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## PRIVATISATION IN TURKEY AND THE CASE OF RAILWAYS

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**Abstract:** Investments in transport infrastructure contribute directly to economic development by reducing transport costs, intensifying transport activities and facilitating trade. Services provided by the transport infrastructure and increased mobility of goods and services are essential for the economy.

Railway transport has been carried out in a single integrated structure from the Republic until today. As of 1 May 2013, the State Railways of the Republic of Turkey, which manages railway transport in Turkey from a single source, was planned to be dismantled from its integrated structure and divided into many different units.

The effect of the renewal of the legislation in Turkey on the railway is investigated.

### INTRODUCTION

Today, the increasing world population and global crises and epidemics due to climate change have pushed the logistics sector to search for alternative energy. In order to reduce greenhouse gas emissions created by existing transport modes, there is a tendency towards integrated solutions as well as transport modes that allow door-to-door transportation in the transport sector. Although rail freight transport is not the priority mode of transport, increasing the rate of railway use due to both cost and environmentalist approaches is among the priorities of states and the private sector (Tümenbatur, 2021:3).

International Transport Corridors of interest to Turkey are TEN-T, TRACECA, VIKING, Iron and Maritime Silk Road and North-South corridor. Among the TEN-T corridors, the Central Europe-Eastern Mediterranean (Oriner/EastMed) corridor connects Europe to Southeast Europe. The Orient/East-Med Corridor connects large parts of Central Europe to the Northern, Baltic, Black Sea and Mediterranean ports (Kankavi, 2019:2). With the Baku-Tbilisi-Kars railway line, which is one of the important components of the central corridor, Turkey is an important transit centre through which the Silk Road passes.

### 2.PRIVATISATION

The narrow definition of privatisation includes the sale/transfer of state-owned assets to private ownership (through public offerings through capital markets, commercial sales to strategic investors, executive and/or employee buy-outs and asset sales) (Nestor and Mahboobi 2000, 32). Another definition is deregulation practices aimed at removing legal

entry barriers in markets that are assumed to have natural monopoly characteristics such as electricity, transport and telecommunications (Durmuş, 2008:109).

In Europe, some countries have frequently resorted to state financing through asset sales to cover the deficits of the state budget in order to join the single currency and to meet the criteria of the Maastricht Treaty (Parker 1998, 19). Public enterprises have become inefficient due to the fact that they have privileges that the private sector cannot enjoy, such as covering their deficits with subsidies from the government, facilities in obtaining and repaying loans, tax and liability exemptions, favouritism in public procurement, etc., and have also slowed down the development of the private sector (Kikeri, Nellis and Shirley 1994, 16). It has also been noted that studies comparing the performance of state-owned enterprises before and after privatisation are purely informative, as the change in ownership has effects that cannot be easily separated from other changes such as regulation and competition (Newbery 1999, 100).

## **2.1. History of Privatisation in Turkey**

The idea of privatisation through the transfer of SEEs to the private sector was brought to the agenda with the government programme submitted to the Grand National Assembly of Turkey by the Democrat Party on 29 May 1950. Following the 24 January decisions, privatisation started with the Law No. 2983 on the Encouragement of Savings and Acceleration of Public Investments enacted in 1984, and the legal infrastructure was established through the Law No. 4046 on Privatisation and the Law No. 4054 on the Protection of Competition.

Within the scope of the Privatisation Master Plan published by the State Planning Organisation (SPO) in 1985 in line with the need for strategic planning of the privatisation process, the objectives of privatisation under Turkish conditions are, in order of priority, to enable market forces to mobilise the economy, to increase productivity and efficiency, to increase the quality, quantity and diversity of goods and services, to encourage public companies, to accelerate the development of capital markets, to minimise the financial support provided by the Treasury to SEEs, Reducing monopolistic pricing and indirect taxation applied by SEEs, allowing public officials to work on policy and regulation issues, attracting modern technology and management techniques, increasing labour productivity by giving shares to employees, changing the balance between public and private sector enterprises, strengthening international economic and political ties with foreign investments, increasing domestic profitability in existing capital investments and providing income to the state (Kilci, 1994: 2).

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### 3. RAILWAY PRESENCE in TURKEY

The saturation point of road transport in the world and the increase in environmental sensitivities have led to a greater emphasis on railway transport, especially in the last 30 years.

