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THE HISTORY OF ARCHITECTURAL RESTORATION  
IN TURKEY :  
FROM 1869 TO THE PRESENT TIMES

by

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B.A. in Hist., Boğaziçi University, 1982

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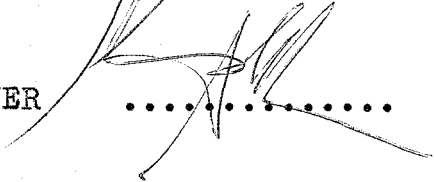
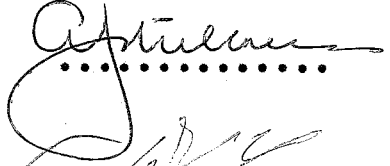
THE HISTORY OF ARCHITECTURAL RESTORATION  
IN TURKEY :  
FROM 1869 TO THE PRESENT TIMES

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THE HISTORY OF ARCHITECTURAL RESTORATION  
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With the Tanzimat Period, efforts of approaching the West, not only in terms of economics but also in terms of cultural aspects, are observed. And as a result of this, the interest of Europeans in antiquities form the motivating force of the approach to preservation rather than the indigenous cultural data of the country and the role of these data within the indigenous life. During this period, the issue is defined in Western countries in administration, legal and operational terms. On the other hand, no such effort is seen on the part of Ottomans although they had the necessary potential -both quantitatively and qualitatively- because the architecture was already preserved in life. Till the first legal provision was taken under the influence of Europe, the preservation of architecture was carried out through repair. In this framework the aim of repair was to maintain the continuity of function. Such an aim implies the use of fashionable styles of the period in preservation. The activities that began by the second half of

the 19<sup>th</sup> century, concerning the protection of antiquities and the foundation of museums did not lead the intellectuals in the field to take the necessary measures for the organization of restoration activities which was a necessary branch. As the smuggling of archaeological findings from the country was the most important issue of the period and all legal arrangements were attempts to prevent this smuggling, the conviction that "strangers would not take buildings along with them" might have become a reason for this. Besides, the fact that the preservation of architecture was already inherent in everyday life might have rendered special measures unnecessary.

Considerations of loyalty to the original characteristics of the period and the tendency to keep the parts added in the course of history even if they do not fit the original characteristics; now guide the restoration activities.

Architecture, which was "repaired" in the past to maintain the "continuity of function", is "restored" for the "continuity of culture and history" today; in a developing country like Turkey, keeping the characteristics of being a problem deprived of publicity.

## 1869' DAN GÜNÜMÜZE TÜRKİYE'DE MİMARİ

### RESTORASYON TARİHİ

Tanzimat Dönemi ile birlikte, Batı'ya, yalnız ekonomik değil kültürel açıdan da yakınlaşma çabaları görülür. Bunun sonucu olarak da koruma olayının hareket noktasını ülkenin kendi kültürel verileri ve bunların kendi yaşantımız içindeki yeri değil, Avrupalıların eski eserlere gösterdiği ilgi oluşturur. Bu dönemde, Batı ülkelerinde bu konu, ilkeleri, idari ve hukuki tedbirleri, uygulayıcı yanı ile açıkça tanımlanmıştır. Osmanlı'da ise, önceleri, koruma, onarma gibi bir yaklaşıma dürtü oluşturacak potansiyel (hem nicelik hem nitelik açısından da zengin) var olduğu halde bu tür bir çaba gözlenmez, çünkü mimari, yaşam içinde zaten korunmaktadır. Batı etkili ilk yasal düzenlemeler başlayıncaya kadar koruma olayı tamir yoluyla sürer. Bu durumda tamirin amacı da fonksiyonun sürekliliğini sağlamaktır. Amaç bu olunca da onarımda moda üslubun uygulanması kaçınılmazdır. Osmanlı'da XIX. yüzyılın ikinci yarısında başlayan müzecilik hareketi ile birlikte, ona çok gerekli olan mimari restorasyon dalını teşkilâtlandırmak düşünülmemiştir.

Bunun bir nedeni, bu dönemde en önemli sorunun arkeolojik buluntuların dışarı götürülüşü ve bütün yasal gelişmelerin bunu önleme çabaları olması gerçeğinden hareketle, "nasılsa yabancılar binaları götüremez" görüşü olabilir. Bir başka neden de mimarinin yaşam içinde korunmasının ayrıca ele alınmasını gerektirmemiş olabileceğidir.

Bugün, "niçin restore ediyoruz?" sorusunun yanıtı ne halk ne de ilgililer nezdinde açık olmamakla birlikte, restorasyon bilinçli bir girişim olarak ele alınıyor. Dönem özelliğini koruma ve eskiye sadık kalma eğilimi belirgin. Bunda, konunun uluslararası düzeyde de popülerlik kazanmasının etkisi var.

Dün, "fonksiyonun sürekliliği" için "tamir edilen" mimari, bugün "kültürün ve tarihin sürekliliğini sağlamak" için, belirli ilkeler doğrultusunda "restore" ediliyor, Türkiye gibi gelişmekte olan bir ülkede günlük yaşamın bir parçası olamadan ve kitle desteğinden yoksun, sahipsiz bir sorun olma özelliğini de koruyarak.

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"Architecture is to be regarded by us with the most serious thought. We may live without her and worship without her,<sup>but</sup> we cannot remember without her." (Ruskin, I910:323)

"We need memories -elements of the past to help us compose a picture of the present. It is not possible to freeze one's life at any particular moment but it is possible and necessary to retain certain landmarks that identify the way that we have progressed. Places are much like people, they have to be a mixture of the then and the now." (Amery,C. and Cruickshank,D.)

## INTRODUCTION

The focus of this study is the historical development and evaluation of architectural restoration activities in Turkey. Beginning with the first "Asar-ı 'Atika Nizamnamesi" (1869), the objectives behind the restoration activities, the basic principles, the regulations, the institutions that carry the implementations are examined, including an analysis of specific examples.

Wherever there is a building, inevitably, there appears the concept of "repair" or "restoration". However, restoration today is not what it was hundred years ago. The outlook for architectural restoration has undoubtedly improved since the last century. This is the reason why this topic is chosen as the subject of study.

## I. HISTORICAL BACKGROUND

During the years 1839-1876 which is called "Tanzimat Period" Ottomans sought to acquire some of the characteristics common to the industrially advanced countries of Europe. During this period, the conception that Europe had a different system; Western civilization, developed. This new understanding had two features: One of them was that they felt an appetite for the European civilization, especially for the European way of living. A second important point was the realization of the principles and the rules of civil life, and the application of laws. Being stimulated by international contacts, this tide of Westernization continued to get stronger and stronger. But the changes were all confined to form rather than essence.

