THE CRITICAL ANALYSIS OF TRANSFORMATION OF TURKISH METROPOLITAN MUNICIPALITY SYSTEM

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ABSTRACT

The metropolitan municipality system is in transition by the 2000s onwards. By the coming of the Justice and Development Party (JDP) to the political power, the reform-making process at local government system gains an accelerative trend. Within the context of the reform program, local governments come to the front side at the administrative structure. In this framework, metropolitan municipalities' boarders were gradually expanded; small municipalities and villages legal personalities were abrogated, and lots of metropolitan municipalities are established. That reform process has been sustained with the justifications such as, taking an active role at the global economy, provision entrance of foreign investment, effective and efficient provision of the local services, utilization from the economy of scale, effective usage of resources. In this article, the fundamental Laws of Metropolitan Municipality Law No. 5216 and Law No. 6360 are examined in detail to see the key themes at that transformation process. At last, a critical assessment is provided to clarify the possible strengths and weaknesses of the recent Law No. 6360 at that transformation process.

Key Words: *Local governments, metropolitan municipality, boarder expansion, annexation, abrogation of local government units.*

Jel Classification: H75, P41, K4

TÜRKİYE BÜYÜKŞEHİR BELEDİYESİ SİSTEMİNİN DÖNÜŞÜMÜNÜN KRİTİK ANALİZİ

ÖZ

Metropoliten belediye sistemi 2000'li yıllardan bu yana bir dönüşüm süreci içerisindedir. Adalet ve Kalkınma Partisi'nin (AKP) siyasal iktidara gelişiyle, yerel yönetim sisteminde reform yapma süreci hız kazanmıştır. Reform süreci kapsamında, yerel yönetimler yönetsel yapıda ön plana çıkmışlardır. Bu çerçevede, büyükşehir belediye sınırları kademeli olarak genişletilmiş, küçük belediyelerin ve köylerin tüzel kişilikleri kaldırılmış ve birçok metropoliten belediye kurulmuştur. Bu reform süreci şu sıralanan gerekçelerle sürdürülmüştür; küresel ekonomide aktif rol almak, yabancı yatırımın girişinin

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sağlanması, etkin ve verimli yerel hizmet sunumu, ölçek ekonomisinden faydalanmak, kaynakların etkin kullanımı. Bu makalede, 5216 sayılı Büyükşehir Belediyesi Kanunu ve 6360 sayılı Kanun dönüşüm sürecinin ana elementlerini ayrıntılı olarak görmek için incelenmiştir. Bu dönüşüm süreci kapsamında 6360 sayılı Kanun'un kritik bir değerlemesi Kanun'un olası güçlü ve zayıf yönlerinin açıklığa kavuşturulması adına gerçekleştirilmiştir.

Anahtar Kavramlar: *Yerel yönetimler, metropoliten belediye, sınır genişletme, katma, yerel yönetim birimlerinin kapatılması*

Jel Sınıflandırması: H75, P41, K4

1. INTRODUCTION

The serious urbanization problems at the metropolitan cities lead to the acceleration of the search for new administrative models to manage those metropolitan urban areas, and concrete steps were taken in the 1980s (Keleş, 2006: 274). By the 1980s onwards, that new kind of local government organization, 'metropolitan municipality', was created in those cities that encompassing more than one district within its municipal borders[1]. As a first step, the legal personalities of municipalities removed within and in close vicinity to cities of a certain population, and those municipalities transformed into a municipal branch. Subsequently, the Law No. 2561 on 'The Inclusion of Residential Areas in the Close Vicinity of Metropolises to Main Municipalities' put into force in 1981. By this Law, the municipalities and villages in the vicinity of cities with populations exceeding 300.000 were enabled to join these new metropolitan municipalities through a decision of the Council of Ministers. In this context, metropolitan municipalities were established in Istanbul, Ankara, and Izmir with local election carried out 1984 by the Decree Law No. 195 on 08 March 1984[2]. Likewise, the fundamental step in relevant with the metropolitan municipalities came to the agenda with the Law No. 3030 on 'Amending and Adopting the Decree-Law on the Administration of Metropolitan Municipalities', was enacted in 1984. This Law remained in force until the enactment of the New Law No. 5216 on Metropolitan Municipality in 2004. [3]

In this regard, metropolitan municipalities started to be established on the basis of the Article 127 of the Constitution of 1982 with stipulating that '*special administrative formations can be established in large settlement fields*'.[4] Up to the 2000s, the metropolitan municipality system was

[1] For Details, see, Mahalli İdareler Genel Müdürlüğü (2014)<http://www.migm.gov.tr/en/PDF/MetropolitanMunicipalities.pdf>, p.46., pp.46-53. (23.04.2014).

[2] In that context, Adana in 1986, Bursa, Gaziantep and Konya in 1987 and Kayseri in 1988 were reached to the status of being a metropolitan municipality. Thus, the number of the metropolitan municipalities increased to eight. By the Decree Law No. 504 in 1993; Mersin, Eskişehir, Diyarbakır, Antalya, Samsun, İzmit and Erzurum were reached to the status of being a metropolitan municipality. Adapazarı is also added to that list by the Decree Law No. 5393.

[3] For Details, see, Mahalli İdareler Genel Müdürlüğü (2014)<http://www.migm.gov.tr/en/PDF/MetropolitanMunicipalities.pdf>, p.47., pp.46-53. (23.04.2014).

[4] For Details, see, Büyükşehir Belediyeri Raporu- CHP (2014) <www.chp.org.tr/.../Büyükşehir-Belediyeleri-Raporu.docx>.

conducted by different regulations with minor amendments. However, by the 2000s onwards, serious legal adjustments had been implemented at the metropolitan municipality system, and a transformation process launched at Turkey's local administrative framework. In this regard, one of the most important regulation in relevant with metropolitan municipality indicated itself with the Law No. 5019 referred as 'Compass Law' that was put into force at the end of the year of 2003 (before the enactment of the laws of the local governments). That Law was enacted one year after when the Justice and Development Party (JDP) came to the political power of with its 'reform-making' agenda. By the Law No. 5019, it is intended to expand the borders of the 16 metropolitan municipalities through the measure of population with certain radius circles. By this Law, the border expansion and annexation[5] issues came to the political agenda. In this scope, that Law concerning the expansion of the jurisdiction of the metropolitan municipalities came to the agenda before the 28 March 2014 local election that it makes the Law more significant **(**Çınar, Çiner and Zengin, 2009: 55). The Article 2th of that Draft Law targeted to amend the Article 5th of the Metropolitan Law No. 3030. According to that related Law, the border of the two metropolitan municipalities (Istanbul and Izmit) will be expanded to the provincial border, and the other metropolitan municipalities borders will be enlarged to 50 km (Having population between 2.000.000-5.000.000), 30 km (Having population between 1.000.000-2.000.000) and 25 km (Having population less than 1.000.000). All districts within those metropolitan municipality borders are adopted as 'Metropolitan District Municipalities', all *beldes* are admitted as 'first-tier Metropolitan Municipalities' and the villages legal personalities will be abolished and turned into neighborhoods (Çınar *et al.*, 2009: 57). However, this regulation was not entered into force since it was sent back by the period's President with the justification that the Law is in the nature of Election Law (Çınar *et al.*, 2009: 64). At all things considered, this Law was critical because it is the first time; the *closure policy* of the 'small' local government units (municipalities and villages) declared and tried to be implemented in accordance with the Law No 5019.

