

Chapter 6

Public-Private Partnership—The Case of Turkey



Bernur Açıkgöz

6.1 Literature Review

The literature scope regarding P3 has shown impressive growth over the past two decades. The P3 application has attracted considerable attention from many areas such as management, economic, and public administration (Spielman et al. 2007). Osborne (2000) claims that governments around the world are becoming almost dependent on P3 for the implementation of public policies. Concordantly, Teisman and Klijn (2002) show that governments need cooperation with various actors. In this respect, Hodge and Greve (2007) revealed that P3 is a cooperative institutional arrangement between the public and private sectors. Ross and Yan (2015) searched the optimality of the bundling of the various tasks and focused on how to design, operate, and maintain P3 projects.

Akintoye et al. (2001), Corbett and Smith (2006), Jefferies et al. (2002), Li et al. (2005), Zhang (2005) have revealed that project financing by the private sector is the main success factor in public infrastructure projects. P3 is no longer seen as a temporary requirement (Langford 2002; Rondinelli and Lacono 1996). Dahl and Lindblom (1953) predicted the relations getting closer gradually between the public and private sectors. P3 is clearly different from privatization. In addition, Middleton (2000), Hart and Moore (1990), Akintoye et al. (2006) claimed that with the application of P3, the public sector has created an alternative to privatization without losing power.

There are three main reasons for the P3 usage in public procurement;

1. P3 composes of multi-job contracts, the responsibility is shared, and the finance is remaining with the private sector (Bettignies and Ross 2004; Peters 1998; Akintoye et al. 2006; Bult-Spiering and Dewulf 2006).

B. Açıkgöz (✉)
İzmir Katip Çelebi University, İzmir, Turkey
e-mail: bernur.acikgoz@ikc.edu.tr

2. An efficient strategy transfers the risks to the private sector (Thobani 1999; Hall 1998).
3. P3 opponents fear that the public interest is at stake because the private sector's profit motive conflicts with public values (Peters 1998; Rosenau 1999). However, many applications of P3 clearly showed that there is no loss in public benefits. However, since many PPP projects will be returned to host governments after the end of the concession period, problems with the subsequent management of PPP projects have not been fully studied yet (Jingfeng et al. 2015).

6.2 The Definitions of Public-Private Partnership

Although there is no consensus about how to define P3 (Marsilio et al. 2011), The Public-Private Partnership Knowledge Lab defines a “*public private partnership*” (PPP) (P3) as “*a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance.*” There are various types of P3 and they are used in a variety of ways and in situations, so that we can define it in a variety of ways. It is not easy to combine the various definitions of P3, but some of the common concepts and assumptions could be defined. Some of the key features of P3 are as follows: First, P3 should be permanent cooperation, because this short-term contract is not a de facto P3. For this reason, it generally involves long-term cooperation (Girth 2014; Hodge and Greve 2007).

Secondly, the private sectors in the P3 project join the specific stages of the project, involving design, construction, operation, reparation. These stages usually include grand capital expenditures, which are worth more than hundreds of millions of dollars (Newman and Perl 2014). For this reason, a long-term agreement allows both partners to utilize cooperation (Silvestre and Araújo 2012). Thirdly, P3 enables sharing of important items such as risks, expenditures, benefits, sources, and responsibilities (Koppenjan 2005). Sharing is an indispensable element of P3 partnership. All costs will not be charged to the private sector partnership. Fourth, P3 projects are not simple projects (Ross and Yan 2015). Due to the character of the contract and the necessary multi-STAGE collaboration, the objectives of the P3 partners and the political environment can be dynamic. These factors reveal the need for partners to discuss and affect each other during the period of the collaboration. This potentially complicates the collaboration process in the P3 project. In addition, all the P3 partners have self-tactics/strategy and institutional history. This situation can complicate the decision-making process in P3 plans/projects (Klijn and Teisman 2003). Finally, P3 plans/projects have common goals. These common goals lead to do business between the public and private sectors and to establish partnerships (Wang et al. 2017).

