, the municipality has the full right to expropriate one's property'.

What is more, since the value of one's property after transformation process always increases and the owner is asked to pay the difference, none of the residents can opt to become a partner of the renewal project and almost all sell and have to move out which even though looks like an agreement is a latent forced eviction process.

'The critical issue here is that *residential and tourism* functions are also stated among the expropriation aims in the aforementioned Act 2942, which gives the local authority not only the power to expropriate one's property but sell it to third parties. The issue is therefore problematic in terms of public interest, the disproportioned advantages ascribed to the local

authority against the property owner during the negotiation processes. But most importantly, it encourages the changing hands of properties within the renewal areas.

If the authorities believe that the normal expropriation procedures will cause a delay in the implementation of the project, then they also have the option to use “urgent expropriation” powers. This is a crucial aspect of the law, which further strengthens the already powerful hands of the authorities’ and greatly speeds up the negotiation processes with the property owners.<sup>27</sup>

#### **(iv) UNESCO appreciation of the 5366 Law.**

A recent report from UNESCO clearly shares similar concerns to the ones of the mission in relation to the 5366 Law:

*‘Of the new financial and legal provisions recently put in place, particularly of concern are projects designed and implemented within the framework of Law 5366 for the “Preservation by Renovation and Utilization by Revitalizing of Deteriorated Immovable Historical and Cultural Properties” could result in a serious loss in authenticity, and that the wholesale demolitions of houses of the Roma minority in Sulukule (in the Theodosian Land Walls core area) indicate how potentially destructive such projects can be<sup>28</sup> ‘.*

By means of the law 5366, Sulukule, Süleymaniye, Yenikapı, Fener-Balat and Tarlabası were taken under urban transformation. Today Sulukule is mostly demolished while the others are under threat.

The law 5366 with an invested right for urgent expropriation-can only be used in times of war or disasters- gives the municipality the right to expropriate the properties of the owners who do not want to participate in the project and/or refuse to sell their properties to the municipality. This power is indeed necessary to implement an urban renewal project on a block scale. Without the new powers the law vested in the local authorities, the whole project could be blocked by one owner who would stand against the project even if the vast majority is on its behalf. Actually, the law protects the rights of the majority from a small minority. But this is on paper. In reality, the municipalities misused this power by using it as a threat at beginning of the negotiations to convince the owners to come to terms with the municipality.

#### **Some shortcomings of the Law 5393**

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<sup>27</sup> Ibid.

<sup>28</sup> UNESCO ISTANBUL REPORT JUNE 2009 p:139 article: m

Law 5162 gives TOKI the authority to implement urban transformation projects in gecekondu areas. However, this law gives authority to municipalities, hence there appears a confusion of authority and legitimate roles.

There is only one article, Article 73, which is about urban transformation:

‘The municipality can undertake urban transformation projects in line with the development of the city. It can renovate the dilapidated parts, produce housing units; industrial zones, thematic parks, social recreation areas and can take precautions against the risk of earthquake. The decisions as such are taken by an absolute majority vote in municipal assemblies.’

The Administrative Court in Ankara cancelled the urban transformation Project in Mamak, basing its decision on 2 factors<sup>29</sup>:

- 1) No public good is seen in the Project.
- 2) A wide undertaking such as urban transformation should not be based on a limited article as such, for it should also entail economic and social transformation, which are lacking in the present law.

The same article states that agreement is necessary in the evacuation, demolition and expropriation of buildings in urban transformation areas. Hence, the law openly states that by urban transformation, it only envisages demolition and relocation.

-As in 5366, the law does not define any principles for the participation of the local residents in the decision-making processes about their neighborhoods. Concepts like participation, governance, transparency or locality are not mentioned at all in the law. The district municipality becomes the only dominant actor who decides the location of the renewal area and produces, approves and implements the renewal projects. Negotiations are held only after all these are settled, to convince the parties to sign the contracts, and sometimes by coercive tools as will be reflected in the next section.

### **3. DEMOLITIONS OF HOUSES AND EVICTIONS IN ISTANBUL.**

The mission visited eight neighbourhoods, some of which have already been demolished and some which have been designated for urban renewal. Six specific cases illustrating each one

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<sup>29</sup> ANKARA 1. İDARE MAH. ESAS :2005/2161KARAR: 2008/677



of these situations are detailed in Appendix one. While the actual number of evictions to date in Istanbul is quite small, the scale of potential evictions is high if the urban renewal plans are carried out as foreseen.

### **3.1. The various stages of the eviction and demolition processes.**

The neighbourhoods visited during the mission were chosen because they exemplified the different stages of urban renewal, which can be identified as:

Stage 1) Demolition completed – the residents have been evicted and the houses have been destroyed.

Stage 2) Demolition ongoing – some residents have been evicted and some houses have been destroyed; the process is happening now

Stage 3) Planning process underway – a plan for renewal of the neighbourhood has been approved or is in the process of being approved. Negotiations with owners and purchasing of properties is taking place. Evictions may not have started but will likely begin soon.

Stage 4) Designated as a renewal or project area – the area has been designated by the municipality or greater municipality as a renewal area or an area for special projects or mega-projects. Planning is not taking place and evictions have not happened. If the area does undergo renewal or the project does go forth then evictions may take place.

Stage 5) 2<sup>nd</sup> wave of evictions – people relocated from renewal areas to social housing in TOKI blocks who are forced to leave the TOKI blocks because they cannot afford to pay the monthly instalments, the building fees, or other costs.

### **3.2. Brief presentation of the 8 neighbourhoods analyzed and visited during the mission.**

The following section details the neighbourhoods visited by the mission and discusses the numbers of people involved. Annex 1 contains a more detailed description of each of these neighbourhoods including a discussion, by neighbourhood, of the due process for evictions:

#### **3.2.1. Sulukule (Hatice Sultan and Neslişah Mahalle), Fatih Municipality (stage 1)**

This neighbourhood is in the historical peninsula and falls under the jurisdiction of Law 5366. Demolition has been ongoing for two years and has recently been completed. The municipality indicates that there were 3430 people living there before the demolitions. There were 645 houses, and 45 business. There were 759 owners (256 owner-occupiers) and 434

tenant families. A survey done by Sulukule Platform, an association in opposition to the project, indicate that the number of residents was closer to 5000 and that the number of renting (tenant) families was over 600 but that some had not been enumerated by the municipality possibly because they lacked the proper documents.



Remains of demolition in Sulukule

### 3.2.2. Süleymaniye, Fatih Municipality (stage 2)

This neighbourhood is also in the historical peninsula, close to the famous Suleymaniye Mosque and contains many houses of architectural significance. The area designated for renewal is comprised on 1700 houses and demolitions are ongoing. Most of residents are renters and the owners are generally absentee. The *Muhtar*<sup>30</sup> of the Hacı Gıyasettin *Mahalle*<sup>31</sup> reported to the mission that Kiptaş (the public development company undertaking renewal projects and acting in the Istanbul Metropolitan Region) has been buying houses in the area and has been evicting the tenants. There have also been several fires recently that have destroyed many houses and left families homeless. The muhtar reported that ten years ago there were about 10,000 people in the neighbourhood and now, due to the project, there are only about 3500 people remaining. He expected that during the summer many more families would leave, whilst their kids were on school break. There are also many small business in the area which are affected, however the numbers are not known.

<sup>30</sup> Muhtar is the official head of a district, smaller than municipality. He/she is elected by the population in the area.

<sup>31</sup> The administrative area run by a Muhtar is called a mahalle.

### **3.2.3. Tarlabası, Beyoğlu Municipality (stage 3/2)**

This neighbourhood was not actually visited by the mission due to time constraints in the schedule, but a representative from the neighbourhood spoke to the mission at the debriefing on the final day. This neighbourhood is also in the historic district and therefore should fall under the law 5366. It is directly adjacent to the centre of the city, Taksim square, and contains historic domestic architecture and other valuable architecture. In total there are 3200 people to be affected by the project in 278 plots. The project has been approved but no demolitions have taken place yet.

### **3.2.4 Başibüyük, Maltepe Municipality (stage 3)**

This neighbourhood is a gecekondu on the Asian side of Istanbul, which was first built in the late 1960s. The neighbourhood appears to be quite consolidated with two, three and four storey buildings, paved roads, water and sewerage system, and electricity. The planning process for an urban renewal project began in 2006 and it was designated as a renewal area in 2004. The muhtar reported that there are 6000 houses and 25,000 residents. Nine houses have already been destroyed to make way for TOKI blocks and negotiations were made with the owners of these blocks.



