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## An Innovative Way for Resolving of the Coastal Land Conflicts in Turkey

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### 1. TURKISH COASTS and Land Use Forms



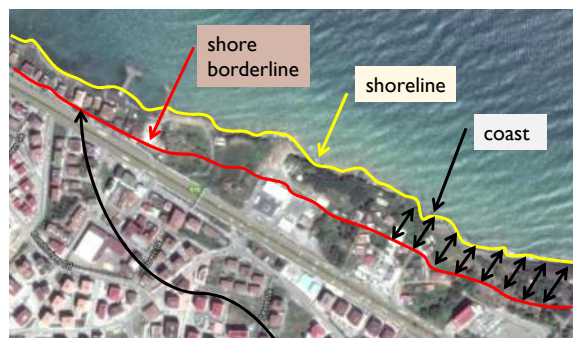
Characteristics of the Coastal Land	Turkish Coasts/Regions			
	Mediterranean	Aegean	Marmara	Black Sea
Population	High Density	High Density	High Density	Low Density
Socio-economic development	High Density	High Density	High Density	Low Density
Housing (residential) area	High Density	High Density	High Density	Low Density
Recreation area	Low Density	Low Density	Low Density	High Density
Public area	Low Density	Low Density	Low Density	High Density
Secondary holiday housing	High Density	High Density	High Density	Low Density
National parks and protected areas	Low Density	Low Density	Low Density	High Density
Forest area	Low Density	Low Density	Low Density	High Density
Tourism	High Density	High Density	High Density	Low Density
Industrial facilities	Low Density	Low Density	Low Density	High Density
The density of coastal using	High Density	High Density	High Density	Low Density

Legend:  
 indicates high density  
 indicates density  
 indicates low density  
 indicates no density

Coastal areas have become the most attractive locations for centuries because of their aesthetics and the economic and geographic opportunities they provide for industrialization and urbanization.



## 2. THE PRIVATE LAND OWNERSHIP IN THE TURKISH COASTS

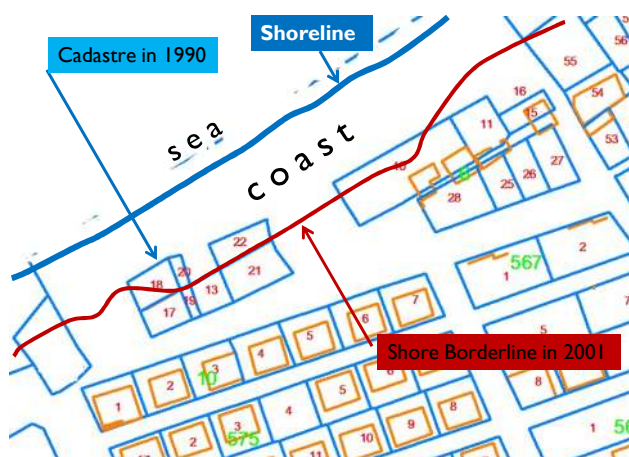


According to the article 43 of the Constitution; the coasts are under the sovereignty and disposal of the state and have a character of public property. So the coasts cannot be subject to private property rights.

According to the article 5 of Turkish Coastal Law (no.3621); the coasts are under the sovereignty and disposal of the state ....



### 2.1 The Formation Process of Coastal Landownership



- ▶ the official borders of the shore borderline were not determined during the cadastral surveying, properties in coastal areas were identified as belonging to those who owned them,
- ▶ the cadastre determination was not rejected during the time that was required to do this (30-days' notice), the title deed registry was formed.
- ▶ after the shore borderline had been established, these errors in cadastral determinations for coastal areas become apparent.





- ▶ *According to the article 1025 of Turkish Civil Code*; the annulment of title deeds related to the coast by the courts is legal.
- ▶ *According to the Joint Civil Chambers of the Court of Cassation decision dated 27 February 1980*; there are no legal costs for coastal areas because it is not possible to expropriate a property which is already under the possession of the state.