P3 offers an opportunity between a state that individually undertakes the dual challenge of efficiency/productiveness and effectiveness in a multiplicity of fields of activity and a state that provides outsourcing to its representatives from the private sector (in Table 6.1) (Mazouz et al. 2008).

Table 6.1 P3s: an intermediate course of action

Public sector	P3		Private sector
<ul style="list-style-type: none"> – The public sector does everything alone – Political and ideological coherence of state intervention – Problems of efficiency and effectiveness push toward boxes B and C of the matrix (elementary and symbiotic) 	Find a dual complementarity: <ul style="list-style-type: none"> – resources – performance criteria 		<ul style="list-style-type: none"> – The public sector lets the private sector do everything – Search for efficiency and effectiveness – Problems of agency, control, opportunistic behavior. Public satisfaction push toward boxes A and D of the matrix (situational and forward-looking)
	Two perspectives		
	The public	The private	
	The “customer” Logic of outsourcing or dependence Withdrawal of the government or alternative to privatization	The “supplier” Logic of cost of entry or of dominant position	

Source Mazouz et al. (2008)

6.3 Public-Private Partnership Models

Many state agencies are exploring different P3 models as a means of sustaining updated substructures without having to make sizable investments under the limited financing and increasing restrictions. Such projects can be very useful however, the costs should be closely controlled to provide cost-effective solutions.

Public-private partnerships are recognized by many governments as the future of infrastructure projects because they offer solutions to investment problems in large projects without compromising of financing, job completion on time, and state financing. There are many different types P3 to suit various construction, operation, ownership, and revenue-generating scenarios (Table 6.2).

According to Mazouz and Belhocine (2002), the typology of P3 is affected by two major variables. The first variable is the closeness of the aim. It means that the

Table 6.2 A project-based management typology of public-private partnership projects

Capacity to generate projects	Proximity of target	
	Close	Distant
High	Situational partnership Dictated by imperatives of management, expertise, injection of private capital	Elementary partnership Search for savings, effectiveness, and efficiency
Low	Symbiotic partnership Resulting from a true community of practices, of convergences of values and interests	Forward-looking partnership Dictated by strategic issues at the scale of nations and governments

Source Mazouz et al. (2008, p. 101)

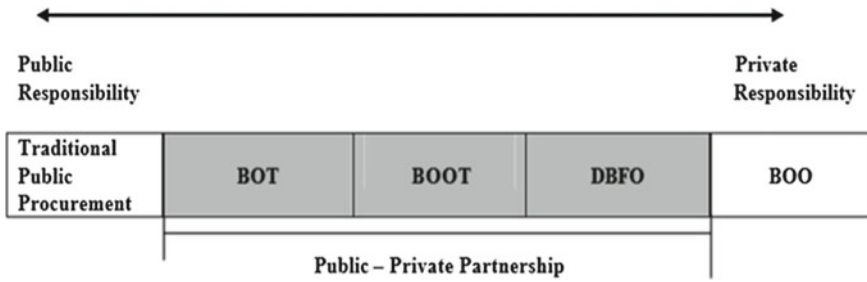


Fig. 6.1 Schematic scale of the public procurement classification. *Source* Akbiyikli and Eaton (2018)

distance/space between a public service provider and the consumers it serves. The second variable is the capacity to produce projects which means the ability of the vendor to transform a social demand into goods and services (see Fig. 6.1).

The public-private enterprises emerge in various types such as Build–Operate–Transfer (BOT), Build–Own–Operate–Transfer (BOOT), Build–Own–Operate (BOO), and Design–Build–Finance–Operate (DBFO). Because of the provision of substructure facilities, this situation provides governments the option to meet their substructure needs and demands in alternative ways. In general, such tools include a user-pays concept, which always can be applied by governments. But many governments have chosen to carry out the concept for the private sector to reduce their financial responsibilities (Confoy et al. 1999).