Başibüyük neighbourhood, consolidated gecekondu due to be demolished for urban renewal

### **3.2.5. Gülsuyu and Gülensu, Maltepe Municipality (stage 4)**

These two adjacent neighbourhoods are also a consolidated gecekondu and is nearby the Basibuyuk. The area was designated for urban renewal in 2004 and there are 35,000 residents.



Central area of Gulsuyu/Gulensu is slated for urban renewal

### **3.2.6. Küçükbakalköy, Kadıköy Municipality (stage 1)**

This small area of 256 houses, occupied by Roma people, was demolished in June of 2006, with no prior notice given to the residents. Some of residents are still camped in barracks on the site, as they have nowhere to go, although living conditions are very bad and there is still rubble strewn all over.





Very poor barrack-style housing conditions in demolished settlement küçükbakkalköy

### 3.2.7. Kurtköy, Pendik Municipality (stage 1)

This neighbourhood is a gecekondu located close to the Sabiha Gokcen airport and the Formula 1 race track. The settlement originally had 1200 houses and 6000 residents. Houses were of one and two storeys located on government-owned land. Out of these, 950 houses have been demolished in 2005 and residents have been relocated to blocks some distance away, having to pay varying amounts for the new houses. New housing blocks have been built on the site but are still unoccupied. The remaining 250 houses have been designated as a renewal site.



Kurtköy gecekondu with new housing blocks in background, which remain unoccupied

### 3.2.8. Bezirganbahçe, Küçükçekmece Municipality (stage 5)

This is a site of TOKI blocks where residents of Ayazma (a nearby former gecekondu) have been relocated to after their old neighbourhood was destroyed in 2007 for a renewal project. According to the municipality there were 7800 residents in Ayazma and 1800 houses. There were 900 families with title deeds and 900 families without title deeds, plus 130 tenants. When the mission visited Bezirganbahçe and spoke to the families it became clear that there is a second wave of evictions happening because many of the relocated families cannot afford to live in the TOKI blocks. Out of the 1930 families relocated, there are 650 families which have already received a 'letter of confiscation' meaning that they have not paid their monthly instalments for six months and therefore will have to leave their apartments.



TOKI Blocks in Bezirganbahçe



Residents in Beyzirganbahçe explain their problems to AGFE mission

### **3.2.9. Güverncintepe, Küçükçekmece Municipality (stage 2)**

This is a small neighbourhood of 50 families which is directly adjacent to Ayazma and Tepeustu, which have already been demolished. This settlement has single-storey houses and is located on the fringe of the mahalle. One early morning in April 2009 the municipality and the police came to demolish the houses but the people resisted and the houses have not been demolished.





Houses in Güverçintepe



Meeting with residents in Güverçintepe. Note Olympic Stadium in background and cleared land in front where Ayazma neighbourhood used to be.



### 3.3 Summary and key findings from field visits.

In summary, approximately 80,000 people were directly affected by the urban renewal projects in the areas visited by the mission. In total, 12,730 people have already had their homes destroyed (in Ayazma/ Tepeüstü, Kücükbakkalköy and Sulukule). Some of these situations cannot be termed 'forced evictions' since some people were willing to sell their property to the government. However, from what the mission gathered, those people who are willing participants in the urban renewal projects are limited to a small minority and the majority of people are being forced to participate in the projects through the signing of a contract agreement with the public authorities. .

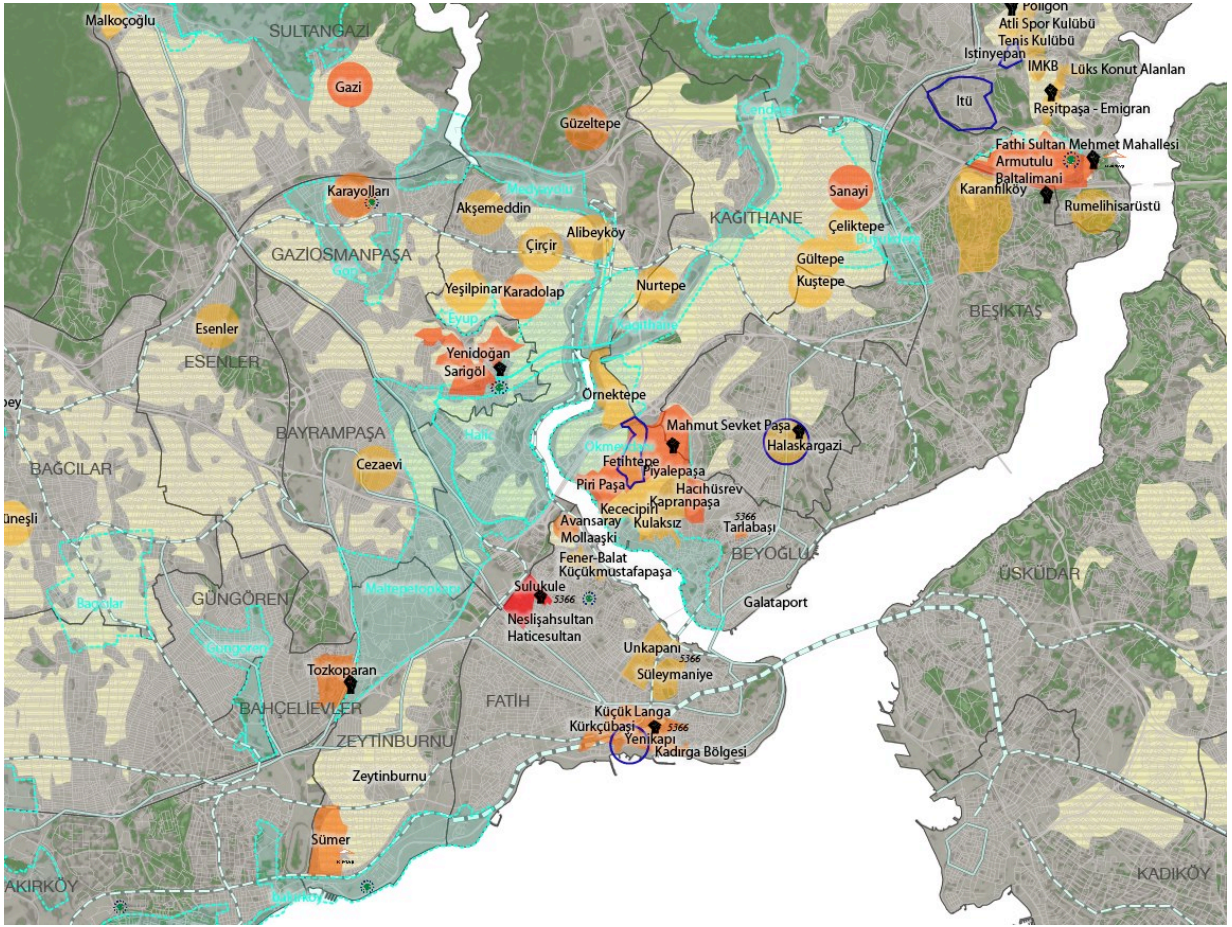
In addition to the neighbourhoods visited by the mission, there are many other neighbourhoods throughout the city which are currently under the threat of evictions, and many more will sum up in a near future. The map below, prepared by a large back up team, during and immediately after the mission depicts the neighbourhoods which are marked for urban renewal or other transformation projects. Each one of them correspond to the four stages described above. Given the available information at the time, it is not possible to accurately define the total number of people who will be directly affected. However, in terms of scale, and for the Metropolis of Istanbul as a whole, *the figure of one million persons who are under serious threat of having their houses demolished is a conservative one.* TOKI's and Istanbul Municipality officials converging recent declaration stating that they plan to rebuild 1 million buildings in Istanbul<sup>32</sup> gives the scale of the dramatic problem that around 8 to 10 millions poor and middle class residents of Istanbul living in these 1 million buildings are facing and will be facing in the near future if nothing is done to reverse the current trend and the current practices.

The next section will give a look forward and briefly suggest recommendations resulting from the mission visits. interviews of and debates with all parts concerned.

#### **Map 1 (Draft). Areas under threat of evictions on the European side of Istanbul.**

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<sup>32</sup> "Istanbul Municipality's Deputy Secretary General İrfan Uzun said preparations for urban transformation project are continuing at full speed. One million out of the 1.5 million ones need to be replaced by new ones, Uzun said. "However, this is not something can be done in a day. This will be done stage by stage. We should build housing that meets the demand of an ever –increasing population. There are no differences between Istanbul Municipality and TOKI regarding who will undertake the construction activity. Private sector involvement in the process is also expected," he said (Aysel Alp, Okhan Şentürk, 15.11.2007, Turkish Daily News). (Aysel Alp, Okhan Şentürk, 15.11.2007, Turkish Daily News).