The JDP Government on December 2003 has undergone two crucial Law concerning the local governments from the Parliament aside from the Law No. 5019. These are the Law No. 5025 and Law No 5026, however, those Laws were also vetoed by the President. These laws are oriented towards the amendment of the legal personalities and the boundaries of local government units. Unlike, the Law No. 5019, 5025, and 5026 numbered Laws are not directly related to the expansion of the borders of metropolitan municipalities. By the Law No 5025, the municipalities whose population detected to be fewer than 2000 turned into villages. The Law No. 5026 is related with the expansion of the borders of

[5] The method of the incorporation of the new territories within the municipality borders with the result of the expansion of the borders of the municipalities at the West, called as 'annexation'. The concept has a US origin and evaluated as one of the obligatory consequences of urban growth. It cannot talk about an exact overlap between the practices of Turkey and US. However, the annexation concept is used in Turkey as the incorporation of municipality and villages around the metropolitan municipality to the borders of metropolitan municipality without asking the process to the local inhabitants or without making a referendum (Çınar, Tayfun,Duru, Bülent, Çiner, Can Umut and Ozan, Zengin, 2013: 45-46).

the Denizli Municipality. That Law arranged the expansion of the jurisdiction of Denizli Municipality by the annexation of some municipality and villages as the neighborhoods of the Denizli Municipality (Çınar *et al.*, 2009: 65-66). In the beginning, 'the closure of the minor local government units' efforts remained inconclusive. However, the fundamental Law elucidating the authority and functions of the municipalities was amended by the enactment of the Municipal Law No. 5393, and the Turkish Government upgraded the population criterion for being a municipality from 2.000 to 5.000 with the objective of the closure of the minor municipalities by the justifications such as insufficient income, unqualified local staff, and ineffective performance at the provision of local services. By the same token, at first, the efforts remained inconclusive; however, '*Annexation Policy'* depending upon the Article 11[6] (*Termination of the Legal Personality Status*) had been realized through the enactment of the New Municipality Law No. 5393 in 2005 and the joint decrees. In addition to that annexation policy, 862 municipalities intended to be abrogated with turning them to the district over the extent of the population criterion on the grounds that their population falls to 2000 with the Law No. 5747 enacted in 2008. This effort remained futile at first (2008, Law No 5747), but it was put into practice by the enactment of the Law No. 6360 referred as 'Unicity Law' in 2012, and by this Law 13 new metropolitan municipality added to the existed 16 metropolitan municipalities. By the amendment made at the Law No. 6360 with the Law No. 6447, the city of Ordu was reached the status of being a metropolitan municipality. Within the context of the study, the first objective is to put forth legal background to demonstrate the transition at the metropolitan system that related Metropolitan Municipality Laws will be examined in detail. Besides, at the analysis of the legal basis, the ruling party's fundamental reform-making steps will also be searched in order to see the main grounds at that reform process. Lastly, the recent Law No. 6360 will be searched with its key aspects, provisions, and the criticisms towards that related Law to see its possible strengths and weaknesses.

2. THE METROPOLITAN MUNICIPALITY LAW NO. 5216 AND LAW NO. 5747

The Municipal Law No. 3030 that regulated the responsibilities, guiding principles, and working procedures of the metropolitan municipalities, which was in force since 1984, abrogated with the New Metropolitan Municipality Law No. 5216 enacted in 2004. The Metropolitan Municipal Law No. 3030 enabled additional financial resources to the municipalities that a new trend launched at many cities in

[6] At the Municipality Law No. 5393, Article 11th , it was expressed that **"***Where deemed necessary pursuant to the development plan and infrastructure services, the legal personality status of the municipalities and villages, which become closer (less than 5.000 meters) to the provincial boundaries or municipal boundaries with population 50.000 and above, shall be abrogated and the municipality or village shall be incorporated into the province or district municipality upon proposal of the Ministry of Interior, through publication of a joint decree in the direction of the opinion of the Supreme Council. The parishes of the municipality, which is no longer in the status of legal personality, shall become the parishes of the incorporated municipality. Additionally, the movable and immovable properties, rights, claims and debts of the municipality and village declared to be non-legal personality, shall be transferred to the municipality joined in".*

Turkey in reaching the status of a metropolitan municipality. The municipalities that have no quality in reaching the status of metropolitan municipality turned into a metropolitan municipality by Laws and Decrees. The central government's attitude of not bearing the heavy cost at the establishment of new districts is effective in the emergence of such an inconsistent application. The establishment of metropolitan municipalities' idea was dominated by political considerations (Nadaroğlu, 1994: 203).
In this scope, about thirty years later, the amendment at the fundamental regulatory text was based on several justifications. At the beginning of the justifications of the Metropolitan Municipality Law No. 5216, it was expressed that;

> *"A system which is started to be implemented for the first time in 1984 with the Law No. 3030 which has no previous experience naturally has some shortcomings at its application process. The accepted problems at that framework can be listed as follows; there is no objective criteria at the sharing of responsibility and functions, the cooperation mechanisms are insufficient among the administrative mechanisms, the metropolitan municipal administration has a definite hegemony on district and first-tier municipalities, planning and coordination at the metropolitan scale cannot be done at the metropolitan municipality level and the size of the municipalities are very different. Those problems lead to the inefficient and ineffective usage of resources".* [7]

According to one of those justifications of the government, it is mentioned that metropolitan cities have a key role at adapting the globalized world and taking an active role in this global planet. Those urban centers evaluated as the kinds of development areas. In addition to the foreign investment entering to the country; a significant portion of the international trade oriented to the metropolitan centers. In other words, the metropolitan centers located at the global and regional network, have bigger transportation and communication network. In short, those cities are considered as the engine of the international economy, a large market at the global economy and a trade center. When looking to the reasons outlined above, it is seen that the economic factors have a great impact at the expansion of the metropolitan municipality boarders. According to the other justification, the metropolitan cities are determined as the settlement areas containing a large city and many satellite cities surrounding it. At that point, it is determined that the cities should not be considered as only taking into account the city centers. Together with the center, the population articulated of that center gathered at a wide-range area, and it is the fundamental pillar of the metropolitan areas. At that point, the metropolitan city is determined as an agglomeration of population within a wide geographical area, consisting of those living at the city center and those inhabiting far from the center yet somehow stay connected to that agglomeration. In this sense, the metropolitan cities cover a wide-basin. The basin concept that is used at the justification defined as the area where the capital is pulling and gathering. At this context, another rationale that put forward in relation to border expansion is related with the failures at the urban management in solving urban problems (Çınar *et al.*, 2009: 74). According to people who

[7] For Details, see,< http://www.sayilikanun.com/5216-sayili-buyuksehir-belediyeleri-kanununun-gerekcesi> (05.12.2014).