Figure 6.1 shows that various procurement paths, involving public-private partnership approaches in a spectrum. At the beginning of the spectrum, the public sector gets the whole responsibility of the financing, creation, operation, and maintenance of assets. It means that consists the responsibility to assume in related risk. Many of the public-private approaches remain in the middle of the spectrum. This location exists through the risks and responsibilities shared between the parties in line with their capabilities and strengths. At the end of the spectrum, the private sector takes over the whole responsibilities.

6.4 Public-Private Partnership Examples in the World

Throughout the world, P3 finds applications in a wide range of sectors. The transportation sector, whose first projects consist of models based on the “shadow toll” principle, is often at the forefront. In the applications, P3s in the transport sector include railway and city transportation. Other sectors that have a significant share in P3 are education, defense, water, health, and prisons (IFSL 2003). The main European countries that develop P3 models include Ireland, Portugal, Spain, Italy, Germany, Greece, and the Netherlands. In Central and Eastern Europe, many countries, including Czech Republic, Hungary, Poland, Bulgaria, and Lithuania, have initiated P3s due

to the significant budgetary constraints with significant infrastructure requirements (IFSL 2003). Outside of Europe, the largest interest came from Australia, Japan, Canada and South Africa (Canadian Union of Public Employees 2006; National Treasury P3 Unit 2007). It would be correct to add Argentina, Brazil, Chile, Mexico, New Zealand, South Korea, Hong Kong, and Singapore to these countries.

In Hong Kong and Singapore, P3s are being developed together with the privatization program. Since 2000, many countries have established central government units to develop P3 programs (IFSL 2003). The US is the country with the longest history of the P3. In the US, the P3 was used as a tool to attract the private sector to regional economical development and urban infrastructure investments in the 1950s and 1960s (Stephenson 1991; Linder 1999; Moulton and Anheier 2001; Pongsiri 2002).

Throughout the 1980s, the P3 was increasingly shifting to privatization. In this context, with the assumption that private suppliers can offer goods and services with lower costs and higher quality, the work and responsibilities of the public sector are gradually reduced (UN 1993; Linder 1999; Bult-Spiering and Dewulf 2006; Hemming 2006). Other countries in Europe started to use P3 in the late 1980s. For example, in the Netherlands, the idea of P3 was clearly stated in the 1986 government policy statement. In Norway, P3 has been implemented especially in many infrastructure studies in recent years (Bult-Spiering and Dewulf 2006). The examples of P3 application are also available outside of Europe and America. For example, public-private partnerships were used in the renewal of infrastructures in the early 1990s in Australia. In the mid-1990s, the first projects took place relating to motorways, hospitals, water, and energy. In the late 1990s, airports, stadiums, and harbors were built with this method. In 2001, public defense, schools, and courts were added to this list. The Australian case has produced positive results such as cost-effective, early project delivery, and innovation (Barlow 2007).

The transfer of some projects and financing risks to the private sector and the availability and quality of services provided to citizens. Belgium, France, Germany, Greece, Ireland, Portugal, and Spain have comprehensive P3 laws. P3 units have been established at the central government level. One of the aims of these units is to organize the P3. Member States consider P3 as a necessary structure for the realization of infrastructure projects such as transport, public health, education, and national security (Bult-Spiering and Dewulf 2006). In 2014, the EU Commission has prepared three new Directives packages to reform public procurement in the Member States. These Directives are as follows:

- 2014/23/EU—on the award of concession contracts.
- 2014/24/EU—on the award of public contracts,
- 2014/25/EU—on the award of contracts by Utilities.

Concessions involving private partners are a special form of PPP. Although PPPs have never been defined in the EU Public Procurement Legislation, they are generally understood as a cooperation between the public authority and the private partner; in addition, it carries risks that are to be met by the public sector traditionally and generally contributes to the financing of the project. Some PPPs are structured as

public contracts however, based on estimates of Commission services, more than 60% of all PPP contracts are compromised (The Concessions Directive 2018).

