

A Short Report on the Current Regulatory Framework of Public Transport Services in Turkish Metropolitans

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Application and Research Center for Competition and Regulation

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1 Introduction

Public transportation is the general name given to all forms of transportation made by non-personal vehicles in urban areas. Although rates vary from country to country, the share of public transport in the total number of trips in cities is quite high. Unlike personal transport, public transport is a form of transport that eases the traffic problem, reduces the environmental burden and is economically efficient. Public transport is more important for metropolitans because of higher population, higher intensity of social, economic and cultural activities and geographical magnitude. Investment and business operation are the basic dynamics of public transport services. However, regulatory provisions, as rules of the game, directly influence the efficiency of services whether or not the regulatory framework creates right or wrong incentives. Public transportation is not just an economic but also a political good like electricity, natural gas, water, telecommunications and so forth in developing countries and Turkey. For that reason, privatization of public utilities is generally suspected so that governments control public utilities as a player or regulator. Public transport in Turkey does not differ from described.

2 Actors in public transportation

- Metropolitan Municipalities and Municipalities
 - o Transport Coordination Center (UKOME)
 - o Infrastructure Coordination Center (AYKOME)
- Ministry of Transport and Infrastructure (MTI)
 - o General Directorate of Highway Arrangement,
 - o General Directorate of Railway Regulatory Affairs,
 - o General Directorate of Sea and Inland Water Resources Regulation
- General Directorate of Infrastructure Investments
- Ministry of Development
- Treasury Undersecretary
- Council of State

Table 1: Decision Making, Evaluation and Approval Competencies of Actors in Public Transport

INVESTMENT						OPERATION	
	Planning	Become a project	Resource supply			Realization of investment	Operation of Transportation Systems
			Projects where local budget is sufficient	Projects that require Central Government Financing	Projects that require external financing		
Local government	■	■	■	■	■	■	■
Ministry of Development				▲	▲		
Ministry of Transport	▲ ■	▲ ■		▲	▲	▲	
Treasury Undersecretary					▲		
Transport Coordination Center (UKOME)	■						■
Infrastructure Coordination Center (AYKOME)		▲	▲	▲		▲	
■ Decision, ▲ Assessment/Confirmation							

3 Regulatory framework of public transportation

- Decree Law No. 655 on the Organization and Duties of the Ministry of Transport, Maritime Affairs and Communications (Decree No. 655)
- Metropolitan Municipality Law No. 5216 (MML)
- Municipal Law No. 5393 (ML)
- Law No. 6461 on the Liberalization of Railway Transport in Turkey
- The Law on the Construction of Some Investments and Services within the Framework of the Build-Operate-Transfer Model (No. 3996)
- Public Procurement Law No. 4734
- Public Procurement Contracts Law No. 4735
- State Procurement Law No. 2886
- Regulation on Coordination Centers of Metropolitan Municipalities

Art.7/1-f and Art.7/1-p of MML are the main rules that regulate the framework of providing public transport services. The phrase in these rules “carrying out public transport services” should be interpreted liberally. So that private firms are allowed to provide public transport services. According to art. 7/1-f and art. 7/1-p, metropolitan municipalities have power to act in three ways.

- State monopoly or
- Public-private partnership or
- Becoming regulator where services are only provided by private firms in the market.

There are four ways of how private firms provide public transport services (art.15/2 of ML);

- with the opinion of the Council of State and the decision of the Ministry of the Interior via making concession or
- granting licenses excluding concessions or monopolies or
- renting out public transport lines or
- procurement of services.

Although, this procedure does not take place in the MML, metropolitan municipalities have power to refer art.15/2 of ML because of the relationship between special law (*lex specialis*) and general law (*lex generalis*).

In addition to these, Law No. 6461 on the Liberalization of Railway Transport in Turkey and Decree No. 655 regulate the legal infrastructure of rail transport system. Regulations include procedures and principles of railway transportation and its financing issues. Authorized actors are MTI and General Directorate of Railroad Regulatory Affairs.

Decree No. 655 and Law No. 6461 are general regulations while the ML and MML are special ones. First, art. 28 of MML grants power to metropolitan municipalities to establish, install, operate and to transfer operation all types of public transport systems, including railway transportation. Second, art.15/1-f of ML states that municipalities have power to establish and operate all kinds of public transportation systems including railway system. In addition to art. 15/1-f, art. 15/1-p also rules that municipalities have power to determine the number of services and public transport vehicles operated on the railway, ticket fees and tariffs, time and routes.

4 Concluding remarks

The main finding is that regulatory rules allow private firms to provide public transport services under the regulatory control of (metropolitan) municipalities. Some rules are not clear for private services, but they should be interpreted liberally. However, there is a lack of awareness that harms the efficient allocation of resources in public transportation. Another problematic issue is difficulties to finance public transportation projects by local governments. This problem can be overcome by central government and foreign funding agencies.

Our recommendations are as follows:

- It should be passed a specific legislation regarding public transportation for metropolitan municipalities that will create right incentives because of personalized regulation.
- Operations and infrastructure investments should clearly be separated in the regulations.
- Metropolitan municipalities should not provide services as a player, they should regulate services and coordinate actors. However, government failures should be taken into consideration.
- The share of private sector in public transport services should be increased with regulations creating right incentives for private firms.