prepare the Law, the responsibility and the financial resources in relevant with the solution of the urban problems are allocated among multiple local government units concerning the issues of administrative formation and its functioning. As to the government, most of the local government units that set up at the metropolitan urban areas have lack of capacity to solve the problems that they encounter handicaps owing to their insufficiency of their service provision capabilities and financial resources. Another rationale of government is pertinent with the mismatches at the local service provision. It is mentioned that a large number of local government units have the responsibility at the provision of the local services that inconsistencies have been emerged among the plans and it is not benefited from the economies of scale; resources are wasted as a result of this plight. In addition to that justification, it is expressed that the increase at the housing demand encouraged land speculation, unauthorized housing and squatter settlements, and urban aesthetic was deteriorated owing to those facts. The concentration of the population at the urban areas has increased the demand of services and their costs. The cities are surrounded by a belt of poverty, and it also gives rise the problems at the national scale. In the face of the increase at the demand, the insufficiency at the provision of services leads to corruption. In the light of this approach, that Metropolitan Municipal Law No. 5216 which was not sent back to the Parliament by the President was enacted in 2004. In this regard, the Metropolitan Municipality is determined at the Metropolitan Law No. 5216 as follows:

> "*Metropolitan municipality means a public legal personality having administrative and financial autonomy which comprises at least three district or first-tier municipalities, coordinates the functioning of such municipalities, discharges its statutory duties, responsibilities and exercises statutory powers, and whose decision-making body is elected by voters*."

At the determination of the Metropolitan Municipality, the most critical point comes forefront with the term of '*financial and administrative autonomy'*. As it is seen from the expression, the local governments are accepted as 'autonomous' having a separate public legal personality aside from state legal personality. At that point, the *autonomy* in terms of local government is the provision of the significant proportion of public services that are determined by the Constitution and the Laws under the responsibility of the local governments for the benefit of the local citizens. [8]

In that framework, during the election campaign of JDP, the party described themselves as a 'reform government' determined to carry out the necessary reforms that have been on the political agenda for many years (Agartan, 2005). The ruling party has the target to make the local governments as the key actors at the urban scale. At the JDP's *Restructuring Public Administration Movement (Action)*[9], one of the main objective is the delegation of some of the the powers of the

[8] For Details, see,< http://www.anayasa.gov.tr/eskisite/KARARLAR/IPTALITIRAZ/K1988/K1988-23.htm>, (05.12.2014).

[9] Central Government Organization Research Project (1962), Administrative Reform Consultancy Council Report (1971), A Study entitled 'the organization of legislation and decrease of paperwork (1980), Public Administration Research Project (1989) can be counted as the attempts of the reform of public administration system, however none of them reach to success until the end of 1990s. The problems at that process can be clarified as the preparation of the reforms on principles of closed,

central government to regional and local administrative entities (Dinçer and Yilmaz, 2003; Beris and Dicle, 2004). This reform initiative has the target to catch up the necessities of change sourced from the information age and globalization. In this regard, the public administrations system is to be established on some fundamental principles and values that depending upon good governance such as management in place, respect for human rights, entailment, accountability, participation, transparency, and effective usage of resources (Kapucu and Palabıyık, 2008: 195). At the operation and organization of public administration the newly concerns of strategic management, performance management, and effective audit are taken into consideration (Dinçer and Yılmaz, 2003; Kapucu, 2003). In the light of this approach, at the early years of JDP's political power, the legal basis of the latest reform, the *Law on Basic Principles and Restructuring of Public Administration* was accepted by the National Assembly, it was vetoed by the President that it was not put into practice. At this framework, JDP government has the objective to set up a series of new rules and principles under a comprehensive public administration reform to harmonize the Turkish public administration with EU standards and norms (Elçin, 2011: 116). Furthermore, another function of that related law was evaluated as a response of globalization and requirements of multi-national organizations such as IMF (stand-by agreements) and WB (conditions of credits) (Güler, 2003). In this regard, Elçin (2011: 116) expressed that "the rules and principles had been put forth, having the target to change the separation/ distribution of the duties and services performed at the local and central level by the Draft Law on public administration. That Draft Law gives a large scope to the local government competences, and the responsibilities and functions initially assigned to central government at the local scale under the authority of governors of provinces and districts were transferred to the local authorities". That related Law has recommended the arrival of the 'subsidiarity' principle that shapes the European Union's unique administrative formation (Zengin, 2014: 98). The Draft Law on the Basic Principles and Re-structuring of Public Administration envisaged far-reaching changes in centre-local relations introducing subsidiarity in place of centralization (Ertugal, 2011). Likewise, Şengül (2003: 203) clarified that; "this process also aimed to introduce regulatory local government to facilitate the mobilization of local resources and formation of local development coalitions".

At that point, the secondary legal regulations have been achieving step by step in related with the basic goals and targets of the reform and entailed by the law on basic principles and Restructuring of Public administration. In this scope, the Public Finance Management and Control Law, The Freedom of Information Law, The Municipality Law, The Metropolitan Municipality Law, The Special

Weberian, hierarchic management understanding of the industry age, whereas the current reality is a public administration system firmly rooted in the technology of the information age; lacking of any serious theoretical foundation underpinning an approach to reform, lacking of holistic approaches; instead problems have been dealt with in a piecemeal fashion; considering public administration system apart from the social, economic, political and cultural systems surrounding it and the events occurring in the external world (Kapucu and Palabıyık, 2008: 194-195).

Provincial Administration (SPA) Law can be counted as the complementary regulations of the restructure process (Kapucu and Palabıyık, 2008: 195). As it is seen from the above clarification, '*Restructuring Public Administration Movement*' carried out by the related Metropolitan Municipal Law No. 5216. Some of the powers of central government relegated to the local governments by the help of these laws, and a public debate was emerged on the implications of the delegation of powers to local authorities. Several criticisms have been made to the JDP's attempt to public administration reform by the main opposition party of the RPP (Republican People's Party) and the President Ahmet Necdet Sezer with the justification that it would weaken the unitary and secular nature of the Turkish state (Beris and Dicle, 2004). In this context, at the Turkish Constitution, in the Article 123th there is the expression concerning the integrity of the administration and public legal personality as follows;

> *"The administration forms a whole, with regard to its constitution and functions, and shall be regulated by law. The organization and functions of the administration are based on the principles of centralization and decentralization. Public legal personalities shall be established only by law, or by the authority expressly granted by law".*

The newly emerged principles and values with the reform-making process of JDP are becoming controversial in terms of the 'integrity of the administration' principle which is the Constitutional founding principle (Beris and Dicle, 2004). In this regard, that newly emerged principle has not been materialized in constitutionally but in legal grounds at the Municipality Law No. 5393 with the expression of '*Municipal services shall be provided to the public at the nearest possible locations and by the most appropriate methods*'. Likewise, at the justifications of the Law No. 5216, the principle of subsidiarity is also mentioned with those following clarifications "*By the Law No. 5216, the objectivity is provided with the regulations made at the distribution of responsibilities and tasks and the local services will be carried out at the nearest public locations*" (Çınar *et al.*, 2009: 75). As it is seen from above clarifications, it can be stated that JDP has the tendency to weaken the settled approach concerning the sharing of the power and responsibility relation between the central government and local government (Zengin, 2014: 98).