In accordance with the "Roadmap for the Single European Transport Area" European transport networks policy published by the European Commission in 2011, it is among the priorities of the EU to shift a large part of the medium distance passenger transport to railways by tripling the existing high speed train lines by 2030 and completing the European high speed train network by 2050 (Uğur, 201:19).

**Table.1 Exports by Mode of Transport, 2013-2023 (General Trade System)**  
Value: Thousand US \$

	Total	Sea	Rail	Road	Air	Other
2023/3	61 558 113	34 744 767	542 397	20 705 321	5 414 314	151 315
2022	254 191 555	150 312 430	2 457 430	78 841 050	20 688 159	1 892 487
2021	225 214 458	133 714 269	1 648 442	68 749 376	18 735 586	2 366 785
2020	169 637 755	100 907 927	1 287 765	53 127 588	12 732 561	1 581 914
2019	180 832 722	109 114 264	971 021	54 461 860	14 849 231	1 436 347
2018	177 168 756	108 802 681	753 544	52 222 468	14 127 905	1 262 157

Source: <https://data.tuik.gov.tr/Bulten/Index?p=Dis-Ticaret-Istatistikleri-Mart-2023-49623>

The presence of maritime freight transport in Turkey's exports is the same as in the world in general. Railway transport has lagged far behind. To what extent will privatisation be a remedy for this?

**Table.2. Passenger and Freight Transport Activities**

	2017	2018	2019	2020	2021
<b>Passenger Quantity (Million People)</b>	<b>182,8</b>	<b>185,0</b>	<b>246,1</b>	<b>148,4</b>	<b>191,6</b>
YH	7,1	8,1	8,2	2,8	4,4
Konvansiyonel	15,1	16,2	17,7	3,6	5,7
İzba	97,5	84,4	81,6	49,2	55,6
Marmara	63,1	67,8	124,4	84,9	115,3
Başkentray	0	8,5	14,2	7,8	10,7
<b>Freight Traffic (Billion onnes*Km)</b>	<b>12,79</b>	<b>14,50</b>	<b>14,71</b>	<b>15,43</b>	<b>15,86</b>
Domestic Center	12,37	13,90	13,96	14,07	14,14
Omsan	-	1,07	1,20	1,20	1,24
Körfez	-	0,64	1,21	1,43	1,14
Taşımacılık	-	12	11,55	11,44	11,77
International	0,416	0,60	0,75	1,36	1,72
<b>Cargo Quantity (Million Tonnes)</b>	<b>28,47</b>	<b>31,67</b>	<b>33,53</b>	<b>34,55</b>	<b>38,16</b>

Domestic Center	26,66	29,60	30,99	31,11	33,88
Omsan	-	2,47	3,32	3,50	3,54
Körfez	-	0,47	0,92	1,15	1,44
Taşımacılık	-	26,66	26,74	26,45	28,90
International	1,81	2,07	2,55	3,44	4,28
<b>LOAD CARRIAGE (netton thousand)</b>	28.469	31.673	33.535	34.549	38.155
<b>PASSENGERS CARRIED (person thousand)</b>	182.790	185.010	246.144	148.365	191.563

Source: TCDD, Demiryolu Sektör Raporu, 2021

In 2021, passenger transport increased by 30% compared to 2020 and reached 191.6 million people (HSR, Conventional, Marmaray, Izban and Ankara Suburban). 2.8 million passengers were transported by HSR in 2020 and 4.4 million by the end of 2021. Freight traffic increased by 3% in 2021 compared to the previous year and reached 15.86 billion tonnes km. In 2021, the amount of freight carried domestically reached 33.88 million tonnes and 4.28 million tonnes internationally.

### 3.1. Liberalisation of Railway Transport

In the privatisation of railways, the UK divided the service into parts with the distinction between infrastructure and superstructure. In the UK, which also privatised the infrastructure, it was stated that the reason for the Hatfield accident in 2000 and the three railway accidents before that was the lack of coordination between infrastructure and operation activities. Privatisation means not only the removal of a public activity from the state monopoly, but also vulnerability due to lack of coordination.