In terms of P3 applications, EU member countries can be examined in 3 groups: advanced adaptation to P3 countries such as England, in some respects France, Germany, Ireland, South Africa, Australia, Chile, and Italy; countries with moderate compliance to P3 such as Spain which have demonstrated extensive success in P3 (although not in all sectors yet); latecomers such as Luxembourg.

Mexico and Sweden, which are only at the beginning level in P3 applications (Renda and Schrefler 2006; Bult-Spiering and Dewulf 2006; Cuttaree 2008).

6.5 Public-Private Partnership in Turkey

Infrastructure investments need to be increased substantially in many developing countries like Turkey to boost the economic growth (Brux and Saussier 2018). P3 models have been implemented in Turkey, especially in the 90s, “BOT“ and “BOO“ type was applied in the areas of power generation, drinking water, etc. (Gümüştekin 1992).

However, with the concrete arrangements of the European Union regarding the provision of infrastructure services of the member states by the model referred to as P3 model, the political, economic, and legal infrastructure, political instability and the mistakes made in the design of the contract have brought serious negativities in terms of public and private sector cooperation, and the reliability of these models has been debated publicly.

In Turkey, “the concessions relating to public interest” law adopted in 1910, have created the legal basis of the first P3s. This law has continued to be one of the general legal grounds for the transfer of the services, which constitutes concession to the private sector after the establishment of the Republic of Turkey (Gümüştekin 1992; Tekin 2007). The developments in the Republican era date back to the 1980s. In 1984, with the BOT (Law No. 3096) and BOO (Law No. 4283) models, which were first enacted in the field of electricity generation; “The Transfer of Operating Rights” and BOO methods were put into practice (Gümüştekin 1992). With these methods, 30 power plants (8500 MW) have been put into operation, providing approximately one-fourth of the installed power plant (35 thousand MW) of the country (Yüzer 2007). 16 power plants, which constitute approximately 90% of their installed power, were installed through Treasury guarantees provided by the Undersecretariat of Treasury. In addition to this, with the Law No. 3465 issued in 1988, the possibility of highway construction and maintenance services under the responsibility of the General Directorate of Highways were made possible by the private sector. With the Law No. 3996 issued in 1994, the BOT model has been defined as a special financing model developed for use in the implementation of projects requiring advanced technology and high financial resources (Özdoğan and Birgönül 2000).

Today, the legislative framework dealing with various models and sectors in Turkey cannot be consolidated under a single law. All P3 models, except for the

Intergovernmental Agreements-Host Government Agreements (IGA-HGA) model, are written in separate legislative pieces, the most important ones can be listed as follows:

- *Law No. 3996 on the Procurement of Certain Investments and Services under the BOT Law;*
- *Law No. 6428 on the Construction, Renovation and Purchase of Services by the Ministry of Health by way of the Public-Private Cooperation Model and Amendments to Certain Laws and Decrees with the Force of Law (BLT Law); and*
- *Law No. 4046 on Privatisation Practices (Privatisation Law).*

Although the UK has been modeled for P3 applications in Turkey, it is a known fact that there are some differences between the two countries. For example, unlike the UK system, in Turkey; in addition to the Ministry of Treasury and Finance, Presidency of Strategy and Budget, the Ministries and, in some cases, the municipalities appear as other organizations in the process. Depending on the type of P3 and the region where it is implemented, the participation rates of institutions and organizations in the process also vary. Despite Turkey is one of the leading countries that implemented P3s, the targeted development is unfortunately not yet achieved. P3s have always remained in the shadow of privatization activities in Turkey. Moreover, Turkey's three severe crises after 2000; macroeconomic conditions adversely affected the investment environment and became one of the obstacles of the development of the P3 model. However, in progress of time, Turkey has developed many different P3 models and projects in different sectors such as: build–operate–transfer (BOT) model for infrastructure projects such as highways, airports, and electricity generation facilities; build–lease–transfer (BLT) model for healthcare projects (and education facilities, under a separate piece of legislation yet to be implemented); transfer of operating rights (TOR) for ports and airports; and build–operate (BO) model for thermal electrical energy generation facilities. The current number of P3 projects in Turkey are as follows.