The core of the Western civilization was "change". Europe's way was an all-encompassing and global process of cultural and socio-economic change. But the Ottoman system was dependent on "order" which had its roots in "tradition".

This contradiction between the two led the activity towards Westernization to be a superficial Europeanization. The origins of the Western civilization, the importance of scientific approach and the relation of these to life were not totally understood. (Berkes, 1975:193-194)

The development of the political relationships

with the European countries naturally affected the arts. The approach to the Western model in terms of economics, necessarily brought in the cultural changes. As a result of this, many foreign elements were adopted. Among them was the idea of the preservation of the cultural elements.

The idea was foreign to the Ottoman society. It did not draw its lifeblood from the reservoir of accumulated cultural experience of the country. The activating force for this movement was stimulated not by the original cultural data of the country but by the interest of the European society in antiquities. (Akçura, 1972:39) The absence of a Turkish word to mean restoration is a good proof for this. Still, the word "restorasyon" is used in Turkish to mean "restoration".

What seems interesting here is the fact that this idea of preservation was imported from Europe which is characterized by "change", although it seems more fitting to a system characterized by "order".

During this period, governments of the European countries organized special offices for the restoration of historical monuments. We see France, England, Holland, Poland forming their own offices and enacting laws. (Ülgen, 1943:16-17-18-19)

The Europe of this era was characterized by feelings of nostalgia. (Mock and Mock, 1966:33) During this period, the Industrial Revolution changed the face of Europe. From then on, the world was no longer the same. Each country felt the impact of industrialization.

There emerged an excessive interest in historical styles. Dislike for the results of industry and the fear of machine age led Europeans to take refuge in the past. Wish to understand the cultural origins of Western civilization increased. They looked back for roots. (from the lecture notes of Hist.56I by A.Kuran, Dec.1983) The idea that Roman antiquities belonged to the whole Europe developed. A rush to the cradle of civilizations to collect artifacts was seen. Those who had not seen Rome were not considered as intellectual. (Erder,1975:56-61) In this respect, Mediterranean area was important. So, we had an influx of Western scholars coming to the Mediterranean basin. The first archaeological excavation was done in the year 1871, by a German, Heinrich Schlimann at the site called Hisarlık. (Temelkuran,1969:70) From this time onwards, not only the archaeological artifacts but also architectural pieces were carried out of the Ottoman territories. Some of them, like the Temple of Artemis, were smuggled; and some were sold; Temple of Zeus in Pergamum was bought by Berlin Museum, paying 40 000 francs during the period of Keçecizade Fuat Paşa (1871) (T.V.Program: 'Eski Eser Kaçakçılığı ve Tahribi: Büyük Soygun, II', Feb.13, 1985) ; or sent as present, like the altar of Pergamum, to Wilhelm II by Abdülhamid II. (Arseven,1943:209)

Although the Ottoman society had the necessary potential -both quantitatively and qualitatively- which could stimulate the effort to preserve, there was no

such interest. The reason for the lack of interest is embedded in the fact that the monuments were already being kept in good condition. They were still functional in life, meeting the needs of the society. And therefore there was no need to take measures. The secret of this was in "wakf" system.

"Wakf" was an institution which had great effects on economic, social and cultural life of the Ottomans. According to the Shari'a it means to endow the profits of a property on special conditions (Vakıflar Genel Müdürlüğü, 1973:xiif) , that is a thing which while retaining its substance yields a usufruct and of which the owner has surrendered his power of disposal with the stipulation that the yield is used for permitted good purposes:

"It means to donate the profit of a property by keeping it from circulation eternally: for example, a district needs a school or a hospital. You are rich. You condition the building and management of this school or hospital with your wealth. The aim is to do a kindness and to be delighted with this. You condition the building of khans or shops as a source of income for the upkeep and management of this school or hospital forever. The proprietorship is not yours anymore. The property gains an artificial personality. And even in case of your death this property passes from generation to generation. Thus, this kind of disposal is called wakf."<sup>I</sup> (Ekrem Cemal, 1935:7)

They were independent institutions which were not under the control and responsibility of the State.

The director of a wakf was called "mütevelli" and

the director of a few wakfs was called "nazır". Those who had founded a wakf had to put down some requirements for the survival of it. The document which collected these conditions was called "wakfiye". Wakfiye achieves legal force after being entered into the register of court of record. (Ergin,1944:37) Buildings within the Ottoman territory which were demolished by "zelzele-i azime, ihrak-ı azim, şiddet-i rüzgâr, kesret-i emtar, şiddet-i şıta, istilâ-i kefere" were repaired by the mütevellis of the wakfs'. (Erdoğan,1968:150) In terms of legal provisions, if the mütevellî avoided repair and if wakf had sufficient income to meet the expenses, he would be urged for repair, and if he still persisted in avoiding, he would be discharged from office and someone else would be appointed. (Bakırer,1970:122)

The confirmatory elements of the Wakfiyes were moral rather than material. Hadith, sacred verses, or curses were written down at the final part of the Wakfiyes to threaten those who attempt to disobey the rules morally. (Ergin,1944:37) For example, the final part of the Wakfiye of the Zawiye of Ishaki Dervishes in Bursa is like that:

"If anyone changes any statement of this Wakfiye after having heard this then the moral responsibility rests upon him. Allah is hearing and omniscient. On the day; when property and children are not useful, when the self finds the equivalent of its goodness, when one wants to have a long distance between himself and the evil he had done, when Allah frightens you, when Allah protects the human beings, Allah punishes or rewards."<sup>2</sup>  
(Erzi,423-429)

Almost every great wakf had a permanent staff including architects, engineers, carpenters, stonemasons, glaziers, gardeners, carpet and curtain repairers. (Vakıflar Umum Müdürlüğü, 1941:24-25) For example, Yeni Cami at Eminönü, Istanbul had three craftsmen, one qualified worker in lead works, glazier, one stonemason, one curtain repairer, one storekeeper, one secretary and one team secretary. In Fatih Complex, a permanent staff composed of ten people were working in repair work. (Kunter, 1962:265) Among the staff members, one or two people were responsible to watch for the whole complex. Their duty was to prevent those who attempt to give harm to the building by scratching the walls, and to clean such things by great care. Those members of the staff, called "maniunnukuş" or "mahinnukuş", were even authorized to beat those who do not pay attention to his warning. (Kunter, 1962:265) They were like the police of the monument. Talented members were chosen as staff for this "Tamirat-ı Müttemadiye"<sup>3</sup> team. They were paid sufficiently enough to make a living, were given dwelling and were fed freely in the kitchen of the complex. If they wish, their children were allowed to work with their father as apprentice and were trained as specialists. (Kunter, 1962:266)

Sound income sources were assigned by the founders for the management and upkeep of these buildings. The reason of their survival lies in this system.