Source: Forced Evictions in Istanbul, 2009. Map prepared for the International Architecture Biennale Rotterdam, by a group of architecture and urban planning students from Istanbul and Zurich under the supervision of Yaşar Adanalı, Can Altaylı and Philipp Misselwitz.

Note: This map will be completed with the evictions taking place on the Asian side of Istanbul

## 4. THE POSITIONS OF THE ACTORS TOWARDS DEMOLITIONS AND EVICTIONS

### 4.1. TOKI and Municipalities positions and justifications.

During the Mission visits were made to two municipalities and to the TOKI office in Istanbul. In addition two Muhtars (elected area headmen) also gave their opinion. A summary of the discussions and the opinions of the government representatives is given below.

**Fatih Municipality** was visited on 08 June 2009 and a meeting between the AGFE Mission and municipality representatives (consisting of the Mayor, advisor to the Mayor, city planner, project manager, architect of the Suleymaniye project and support staff) was held. Most of the discussion was related to the Sulukule Project. The important points raised by the Mayor and his team were:

- The Sulukule Project, like all other projects, was carried out strictly according to the provision of Law 5366 (for details of the law, see Item 3).
- The reason for the NGOs and the media (especially the European one) opposition to the project was because the Roma people lived on the site. The NGOs and the press turned this into a minority and human rights issue. The advisor to the Mayor insisted that the Roma population was no more than 20 per cent of the population.
- The municipality team agreed that accommodating renters is a problem but they were being compensated by a payment of 500 Lira per month. The issue for how long this payment could (or should) be continued was uncertain.
- The municipality team also mentioned that the Roma Rights Centre<sup>33</sup> also visited the project and presentations of the project were made to the European Parliament delegation and to the Turkish Human Rights Commission. They were satisfied with the project.
- The municipality team agreed that 346 families were sent to **Taşoluk** 42 kilometers away from their original homes and that 50 of them came back to the site. The municipality team

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<sup>33</sup> ERRC made an official declaration later disclaiming this view.

was of the opinion that they came back to extract more benefits and not for reasons of inconvenience or unaffordability of where they have been shifted to. This contrasted sharply with what the team had observed on site and with conversations with the returnees.

- The municipal planners and architects also felt that the solution that they were offering was the best for the city and the people and that it was financially viable. They stated that they had examined the various planning options that have been developed for similar situations all over the world.

- The team also insisted that a socio-economic survey was done and the people were asked to choose the housing option and location they would prefer. In this connection, the municipality had also brought out a book on the Roma community in Sulukule. However, only two options were offered to the residents. One to accept the price of land and housing and vacate the site; and two, to move to another location far away from their present settlement.

There was a strong under-current of hostility and suspicion towards the residents of the informal settlements in the tone of the municipality team and a few derogatory remarks regarding the resident's lack of education, culture and way of life were also made.

**Başibüyük settlement** was visited on 09 June 2009. The Muhtar of the settlement was present at the meeting with the residents. He strongly advocated the upgrading and improvement of the settlement rather than bulldozing and transfer to high-rise apartments. According to the community, the previous Muhtar had supported the TOKI Programme because of which he was defeated in the elections. The reason for the election victory of the present Muhtar was his opposition to the redevelopment project.

Meeting with the **TOKI representative** was held at the TOKI office on 10 June 2009. He was very proud of the work that TOKI was doing and gave details of the large number of housing units TOKI had built in the last four years and how many more it was to build in the coming decade. The other issues he pointed to are given below.

- TOKI develops the designs for state land (more often than not vacated from gecekonu settlements); private firms are then invited to build on them; they sell the flats on the open market and give TOKI a share. At prime locations luxury apartments (and sometimes houses) are also developed and the original residents shifted to other locations.

- All facilities (such as schools, health centres, playgrounds) are provided at the relocation and/or redeveloped sites and as such residents acquire a higher standard of living and the city a better environment.

- Family heads are called one by one for negotiation and they have to choose between taking money or opting for an apartment. There are no collective negotiations and their advocates are not accepted in the meetings.

During this conversation the problems faced by communities such as the trauma of evictions from homes they had built, livelihoods, affordability of the options offered, etc did not surface. The financial and housing delivery success of the TOKI enterprise was the main focus.

**Kücükçekmece Municipality** was visited on 10 June 2009 and a meeting with the Mayor was held. The points raised by the Mayor are given below.

- There should be a consensus between all the stakeholders as to the nature of development that should take place. Even those families that have no legal rights at present should be taken into the “legal framework”. Justice demands it.
- Some families do not want to, but most families cannot pay the installments for the apartments that they are forced to take. This is a problem. In addition, many members of the families are unemployed.
- The gecekondü communities must learn how to adapt to the city. Adapt means that they should live in properly designed settlements with properly located schools and social facilities. Preferably, they should be resettled on the land they occupy.
- The Mayor also supported the idea that municipalities should be allowed to develop their own projects.

Five **conclusions** can be drawn from the conversations and discussions with government officials.

- TOKI is far removed from the people for whom it designs and builds. There is no process through which their concerns feed into its design and construction processes.
- The job of the municipalities in the redevelopment process is to get land vacated and handed over to TOKI for development. The laws permit them to do this. Because of ambiguities in the procedural aspects and through selected application of the laws, they can bypass the humane aspects of the law such as the acceptance of people's preferences.
- Those mayors and muhtars who are close to the people are not supportive of the present processes and would like to see a change.
- Due to a lack of clarity in the procedural aspects of the laws, coercion becomes possible.
- Developers, speculators and the elite are the main beneficiaries of the TOKI projects.

#### **4.2. People and CBOs expectations and position in relation to demolition of houses and forced evictions.**

The civil society and professional organizations in their letter to the AGFE mission (see appendix 4) are proposing the following measures to address forced evictions in Istanbul. These measures were discussed extensively during the mission and are reflected in section six, Recommendations.

1. *"To start up the negotiation process through mediation in order to stop the inhumane forced evictions and demolitions in Istanbul.*
2. *To explain to the local authorities, the concepts of democratic local government and participatory planning by putting forward betterment and reclamation projects that assure a healthy and secure habitat instead of renewal implementations which cause evictions and human rights breaches.*
3. *To remind the local governments their Constitutional duty- that has been forgotten for long- which is to improve the quality of life and provide services for the people in their election districts; and to make their word in public.*

4. *To sustain public pressure over the local governments by organizing Meetings of Testimony of a wide range participation and by sharing the human rights violations of the aforementioned process with the public”.*

Based on the various meetings, the public Forum and the exchange of views with the various networks, the following six proposals

1. Moratorium evictions till a proper solution is found as a result of a dialogue.
2. Integrated neighborhood improvement instead of demolitions, including job generation and income generation. -Gecekondu neighbourhoods are fairly good with gardens and green plots and the families themselves have invested and usually self built in their homes. Municipalities have brought through time infrastructure facilities. With some upgrading, rather than demolitions, the populations should stay in their neighborhoods and have the possibility to maintain their neighborhoods social relations and solidarity ties.
3. Densification of existing *Gecekondus*
4. Subsidies for accessing housing and credits for housing improvements
5. Banning of the 5366 law under its present form and revision of the Urban Transformation Law 5393.
6. Regularization and security of tenure for *Gecekondus* residents.

These proposals have been discussed with the interested parts and taken into consideration. They were important inputs for the formulation of the recommendation to UN Habitat.

## **5. THE LESSONS LEARNED FROM THE VISIT. ISSUES THAT SURFACED, CONCLUSIONS AND IMPACT OF THE MISSION.**

### **5.1. Main conclusions.**

A central conclusion of the AGFE mission is that forced evictions are taking place in Istanbul. From the information gathered and detailed here above, various cases are serious violations of CESCR 11/1, General Comments 4 and 7.

In addition, the massive demolition of houses of good quality by international standards, and of houses easily repairable affects quite negatively the attainment of the Millenium Development Goal 7 and the elimination of slums.