More recently, in France, a controversial reform bill on the privatisation of railways was voted and adopted by the National Assembly on 17 April 2018. The bill, which includes articles such as the privatisation of railway transport, which is under the monopoly of the state, opening it to competition and changing the status of railway employees with special privileges, was passed by the parliament.

Since the foundation of the Republic, it was decided to nationalise the railway lines within the borders of Turkey, most of which were owned by foreign capitalists, and to take the railway service under the state monopoly.

TCDD is a state economic enterprise with a public legal personality and wholly owned by the state. It has the status of a 'state economic enterprise' since it is a public enterprise that produces and provides 'monopoly goods and services in the public interest'. The duties of TCDD are as follows: to operate, expand and renew the railways, ports, harbours, docks and piers given to it by the state, to carry out all kinds of sea and land transport works, including ferries and facilities complementary to railway transport when necessary as complementary works.

Within the scope of railway service in Turkey, the construction of new railway lines is entrusted to DLHİ and the remaining infrastructure services such as road renewal/expansion, signalling/electrification, regulation of transport services on infrastructure (infrastructure management) and transport services are entrusted to TCDD. In 2007, following the amendment in the main statute with the decision of the High Planning Council, new railway construction was also included in TCDD's area of responsibility. TCDD has become a public organisation responsible for railway services as a whole. The organisational structure of

TCDD can be divided into two parts: central and provincial. The central organisation consists of 21 departments related to railway services, Board of Inspection, Legal Consultancy, Press, Publication and Public Relations Consultancy, Board of Directors Directorate and Safety Management System Directorate. The provincial organisation is distributed throughout the country on the basis of eight regional organisations.

There are three 'subsidiaries' within the organisational structure of TCDD. These are TÜLOMSAŞ, which builds locomotives, freight wagons and light rail system vehicles, TÜDEMSAŞ, which repairs freight/passenger wagons and produces spare parts, and TÜVASAŞ, which manufactures passenger wagons. Subsidiaries realise their production in line with the orders of TCDD (TCDD, 2012a: 27). Therefore, subsidiaries are the organisations that produce railway equipment required by TCDD to provide transport services. There is no competitive organisation in the country providing services in the fields of activity of these enterprises, in other words, there is a state monopoly in these fields of activity (DPT, 2006: 5).

In addition to the subsidiaries that enable the production and repair of wagons and locomotives, factories within the TCDD organisational structure were established for the production of other railway equipment such as rails and sleepers. These factories and the cities where they are located are as follows (TCDD, 2012: 26): Sivas Construction Sleeper Factory, Afyon Concrete Sleeper Factory, Ankara Railway Factory, Ankara Long Rail Welding and Road Mechanical Equipment Repair Factory, Çankırı Switch Factory.

The privatisation of the ports operated by TCDD is one of the examples of privatisation of non-core-service units and assets. The first step in this direction was taken with the decision of the High Council of Privatisation dated 30.12.2004. With the decision, the ports of Bandırma, Izmir, Samsun, Derince, Mersin and Iskenderun belonging to TCDD were included in the privatisation programme (High Council of Privatisation decision dated 30.12.2004 and numbered 2004/128, OG: 06.05.2005, 25692).

Looking at the railways of developed countries, it is seen that the sector is restructured according to changing conditions and needs. The accelerated development of railways in Turkey necessitates an effective mechanism in which the private sector is also involved, from transport to railway industry. With the "Law on Liberalisation of Turkish Railway Transport" dated 24.04.2013 and numbered 6461, which entered into force after being published in the Official Gazette dated 01.05.2013 and numbered 28634

Providing transport service at the lowest price

- Restructuring TCDD as infrastructure operator
- Establishment of a new train operator named TCDD T A.S.
- Public and private legal entities can build railway infrastructure and use this infrastructure
- Issues such as enabling public and private legal entities to operate infrastructure and train operations are regulated.