The presence of a permanent staff indicates that repair work is carried through continuous care.

By I242 (M.I826) "Evkaf Nezareti" is established. At present, the office concerned is "Vakıflar Umum Müdürlüğü". The tenth article of the Wakf Law, No:2762, enacted in 1937, assigns "Vakıflar İdaresi" to preserve the historical monuments. (Vakıflar Umum Müdürlüğü, 1937:30)

The preservation of the monuments were also secured by the judicial decision. According to Mecelle<sup>4</sup> nobody was allowed to destroy the monuments. Otherwise, he was asked to rebuild the demolished building or to pay a sum as damage. (Kunter, 1962:263)

As a result of this Westernization movement, European architects were invited to make repair works at different parts of the Ottoman territory. In the second half of the nineteenth century, we see Gaspare Trajano Fossati and his brother Giuseppe Fossati in Istanbul and Bursa, and W.Salzenberg in Istanbul. (Koçu, 1971:5818)

The earthquake in 1894 caused Hagia Sofia to suffer damage seriously. But unfortunately its repair was delayed by the World War I. By the warning of the English journal The Times, Ottoman government made an attempt to call famous European architects, among whom there were H.Prost, E.J.Propper, Hoffman, Jackson, Gurlitt and Maranconi, to stop further collapse of Hagia Sofia, and repair some other mosques in Istanbul. (Yücel, 1970:222)

Initially planned to be assigned to Karabet (1800-1866), the repair of Hagia Sofia was, at the end,

assigned to Gaspare Fossati<sup>5</sup>. (Yücel,1970:220)

A decree of Abdülmecid gives the responsibility of repair work of Hagia Sofia to Gaspare Fossati in 1846. And a second decree in 1847 states that repair be comprehensive. A decision was made such that, having no heirs all the wealth of Şeyhü'l-islam<sup>6</sup> Mekkizâde Mehmet Asım Efendi which was left to the public treasury should be devoted for this repair work. (Koçu,1971:5820)

The documents found in "Türk İnşaat ve Sanat Eserleri Müzesi" show that Maranconi was invited to Istanbul in 1326 (M.1907) and was asked to organize a technical commission. (Yücel,1970:228) But we have not got any information as to whether this project was realized or not.

## FOOTNOTES

1 "Mülkden olan bir mala ebediyen tedavülden alakoyarak menfaatlerini teberru etmek: Mesela bir yerin bir mektebe veya bir hastaneye ihtiyacı var. Zenginsiniz. Bu okulu veya hastaneyi servetinizle yaptırıp arzularınıza göre işletilmesini şart ediyorsunuz. Maksad bir iyilik, te bulunmak ve bundan kıvanç duymaktır. Bu mektebin veya hastanenin ilelebed muhafazası, devam ve bakası, işletilmesi gayesi ile ayrıca masrafına hâdim han veya mağaza yaptırarak bunların varidatının ilelebed bu yaptırdığınız hayır müesseselerine tahsisini şart ediyorsunuz. Mal bu suretle sizin silk-i mülkünüzden oluyor; artık siz dani idare etseniz mal bir şahsiyet-i hükmiye iktisap etmiştir. Onun ida resi ayrı, sizin idareniz ayrıdır. Bu emval siz öldükten sonra bile nesilden nesile intikal ederek arzularınıza göre idare olunuyor. İşte bu şekl-i tasarruf vakıftır." (Ekrem Cemal, 1935:7)

2 "Bunu işittikten sonra bütün bunları bir kimse değiştirirse, hasıl olacak günah onu değiştirenlerin üzerinedir. Allah semi' ve alîmdir. Allah-ı Taâla mal ve evlâdın nafî olmadığı, her nefsin hayrından yaptığı şeyi hazır bulduğu, yaptığı fenalıkla kendi arasında uzun mesafe olmasını istediği, Allahın sizleri korkuttuğu, kullarına ra'uf olduğu günde her şeyin ceza ve mükafatını verir." (Erzi, :428)

3 "Continuous repair"

4

Mesele 407

5

"Cami-i şerif-i mezûr âsar-ı kadime ve ebniyye-i atikadan ve tamirâtı dahi şayan-ı itina umur-u cesimden bulunduğuna binaen..."

6

"Chief mufti"

## II. THE AIM of RESTORATION ACTIVITIES; IN THE BEGINNING and IN PRESENT TIMES

In the beginning , only a few Ottoman intellectuals were interested in the preservation of antiquities. Their interest stemmed from being educated in Europe which enabled them to witness what was going on there. Born by an urgency engendered by the great wave of Westernization, the interest was therefore focused on the protection of archaeological sites and the artifacts found. Although the monuments had been neglected in terms of setting up principles in the light of this "imported" idea, such buildings were still well-cared-for. The reason for this was that they were necessary for the use of the society, meeting their immediate needs. They have symbolic, functional, economic and social meanings for the man in the street. For this reason repair work was carried on a daily controlled basis. It can be said that during this period (late nineteenth century) , the aim of the protection of architecture was practical, that is, repair work was carried on continuously to secure the continuity of function. Through the wakf system, repair work was carried out for the benefit of the public. The motivating force behind this aim was the symbolic and functional value of the monuments. And therefore, it was mostly the religiously significant and social buildings, such as mosques, medreses, tombs, imarets, complexes, sebils, fountains,... which were

under repair. There was no particular concern for the civil architecture. Most of them being of timber, were protected by "use" and repaired by the people living in them when necessary. By the concern of their owners' they remained standing against external effects except fire which requires "reconstruction" rather than "repair". The album called Usul-u Mimari-i Osmani, prepared for the International Exposition of 1290 (M.1873) in Vienna by Ibrahim Edhem Paşa, the Minister of Public Works, including no examples of timber civil architecture, shows the indifference for such buildings. It was written in Turkish, French and German, including parts such as Introduction, Historical Information, Different Architectural Styles, Yeşil Mosque in Bursa, Süleymaniye, Selimiye in Edirne, Yeni Cami, Tomb of Şehzade, Fountain of Sultan Ahmed, Fountain of Azabkapı, Ornamental Elements in Ottoman Architecture and Tezkiret-ül-Ebniye, the memorandum of Sinan's works. (Edhem, 1290)<sup>1</sup>

When the aim was the continuity of function and when there were no regulating principles, then, it was so natural that the fashionable styles of the period were used in repairing the historical buildings. Since there were no established principles for the repair of such buildings, yet, then it became a kind of trend to do so. Repair was not proceeded and followed by a historical study of the monument. The actions taken were not considered to be a kind of disrespect for such a heritage. Because the value of these buildings had not been recognized in the same way that it is today. Purely the

aesthetic context plays an important role. The modifications done with specifically aesthetic intentions were for the purposes of following the fashion of the day. The historical-cultural meaning of the building was not taken into consideration in its broadest sense.