Furthermore, at the new Local Government Laws (Municipality, Metropolitan Municipality and SPA), an amendment was applied in relevant with the determination at the duties and responsibilities that are specified to the local administrative units. In the former case, the duties and responsibilities towards the local services listed in detail. However, at the new Local Government Laws in force, the duties and the responsibilities are mentioned according to their subjects without entering into a detailed description. Thus, the local governments have been placed in a superior position in terms of the empowerment of the local government units (Çınar *et al.*, 2009: 75, Zengin, 2014: 99). Furthermore, the other distinctive feature of the Metropolitan Municipality Law, *population criterion* is determined for the first time at reaching the status of a Metropolitan Municipality. According to that Law, the provincial municipalities with 750.000 inhabitants within the boundaries of the municipal

administration will be a Metropolitan Municipality.[10] However, that provision has been amended with the Law No. 6360, which will be discussed at the following sub-heading of the study.

The most prominent feature of the Law is the boarder expansion arrangement that is brought by the Temporary Article 2th (This Article is known as 'Compass Regulation' at the public opinion) and Article 6[11] with the heading of 'Merging into a metropolitan municipality'. By those themes, the metropolitan municipalities' authority and responsibility fields have been enlarged; it can be clearly stated that the Metropolitan Municipality Law No. 5216 has given more power and duty to the Metropolitan Municipalities in comparison to the Metropolitan Municipality Law No. 3030. Likewise, the border expansion initiative is also targeted to realize at the Law No. 5019 in 2003, and the Metropolitan Municipalities borders have been expanded in accordance with their populations within the framework of a certain radius circle. In this respect, JDP government attempted to expand the borders of 16 metropolitan municipalities according to the population size by the Law No. 5019. As to that related regulation, Istanbul and Izmit metropolitan municipalities will be expanded to the provincial border, and other borders of municipalities will be expanded to 50 km, 30 km, and 25 km. The Law No. 5019 was sent back by the President, and it could not put into force due to the justification of the local election. At the article, the Law No. 5747 that was enacted before the 2009 General Elections for Local governments and the Law. No 6360 that was put into force in 2012, referred as 'Unicity Law' will be examined to see the recent amendments at the metropolitan administrative framework.

2.1. THE LAW NO 5747

With this Law, the first-tier municipality implementation was abrogated and metropolitan municipalities returned to the two-tier system (Metropolitan Municipality+ Metropolitan Municipality District Municipality) after many years where it was existed at the first case of Metropolitan Municipal Law No. 3030 (Çınar, *et al.*: 77). By the 29 March 2009 General Elections for Local governments that the enactment year of the Law, 240 first-tier municipalities closed and converted into neighborhood units within the borders of 16 metropolitan municipality. One of the other key features of this Law, 43 new districts were set up due to the transformation of the municipality system to a two-tier system. The other arrangement pertinent to that Law was the transformation of 862 municipalities into villages whose populations detected to be fewer than 2000 (Zengin, 2014: 101).

[10] Article 4- Where the total population of the settlements located within the boundaries of a provincial municipality and of those located no farther than 10,000 metres away from those boundaries exceeds 750,000 according to the latest population census, that provincial municipality may, depending also on its spatial settlement pattern and level of economic development, be transformed by a law into a metropolitan municipality.

[11] Article 6- The provisions of the Law on Municipality shall apply to the merging into a metropolitan municipality of the municipalities and villages located in the vicinity of the boundaries of that metropolitan municipality and within the boundaries of the same province. In such case, the resolution to include them shall be passed by the metropolitan council at the request of the district or first-tier municipal council concerned.

Thus, metropolitan municipality order was redefined by considering the municipalities having the size of a district. At the decision of the abolition of the municipalities that are relatively small in terms of population, there is the assumption that the metropolitan municipality consisting of large municipalities at the district level can provide services in an effective, efficient, and coordinated manner and prevent the waste of resources (Çınar, *et al.*, 2009: 114).

Consequently, at the Supreme Electoral Council 153 numbered Decision[12], it was determined that the municipalities[13] whose names are written at the 44 numbered list of Law No. 5747 and who do not bring a lawsuit in legal time enter to 29 March 2009 General Elections for Local Governments as villages. Besides, some municipalities[14] in accordance with the fourth paragraph of the Temporary Article 1th of the Law No. 5747, regardless of the procedure laid down in the Article 8th of the Law No. 5393, with the decision of the municipal council enter to 29 March 2009 General Elections for Local Governments as neighborhoods owing to the fact that their participation request as a neighborhood to the province or district municipality and the realization of that participation request. Finally, outside those municipalities, the municipalities whose names are written at the 44 numbered list of the Law No. 5747, 836 municipalities enter to 29 March 2009 General Elections for Local Governments as municipalities (Çınar, *et al.*, 2009: 136-137).

3. THE LAW NO. 6360 ON 'THE ESTABLISHMENT OF FOURTEEN METROPOLITAN MUNICIPALITIES AND TWENTY-SEVEN DISTRICTS AND AMENDMENTS AT CERTAIN LAW AND DECREE LAWS'

The Municipal Law No. 6360 on '*The Establishment of Fourteen Metropolitan Municipalities and Twenty-seven Districts and Amendments at Certain Law and Decree Laws*' entered into force with the published Official Gazette dated 06.12.2012 and numbered 28489. By that Law, the metropolitan municipality numbers upgraded from 16 to 30, and all metropolitan municipality borders were expanded to the provincial borders up to the end of the mentioned year. According Metropolitan Municipality Law in force, the exceptional status that was given to Istanbul and Kocaeli Metropolitan Municipalities was also given to all metropolitan municipalities together with the 14 metropolitan

[12] Supreme Electoral Council, Supreme Electoral Council Decision 153, 12.02.2009.

[13] 1- Bitlis City Hizan's District Kolludere, 2- Konya City Hadim's District Göynükkışla, 3- Zonguldak City Ereğli's District Öğberler, 4- Ankara City Çamlıdere's District Peçenek, 5- Kırıkkale City Keskin's District Ceritmüminli, 6- Kırıkkale City Central District Ahılı, 7- Adana City Kozan's District Hacıbeyli.