If we compare the sectors in terms of the number of projects with the latest data (Figs. 6.2 and 6.3); the energy sector has the highest number of P3 projects however, when it comes to the sector-based contract values, the energy sector is ranked second after airports projects.¹ P3s for Motorways ranked second in terms of the number of projects, while the contract values are in the third place.

If we compare the sectors in terms of the number of projects and contract values with the latest data (Figs. 6.4 and 6.5); The BOT model has the highest number of P3 projects and highest contract values in Turkey. The TOR model is ranked second after BOT model projects both in terms of the number of projects and contract values (Figs. 6.6 and 6.7).

¹The reason for this is that the new airport in Istanbul is the airport with the highest passenger capacity in the world and the investment cost is very high.

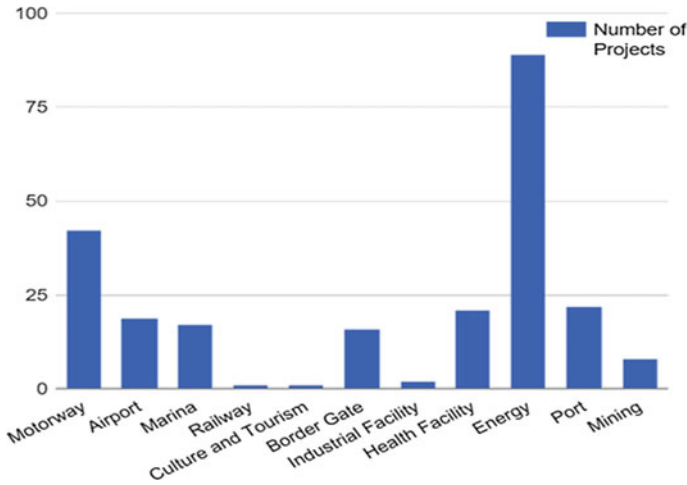


Fig. 6.2 Distribution of project numbers by sector. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

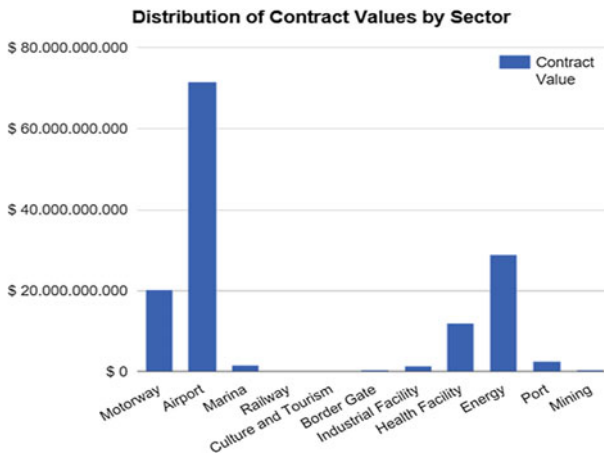


Fig. 6.3 Distribution of contract values by sector. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

When the data from 1986 to 2018 is analyzed, according to the project number and contract value, year 2012 has the highest number of projects and contract values in Turkey.