As an example to such repair work, the ornamentation of the domes of Süleymaniye Mosque in Istanbul, and Yeşil Mosque in Bursa, both by Gaspare Fossati, can be mentioned. Another example is the repair of the part of the minaret between the upper balcony and the eave of the conical cap of Sultan Ahmed Mosque by adding garlands. (Tayla, 1982:41)

Today, the terms "preserve" and "conserve" refer to the activities accepted as the goal of restoration. By preservation is meant all the measures taken to guarantee the survival of art works that constitute the cultural heritage of a society. As an activity dealing with extending the life of a work of art, restoration and conservation represent a fundamental aspect of culture. Restoration amounts to repairing a work of art to its original state, with emphasis on its proper functioning.

Since the World War II, the need for reaching some form of international agreement for the protection of monuments has again been felt. These international undertakings affected both the approaches on preservation which were based on the various European countries, and also the answer of the question: "why do we have to preserve?" which has not been clearly answered yet. It is obvious that the process of preservation is multi-di-

mensional and therefore, historical, economic, cultural and touristic aspects become effective in the formation of possible answers.

Historically, being the living witnesses of their age-old traditions, buildings remind the important events of the period which they belong and illustrate cues about the ancient socio-economic structure. They have a value as evidence of human activity and document human history.

The economic aspect is related to the idea that each building is formed in order to meet the needs of its epoch. And therefore, when the social structure and the needs of the society change, then such buildings which lose their function extinguish. However, buildings in general are enduring. This characteristic of them gives the possibility of reusing them, giving new functions, which, to some extent prevents the "waste" of buildings. They form a house-stock which is needed especially in rapidly urbanizing societies with limited sources. But the ancient buildings, in general, do not seem to be available to reuse because of their construction characteristics.

The impossibility of creating a contemporary culture depending on exclusively Western sources brings in the cultural aspect. The historical heritage is universal as well as it is national. Therefore its continuity throughout time is a great responsibility. Nothing is experienced by itself, but always in relation to its surroundings, the sequences of events leading up to it, the memory of past experiences. So, handling of the



heritage on to future generations through care is required. It forms the link between the past and present concretely. It is a visual reference to remind one, of the continuity of the civilization. Under the light of these, it can be said that the reality behind restoration is to preserve for the continuity of culture.

Visiting different environments of different cultures is a need for the industrialized societies. Thus, the importance given to tourism leads the governments to be interested in ancient buildings, considering this as a profitable investment.

The understanding of restoration today considers the importance of each of these aspects in approaching the issue.

Architecture is a construction in space, something to be seen, to be remembered and therefore more effective. Today, restoration is a consciously approached undertaking. Architecture seems to be functional in the formation of a contemporary culture. The problem is the transfer of ancient cultural entity to the present moment. This is required for the formation of a contemporary culture and thus a contemporary architecture. To achieve this goal the approach must be different. For tracing along the past till today in order to reach the contemporary will be abortive. On the contrary, we have to trace back from today to the past and reproduce the antecedent structure. But this does not mean to make use of the past eclectically. This is possible only if we see past, present and future as a totality, which means a synthesis.

Turkey is still unstable about the origins of her culture, whether to rely on Islam, or Anatolian culture, or leave them all and copy the Western norms. Another point is that, it is believed for long that the modern and the new is good, the old is bad. On the other hand, people long for the "good old days". This seems contradictory. Here, comes in the realities which we do not want to accept; the fact of being a developing country which causes the priorities to be channelled to other needs, more vital ones, the fact that we do not have an established cultural policy which does not change with the change of governments, the fact that we confuse the concepts "civilization" and "westernization" and "civilization" and "renovation. Under these circumstances, it is not easy for the State to establish a consistent policy of preservation.

Europeans did not feel the necessity of rejecting their cultural heritage in order to be contemporary nations. On the contrary, for us, the "contemporary"<sup>2</sup> life could start only after getting rid of some of the characteristics of our traditional culture. Everything that was Western was a symbol of modernity. (Kuban,1973:II) It is necessary to look back not with nostalgia but in order to understand ourselves and therefore it is necessary to protect the historical environment in order to abolish the documents of our identity, believing that they are universal and humanistic values created by human labour. (Kuban,1975:2) Today, on the basis of restoration activities, lies the idea of historical continuity. An entity has dynamics which directs

it to be itself as well as something else than itself. This basic objective of protection lies in this duality which is both related and contradictory. On the one hand is the past, on the other hand change. Therefore, one can not exclude either. (Batur, 1975:15)

It is obvious that by the loss of these cultural documents, great gaps, which are impossible to be made up for, would appear. The break out of each hoop of the chain makes it difficult to make a synthesis. Therefore, this new historical approach dictates the protection of historical values. So, the aim of restoration today is not a "yadigar-ı ecdadı hüsn-ü muhafaza" or a bourgeois phantasy or a sterile art appreciation or a nostalgia for the old order. Because the effects of historical environment, in developing historical consciousness and in perceiving the social life concretely, are understood today. And so, the belief in the continuity and progress of life is what makes protection and therefore restoration indispensable.

## FOOTNOTES

1 Available at the Library of Alman Arkeoloji  
Enstitüsü, Siraselviler, Istanbul. Call number: BII695

2 "Çağdaş"

III. THE LEGAL BASIS of RESTORATION WORKS IN  
TURKEY: FROM THE "REGULATION of ANTIQUITIES"  
TO THE "LAW of PROTECTION of CULTURAL and  
NATURAL ENTITIES"

The crucial point to be considered in handling the restoration issue is the choice of objectives which should be stated in terms of activities that will best permit survival of the building and therefore this requires a demanding effort to formulate them. To realize this the Ottoman intellectuals started by preparing regulations which were later translated into laws. Since the laws reflect a State's attitude toward its monuments and works of art, therefore it is necessary to study them.

Before these regulations, the legal state of the antiquities were dependent on Fikih<sup>1</sup>. According to the principles of Fikih, the immovable monuments belonged to the State<sup>2</sup>, to the wakfs or to private people. Antiquities were mentioned on account of the "movable antiquities whose owner was not known". If the immovables belong to the State or private owners then they had the right of disposal. But this was not advantageous in the part of the antiquities. (Mumcu,1969:66)

Article 133 of Criminal Code (28Zilhicce 1274-9.VIII.1858) had punished those who gave harm to sacred monuments.<sup>3</sup> (Mumcu,1969:68)

The first regulation was issued in I.II.1284-13.2.1869. Most of the sources consider the regulation

of 20SaferI29I-9NisanI874 as the first one. The preamble of the first regulation states the historical importance and value of antiquities. The search for the antiquities was allowed by the condition of leaving one of the double objects to the State. But it was difficult to find them in pairs, so it was required to set new rules for the search of antiquities. And it was mentioned that an amount of money was assigned for this special purpose in the budget of the Ministry of Education. (Takvim-i Vakayi, Tertib-i evvel, No:2053, IZilkadeI285) This first regulation which was called "Regulation of Antiquities"<sup>4</sup> was composed of seven articles. (Appendix A) The content of the articles shows that the primary concern of this regulation was the antiquities found in archaeological excavations. It does not consider the immovable monuments.