[14] 1- Aksaray City Ağaçören's District Camili, 2- Amasya City Gümüşhacıköy's District Gümüş, 3- Amasya City Taşova's District Çaydibi, 4- Ardahan City Hanak's District Ortakent, 5- Aydın City Nazilli's District Aslanlı, 6- Burdur City Gölhisar's District Yusufça, 7- Bursa City Mustafakemalpaşa's District Ovaazatlı, 8- Denizli City Central District Cankurtaran, 9- Edirne City Uzunköprü's District Çöpköy, 10- Edirne City Uzunköprü's District Yeniköy,11- Erzurum City Aşkale's District Yeniköy, 12- Kırıkkale City Central District Çullu, 13- Konya City Taşkent's District Ilıcapınar, 14- Kütahya Pazarlar's District Yakuplar, 15- Kütahya Tavşanlı's District Gürağaç, 16- Nevşehir Ürgüp District Aksalur,17- Tokat City Başçiftlik District Karacören, 18- Trabzon City Hayrat District Gülderen, 19- Trabzon City Central District Yeşilova,

municipalities to be founded (Zengin, 2013: 5). In this context, according to the justifications of the Law No. 6360, similar with the Law No. 5216, it is expressed that;

> *"The administration approach has changed with globalization, and new values emerged with this transition. The administration approach which is based upon effectiveness, efficiency, citizen-focused, accountability, transparency, participation, and decentralization comes to the front side as the basic principle for the public administration reforms in many developed countries. One of the justification of the metropolitan municipality is concerning with not the provision of the planning and coordination affairs because of the large number of local governments' existence at a specific geographical area and the poorly utilization from the economy of scale that leading to the waste of resources. It is seen that small-sized local governments having inadequate financial resources and incapacities at service provision cannot solve the problems stemmed from industrialization, transportation, and environment. This situation prevents the effective and appropriate usage of resources and leads to serious administrative problems not only at small settlements but also at big cities having a high population density. Lacking of strong local government that will produce effective local services lead to the emergence of the problems such as not meeting the hopes of the local citizens concerning the provision of qualified public services, and lack of coordination at the delivery of the public services. In this context, the existence of strong local administrative formations that can produce services in optimal scale is entailed in terms of administration, planning, and coordination."*[15]

The justifications that are listed above are evaluated as baseless assumptions which cannot pass beyond being a desire, and those reasons are perceived mostly as subjective, far from administrative reality, and devoid of scientific research and analysis (Zengin, 2014: 102). In this regard, the new metropolitan system leads to structural changes in terms of administrative, financial, zoning and planning order. By the new Law, critical amendments were made at administrative structure (the removal of public legal personalities, the establishment of new public legal personalities, the amendment at administrative commitment, the changes at borders and division of powers), financial system (redetermination of the shares of local governments and new distributional relations), political geography (the change at the dimension of representation and participation with the change at election zones), personnel structure, the provision of services/ service delivery (the expansion of the service area with the expansion of the municipal borders to provincial borders) and development and planning order (İzci and Turan, 2013: 119). This restructuring process alters the power-responsibility and service fields of the local governments. The structure of the local units provided local services also regulated with the redetermination of the spatial field. The general amendments stemmed from the enactment of the Metropolitan Municipal Law can be schematized including the general situation before and after that related Law;

[15] For Details, see, <http://www2.tbmm.gov.tr/d24/2/2-1316.pdf> (15.06.2014)

Table 1. The Law No. 6360

The Type of Municipality	Before Law of 6360	After Law of 6360
Metropolitan Municipality	16	30
Metropolitan District	143	519
Provincial Municipality	65	51
District Municipality	749	400
First-Tier Municipality	1977	393
SPA	81	51
Total Municipality	2950	1393
Village	34.339	18.288

[16]

The Law No. 6360 that came into force after 30 March 2014 General Elections for Local Governments put forth those following issues listed below;

- Metropolitan municipality borders were expanded to provincial borders.
- 14 new metropolitan municipality were established.
- The villages turned to neighborhood at the cities where metropolitan municipalities were established, and 500 population criterion was introduced at the establishment of neighborhood within the borders of municipalities[17].
- 25 new districts established within the borders of the metropolitan municipalities.
- SPAs' were removed at the cities where metropolitan municipalities were established and 'Investment, Monitoring, and Coordination Directorates' were established instead of the closed SPAs at those 30 provinces.
- Local government unions were abolished at the cities where metropolitan municipalities were established.
- The shares transferred to the municipalities from the general budget tax revenue was rearranged (Genç, 2014: 4-5).

3.1. The Critical Evaluation of Law No. 6360

Metropolitan Municipal Law No. 5216 that was enacted in 2004, make the establishment of metropolitan municipalities difficult in comparison to that newly enacted Law No. 6360. The Law No. 6360 amended the definition of metropolitan municipality and with this change the medium-sized cities have been ensured to become a metropolitan municipality in an easier way (Adıgüzel, 2012: 154). This Law issued a new definition of metropolitan municipality and the criterion at reaching a metropolitan municipality status is also changed. At the new Law, the population criteria is only stipulated as having a 750 thousand population, and also the spatial settlement pattern and the

[16] For Details, see, Mehmet Emin Bilmez, Mahalli İdareler Genel Müdürlüğü, 2013, "Devir, Tasfiye ve Paylaştırma Komisyonu Başkanları ve İl Mahalli İdareler Müdürleri Semineri, Kızılcahamam, 11-12 Aralık, 2013,<http://www.migm.gov.tr/ Dokumanlar/ devir tasfiye.pdf>. (10.05.2014).

[17] Article 15 of Law No. 6360.

economic development provisions have been abrogated from the provision (Karasu, 2013: 6). By this Law, %36 of SPAs, % 53 of the municipalities and %47 of the villages have been abolished (Güler, 2012a:1). The metropolitan municipality becomes the main responsible management concerning the whole local services that are undertaken by the abolished local government units (Adıgüzel, 2012: 154). By the 2014 local election, 16. 561 village, 1358 first-tier municipality and 30 SPAs were abolished at the cities having metropolitan municipalities. In this framework, at the application of Law No 6360; there are certain issues that will be criticized under the sub-items of administrative structure, the provision of local services/ service delivery, political structure, financial system, zoning integrity and planning issue, and social structure.

3.1.1. The Criticisms towards the Administrative Structure

The Law No. 6360 has been questioned in terms of its compliance with Turkish Constitution and Basic Laws. There are claims concerning unconstitutionality issue such as, Constitutional and legal obligation of the triple-layer local government system, the entailment of the representation of the administrative unit to the local citizens, the transition of the local governments to an undefined peculiarity by mostly depending on the distance criterion (Güngör, 2012: 28-31, Gözler, 2013). In this respect, the removal of the public legal personalities of SPAs, villages, and first tier municipalities by Law, and transforming the district municipalities to metropolitan district municipalities are declared as the contradictory issues to the Constitution; in fact, this provision is open to criticism both in terms of legality and subsidiarity. While in Turkish Constitution, 'SPA' is not determined, at the Article 127/1, the concept of province is used as a local authority. In Turkey, SPA term is used to avoid the confusion of provincial local authority with 'provincial general administration' (*il genel idaresi*) (Gözler, 2013: 38- 39). At the Article 127/ 1; it is expressed that:

> "*Local governments are public legal personalities established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, whose principles of constitution and decision-making organs elected by the electorate are determined by law*".

As it is stipulated at the Turkish Constitution, it is a Constitutional entailment that where there is a province, the establishment of a 'SPA' is an obligation to meet the common local needs of the inhabitants of provinces, municipal districts, and villages (Gözler, 2013: 40). In this sense, according to SPA Law No. 5302, Article 4th which was put into force on 22 February 2005, it is illuminated that "*SPA shall be established by the law concerning the establishment of a province and its legal personality shall cease to exist when the province is abolished*". However, SPAs are abolished at newly set up metropolitan municipalities with new Law No. 6360 (Gözler, 2013: 41).

Besides, the transformation of district municipalities to the metropolitan district municipalities at those thirty provinces means the loss of the autonomy of the district municipalities in a certain extent.