At the same time the evidence gathered from all parts and from the visits clearly suggests that the Turkish Government is not respecting the Habitat Agenda, signed in Istanbul in 1996 during the Habitat II Conference, primarily in relation to the respect of the principle of progressive right to housing. On the contrary the [processes analyzed indicate a regressive application of the right to housing. The legal framework put into place through the laws 5366 and 5393 Art.73, are important instruments that facilitate a regressive policy in terns of housing rights. The right to 'affordable housing' is referred to in Articles 85,90,91 and 142 while in 68 (g) promoting the supply of affordable rental houses is set forth as an alternative as in 40 (h). The term 'affordability' is viewed as one of the most important aspects of right to housing in the HABITAT Agenda<sup>34</sup> while participatory and consultative mechanisms are proposed for the fulfillment of this goal. The current Turkish Government practices are not respecting these dimensions of the Habitat Agenda either.

One of the current asset that Istanbul is having to address evictions and find innovative ways to overcome the present situation are the organizations at neighborhood levels, and the

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<sup>34</sup> The Habitat Agenda 2008 Milestones state: "Enable all key stakeholders in the public, private and community sectors to play an effective role – at the national, state/provincial, metropolitan and local levels – inhuman settlements and shelter development." "We reaffirm our commitment to the full and progressive realization of the right to adequate housing, and to provide legal security of tenure and equal access to land to all."

"We recognize the need for an integrated approach and concerted action to achieve the objective of adequate shelter for all and sustainable human settlements development, and will strive for coordinated implementation of international commitments and action programmes The Habitat Agenda



various co-ordinations that exist at city wide level. The role of neighborhood based organizations such as the Sulukulé Platform or Talarbashi residents association or of Istanbul based networks such as the Coordination of neighborhoods association or of the Coordination for Housing Rights is quite essential in that respect.

The seniority, mobilization and coordination of scholars and academics from each one of the university from Istanbul is remarkable as well and can open a bright future. The initiative STOP (xxx) offering alternatives for Sulukulé in relation to the Government Proposal is quite a good example of such creative approach. In addition the relation between the CBOs, NGOs and professionals organizations, is already existing, even if not as strong as it could be.

## 5.2. Issues that emerged

The following issues surfaced as key elements to understand the mechanics and the nature of evictions in Istanbul.

(i) **Speculative Upturn**<sup>35</sup>. In both neighborhoods, (Tarlabaşı/Sulukule) following the declaration of the renewal projects no restrictions are imposed on the property sales in these areas in order to prevent speculation and to guarantee that the value increase in the properties at the end of the project will be seized by the existing owners. This policy had significant consequences in Sulukule. Enticed by the sudden increase in property values, many owners chose to sell their properties to third parties to get cash money at once. These owners have sold their homes by their 'free will'. However, this is one of the points upon which most of the controversy around the project rests. Since the project has not been well explained by the municipality in the neighborhood, the owners may not have the full awareness about the potential financial gains they will get at the end of the project. So, there is this possibility that the potential value increase will be realized mostly by the outsiders, rather than the existing residents.

On the other hand, the Municipality is defending that it would be against the law to restrict property sales within the renewal area before the project is approved by the Board for Renewal Areas. However, the fourth clause of the renewal law, gives the municipality such powers saying that "*... the municipality can implement temporary limitations on the construction, usage and operation of the properties within the renewal area until the project*

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<sup>35</sup> From Dincer, I., Zeynep, E. and Tolga, I. Regeneration in a new context: a new act on renewal and its implications on the planning processes in Istanbul

ends". Even if we assume that the municipality was legally bounded as it claims, there were still other tools that the municipality could use to reduce speculative property turnovers. As mentioned above, the municipality could have better explained the project to the existing residents so that they understood the pros and cons of the renewal project and made their decisions in a more informed way. The municipality, however, did not even open an office in the neighborhood to explain the renewal project.

**(II) Value of People's investments in their previous homes:** the gecekonddu settlements are not like the squatter settlements of south or south-east Asia. Those are congested, under-serviced, environmentally degraded settlements at best and unserviced makeshift shacks at worst. The gecekonddu settlements we visited had proper homes, street paving provided by the municipalities, open spaces (some of them beautifully paved), schools, electricity, water supply, sewerage, shops and lots of trees (including fruit trees). In some of them the houses were two to four floors and there were also a few low rise apartment blocks. There is an atmosphere of a neighbourhood and strong social ties

**(iii) Coercion** is built into the system of negotiations. Collective negotiations are not permitted. Individual families have to negotiate with officials and such negotiations are in most cases intimidating for the poor. If community organisations negotiated, the extent of coercion would be considerably reduced. The municipalities use the power of Law 5366 as a threat at beginning of the negotiations to convince the owners to come to terms with the municipality. The owners are informed at the beginning that they can either agree with the municipality or their properties will be expropriated.

### **5.3 Self assessment by the AGFE mission of its impact**

- A first impact was the positive echo by the media (see details in appendix 4). All national newspapers spoke of evictions and listened the opinion of the mission members. This is an achievement in a country where demolitions of houses and proposals of alternatives to the government policies is very rarely part of an open debate. This was made possible because of the excellent back up team and mobilization on the media side.
- A second contribution of the mission related to the contribution to opening communication dialogue between the interested parts as stated in its Terms of Reference. Probably linked to the media echoing of alternative ways to deal of evictions, TOKI President himself invited three persons from the STOP initiative (*Saner tanımayan Autonomy Plancılar/* Autonomous

Planners Without Borders) for a meeting in Ankara STOP had prepared an alternative plan for Sulukulé, in close cooperation with the Roma community and as part of the Sulukulé Platform. It was the first time that an alternative plan coming from the Civil Society and the Professionals was discussed. In that sense, the mission through the media opened up a communication channel between the professionals opposed to the current demolition project and the Government. This channel is still open.

- A third contribution of the mission was the strengthening of the dialogue and of the communication between the various platforms, networks and coordinations that are actively engaged at different stage on evictions and demolition issues. The very fact of having all the different movements present during the public Forum at the end of the mission was quite positive. Even if very modest in relation to what remains to be done, the strengthening of the dialogue between communities is quite an important achievement in relation to the forced eviction issue.
- A fourth impact was probably at urban and housing policy level. The mission could voice out and give substantive elements for an *integrated neighborhood approach* as an alternative to the bulldozing out of the structures built over the last 50 years by the people through their own effort in order to give ways to high rise apartments building or profit driven large investments and developments.
- A fifth impact, probably one of direct importance in relation to forced evictions is the impressive research work that was launched during the mission and continued for nearly one month once the mission was back home. Around ten people have been working on a map that reflect the status of the evictions taking place or due to take place in the future in Istanbul. This is a gigantic work, given the scale of the problem and the dimension of the city. The work will be launched and presented internationally in Rotterdam, in October 2009. (www. Xxxx)

## 6. WAY FORWARD AND RECOMMENDATIONS

### 6. Advice to the Executive Director of UN HABITAT

#### 6.1. Recommendations to UN HABITAT: advice to the Executive Director

##### (i) **Comprehensive study on evictions and setting up of an Observatory on Evictions and Demolitions.**

The first task that UN Habitat might consider is to support the conduction of a **more comprehensive study** to assess the scale, the frequency and the different nature of forced evictions. The too rapid 4 days visits of the AGFE mission could only get a preliminary sense of what is happening. Such a study should start in a comprehensive fashion in Istanbul and, once the documentation method has been tested the study should be made at national level, as apparently evictions and demolitions are not and will not be limited to Istanbul. This study should lead to setting up an **Observatory on Evictions and Demolitions**. Its management should be quapartite and involve (i) the *citizens* through their organizations and networks, (ii) the *universities* and *research centres* that anyhow are already involved in a partial documentation of the situation, (iii) *TOKI and the municipalities*, these latter probably through their National Organization of local governments and (iv) the media that timidly are starting to inform about evictions and demolitions that are taking place.

The role of this Observatory should be (a) to monitor the evictions and demolitions taking place or due to take place; (b) Monitor the policies and the Legal framework at National and Local levels and give a view or the progress or regressions taking place; (c) identify successful processes and methods that have been put into place to solve the eviction issues; (d) Largely inform the national and international media about the outcomes of the studies; and (e) Disseminate information towards the citizens and their organizations through simple communication tools.

The tools designed by the AGFE Secretariat and tested during the mission, the methods developed for the mapping of evictions at Istanbul level and presented in the report as well as the various reports and dossiers prepared locally by the numerous CBOs, NGOs and Universities are an important contribution towards that aim. However, a professional team should be contracted launch this work.