The inadequacy of this first Regulation of Antiquities gave way for the preparation of a second one which is misleadingly called as the "first" Regulation of Antiquities by some historians. The second Regulation of Antiquities dated 26.III.I290-7.IV.I874, prepared by Dr.Dethier, director of the Museum, was composed of thirty-six articles. (Düstur, cild-i salis:426-431) In general, the articles focused on controlling the smuggling for the purposes of keeping the artifacts found within the Ottoman territories.

The first two articles define "āsar-ı 'atika". This definition accepts the immovable objects as a kind of "āsar-ı 'atika":

Article 1: Any kind of art object remaining from the past is called antiquities.<sup>5</sup>

Article 2: Antiquities are of two kinds: on the one hand, coins, and on the other hand movable or immovable objects.<sup>6</sup>

Article six is about the immovable monuments, saying that officials would be appointed for the protection of some "excellent" buildings:

Article 6: The government will appoint officials for the protection of the immovables which are private property and in good condition, if necessary.<sup>7</sup>

Here, what is meant with "mükemmel"<sup>8</sup> is not clear. The criteria of being "mükemmel" are not explained in detail.

Article 35 requires punishment for those who give harm to buildings according to the Article 130 of the Criminal Law which was in force:

Article 35: Those who give harm to antiquities which rest on private or common areas will be sentenced to prison from one month to a year or pay a sum as damages according to the Article 130 of the Criminal Law.<sup>9</sup>

This regulation, although open to criticism, is worthy in emphasizing the attitude of the State in terms of realizing the value of immovable monuments. The first sign of concern for our heritage of monuments is seen in this second "Âsar-ı 'Atika Nizamnamesi" (1874) .

The Regulation of 1974, proved to be inadequate and was changed by the attempts of Osman Hamdi Bey, the new director of the Museum. By this third "Âsar-ı 'Atika

Nizamnamesi", dated Fi 23 Rebi ul ahir 1301 - 1299 (1884), composed of 37 articles, all objects found were accepted to be the property of the State:

Article 3: Any kind of antiquity that exists or is excavated within the Ottoman territories is completely the property of State.<sup>10</sup>

Article 5 prohibits the destruction of buildings, fortress walls, towers, baths and tombs, and does not allow the construction of limestone quarries or any kind of construction work within 250 meters to such immovables, and forbids to erect scaffolding to them, and does not permit the use of them as store for grass or straw.

Article 5: It is absolutely forbidden to destroy the antiquities and buildings, and roads, the towers and walls of the castles, baths and graveyards, and to carry out any kind of construction that may give harm to antiquities, construction of limestone quarries within 250 meters to such immovables, the erection of scaffolding to measure, to take photographs or to mold, or for whatever reason, and the use of them as dwelling or store for grass or straw, pool, etc..<sup>11</sup>

Article 6 states the need to persuade the owner for the protection, otherwise, the land is nationalized:

Article 6: If the area which will be excavated is private property or is under communal charge, the government persuades the owner for the protection, if this is impossible, then, for the benefit of the whole society, the land is nationalized.<sup>12</sup>



Article 33 is reserved for punishment:

Article 33: Those who give any harm to the antiquities in private or common areas will be sentenced to prison from one month to one year, and pay a sum as damage according to the Criminal Law, article 138.<sup>13</sup>

This Regulation renders the definition of "asar-ı 'atika" more specific and states that the protection of them does not merely mean the collection of movable values in museums, but measures for the protection of architectural heritage are also necessary.

By the year 29 Safer 1324 - 1322 (1906) the "Asar-ı 'atika Nizamnamesi" is reorganized. This fourth one was composed of 35 articles. (Asar-ı Atika Nizamnamesi, 1938) Again, all the movable objects and immovables belong to the government:

Article 4: All kinds of immovables or movables resting on land that belongs to the government or private people and those that will be discovered later, are the property of the State and therefore its State's responsibility to excavate, to collect and to preserve them. And the statement of this article is true for the Islamic movable and immovable objects, too.<sup>14</sup>

With this Regulation for the first time, the immovables to be protected are defined in detail in article 5, including the Turkish-Islamic monuments:

Article 5: All kinds of antiquities related to fine arts, science, literature, without exception, resting on the land which is at Ottoman governments' disposal are called antiquities.

For example: mosques and sacred buildings, deserted pagan temples, sinagogs, basilicas, churches, monasteries, mounds, khans, castle and towers, city walls, theatres, bridges, circuses, stadiums, hypodroms, baths, wells, cisterns, roads, obelisks, aqueducts, sarcophagus, columns, reliefs, steeles, statues, figurines, reliefs with inscription on, hand-writing on papyrus, leather, or cloth, manufactured flint stone, arms of all kinds, vases, glass-ware, rings, jewelry, coins, madallions, wooden objects, ivory, bone products are of this sort.<sup>15</sup>

The third part which consists of articles seven and eight was reserved for the immovables. Article seven asks the informing of those who met any movables or immovables to the officials within two weeks time:

Article 7: Wherever, however and whoever meets a historical immovable while cultivating the land, digging, or discharging stone, sand, etc., will inform the official of monuments, if there is no official, will have to report to the official of the nearest civil service or to the Military within two weeks time. And this official of civil service or military will inform the director of education of the province. The owner or the tenant of the land on which an antiquity is found has to preserve this historical immovable and leave the place intact for at least six weeks. Within this period an official appointed by the office of monuments is sent to the locality for examination and nationalization; the sum that will be paid as compensation is esti-

mated with respect to the value of the land without considering the historical value of the antiquity discovered. And evaluation will be left to Bab-1 'ali.<sup>16</sup>

Article eight is almost the same as the Article 5 of the "Asar-1 'Atika Nizamnamesi" of 1884:

Article 8: As it is strictly forbidden, firstly, to move, give harm, demolish, the antiquities whatever the reason is; secondly, to construct lime quarries or brick mills within 300 meters; thirdly, to act in a way which may directly or indirectly give harm to antiquities, fourthly, to erect scaffolding for the purposes of measuring, taking mould, etc.; fifthly, to settle inside the historical buildings; sixthly, to use them as storehouses or in other ways; punishment in cash and prisonment from a month to a year will be given to those who do not obey according to Article 138 of the Criminal Code.<sup>17</sup>

This Regulation of 1906 was the basis of the Law of Antiquities, No: 1710.