Metropolitan Municipality Law No. 5216 makes the allocation of responsibilities, and powers between the metropolitan municipalities and metropolitan district municipalities and even in some respects the decisions of the metropolitan district municipalities' subject to the approval the metropolitan municipality. Some services of old district municipalities are now conducted by metropolitan municipality, and the decision-making authority is passed to the metropolitan municipality at some issues. Besides, the district municipalities that are 80-90 kilometers far away from the city center and have no possibility to merge are turned to metropolitan districts, and this provision has no relation with the Article 127/3 of the Turkish Constitution (Gözler, 2013: 49). Furthermore, Turkish Constitution perceives a local government framework consisting of *SPA, municipality, and village*. If it is tried to make an administrative reform out of that context, firstly the required amendments should be made at the Turkish Constitution (Gözler, 2013: 37). If the province is not abrogated, the abolition of SPA is unconstitutional. The village also has a constitutional foundation according to the Article 127/1. The removal of a village's public legal personality and its turning of a neighborhood of a city is only possible for a village that is close to a city center and becomes an adjacent village to a city owing to the rapid-urbanization process. This plight is also valid for the district municipalities that are turned to a neighborhood of a city (Gözler, 2013: 42-43). The collective needs of the village citizens started to be met by another local government rather than the village administration where the local-decision-making bodies are elected by themselves, and the turning of the village to a neighborhood of a municipality is unconstitutional because the village citizens lose their right to vote for the decision-making bodies of the public legal personalities that meet the collective needs of the village citizens. Turkish Constitution foresees that the common local needs of the province, municipality, and village citizens should be met by the local governments not by a single local authority. Therefore**,** the establishment of a one type local authority (municipality) for meeting the common needs of province, municipality, and village citizens is unconstitutional. However, the Law No. 6360, not only leads to the abrogation of the SPAs' legal personalities but also the villages in Turkey (Gözler, 2013: 44). Likewise, at the Turkish Constitution, in the article 123th, it is expressed that "Public legal personalities shall be established only by law, or by the authority expressly granted by law". As it is seen from the provision, the establishment of the public legal personalities has been allowed only for 'large residential centers' not for big cities. The settlements that are approximately 80-90 kilometers far away from each other cannot create a 'residential center' and also it cannot claim that the city centers are big residential centers having population even not exceeding 100.000 (Gözler, 2013: 52).

In this respect, by that Law, 'Investment, Monitoring, and Coordination Directorates' have been set up instead of the abrogated SPAs. By that new mechanism, the governorship is redefined and its managerial capacity is increased, the autonomy of SPA budget is abrogated, the control authority is transferred to the central government/ governor, the function of project coordination reached to a legal

ground (Koyuncu and Köroğlu, 2012: 3-7). That Directorate located at the provincial organization undertakes those listed tasks that are determined at Law as follows; to make the investment, construction, maintenance, and repair affairs; to report the whole local units' efficiency and effectiveness of services and activities outside the judicial and military organization, and to provide the institutions compliance with strategic plan and performance programs; to protect cultural and natural assets, disaster, and emergency assistance; emergency call; the publicity of the city; representation, ceremony; rewarding and protocol services.[18] Additionally, the Ministries and other central government agencies with the provision of the transferring resources can make any investment, construction, and maintenance, and repair affairs through this Directorate (Güngör, 2012: 28). Investment, Monitoring, and Coordination Directorate has the authority to interfere the administrative and financial autonomy of the municipalities and this interference context has not been declared in an explicit way that this authority is subject to debate with various circles in Turkey (Güngör, 2012: 28). Within the context of that Law, the governor gains the authority to intervene to the investments and service functioning that is entailed to be conducted by the public institutions and organizations', in case of any disruption. However, firstly, this plight adverse affect on public health, peace and well-being, public order, and security must be identified by the governor and the relevant Ministries. If this case is identified, the governor may wish the fulfillment of the investment and service from the other public institutions and organizations or fulfillment of that related services through Investment, Monitoring and Coordination Directorate[19]. As it is seen from those clarifications, as contrary to the decentralization approach, SPAs were closed at 35 metropolitan municipality and Investment, Monitoring, and Coordination Directorates tied to the Governorships. However, those units' administrative grounds at local administrative framework and their functions are still obscure even if the regulation is enacted pertinent to it.

3.1.2. The Criticisms towards the Provision of Local Services/ Service Delivery

Although metropolitan municipalities' revenues increased and closed municipalities' personnel and equipments diverted to metropolitan municipalities, it is unlikely to provide qualified services at the provincial borders covering the rural fields. It is a wondering issue that how the rural services that had been providing for years outside the municipality borders (water, drainage, solid waste and supporting the forest villages), and the services within and outside the municipal borders (agriculture, housing, land conservation, construction, maintenance and repair affairs made by central government) can be met by metropolitan municipalities. SPAs had undertaken responsibilities of many local

[18] For Details, see, Yatırım İzleme ve Koordinasyon Başkanlığı Görev, Yetki ve Sorumlulukları ile Çalışma Usul ve Esaslarına Dair Yönetmelik, RG: 04.04.2014, S.28962.

[19] For Details, see, Yatırım İzleme ve Koordinasyon Başkanlığı Görev, Yetki ve Sorumlulukları ile Çalışma Usul ve Esaslarına Dair Yönetmelik, RG: 04.04.2014, S.28962. Madde 34.

governments and provincial government with transferring payments to their budgets (Sample; tendering, transferring personnel, equipment and financial resources) (Zengin, 2014: 113).

At all things considered, the current Municipality Law is not suitable to manage provincial scale; municipality is the administration of urban settlements, municipalities' economic characteristics and possibilities are not eligible for the provision of services to the rural settlements of provinces and districts. The municipalities do not have tax incomes that they receive from the rural settlements and the municipalities have also no authority and capacity to manage husbandry sector (Güler, 2012a: 4-5; Çukurçayır, 2012, Turan and İzci, 2013: 128). The local needs of the village citizens', whose village is transformed into a city in legal terms, are started to be determined by municipal council which is functioning far away from the village. Such a system is encountered with problems concerning local democracy, rationality, and optimality, and in some cases, it leads to waste of resources and increases infrastructure costs (Genç, 2014: 8). Moreover, at the Law No. 5216, metropolitan municipalities authorized for the preparation of the master plans and the district municipalities for the development plans. In this respect, Keleş (2012) clarified that; "this approach does not contribute to the resolution of the conflicts between to administrative bodies, and it is incompatible with the autonomy of the district municipalities as a local government unit. Thus, the provision of local services to the settlements that are far from the metropolitan area will not be effective and efficient with that regulation. The geographical distance in terms of the usage of the application and control tools of development plans affects the effective and efficient provision of service".

Another problem is related to what extent the metropolitan municipalities in Turkey are ready to that radical change. Kocaeli and Istanbul practices cannot be generalized for the whole country. The majority of the newly established metropolitan cities have no physical conditions that are required for service integrity and coordination. On the other hand, agricultural, husbandry, and the transition of rural land to urban land based problems may arise on that issue (Duru, 2013: 35).