**(ii) Reconciliation of Turkish Legal framework on Land, Housing and Urban renovation/rehabilitation with International laws and covenants and primarily with the Laws and the Rights that exist at European level.**

This is an urgent task to be carried out, particularly considering that in 2010 Istanbul will be one of the 3 European Capital of Culture and considering as well that Turkey is pledging to join the European Union. The work should consist in an accurate revision of the legal framework into place that *de facto* facilitates the processes of demolitions and of evictions. A priority should be given to the substitution of the 5366 and 5393 laws currently vesting TOKI with unchallengeable powers and enabling it to intervene as it sees right without any checks and balances mechanisms. The new ones to be formulated and voted should be more in line with the right to adequate housing, and with more humane approach to housing the poor.

**(iii) Invitation to the UN Special Rapporteur on Adequate Housing**

Un Habitat should invite the UN Special Rapporteur on Adequate Housing, to deepen its already important work and send an urgent appeal and letters of allegation to the Government of Turkey asking for clarification for the issues presented in the present AGFE mission report.

**(iv) Best Practices Award 2009 to TOKI**

The AGFE mission encourages UN Habitat to pay a visit to the TOKI project that was awarded a Best Practice Award in 2009 and analyze carefully the project before the ceremony. The mission is ready to participate in such a revision. This is particularly important for UN Habitat (and to a lesser extent for AGFE) international and national Legitimacy. The information gathered by the mission suggests that TOKI should not receive a Best Practice Award for the project referred to.

**(v) International Cooperation**

As stated in CESCR article 11/ General Comment 4 and in HABITAT Agenda, international commitments and action plans can be proposed, e.g financial supports and credits can be provided to Turkey to upgrade the *Gecekondu* settlements.

**6.2. Advice to be delivered by UN HABITAT to the Government of Turkey and to its and Local Authorities**

**6.2.1. On forced evictions and demolitions**

(v) Urge the Government to halt all pending evictions or threatened evictions until an adequate solution is achieved to meet the housing rights of the Turkish citizens enshrined in the relevant international human rights instruments ratified by the State.

(vi) Recommend that the Government give priority to halting evictions and demolitions affecting so called ethnic minorities such as the Romas and the Kurdish communities, and the tenant with or without formal contracts so as to minimise their negative impact on such vulnerable members of society.

(vii) Invite the Government **to remove the coercitive measures** and pressures of various types that families are suffering and that have as an objective to get the families to sign their agreement contract to sell their homes in order to be demolished. The fact that the people's homes will be demolished anyhow, in case they do not accept to sign an agreement should be immediately removed.

(viii) Urge the Government of Turkey to carry out **eviction and demolition impact assessments** for each one of the large developments and investments that are taking place to transform Istanbul into a Stellar Global City : new services (commercial mall for instance); recreation services (recreation parks, Disneyland parks for instance); gated communities; marinas; reconversions of neighbourhoods in the historic centre. These Eviction Impact Assessments should be made under the supervision of a commission that would include the interest of all parts. It should be contracted to independent professionals and academics that have a track record on the issues of demolitions and evictions. This assessment should be made public and influence the decision and the planning of the development.

### **6.2.2. On Housing and urban policies**

(ix) Invite the Turkish Government to review its current policy at the light of a Rights approach, and based on the principles enshrined in the Habitat Agenda, signed in 1996 in the very city of Istanbul.

(x) Legalise the land of all *the existing Gecekondu*s and transform the amnesties that were positively enacted into a situation of security of tenure for those families who, through time and effort have been producing good quality neighbourhoods. This legalization and increase of security of Land Tenure should consider collective solutions such as the Community Land Trusts, that received the Habitat Award in 2008.

(xi) Recommend the Government to **review its policy** in order to aim at more friendly cities. Key aspects of this urban policy should consider:

- The modification of urban renewal practices that consist in the demolition of *Gecekondus* and spontaneous settlements to substitute them with high-rise housing blocks. Instead an **integrated neighbourhood improvement policy should** be put into place. In addition to measures to facilitate a reasonable densification through credit and technical assistance, such an integrated policy should give priority to an income generation and job creation component, as poverty and lack of resources appeared as a permanent feature of the low-income neighbourhoods. Another important component of such a policy will be a reduction of risks in relation to earthquake hazard.

**Participatory methods** including the communities and the citizens directly interested and concerned should be built in the formulation, the design, the implementation and the control phase of the whole process. This ingredient, as demonstrated by various international practices will be an important ingredient to prevent evictions and reach creative and positive solutions for the benefit of the city and of its citizens.

### 6.2.3. On Governance

(xii) Recommend that the Government set up an **international Observatory**, at national level in line with the first recommendation to the E.D of UN Habitat. As expressed previously the role of such an Observatory will be to : (a) to monitor the evictions and demolitions taking place or due to take place; (b) Monitor the policies and the Legal framework at National and Local levels and give a view on the progress or regressions taking place; (c) identify successful processes and methods that have been put into place to solve the eviction issues; (d) Largely inform the national and international media about the outcomes of the studies; and (e) Disseminate information towards the citizens and their organizations through simple communication tools.

### 6.3. Advice to UN HABITAT with regards to the communities and CBOs

(xiii) Invite and support citizens, informal groups, neighborhoods associations, existing networks actively involved in housing rights defense, activists, committed professionals and scholars, media people **to unite and coordinate their efforts**. These efforts so far are quite impressive, in most cases without any support and based on volunteerism and very high levels of individual efforts and commitments. This coordination and unity might be increased through: (a) setting up a simple and common agenda related to evictions and demolitions; (b) Definition of timely established Action Plan, and (c) creation of a small Resource Centre – a

small NGO - with a limited number of professionals in order to support the existing initiatives and coordination efforts, and possibly liaise with international community if needs be.

#### **6.4. Advice to UN HABITAT with regards to Universities and research Centres**

(xiv) Encourage the Istanbul based University to **launch modules** at under-graduate and post graduate studies levels on Evictions and on Demolitions. The level of knowledge, the quality of existing studies and the commitment of (usually limited in numbers) scholars in each one of the Universities that received the mission is quite high. However, no specific course exist so far.

(xv) Encourage as well the Universities to open a specialized course open to academics, professionals and citizens on Evictions and on Demolitions. Part of the curricula would be to understand the nature and the scale of the problem, to be exposed to international and national experiences and practices and to develop practical skills for project formulation and design.



## **7. APPENDIX**

**Appendix 1: Specific cases illustrating neighbourhoods demolished or under threat of eviction.**

**Appendix 2. Mission programme and activities**

**Appendix 3. Media Coverage of the AGFE mission**

**Appendix 4. Invitation letter from Turkish institutions to AGFE and analysis of current demolitions and evictions processes taking place in Istanbul**

# Appendix 1: Specific cases illustrating the infringement of 'due process' of evictions in neighbourhoods demolished or under threat of eviction

This section details the eviction process of selected neighbourhoods, with reference to the criteria defined in the 'Operational Definitions Forced Eviction Due Process Quantitative Tool.'

## 1. NEIGHBOURHOODS ALREADY EVICTED: RELOCATED or LEFT TO STREETS

### 1.1.CASE 1. KÜÇÜKBAKKALKÖY/MERDİVENKÖY

AGFE VISIT: JUNE 9<sup>th</sup>, 2009

#### CONTEXT

On July 19th 2006, a settlement of 256 houses in Küçükbakalköy, belonging to the Roma community, were destroyed by police forces, forces of the local municipality of Kadıköy, with the support of İstanbul Metropolitan Municipality. The community had been living there for 20 years.

#### DUE PROCESS ANALYSIS

-The authorities arriving **at dawn** took the residents out of their houses and told them that they would not demolish their houses but would tidy up the environment. Quite the contrary, **they bulldozed all the houses and did not let the inhabitants save their materials.**

-Those who resisted were taken under custody and the forces **practiced violence** against the population using **pepper bombs**. Mr. Yüksel Dum and some other residents **had pre-title deeds** and their houses were **illegally demolished** while Mr. Yüksel was also taken under custody for resistance against the police.

-The demolition order of these houses had been issued two months before; however, most of the **community was not officially informed** about the demolitions

-There were authorities from the local municipality plus hundreds of police forces. But they **did not identify themselves.**

-There **was no alternative place** for the families to move due to economic conditions. No alternative was offered by authorities.

-Evictions took place during a time when schools were open, thus about **50 students had to leave school**.

-The community was humiliated by the authorities **with derogatory remarks** on their identities as Roma, during the evictions.

-The Roma Community then started living in **the barracks they built from** the remains of their houses. There is no bathroom or toilet in the barracks. **Babies, children and old people** have been affected and become ill as a consequence of the unhealthy living conditions.