After the 1906 Regulation, the interest in antiquities increased. The first studies on preservation of immovables were made during this period. The chief architect of the War Office Kemalettin wrote about the repair work practices emphasizing the importance of maintaining the original characteristics. (Kemalettin, 1909:786-790)

The job of listing the buildings defined in article 5 of 1906 Regulation had to be carried out. For this purpose

in 1333 (M.1917) the "Committee of Preservation of Antiquities"<sup>18</sup> was established in Istanbul. (Ogan, 1948:81-104) The Regulation about the organization of this Committee engaged the Committee by the registration and listing of all the monuments in Istanbul in its second article. Although it was limited to Istanbul this was an important step:

Article 2: This Committee will record all the monuments, historical places and famous buildings within the borders of Istanbul and will make publications about them.<sup>19</sup>

Article three states that scientific information would be given to real and legal persons about the repair, upkeep or pull down of the immovables:

Article 3: For the repair, transportation and demolition of the monuments mentioned in the fifth article of the Regulation of Antiquities the man in charge or public will apply to the Committee and will act according to the written statement of the Committee.<sup>20</sup>

This Committee works till the year 1951 when the High Committee of Antiquities is founded.

By the year 1330-1328 (M.1917) the "Regulation for the Protection of Monuments"<sup>21</sup> was issued. It was composed of eight articles. (Can, 1948:34-35-36) In spite of confirming the Regulation of 1906 in its first article Articles three and five of this Regulation allowed the pulling down of monuments which endangered the neighborhood, after separating the ornated parts or taking photog-

raphs of these parts:

Article 1: No matter which period they belong all the historical castles, towers and city walls are called antiquities according to the fifth article of the Régulation of Antiquities.<sup>22</sup>

Article 3: A committee composed of one official from the Military and the civil service and engineers from the Municipality and Office of Public Works and officials of the Museum headed by the Director of Education, will be set up if the government deems it necessary to demolish a city wall or a castle or another monument mentioned in the first article.<sup>23</sup>

Article 5: If such city walls or castle walls are likely to collapse and endanger their surrounding and if it is impossible to execute Article 3, then the danger is removed by the local government under the supervision of the local engineer and other experts. However, the decorated or scribed parts of this monument are separated carefully if they are on stone. If this script or decoration is on the stucco, then, their photographs are taken, and the Ministry of Education is informed on the issue.<sup>24</sup>

These articles showed that the protection of ancient monuments was accepted as inconvenient. It proves that the name of the Regulation is in contradiction with the content of the articles.

By the year 1944, "First Advisory Commission of Antiquities and Museums" is established to discuss the

technical issues in this field. (Eski Eserler ve Müzeler Birinci Danışma Komisyonu Çalışmaları, 1945:10)

The Preliminary Plan prepared in the year 1946, states the aesthetic, scientific and touristic importance of monuments and proposes different protective treatments according to the value of different monuments. (Türkiye Tarihi Anıtları:Ön Tasarı, 1946:23)

It became necessary to form an organ that deals with the security of the national heritage which was threatened by the increase in public improvement activities. And as a result, the High Committee of Antiquities is established in 1951 by the Law No:5805.<sup>25</sup> The permanent committee was formed by the participation of members from universities, Ministry of Public Works, Department of the Interior, Ministry of Education, and from the General Directorate of Wakfs. (Resmî Gazete, 1951:1578)

The duty of the High Committee of Antiquities was to set up the principles for the preservation and restoration of historical monuments to survey the buildings and decide whether a building was worthwhile to protect or not but this committee did not have the power of penalty and had no mechanism to control whether its decisions were followed or not.

The International Conference on Restoration in Athens in 1931 where the fundamental principles of restoration were accepted; and the Venice Charter issued in 1964 stating the developments in the field, both

affected the approach in Turkey, so that the High Committee of Antiquities took interest in them. (Erder,1968:112) And as a result of these, by the year 1967 the High Committee of Antiquities accepted the fundamental principles of restoration which were internationally accepted.

The absence of an organization to apply the decisions taken and to supervise, and the difficulty of working with an out-of-fashion, inadequate regulation limited the activities of the committee although it was competent. This was the reason why the High Committee of Antiquities could not bring in an effective protection policy.

Within the ten years that this Law No:5805 was in force, it is seen that no regulation about the immovables was issued. So, the Law was carried out according to the personal interpretation of each man in charge who applied it.

By the enactment of the new Law of Preservation of the Cultural and Natural Entities, No:2863, the functions of the High Committee of Antiquities are taken over by the High Committee of Immovable Cultural and Natural Entities which is responsible to the Ministry of Culture and Tourism. (Resmi Gazete,1983:16)

Article 51: Subordinate to the Ministry of Culture and Tourism, High Committee of Immovable Cultural and Natural Entities is established with the headquarters in Ankara, and Local Committees of Immovable Cultural and Natural Entities are established in localities identified by the Ministry of Culture and Tourism, in order to provide the performance, within scien-

principles, of the services concerning the immovable cultural and natural entities defined in this Law that are located within the country.<sup>26</sup>

This Committee states the principles of restoration, and makes the listing of immovables:

Article 52: The duties of the High Committee of Immovable Cultural and Natural Entities are:

- a) To determine the principles that will be applied in preservation and restoration of immovable cultural and natural entities that require preservation,
- b) To register the cultural and natural that are accepted by the Ministry of Culture and Tourism as requiring preservation,
- c) To tell their comments to the Ministry of Culture and Tourism, as to issues and controversies concerning the above mentioned entities that are to be transferred to the High Committee, or directly acknowledged,
- d) To help the Ministry of Culture and Tourism with the applications guided by decisions of principle and other opinions and to follow the outcomes,
- e) To perform other duties assigned with respect to the issue.<sup>27</sup>

This High Committee of Immovable Cultural and Natural Entities groups the immovables to be protected into three groups after evaluating the decision taken by the High Committee of Antiquities in 1978 (No: IO 200). According to this, buildings that belong to Group I should



be kept in all circumstances, being of national importance. Only the exterior appearance of Group II buildings should be kept. Buildings having similar characteristics to Group II buildings but which have no chance of being protected belong to Group III. (Appendix B)

By the year 1973, Law of Antiquities, No:1710 was enacted. The Law was composed of ten parts including 55 articles. (Resmi Gazete,1973:1-6)

Article 1 of this Law was a detailed form of the Article five of the Regulation of 1906. The definitions of monument, site, historical site, natural site were given. (Appendix c)

Article five of this Law which reminds article eight of 1906 Regulation was about the restrictions. (Appendix C)

Article seven gave the responsibility of preservation activities to the Ministry of Education. (Appendix C)

Part II which comprised the articles from eight to 19 was about the preservation, listing, repair and property rights of historical and natural monuments.