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### **COMMENTS OF THE LANDOWNERS RELATED TO LAWSUITS FOR THE ANNULMENT OF TITLE DEEDS**

- Who gives the title deed of this land?
  - State!
- Now, Who is working for the annulment of the title?
  - Again State!
- Who has been collected land taxes for years by?
  - State!
- Whenever the land need occurs, state acquires it by the expropriation . But what does the annulment of title deed mean?
- Is this make sense even if this is legal? Is this decision on paper fair?
- Is the state break the title deed?
  - Yes it is!
- Then, we cannot trust title deeds given by the state...

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## 2.1 ECHR Decisions

Procedures	Information
<b>Date of first application to ECHR</b>	<b>30.05.1997</b>
ECHR's first decision on violation	11.05.2005
<b>ECHR's first decision on compensation</b>	<b>30.06.2006</b>
Total number of decisions	44
<b>Total amount of compensation</b>	<b>2.453.849,00 EURO</b>
Provinces which applied to ECHR (and number of applications)	Hatay (27), İzmir(4), Balıkesir(4), Tekirdağ(4), Çanakkale(2), Antalya (1), Muğla(1), Rize(1)

- Deprivation of the property is in the public interest.
- Annulment of the title deeds lack of compensation is **the violation of the property right.** (article 1 of Protocol no 1 )
- Since the compensation should be paid is not an illegal implementation,. ( ECHR artc.41)**compensation amount does not reflect the full value of the property .**
- The amount which would satisfy the expectations of the plaintiffs is determined by the ECHR in lump sum.

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## JUDICIAL CHANGE OF THE COURT OF CASSATION (OCTOBER, 2007)

- **Landownership is one of the fundamental right. Property right provided with the title deed should be kept in mind.**
- **Even if being in the coast, the right based on title deed should be protected.**
- **Asking the annulment of the title deed by the state without any compensation by claiming that the title deed, which was given by the state itself, is invalid, will damage the prestige of the state.**
- **An amount with a character of compensation, which does not have to satisfy the full value of the property, should be paid to the owner of the ownership right to ensure reciprocal balance of right.**
- **Constitutional Court** dated 12 May 2011 and numbered E:2009/31 and K:2011/77, states that: "(.) although intervention in ownership rights in order to protect the shores is legal, it is apparent that **this public burden cannot be fully charged to the property owners**".

➤ So it is stated that the plaintiff who is the coastal land owner has the right **to file a new lawsuit to claim compensation.**

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## RESOLVING OF THE COASTAL LAND CONFLICTS

- There is no legal barrier preventing the annulment of the title deed registries of the properties which have been registered on behalf of public bodies and institutions without any compensation.
- In this case, the problem involves the elimination of private property in planned and unplanned coastal areas where the shore borderline has been determined.

### Unplanned coastal areas

- Direct payment of compensation amount
- Swap
- Certificate

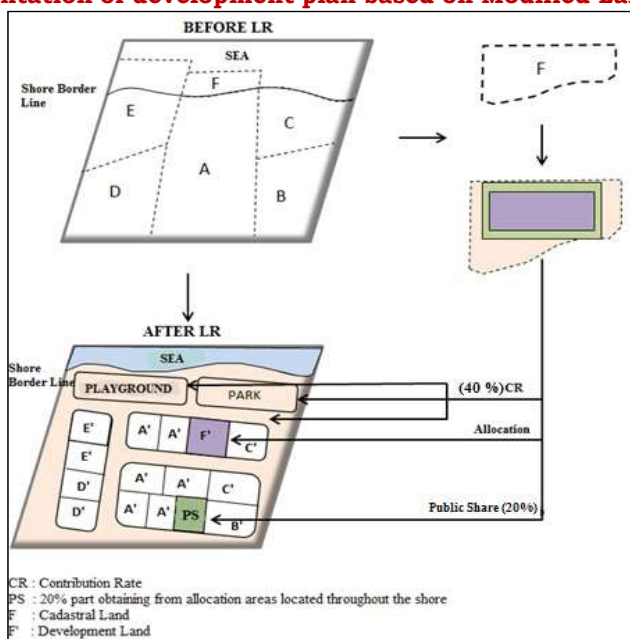
### Planned coastal areas

- Grant in return for development right
- Modified land readjustment (MLR)