-By using **coercive methods and pressure**, some entrepreneurs and their legal advisers forced some of the residents to sell their properties at rates ranging between 2.000 TL-13.000TL.

-**Not enough compensation** was offered. Land 100 meters away from the neighbourhood sells at a rate of 5000TL per square metre. The Roma were offered 250 TL/m<sup>2</sup>

-There are about **20 families still living under unhealthy conditions in the barracks**.

-Children **cannot go to school**

-There are **elderly people and patients** who need **urgent medical care**.

-**Women are more disadvantaged** due to unhealthy conditions and lack of toilet and bath.

-All the families living in the barracks **have pre-title deeds**, officially accepted as a step before a title-deed. They had paid their taxes.

-Compensation offered to the community **is not adequate** in relation to the value of their lands.

-The barracks are also **under threat of demolition**. The people will be left to streets with no place to go and no compensation.

-Most of them have **lost their jobs**.

**General Comment 7 violated completely.**

## **1. 2. CASE 2. AYAZMA – KÜÇÜKCEKMECE MUNICIPALITY (Relocation to Bezirganbahçe TOKI blocks)**

**AGFE VISIT: June 10<sup>th</sup>, 2009**

### **CONTEXT**

-Ayazma was a neighbourhood of Küçükçekmece district, populated by a **Kurdish population** of internal migration coming from East and South East of Turkey.

-22% of the houses had been built in 1987-1992, 47% between 1993-1998 and 20% between 1999-2004.

-Of these houses **97% had kitchens, all had separate bathroom and toilets, and electricity supply, and 93% had water supply.** All the houses are **heated with wood and coal**...89% of the area consisted **of single-storey houses**...

-The rate of **property ownership was 75%** while the remaining **25% pertain to tenants**

- 37% of tenant population pays **100-150 TL**, 21% **50-100 TL** and 21% **below 50 TL**.<sup>36</sup>

- **The residents have been** relocated to Bezirganbaçe TOKI blocks.

#### **DUE PROCESS ANALYSIS:**

- **Hostility, suspicion and degradation** for Ayazma population can be understood from a excerpt from a book published by the municipality:

'...a population profile which may be considered as **'the others'** who try to hang on to the city, indeed to life as under **extremely primitive conditions of living** at a sub-area **likely to be the most prestigious one** in the İstanbul Metropolitan Area'<sup>37</sup>

-**operations of expropriation were initiated at the neighbourhood in 2004,**

-the relocation place of the existing neighbourhood was decided as Halkali Customs area (Bezirganbahçe) **long before the residents were informed and negotiations started.**

-Thus, 'the others,' mostly Kurdish families of forced migration, were **not seen fit to live** in the 'most prestigious area' were **moved without starting any negotiation process or without taking any participatory action** as to ask them about their own future plans.

-The municipality acknowledges that it **started the expropriations before the area was declared as an urban transformation area (UT).** The decision of the local assembly was on May 5th, 2005, based on Municipality Law 5393 Article 73. However, June 6<sup>th</sup>, 2004, the area was announced as UT by a decree of the Prime Minister<sup>38</sup>, long before the decision of the local assembly.

-Still **nothing is known** about the project to be implemented in Ayazma.

-From a survey, **96%** of the residents had stated that they would prefer to live **in a single-storied house with garden**.<sup>39</sup> This is the kind of house they used to own in Ayazma.

-They wanted help to upgrade their homes which **they themselves had built.**

- The requests of the population to be affected were **not taken into consideration.**

- Ayazma population **relocated in Bezirganbahçe:**

<sup>36</sup> İstanbul 2004 International Urban Regeneration Symposium: Workshop of Küçükçekmece District', 2005, published by the municipality, pp.311-313

<sup>37</sup> Ibid.p.310

<sup>38</sup> 13 .06.2004 / 21-09-10/466

<sup>39</sup> Ibid.p.313

- residents have been encountering tremendous **economic hardships** due to the bank credits and expenditures they have to pay monthly.
- Most of them are **under threat of foreclosures**. During our meeting they handed us the notices from the banks.
- They have **lost their jobs** due to change of location
- Transportation** facilities in Bezirganbahçe are **limited and expensive**
- Almost 1/3 of the population have **sold out** their properties, migrating to the periphery of the city, where their **poverty and deprivation are exacerbated**.
- Due to economic hardships, families have started taking their elderly children **out of school** and **children have started to work** in order to support their families.
- People also told us that they had been **confronting social and cultural deprivations** along with economic ones.
- Living in multi-storied blocks **is not easy** for a community used to living in one story homes with gardens.
- Neither women nor children** can go out as freely as in Ayazma.
- Their neighbourly **relations and solidarity** ties have been **broken up**
- The **72 m<sup>2</sup> houses** are too small for families with an average of 5-6 children.
- The **quality of apartment units is poor** and shows signs of wear after only 2 years.
- the housing is constructed on a **previous dump area; which poses earthquake risk**.
- The municipality **has not taken into consideration any of the requests** of the families as expressed in its own survey.
- There were **18 families who lived for two years in very poor conditions in barracks on the Ayazma site** because they were not included in the relocation programme. These families have now been accepted to go to Bezirganbahçe. However, if the rates of their credit payments are set too high, they will also face the same fate as those mentioned above, confronting the **risk of foreclosures**.

**Violations of:**

**-CESCR Art.11 P.1**

**-General Comment 4 on Adequate Housing**

**-General Comment 7;** the population had been evicted and relocated against their will.

### 1. 3. CASE 3. SULUKULE – Fatih Municipality

AGFE visit: June 8<sup>th</sup>, 2009

#### CONTEXT

-**Sulukule (Hatice Sultan and Neslişah Mahalles)** is a residential neighborhood that is situated within the boundaries of the historic Land Walls built in 447.

-The area is declared as a **protection area** in 1995 as it is situated in the Historic Peninsula within the Land Walls.

-The area is characterized by the **Roma population** who has moved there from adjacent neighborhoods that were demolished for the construction of a boulevard during the 1950s.

-The UT project based on **Law 5366** involves the **demolition of the whole area** and construction of new, high-quality housing stock.

-The new apartment units will be sold to the existing owners if they accept to pay the **difference between the current value of their property** (that is calculated by the municipality) and the cost of the newly constructed unit, by monthly payments of around 200-250 Euros, that last for 15 years.

-The property owner also **has the right to sell his/her property** to the municipality or to other third-party people. This factor of selling to third parties did not help the situation. On the contrary, third parties who bought from the owners at low rates **took advantage** of the situation **exploiting** their poverty and lack of knowledge about the situation.

-There are three groups who have been evicted in the demolitions: **1. Tenants relocated to Taşoluk** (although most have sold their properties in Taşoluk and moved back to the city centre); **2. Owners who have sold their properties** (Could not pay the difference/speculators took advantage of their poverty/fear of expropriation); **3. People not accepted as beneficiaries and left to the streets**

#### DUE PROCESS ANALYSIS:

- Fatih Municipality included the findings of a survey it had conducted in the area in the last chapter of a book they published, called '**A Gypsy Journey.**' From this survey, we learn that:

**-80.6 % of the residents have been in Sulukule since birth**

- **About 50%** of the population are owners.

-When asked about the plans for UT in their neighbourhood, 47.6 % said demolitions will take place, 15.3% said they will be moved to Taşoluk, 15.3% had no idea what was happening, 17.7% said the houses will be renovated. **So about a third of the**

**population did not correctly know what was going to happen to their neighbourhood.**

-The survey shows that the idea of leaving the neighbourhood causes **anxiety** and they state that they feel as **outcasts**.

-The question 'Where will you like to live?' is answered by 74.2% as 'Here'. Thus **74.2% did not want to relocate**.

- The survey also emphasizes that the tenant population will be **disadvantaged the most** because they can not rent at such low rents at any other place and thus hard times will ensue for them.

-**There is very low earthquake risk** in Sulukule, thus this is not a legitimate reason for UT in the area.

-As in Ayazma, the relocated families at Taşoluk **cannot survive** there. **Economic burdens** make it impossible.

-Taşoluk is **35km away from city center**, and not easy to find jobs there.

-Transportation is **expensive**.

-They are **facing foreclosures** as Ayazma population

-**Cultural and social deprivations together** with **economic** ones make their lives hard at Taşoluk.

-The owner families on the other hand can not afford to pay the difference due to rise in prices. Almost **all have sold to third parties**.