3.1.3. The Criticisms towards the Political Structure

At that point, one of the criticisms towards the political structure is related with the transition to the regional administration/ federal structure by the enactment of the Law No. 6360. While, on the one hand, the municipalities' borders have been extended, on the other hand, the governorates have been strengthened by the establishment Investment, Monitoring, and Coordination Directorates. Some of the scholars made the criticism that there is the preparation concerning the transition to the regional administration by the management of the province on the basis of decentralization rather than centralization (Güler, 2012a:3-4; İzci and Turan, 2013: 135). In this context, there have been different political views, one of the idea in that ground based on the assumption that "this regulation is the strategy of the ruling party for getting success at the local elections" (Genç, 2014: 10). Besides, it is declared that the new system that expands the provincial boarders will turn automatically to a federal

or regional administration (Karasu, 2013: 4). Likewise, it is also claimed that, the establishment of the regional administration starts with the removal of the SPAs, and it is perceived that the provinces oriented to administer on the basis of decentralization instead of centralization by the transition to the presidential system with the municipal system covering whole area, it is tried to form federal government structuring with this amendment (Güler, 2012b; Çukurçayır, 2012). Whereas, some scholars also stated that this regulation has no target of a regional administration, federation testing, and political autonomy (Görmez, 2012; Keleş, 2012).

Moreover, the second criticism towards the political structure is relevant with the weakening of the democratic participation. The possibilities and mechanisms of democratic participation are determined to be decreased with the new formation (Güler, 2012b; İzci ve Turan, 2013: 136). The metropolitan municipal councils encountered with a more sensitive program that it may lead to the slow processing of the participation mechanisms at local politics (Koyuncu and Köroğlu, 2012: 7-8). The expansion of the municipal border make the representation and participation process difficult, in fact this new structure limits the legal personalities of district and first-tier municipalities, the democratic functioning of the municipal councils' decreases by the coming of the mayor to the front side at the local administrative system. In this sense, this process is oriented towards the formation of a centralized structure (Görmez, 2012). In that context, Keleş (2012, 2013: 18) clarified that "the centralization would be strengthened at the local level, especially the revenue sharing is a sample to that situation and this regulation is inconsistent with the decentralization rhetoric".

On the other hand, the third criticism is related with the Charter of Local-self Government. The abrogation of the existence of the local governments with a legal regulation violated the provision of Article 5-Protection of local authority boundaries, the Charter of Local-self Government. At the Article 5th, it is expressed that;

> "*Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute*".

In this regard, Turkey is also a part of that Charter, and this legal framework has given a particular emphasis of citizens' active participation to local decision-making processes. Besides, at the Article 4th (Scope of local self-government); it was illuminated that "*Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly*". When looking from this aspect, it can be concluded that this new regulation is not a facilitator agent within the context of participation (Keleş, 2013: 18). Besides, it also violates the arrangements concerning the basic rights and freedoms (Keleş, 2012; Keleş, 2013: 19, Görmez, 2012, Duru, 2013: 34). By the abolition of the legal personalities of SPAs, first-tier municipalities and villages; provincial general directorates, municipal councils and village elderly

councils decision-making organs are also closed. Thus, the citizens' participation to the decision-making mechanisms would be decreased in a certain extent (Adıgüzel, 2012: 172). However, there are also opponent views concerning the link between the democratic participation and Law No. 6360, with the claim that Law No. 6360 will have a positive effect on democratic participation. At that point, Güngör (2012: 22) declared that; "the voters living within the provincial borders will vote for the councilor of the district municipality and mayor, and also for the councilor of the metropolitan municipality and metropolitan mayor with the new metropolitan administrative formation by the enactment of Law No. 6360".

3.1.4. The Criticisms towards Metropolitan Municipality Financial System

In Turkey, the municipalities' % 52 income is composed of the municipal revenue from the general budget and % 48 from their own revenues. By the Law No. 6360, the financial share that is transferred from the general budget to the local governments increased to % 11, 38. By the amendment at the Law No. 5779 'Law on Apportionments from General Budget Tax Revenues to SPAs and Municipalities' through the Law No. 6360, %10, 5 increase has been provided at the financial shares transferred from the general budget (Güngör, 2012: 26). Although the financial pies that are transferred from the general budget have been increased, the most important problem which has been stemmed from the allocation of the pies between municipalities and metropolitan municipalities cannot be solved yet. The allocated pie to the metropolitan municipality from the sum of the general budget tax revenues within the borders of the metropolitan municipality was increased from %5 to %6. While the general budget tax revenue pie raised to %6, direct distributed proportion has been reduced to %60, and %40 of that proportion is gathered in a pool and this ratio is perceived to allocate in accordance with population (%70) and area (%30) criteria. However, the distribution of the financial pies that are transferred to the metropolitan municipalities from the general budget cannot be resolved. The difference between the metropolitan municipality that takes the least and the most share from the general budget is three times bigger in terms of per capita (Güngör, 2012: 27). Furthermore, 2.85 percent is apportioned to non-metropolitan municipalities from the total collection of general budget tax revenue decreased to the 1.5 percentage with the amendments made at the Law No. 5779, and 2.5 percent to district municipalities within metropolitan municipalities increased to 4.5 percent, 1.15 percent to SPA decreased to 0.5 percent.

In this respect, at the villages that are included to the metropolitan municipality borders, the village citizens are obliged to pay property tax according to the Property Tax No. 1319. Besides, the village citizens are also obliged to pay tax, fee, and contribution rates according to the Law on Municipal Revenues No. 2464. According to Article 8th and Article 16th of the Property Tax Law; the estate, territory, and land taxes are applied with %100 incremental raise within the borders of metropolitan municipality (Adıgüzel, 2012: 171). Moreover, according to the Law on Municipal

Revenues No. 2464; the taxes, fees and contributions will not be received for five years. The property tax exemptions and exceptions will continue for five years at villages. In that context, income tax exemptions and exceptions will continue up to the year of 2017 at villages. The drinking and using water fee is determined by not exceeding %25 of the lowest tariff for five years at the villages that are included to the metropolitan municipality borders (Yıldız, 2013: 43; Adıgüzel, 2012: 173). In that context, the tax base is differentiated at the new metropolitan municipalities; the metropolitan municipalities with the new regulation encountered to deliver more services to the large rural areas with taking less tax. On the other hand, (while the application is postponed for five years) new tax burdens will emerge for rural citizens (Genç, 2014: 10).