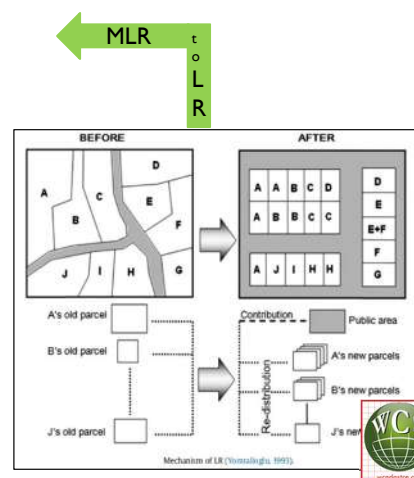
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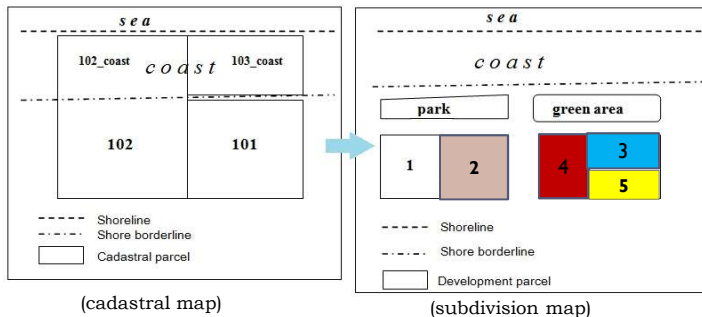
## Implementation of development plan based on Modified Land Readjustment (MLR)



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### ▶ Sample Implementation:



Arrangement data of the parcels falling within the MLR area.

Cadastral parcel id.	Parcel area (m <sup>2</sup> )	CR 40% (max.)	1 <sup>st</sup> Allocation (m <sup>2</sup> )	PS Deduction 20%	2 <sup>nd</sup> Allocation (m <sup>2</sup> )	New development parcel id.
101	7500	3000	4000	-	-	1
102	9000	3600	5400	-	-	2
102_coast	5000	2000	3000	(600)	2400	3
103_coast	6000	2400	3600	(720)	2880	4
Public				1320		5

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## CONCLUSION

- ▶ The implementation will greatly reduce the payment of compensation for coastal properties.
- ▶ Number of lawsuits filed for the annulment of title deeds by the Revenue Office and lawsuits filed for compensation by the property owners will significantly decrease.
- ▶ Work load of the judiciary will be reduced; time-economic losses by the administrations and individuals will be prevented.
- ▶ The fair balance which should be established between the protection of ownership and General interest pointed out the decisions of the ECHR will be provided.
- ▶ The coastal landowners are provided with new, legal plots within the reconstituted area which, although smaller in size.
- ▶ Coastal land parcel is re-shaped and transformed into an adequate site lot. Each parcel is converted into building lots.
- ▶ The Treasury gain new plots from cadastral parcels remained in the restricted area. And these new plots can be evaluated in various ways. Such as; compensation arising from the coastal lands can be paid from the sales of these parcels, municipality can use these areas for the construction of social and technical infrastructure and for the expropriation of public facilities (hospital, cultural facility, etc.).

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## CONCLUSION

- To legalize the recommended Modified Land Readjustment application, a new article should be added to Coastal Law (numbered 3621).

...” in arrangement which also consists the coastal parcels which partially and/or fully remain in the shore, 20% of the area which will be allocated for the coastal parcels after the deduction of contribution rate determined for the mentioned arrangement is allocated on behalf of the Treasury”...

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**Thank you for your attention..**

**Nida Celik Simsek**



Akcaabat, 2015