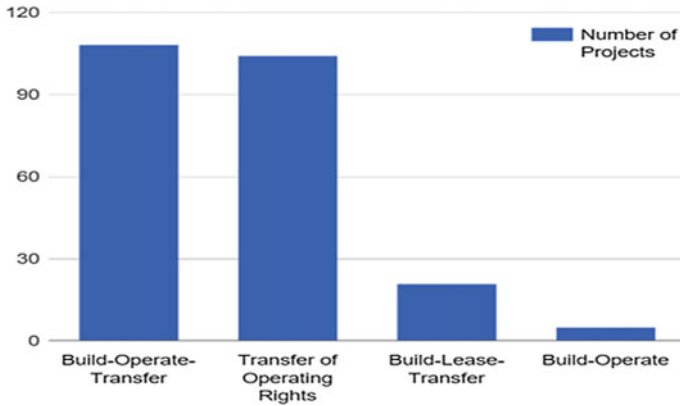


Fig. 6.4 Distribution of project numbers by model. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

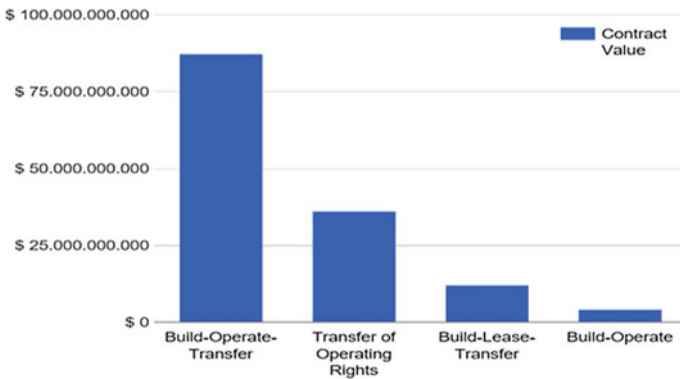


Fig. 6.5 Distribution of contract values by model. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

6.6 Result and Policy Suggestions

In the last four decades, countries under the influence of neo-liberalism have undergone serious changes in meeting the need for financing public goods and services. The P3 method has created an opportunity for short-term investments in various scales for countries that are exploring different alternative financing methods for large-scale investments that cannot be met with public budgets. P3 deals with the complex policies, projects, and public services. This is because P3 includes joint development and risk sharing among parties, which are areas where traditional procurement processes do not address. Risk sharing is an important feature that distinguishes P3 from traditional procurement projects.

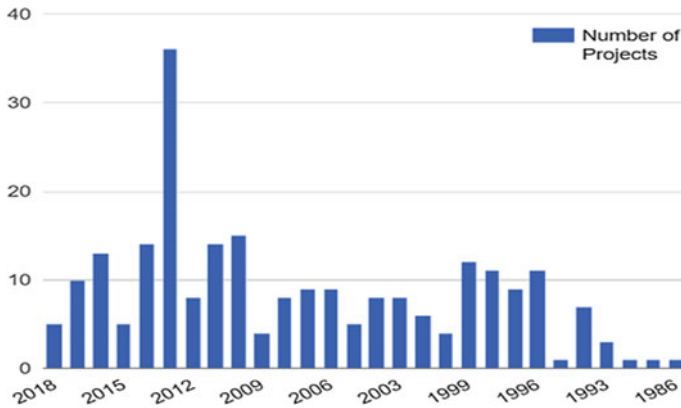


Fig. 6.6 Distribution of project numbers by year. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

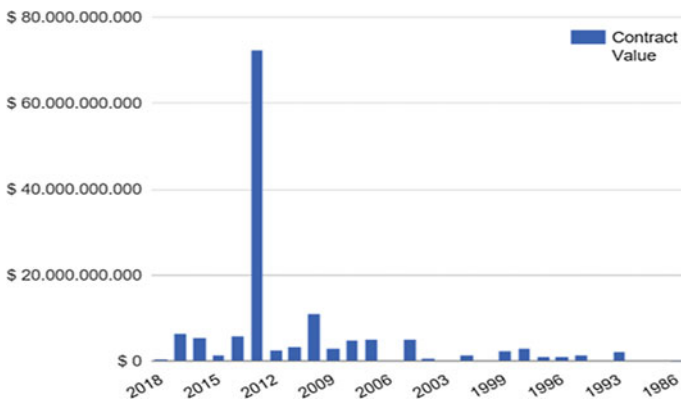


Fig. 6.7 Distribution of contract values by year. *Source* Presidency of The Republic of Turkey, Access date: 21.11.2018. https://koi.sbb.gov.tr/Main_EN.aspx