3.1.5. The Criticisms towards Zoning Integrity and Planning Issues

At that framework, by the 1980s onwards, the number of public institutions and organizations' having planning authority has been rapidly increased in Turkey. Today, a total of 19, including 14 central government institutions and organizations, have the planning authority related to their areas, and the number of the spatial plans prepared in this way is 61. According to the legislation in force, the upper scale plans at the provincial scale can be listed as follows 1) Ministry of Development and Development Agencies, 2) Environment Plans covering more than one province, prepared by the Ministry of Environment and Urbanization, 3) Provincial Environment Plan, 4) 1/25.000 scale master plans prepared by Metropolitan Municipalities (Ersoy, 2013: 24). The new regulation enables benefits at the implementation of planning activities at the provincial scale in a holistic way with the coordination of a single authority. In this sense, it is thought that this application paves the way for the prevention of the existence of many plans that are prepared by diverse local units reflecting narrow interests and expectations which are incompatible and contradictory to each other (Genç, 2014: 6). Moreover, some of the scholars have the opinion that metropolitan administration offers a fertile ground for the preparation of an 'integrated strategic plan' including economic, social, and cultural plans aside from physical plans at the provincial level (Genç, 2014: 6). In this scope, Keleş (2012) determined that the most critical standpoint of that Law is the unity and integrity principle at zoning and planning approach. In this sense, it is considered that the Law may facilitate the provision of the zoning integrity at the provincial level. In short, with the recent legal regulation environment, master and development planning authorities are gathered at a single authority of the metropolitan municipalities (Ersoy, 2013: 22). According to Ersoy (2013: 23), "the preparation of the upper-scale plans by a single authority with the authorization taken by the Law No. 6360 is an appropriate approach in terms of planning principles for avoiding to tackle with the small parts of a province with disjointed and fragmented plans. When evaluating from the spatial planning framework, this application is more meaningful than the 'compass law' which is not based on any research and evaluation".

However, by the Law No. 6360, the closure of the first-tier municipalities and transition of planning authority to the district municipalities, the participation possibilities which are limited at the preparation of sub-scale plans leads to the deterioration of the subsidiarity principle (Ersoy, 2013: 32). Some problems can occur at the provision of efficient and effective services to the settlements that are far away from the metropolitan center. The geographical distance will adversely affect the provision of effective and efficient service concerning the application and control tools of development plans (Keleş, 2012; Gözler, 2013).

3.1.6. The Criticisms towards the Social Structure

The most striking challenge comes with village administrations' situation which is one of the fundamental local governments units. It is likely to fall the production capacity, and agricultural production will suffer at rural fields by the enactment of Law No. 6360. The peasants and the farmers will have difficulty in sustaining their rural life as a result of the legal, administrative, and financial losses. Instead of traditional and natural agricultural production, commercialized agricultural production will become widespread (Zengin, 2014: 113).

Furthermore, the villages that are turned to the neighborhood and their legal personalities are removed have different cultural identities and structure. At the examination of the participation process to the decision-making process of metropolitan municipalities, it can be stated that those small units where their public legal personalities removed, have no chance to participate to the decision-making mechanisms. In addition to that, the villages beyond being a service unit, they are the local administrative bodies enabling identity and the sense of belongingness; the sense of local belongingness will be eroded by this regulation (Genç, 2014: 10). Finally, urban-rural distinction in terms of sociological and administrative terms disappeared by making the borders of the metropolitan municipalities to provincial borders (Zengin, 2013: 10).

4. CONCLUSION

By the 1980s onwards, the new kind of local government organization, 'metropolitan municipality', was created in those cities that encompassing more than one district within its municipal borders. In this context, metropolitan municipalities were established in Istanbul, Ankara, and Izmir with local election carried out 1984 by the Decree Law No. 195 on 08 March 1984. Up to the 2000s, the metropolitan municipality system was conducted by different regulations with minor amendments. However, by the 2000s onwards, serious legal adjustments had been implemented at the metropolitan municipality system, and a transformation process launched at Turkey's local administrative framework. In that context, under JDP *Restructuring Public Administration Movement (Action),* some of the powers of the central government delegated to local governments by the help of local government Laws. '*Restructuring Public Administration Movement*' carried out by the related Metropolitan Municipal Law No. 5216 and Law No. 6360. In this context, JDP has the tendency to

weaken the settled approach concerning the sharing of the power and responsibility relation between the central government and local government and the local governments have been placed in a superior position in terms of the empowerment of the local government units (Zengin, 2014: 98-99, Çınar *et al.*, 2009: 75).

In this regard, one of the most important regulation in relevant with metropolitan municipality indicated itself with the Law No. 5019 referred as 'Compass Law' that was put into force at the end of the year of 2003. That Law was enacted one year after when JDP came to the power of with its 'reform-making' agenda. By the Law No 5019, it is intended to expand the boundaries of the 16 metropolitan municipalities through the measure of population with certain radius circles. By this Law, the border expansion and annexation issues came to the political agenda. However, this regulation was not entered into force. By the same token, at first, the efforts remained inconclusive; however, '*Annexation Policy'* depending upon the Article 11 (*Termination of the Legal Personality Status*) had been realized through the enactment of the New Municipality Law No. 5393 in 2005 and the joint decrees. In addition to that annexation policy, 862 municipalities intended to be abrogated with turning them to the district over the extent of the population criterion on the grounds that their population falls to 2000 with the Law No. 5747 enacted in 2008. This effort remained futile at first (2008, Law No 5747), but it was put into practice by the enactment of the Law No. 6360 referred as 'Unicity Law' in 2012, and by this Law 13 new metropolitan municipality added to the existed 16 metropolitan municipalities.

Within the framework of the article, it is seen that at the justifications of the Law No. 5216 and Law No. 6360, the economic factors have a great impact at the expansion of the metropolitan municipality borders. As to the government, metropolitan cities have a key role at adapting the globalized world and taking an active role in this global planet. Those urban centers evaluated as the kinds of development areas. In addition to the foreign investment entering to the country; a significant portion of the international trade oriented to the metropolitan centers. In other words, the metropolitan centers located at the global and regional network, have bigger transportation and communication network. In short, those cities are considered as the engine of the international economy, a large market at the global economy and a trade center. At that context, the metropolitan municipalities' authority and responsibility fields have been enlarged; it can be clearly stated that the Metropolitan Municipality Law No. 5216 has given more power to the metropolitan municipalities. By the Law No. 6360, the metropolitan municipality numbers upgraded from 16 to 30, and all metropolitan municipality borders were expanded to the provincial borders. By that Law, the new metropolitan system leads to structural changes in terms of administrative, financial, zoning and planning order. This restructuring process alters the power-responsibility and service fields of the local governments.

The structure of the local units provided local services also regulated with the redetermination of the spatial field.

In this scope, at the article it is seen that the removal of the public legal personalities of SPAs, villages, and first tier municipalities by Law, and transforming the district municipalities to metropolitan district municipalities are declared as the contradictory issues to the Turkish Constitution. Furthermore, by the Law No. 6360, 'Investment, Monitoring, and Coordination Directorates' have been set up instead of the abrogated SPAs. 'Investment, Monitoring, and Coordination Directorates' administrative grounds at local administrative framework and their functions should be determined in an explicit way. Besides, there can also be problems at the provision of services to the rural settlements of provinces and districts because the municipal administration is the administration of urban settlements. At that context, at the political dimension, there are criticisms towards the weakening of democratic participation by the expansion of the municipal border to the provincial borders and by the abolition of the public legal personalities of SPAs, first-tier municipalities and villages. Moreover, another criticism is related with the Article 5th of Charter of Local-self Government concerning the protection of local authority boundaries. In this regard, the public legal personalities of municipalities and villages were abrogated without consulting to the local inhabitants or without going to a referendum. In this respect, the Law No. 6360 also provides advantages concerning the planning affairs by facilitating the provision of the zoning integrity at the provincial level. In that framework, it is explicit that there is a need of more research and analysis in order to see the possible strengths and weaknesses of the Law No. 6360 in Turkey.

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