-Those not accepted as beneficiaries, especially **women, old persons and children**, face being **left to streets**. Among these, there are families with members who have chronic and serious illnesses. During the AGFE visit, we saw that a **new-born baby (7 days old)** was living in very poor conditions in a barrack on the site, among rats and rubble.

-**A 5-year payment term** enabled the Municipality to **threaten** the owners in Sulukule that **they would nationalize** their homes in any case and pay the amount within 5 years. It is for this reason that Sulukule property owners **had to sell their houses to third persons or companies for fear that the price to be fixed by the Municipality would be lower**

-In Sulukule a **Council of Ministers decision for "speedy nationalization"** was given on 13<sup>th</sup> December 2006 upon the request of the Fatih Municipality. Under Article 27 of the Law of Nationalization No. 2942 it is provided that the Council of Ministers can give a nationalization decision for **"national defense purposes"** and **"in case of emergency"**. In other words the Council of Ministers gave this decision although **there was no need for "national defense" in Sulukule**.

- According to a study made in September 2007, 'municipality (representatives) **told 54% of the home-owners that their houses will be expropriated if they do not agree (to prices set)**. Within the same study, **20%** of people surveyed, **sold** their homes to third parties. **62%** of people surveyed **did not want to accept the villas that municipality would build in Sulukule because of low economic conditions**. The residents of the neighborhood **have incomes less than 120 Euros per month** (for 1/3 of the population) and **½ have less than 220 Euros income a month**.

#### Violations of:

**-CESCR Art.11 P.1**

**-General Comment Number 4 on Adequate Housing**

**-General Comment 7** because the population have been evicted and relocated against their wills.

-Constitutional protection of the right to property and heritage as well as the protection of historical, cultural and natural assets.

**-European Convention on Human Rights and Fundamental Freedoms**

-the right to private and family life (Article 8);

-the prohibition of discrimination (Article 14) in connection to Article 8;

-the right to peaceful enjoyment of one's possessions (Article 1, Protocol 1).

## 2. NEIGHBOURHOODS UNDER THREAT:

### 2. 1.CASE 1. TARLABAŞI – Beyoğlu Municipality

**AGFE VISIT: Planned for June 10<sup>th</sup>, but was not carried out due to time restrictions**

#### CONTEXT

**-Tarlabaşı** is a mixed-use neighborhood (predominantly residential) that is in close proximity to Istiklal Street.

-The area is mostly inhabited by **traditional migrant families** from various parts of Anatolia, mostly **displaced populations**, and **Roma people**. **There is also a transsexual population** and **new international migrants**, mostly from African countries.

-Encompassing an area of **9 blocks and 278 plots**, the Tarlabaşı renewal project is based on **public-private partnership**. The main actor, Beyoğlu District Municipality, has signed a



protocol with a private company, Çalık Holding, which is responsible for both the preparation of the renewal project and the implementation of it.

#### **DUE PROCESS ANALYSIS:**

- In Tarlabaşı, **displacement is a real threat for the renters**, and also to some extent for the owners.
- Existing renters **are only given a one-time payment** of around 200 Euros to compensate the expenses for moving, which would only cover some of their expenses.
- A **neighbourhood association** has been established to fight for the rights of the residents in the area. All of the residents of the region in question have become its members, so the association is powerful.
- Learning** from the examples of Sulukule and Ayazma-to **prevent coercion**-the association conducts negotiations with the municipality only through its legal advocates.
- It has started legal procedures and **filed a suit against the municipality**.

## **2. 2.CASE 2. GÜLSUYU-GÜLENSU – MALTEPE MUNICIPALITY**

### **AGFE VISIT: June 9<sup>th</sup> 2009**

- The Gülsuyu and Güleusu quarters are located in the district of Maltepe 30 km to the east of the centre of the Istanbul Metropolitan area
- Due to being a **concentration area of the industry** and being **close to** national and international **highway** routes, the area has developed as a residential area for a vast number of workers and/or low income groups.
- Gülsuyu which is 75 metres above the sea level is a settlement on the slope reaching 160 metres in height towards the north. The southern slopes offer **views of the Marmara Sea and the Prince's Islands, making the land valuable**
- The first *gecekondu* on Gülsuyu, which entirely belonged to the treasury, was built in **1959** and it soon became a favourite spot of the workers in industry as a '**neighbourhood with good water and views**'.
- The development of Güleusu, an area mostly owned privately, located to the north of Gülsuyu at the slopes reaching 320 meters above the sea level, started between the **years 1975 and 1980**.
- Not separated by a natural border, the two quarters function together.

- With the enactment of the amnesty laws <sup>40</sup> in **1989** a **'rehabilitation development plan'** was prepared spanning over the Gülsuyu and Gülensu areas, **legalising the gecekondus**, offering them the right to title deeds and to build up to four storeys.
- It was taken under **UT in 2004 (140 ha of land)**

#### **DUE PROCESS ANALYSIS:**

- There has been no consultation, as of yet, with the residents about the UT project.

### **2. 3. CASE 3. BAŞIBÜYÜK: MALTEPE MUNICIPALITY**

- Located in the district of Maltepe, close to Gülsuyu-Gülensu
- People have **invested in their homes. Houses are well maintained and** with infrastructure and facilities
- Was taken under **UT in 2004 (90 ha)**. A protocol signed between Istanbul Metropolitan Municipality, Maltepe Municipality and TOKI in Nov.11, 2006, marks the beginning of the project.
- A neighbourhood association has been established. The former head of the association has been elected to the local assembly. The new mayor is against UT.

#### **DUE PROCESS ANALYSIS:**

- TOKI and a private firm AK-Insaat signed a contract after the evacuation of 9 houses in the vicinity, 6 blocks were constructed on the green plot, which had been protected by the neighbourhood for years.
- When the neighbourhood population resisted against the construction company, **pepper bombs** were used against the population. **A youth got killed.**
- During the construction of the buildings, **Istanbul 5<sup>th</sup> Administrative Court revoked** the project on grounds that urban transformation in the area was taken only as a transformation of physical space and that the development plans did not comply. The construction **continued illegally against court order.**
- The place **where TOKI Blocks are erected is a sloping hill**, there is risk of landslide during an earthquake and this is why the population had left it as green plot.
- The residents have voiced that they want to live in their houses, calling TOKI Blocks 'coffins'.

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<sup>40</sup>2981 numbered "Law on Procedures to be Implemented on Constructions Contradicting Building and Gecekondu Regulations"

**-There is no public-good in the UT Project to be implemented. In fact, these settlements with beautiful views will be allocated to upper-class residences and condominiums while the working class populations of the area will be evicted.**

## Appendix 2. Mission programme and activities

|           | PAZAR                    | Monday 8   | Tuesday 9  | Wed 10   | Thursday 11   |
|-----------|--------------------------|--|--|--|---|
| morning   |                          | 9:00-12:00<br>BRIEF:<br>Mimar Sinan<br>University<br>1.Ass.Prof.Erbatu<br>r Cavusoglu<br>2.Ass.Prof.Zeyne<br>p Enlil<br>3.Ass.Prof<br>Asuman Türkün<br>Excerpts from a<br>documentary<br>film by Imre<br>Balanli | Visit sites/meeting<br>people<br>10:00-11:30<br>BAŞIBÜYÜK:Site 3<br><br>Erdoğan Yıldız,(IMDP)<br>Adem Kaya,(Deputy of<br>Maltepe local assembly)<br>Ass.Prof.Murat C.<br>Yalçintan | Prep of report and<br>ideas, meeting with<br>people/visit to<br>authorities<br>10:00 -13:00 TOKİ-<br>IST.          | Press conf , feed back to<br>partners<br><br>10:00 Forum<br>Istanbul Bilgi Üniv.<br>Dolapdere<br><br>Stakeholders,press<br>,CBOs,NGOs,activists,scholar<br>s. |
| mid day   |                          | 13:00 Site 1<br>SULUKULE<br>Neşe Ozan/<br>Hacer Foggo/<br>Aşlı Kıyak İngin   | 12:00-14:00<br>GÜLSUYU/GÜLENSU:Sit<br>e 4<br>Erdoğan Yıldız,<br>Murat C. Yalçintan   | 13:30-15:00<br>Kucukcekmece<br>Mayor   | End, internal<br>14:00 press release  |
| afternoon | İnterna<br>l meetin<br>g | 15:00 Site one<br>Authorities:<br>Fatih Mayor/<br><br>Ilke/GAP/<br>KİPTAŞ-Firms<br>implementing<br>Urban Renewal<br>Projects<br><br>17: 00 Site 2<br>SÜLEYMANİYE<br>Muhtar/meet<br>with people                   | 15:00<br>KÜÇÜKBAKKALKÖY:Sit<br>e 5<br>Hacer Foggo<br>17:00<br>KURTKOY:Site 6   | 16:00-17:30<br>BEZİRGANBAHÇE:Sit<br>e 7<br>Ayazma population<br><br>18:00<br>GUVERCİNTEPE:Site<br>8<br>People/ KHK | reporting   |
| night     | İnterna<br>l meetin<br>g |  |  | Prep of report and<br>ideas  |   |