Worldwide, P3 finds applications in a wide range of sectors. The transportation sector, whose first projects consist of models based on the “shadow toll” principle, is often leading. In the applications, P3s in the transport sector include railway and city transportation. Other sectors that have a significant share in P3 are education, defense, water, health, and prisons (IFSL 2003). The main European countries that develop P3 models include Ireland, Netherlands, Spain, Italy, Germany, Portugal, and Greece.

In recent years, Turkey has an ambitious P3 portfolio (Emek 2015) and there are many large P3 projects that are among the highest valued P3 projects in the world (e.g., the third airport of Istanbul, the third bridge of Bosphorus, and the Eurasia highway tunnel project). In addition to the abovementioned P3 models, Turkey has also implemented certain P3 projects by partnership or agreement at government level,

through use of intergovernmental agreements (IGAs) and host government agreements (HGA). The IGA-HGA models have been used for energy projects including nuclear power plants and oil pipelines. The most commonly used models in Turkish P3 projects (particularly greenfield projects) are the BOT and BLT models.

In Turkey, the P3 model has most actively been used in the transportation (especially highways and airports), healthcare and energy sectors. Municipality projects (water, geothermal, wastewater facilities and heating facilities) are normally projects falling under the jurisdiction of municipalities, and these projects may also be carried out under the BOT model together with the applicable municipality legislation. However, given the total number of municipalities in Turkey, we can say that volume-wise the BOT model is not generally used in municipal projects compared with transportation or healthcare projects that have been initiated at a national level.

As some suggestions;

- In the P3 contracts, the contractor should be able to offer the service in a quality manner.
- The contract price and/or fee must be determined in such a way that the contractor can obtain a return on investment and reasonable profit.
- In the stage of sharing the risks and determining the state supports to be given, the evaluations should be done in detail.
- As stated in 10th Development Plan, it should be ensured that the scattered PPP legislation is gathered under a framework law and the coordination of PPP policies and practices should be strengthened and an effective monitoring and evaluation system should be established to measure the risks and impacts of the projects on the budget.
- Since P3 projects are made for the establishment, operation or renewal of the infrastructure investments utilized in the provision of public services by the private sector, the authority of the public administration should be given an audit mandate, but the content, time, and frequency of this audit power need to be regulated.

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Professor Bernur Açıkgöz was born in 1979 in Ankara. After attending Ankara Finance School, she continued her undergraduate studies at Dokuz Eylül University, Department of Finance. She received her master’s degree in Financial Law from Dokuz Eylül University. In 2006, she was awarded her Ph.D. degree from Dokuz Eylül University Department of Public Finance. Her Ph.D. thesis covered the topics of poverty and development. In 2006, she won the Harvard University Project fellowship and worked as a visiting professor at Harvard University for 3 months. In 2009, she won the Swiss Government Scholarship and completed her post-doctorate studies in economics at the University of Neuchatel in the French canton of Switzerland and taught for a two-year master’s degree in both Neuchatel and Bern Universities. Then she started to work on experimental economics and game theory and worked as a visiting professor at Montpellier University in Montpellier, France for three consecutive months. She then went on to study at the Missouri University of Missouri, University of Indiana and the University of Arizona as a visiting professor and worked at the Economics Laboratories. She then worked as a visiting scholar at the University of East Anglia, University of Exeter, England, with a scholarship from Tubitak. Professor Dr. Bernur Açıkgöz has books, articles and papers on foreign direct investments, economic growth, panel econometrics, experimental economics and game theory. She is currently the head of the Public Finance Department at Izmir Katip Çelebi University. In addition, Açıkgöz teaches at the Department of International Trade and Finance at Izmir University of Economics.