Article eight brought in the requirement of listing of the above defined historical monuments. (Appendix C)

Article 12 was about the nationalization of historical monuments. But the value attributed to the monument by "oldness" was not considered. (Appendix C)

Article 13 regarded the environment of the monument

and required the opinion of the Ministry of Education in organizing the city plans of the regions which had historical monuments.

Article 15 was about aid that would be given by some ministries, wakfs and municipalities. The conditions of this aid was up to the decision of the Council of Ministers. (Appendix C)

Article 19 brought exemption for the equipment that would be imported by the purposes of restoration. (Appendix C)

The goal pursued in enacting the Law of Protection of Cultural and Natural Entities, No: 2863, in 1983, was to define the movable and immovable entities that need protection to organize the foundation and the duties of the institution which would be responsible in decision making. (Article 1)(Resmi Gazete, 1983:1) (Appendix D)

Article 3 of this Law gives the definition of the terms. It is seen that the term "eski eser" which is used in Law No:1710, Article one, is replaced by the term "cultural entity", here.

Another point is that, although cultural entities are mentioned as being "prehistoric and historic" (Article three, a1), the expression "found" which is frequently used in the text gives the impression that "archaeological" and "historic" heritage are regarded without making a distinction between the two. (Appendix D)

The second part of the Law, from Article six to Article 22, deals with the immovable cultural and

natural entities that need protection.

Article six defines these entities. (Appendix D)

Article seven is about registration and listing of buildings. Here, the expression that "enough buildings that reflect the characteristics of an epoch" is vague. The criteria of "enough"<sup>28</sup> is not clear.

(Appendix D)

Article 12 reminds Article 15 of the Law No:1710. It is about the aid that is promised in kind and in cash for the repair and upkeep of entities which are private property. But, who will make use of this aid, and how much will be given and the conditions of getting such a credit are not clear. (Appendix D)

Article 15 reminds the Article 12 of Law No:1710. It is about the nationalization of entities. Paragraph "d" of this article does not consider the artistic value or the uniqueness while estimating the price. (Appendix D)

The Regulations of 1869, 1874, 1884, although having articles dealing with preservation of immovables, their primary concern was to prevent the smuggling of antiquities. And with the term "antiquities" Greek and Roman heritage was meant rather than Turkish-Islamic ones. If we consider the Western origin of protection activities, this seems natural. Turkish-Islamic heritage comes to the scene by the 1906 Regulation. And after a long gap which keeps this Regulation in force, by 1973 the Law of Antiquities is enacted which is later followed by the Law of 1983.

## FOOTNOTES

- 1 "Muslim Canonical Jurisprudence"
- 2 "Miri mallar"
- 3 "Hayrat-ı şerife ve tezyinat-ı beldeden olan ebniye ve asar-ı mevzuayı hedm ve tahrib ve yahud bazı mahallerini kırıp rahnedar edenler"
- 4 "Âsâr-ı 'Atika Nizammamesi"
- 5 Madde 1: Ezmine-i kadimeden kalan her nevi eşyayı masnua âsâr-ı 'atikadandır.
- 6 Madde 2: Âsâr-ı 'atika iki nevidir, nevi evvel meskukat ve nevi sani kabil-i nakil olan veyahud olmayan eşyayı sairedir.
- 7 Madde 6: Âsâr-ı sabiteden sanipli yerlerde bulunan ve mükemmel olan bazı meabit ve ebniye-i sairenin muhafazası için canib-i hükümetten mahalline icabına göre memur dani tayin olunacaktır.
- 8 Excellent,perfect
- 9 Madde 35: Ebniye ve saire gibi umumi ve hususi

mahallerde mevcut ve merkeuz olan âsâr-ı 'atikayı tahrib veyahud rahneder edenlerden Kanun-u Ceza'nın 130. maddesi mucibince tazminat ve ceza-i nakdî alınmakla beraber haklarında, bir aydan bir seneye kadar hapis mücazati dahi icra kılınır.

10 Madde 3: Memâlik-i Osmaniye'de mevcut ve meksuf ve bundan böyle hafriyat ile zahire çıkarılacak ve deniz ve göl ve nehir ve çay ve derelerde zuhur edecek olan her nevi âsâr-ı 'atika kamilen devlete aiddir.

11 Madde 5: Eshab-ı uhdelerinde bulunan arazide bila ruhsat keşfolunacak asar-ı 'atikayı ve ebniye ve turuku kadime âsârını, kal'e duvarlarını ve burç istihkamları ve hamam ve mezarları vesaireyi bozmaları ve parçalayıp tahrip etmeleri âsâr-ı 'atikaya irası mazarrata sebep ve vesile peyda idilmemek üzere harabelerden rubu kilometre mesafede kireç ocakları inşası ve âsâr-ı 'atika kurbunda, bunların ziyan ı mucib olabilecek her nevi inşaat ve ameliyat icrası ve yıkılmış ebniye-i 'atikadan yerde yatan taşların kaldırılması ve ölçmek ve resim kalıplarını almak için velhasıl her ne maksada mebni olur ise olsun ebniye-i kadimeye iskele kurulması ve ebniye ve asâr-ı 'atikayı gerek kamilen ve gerek kısmen istimalleri takdirinde, derhal zayi olsa bile mesken ittihazı ve hububat ve ot ve saman vaz'ı ve havuz ve yalak ve çeşme vesaire makamında istimali kat'iyen memnudur.

## 12 Madde 6:

Hükümetin karar ve tensibiyle idare-i mahsusası tarafından icra-i taharriyat ve hafriyat edilmek istenildiği halde, intihab edilen mahall, efrat veyahud cemaat uhdesinde ise sahip ve mutasarrıfını hükümet irza eder ve mümkün olamaz ise, menafi-i umumiye için istimlak hakkındaki kararname hükmüne tevfikân, ol mahalli iştirayler.

## 13 Madde 33:

Umumi ve hususi mahallerde mevcut ve meknuz olan âsâr-ı 'atikayı tahrib veyahud rahnedar edenlerden Kanun-i Ceza'nın 138. maddesi mucibince, tazminat ve ceza-i nakdi alınma'la haklarında bir aydan bir seneye kadar hapis cezası dahi icrâ kılınır.

## 14 Madde 4:

Hükümete aid bulunan arazi ve emlâk ile efrat ve cemaat-i muhtelifenin uhtelerindeki emlak ve arazide mevcudiyeti bilinen veyahud atiyen keşfedilecek olan her nevi abidat ve âsâr-ı 'atika-i menkule ve gayri menkulenin cümlesi hükümet-i Osmaniyenin malıdır. Binaenaleyh asar-ı mezkürenin keşif ve muhafazasile bunları toplamak ve müze...lere vazeylemek hakkı hükümete aiddir. İşbu maddenin ahkam-ı mündericesi hırfet ve sanayii nefise-i İslamiyeye müteallik kâffe-i eşyayı menkule ve gayri menkule-i 'atika hakkında da caridir.