## Appendix 3. Media Coverage of the AGFE mission

- **NTV (Leading National TV News Channel)**

10/6/09: Broadcast on evictions in Istanbul and interviews of mission members. (appeared twice)

- **Hurriyet**, Leading National Daily newspaper

12/6/2009: News article on AGFE mission on the situation in Sulukulé

Link: <http://www.hurriyet.com.tr/gundem/11849489.asp?gid=233>

- **Milliyet**, National daily newspaper (second in circulation)

12/6/2009: News article on AGFE mission and comments on evictions, as a result of the public forum on the last day of the mission

- **Cumhuriyet**, Prestigious National Daily newspaper

12/6/2009: Article on AGFE mission, members and comments on evictions, as a result of the public forum on the last day of the mission

- **Radikal Cumartesi**, 4/7/ 2009 influential saturday supplement of national daily newspaper Radikal, of large audience, primarily in the professional and political circles. A large whole page interview with mission member Prof.Yves Cabannes, on the situation in Istanbul, evictions and TOKI model...

- **Atilim**, newspaper from the socialist left

xx/6/2009: summary of conclusions of public final forum

- **Yeni Mimar (New Arquitect)**, main architectural and planning magazine (every two weeks)

-Issue 74, June 2009: A long news article on AGFE mission.

-Issue 75, 16 July 2009: Interview with mission member Prof. Arif Hasan on urban transformations, policies and evictions under the TOKI model.

-In the same issue, an article by Asu Aksoy on urban policies and the situation in Sulukulé, after the AGFE mission

- Arquive documentary on mission visits, released 2/9/09 (in English)

## **Appendix 4. Invitation letter from Turkish institutions to AGFE and analysis of current demolitions and evictions processes taking place in Istanbul**

10<sup>th</sup> February, 2009

Dear Friends,

Throughout Turkey but particularly in Istanbul inhabitants of a considerable number of neighbourhoods have been subject to forced evictions. And many more have been living under the threat of possible forced evictions as a consequence of the regeneration and renewal projects implemented by central and local authorities in cooperation. These projects which interpret cities solely as physical environments while ignoring their economic, social and cultural aspects, tear down the lives' and living spaces of many via top-down approaches rather than practicing participatory methods, and thus are unacceptable.

Many neighbourhoods are demolished (or to be demolished) and residents are evicted (or to be evicted) by force, while evacuated areas are allocated to the use of upper classes by decisions made through anti-democratic and not-transparent processes. TOKI (Mass Housing Administration) Blocks, purported by the government to be a solution to the housing problems of the evictees, recognized as beneficiaries, are far from meeting the livelihood practices and socio economic needs of these people. Moreover, this practice places the affected population under a tremendous burden of repayments and debts, augmenting their poverty. For those who are not acknowledged as beneficiaries in this project, even this argument is irrelevant as they have no recognized rights at all. This dramatic process could not be stopped despite the enormous efforts of representatives of neighbourhood associations, non-governmental organizations, academicians, civil initiatives, professional chambers and etc. What is more, these projects will proliferate as one can understand from the declaration of the President of TOKI, Erdoğan Bayraktar: "In Istanbul, one million of the existing one million two hundred thousand (%80 percent) houses will be demolished" (Economist, 19 November 2007). This is a clear announcement of a decisive government policy declaring the process to speed up in the near future.

The forced evictions and demolitions continue, breaching the International Covenants and Conventions of Human Rights of which Turkey is a side, especially violating the most important one about the right to adequate housing, namely, ICESCR ( ARTICLE 11 – P. 1) along with the two General Comments of the Committee (4 and 7). These enforcements have been enacted on the basis of legislations narrow in scope: Renewal and Reuse of the Dilapidated Areas – Act No. 5366 (Sulukule, Tarlabası) and the Clause 73 of the Municipality Act No. 5393 (Ayazma, Tepeüstü). On the other hand, the new general act on Urban Transformation awaits its turn in the Parliament while discussions about its cons and pros have been going on not only in the related Commissions of the Parliament but also in public opinion. Despite the fact that the generalization and implementation of these special legislations to all the “renewal” and “regeneration” areas is against the Constitution, local governments have been using it as a legislative tool since 2005.

Urban regeneration projects should be evaluated in terms of their physical outcomes as well as their possible social, economic and cultural impacts. However, this is not the case in the Istanbul examples. As the projects focus on the physical aspects only, their implementations neglect the human factor bringing about human rights violations. The Proposed Regeneration Act that is about to be put into force by the Parliament is also lacking a comprehensive approach and is expected to be born to new violations of human rights and serious problems, falling short of the right to a dignified living and the right to adequate housing.

Today, those people, who lose their homes as a consequence of regeneration and renewal projects in İstanbul, lose their jobs and fall into the trap of poverty. Informal houses that have been demolished are being rebuilt in the periphery without a sign of betterment. Those who are evicted encounter the difficulty of discrimination and social exclusion. Specifically women and children have become the most affected victims of this process. Moreover, the communities, trying to overcome the violation of their social and cultural rights, have been passing through a traumatic process which ruins their mental health.

We, district associations, professional chambers, non-governmental organizations and civil platforms who have put our signatures below, have been debating on the solutions of these problems in our geography and communicating with the authorities. However, our efforts have not been taken into consideration at all. In this context, we kindly request the UN-AGFE to publicise our proposals once more as described below:

1. To start up the negotiation process through mediation in order to stop the inhumane forced evictions and demolitions in İstanbul.
2. To explain to the local authorities, the concepts of democratic local government and participatory planning by putting forward betterment and reclamation projects that assure a healthy and secure habitat instead of renewal implementations which cause evictions and human rights breaches.
3. To remind the local governments their Constitutional duty- that has been forgotten for long- which is to improve the quality of life and provide services for the people in their election districts; and to make their word in public.
4. To sustain public pressure over the local governments by organizing Meetings of Testimony of a wide range participation and by sharing the human rights violations of the aforementioned process with the public.

Programme Proposal:

- 1) A "Meeting of Testimony" for all the affected neighbourhoods to participate together.
- 2) Visits to the neighbourhoods that will be determined.
- 3) Visits to the local governments and authorities.
- 4) A "Round Table Meeting" for all stakeholders of the process to participate together.
- 5) A "Press Meeting and Declaration".

Kind regards,

- IMDP - İstanbul Neighbourhood Associations Platform
- Sulukule Roma Cultural Development And Solidarity Association
- Güzensu Gülsuyu Güzelleştirme Derneği (Association of Güzensu & Gülsuyu)
- Okmeydanı Çevre Koruma ve Güzelleştirme Derneği (Association of Okmeydanı Neighbourhood for Environment Conservation)
- Kazımkarabekir Mahallesi Güzelleştirme Derneği (Association of Kazımkarabekir Neighbourhood)
- Sarıyer Mağden Mahallesi Güzelleştirme Derneği (Association of Sarıyer Mağden Neighbourhood)
- Ak-Der / Akadlar Kültür Dayanışma Derneği – Karanfilköy (Association of Akadlar-Karanfilköy)
- Derbent Mahallesi Güzelleştirme Derneği (Association of Derbent Neighbourhood)
- Ferahevler Güzelleştirme Derneği (Association of Ferahevler)
- Küçükçekmece İç - Dış Kumsal (Küçükçekmece Outer and Inner Beaches)
- Başibüyük Mahalle Derneği (Başibüyük Neighbourhood Association)
- Ayazma



- Tarlabası Kiracılar Derneđi (Association of Tenants of Tarlabası )
- BOÇEV - Bođaziçi Çevre Koruma Derneđi (Association of Natural Conservation in Bosphorous)
- Chamber Of Urban Planners- Istanbul
- Sulukule Platform
- Human Settlements Association
- STOP- Sınır Tanımayan Otonom Plancılar (Autonom Planners Without Frontiers)
- Dayanıřmacı Atölye (Solidarity Studio)
- Bir Umut Derneđi (Association for Hope)