It has two important functions. The first one is to break the state monopoly in railway service and to open the service to the market. Marketisation is realised by separating infrastructure and superstructure. According to the Law, infrastructure operator includes "public legal entities and companies authorised by the Ministry to operate the railway infrastructure under its control in a safe manner and to make it available to railway train operators" (Art. 2/1-ç). Train operator is defined as "public legal entities and companies authorised by the Ministry to carry out freight and/or passenger transport on the national railway infrastructure network" (Art. 2/1-d). Based on these definitions, it is possible to state that the railway service is divided into infrastructure and superstructure services, and the provision of these services by public or private legal entities is paved the way. The second is the restructuring of TCDD. Parallel to the division of the service into infrastructure and

superstructure, TCDD was also divided into two separate organisations. The name of TCDD is limited to the duty of being "railway infrastructure operator on the part of the railway infrastructure at the disposal of the state that is transferred to it" (Art. 3/1). The mandate of TCDD is limited only to infrastructure management. However, TCDD is also authorised to 'process and lease' the tasks arising from infrastructure operation. Although the provision of infrastructure services is entrusted to TCDD, it is also stipulated that such services shall be provided by purchasing services from the market (Demirelli, 2014:45).

The scope of the duties is as follows (Art. 3/2):

- ✓ To operate and lease the areas of the railway infrastructure under its disposal that are not related to railway traffic,
- ✓ To improve, renew, expand, maintain and repair the railway infrastructure under its control,
- ✓ To construct or have constructed railway infrastructure for high speed and high speed train transport,
- ✓ To establish, have established, develop and operate communication facilities and networks.

In the new structure, the service relationship between TCDD Taşımacılık A.Ş. and the state has also been reorganised. Accordingly, the transport services required by the state will be fulfilled through a contract (public service contract) to be signed between the Ministry of Transport and TCDDT A.Ş. under the name of 'public service obligations' (Art. 8)

Privatisation should not be seen as a stand-alone solution to the efficiency problems of public enterprises. This is because efficiency gains after privatisation are not only due to the change in ownership. Increased competition due to restructuring, liberalisation and regulation practices also have a share in these efficiency gains (production and distribution efficiency). Moreover, it is not possible to claim that these practices would have been carried out with the same momentum and/or would have had the same impact in the absence of privatisation (Nestor and Mahboobi 2000, 31).

## CONCLUSION

The amount of transport per wagon belonging to TCDD and/or Taşımacılık AŞ is even less than half of the amount of transport per wagon belonging to its owner. While TCDD wagons transport approximately 1.100 tonnes per year, the amount of transport carried out by owner-owned wagons has increased gradually and reached 2.600 tonnes. In 2000, the average distance of transport with owner-owned wagons, which was below 450 km, increased over the years and reached over 600 km despite the fluctuations during the pandemic. Similarly, it is observed that the average transport distance in DTI transports carried out since 2018 has been above 550 km. In the same period, the average transport distance in transports with TCDD wagons decreased from 550 km to 350 km, except for the fluctuations observed in 2020 due to the Covid-19 effect.

With the expansion of private train operations, train operating fees are of great importance. In this context, the charges in the network notifications should be analysed. The main element of pricing is costs. In this sense, 1 train-km cost of TCDD has more than doubled in the period when DTIs started to operate trains at current prices. On the contrary, the unit price foreseen in the network notifications for train-km should be regulated by years.

6461 numbered Law on Liberalisation of Turkish Railway Transport, it was stated that the problem should not be considered as a dispute between the parent company TCDD and its subsidiary, and that similar disputes between other train operators and infrastructure operators TCDD and/or TCDD Taşımacılık A.Ş. may lead to multilateral legal problems for both companies beyond the parent company - subsidiary relationship.

In the 2019 reports, it was determined that TCDD and TCDD Taşımacılık AŞ formed separate commissions within their own bodies to determine the distribution of liability arising from train accidents, and due to the generally different opinions of the commissions, the two companies could not reach an agreement on which party should recourse the damages; there is no regulation on the sharing of compensation to be paid to passengers in cases such as train cancellation, delay or missed connection according to the fault ratio.

While the companies entering the field of railway transport have taken away the public sector's business, the efficiency of public wagons has decreased and the cargoes have been transferred to the private sector without leaving their wagons empty. In addition, long distance transports, for which the railway system provides high income, were also transferred to the private sector. Although a strong resource transfer was provided to railway train operators, private sector capital could not be included in the system. Institutional fragmentation in the railways has made the area of responsibility unclear, and this fragmentation has not only failed to achieve the benefits envisaged to be achieved, but has also increased confusion.

Privatisation is necessary but not sufficient to deliver the benefits (Newbery,1999:386).

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