## 15 Madde 5:

Hükümet-i Osmaniyenin tasarrufunda bulunan

arazide vaktile sakin olan alelumum akvâm-ı kadimenin sanayii nefise ve ulum ve edebiyat ve edvan ve hırfete müteallik bilâistisna kaffe-i muzaheret ve her türlü mamulâtı âsâr-ı 'atikadan maduttur.

Meselâ: cevâmi şerife ve hayrat ve mebânî mukaddese, metruk putperes mabetleri ve elyevm derununda icra-i ayin edilmeyen sinagoglar (Musevilere mansus ibadethaneler) bazilikalar (bir nevi kilise), kiliseler, manastırlar, künbetler, hanlar, kale ve burçlar, kasaba surları, hanerler, tiyatrolar, köprüler, at meydanları, sirkoslar (Romalıların zamanında araba yarışile oyunlara mahsus mahal), statlar ve hipodromlar (at meydanları), anfitiyatırlar (oyun ve güreşlere mahsus mahal), hamamlar, rıhtımlar, duvarlı ve duvarsız kuyular ve sarnıçlar, şoseler, dikili taşlar, su yolları, höyükler (mezar ve karye tepeleri), mahkukat-ı sathan mer'î ve gayri mer'î mezar odaları, her guna mevattan masnu musavver ve gayri musavver lahitler, direkler, sandukalar, boyalı yahut yaldızlı tasvir ve nikaplar, kabartmalar, istiller (mezar taşları, elvah-ı nezriye, vesair direk üzerindeki abideler), heykeller, heykelcikler, figürinler (topraktan heykelcikler), yazılı ve kabartmalı kayalar, deri, bez ve papirüs (bir nevi nebat yaprağı üzerindeki muharrerat), parşömen (terşe üzerindeki muharrerat) ve kağıt üzerindeki el yazıları, işlenmiş çakmak taşları ve her nevi mevattan masnu esliha, alat ve edevat ve vazolar, mamulat-ı turabiye, ve zücaciye, müzeyyenat, yüzükler, mücevherat, iskarabeler (bir nevi böcek şeklinde topraktan mamuldur), vezinler,

sikkeler, madalyalar, kalıplar, mahkuk taşlar, ağaçtan mamul eşya, ayna ve kakma işleri, fildişi ve kemikten masnû mamulât bu kabildendir.

16

Madde 7: Her nerede ve ne suretle olursa olsun her kim deniz, göl ve hendek ve kuyu ve bina temeli hafreylediği ve taş ve kum ve mevâd-ı saire ihraç eylediği esnada bir bina ve sair âsâr-ı gayrimenkuleye müsadif olursa âsâr-ı 'atika memuruna ve memur-u mezkurun bulunmadığı mahalde en karip memurin-i mülkiye veya askeriye 15 gün zarfında ihbar-ı keyfiyete mecburdur. Aksi halde kendisinden yüz kuruştan bir kuruşa kadar ceza-i nakdi alınır. Bu babda ahz-ı malumat eden memurin-i mülkiye ve askeriye de sürat-i mümkün ile buldukları vilayetin maarif müdürüne beyan-ı malumat eylemek mecburiyetindedirler. Derununda âsâr-ı 'atika keşf olunan arazinin sahip veya müsteciri mezkûr mebâni veyahud sair âsâr-ı 'atika gayrimenkulenin muhafazasını temine ve asar-ı mezkureyi ihbar ettiği günden itibaren mahalli zuhurunda laakal altı hafta bırakmağa mecburdur. Bu müddet zarfında âsâr-ı 'atika idaresi tarafından bir memur tayin edilerek keşfolunan bina veyahud sair âsâr-ı 'atika-i gayrimenkulenin muayenesile bulunduğu arazinin hükümete temlikini tayin zımında oraya izam edilir. Ve lüzumu temlikinde işbu mahallin kanun-u mahsus mucibince istimlaki icra olunur. Ve bu halde verilecek tazminatta yalnız arazinin ve hurufât-ı cedidenin kıymetine itibar olunarak arazii mezkure üzerinde mevcut olan veyahud mevcut olması muhte-



mel bulunan eser veya âsâr-ı 'atikanın kıymeti dahil-i hesap edilemeyecek ve işbu takdir-i kıymet hususu Bâb-ı 'ali'den istizan olunacaktır.

17 Madde 8: Evvelen mebanî ve sair kâffe-i âsâr-ı 'atika gayrimenkuleyi her ne suretle olursa olsun yerinden oynatmak, hedmetmek, sakatlamak ve mahvetmek veyahud asar ve mebanî gayrimenkuleden birisinin tamamen veya kısmen vukubulan tahribinden mütehassıl mevadî mercîi aidinin ruhsatı olmaksızın zaptetmek, saniyen asar ve mebanî 'atika-i gayrimenkuleye laakal üç yüz metreden karip ki-reç ocağı ve tuğla harmanı inşa etmek, salisen mebanî 'atika-gereğ doğrudan doğruya ve gerek bilvasıta ırası mazarrat edecek kurbiyette her nevi ameliyatta bulunmak, rabian mebanî 'atikayı ölçmek, kalıplarını ve istampajlarını yapmak için veyahud her ne maksada mebnî olursa olsun umumiyetle bilaruhsat-ı mahsusa mebanî mezkûre üzerine iskele kurmak, hamisen mebanî 'atika derununda iskân etmek, sadisen ebniye-i 'atikayı ahır, zahire yahud ot ve saman ambarı ittihaz etmek veya sair bir suretle kullanmak kat'iiyen memnu olduğundan bervech-i bala tadat olunan ef'ale mütecasir olanlardan Kanun-u Cezanın 138. maddesi mucibince tazminat ve ceza-i nakdi alınmakla beraber haklarında bir aydan bir seneye kadar hapis cezası hükmedilir.

18 "Muhafaza-i Âsâr-ı 'atika Encümeni"

19 Madde 2: Bu Encümen nefsi İstanbul'da ve İstanbul Vilayeti dahilinde bulunan bilcümle asar-ı 'atika ve abidat ve mevakii tarihiye ve mebanii meşhureyi sebt-i defter edecek ve bunlar hakkında eserler neşreleyecektir.

20 Madde 3: Asar-ı 'atika nizamnamesinin beşinci maddesinde zikr ve tadat olunan asar ve mevadin: İstanbul'un müessesat-ı bediasının ve yad-ı tarihisi olan mevâkiin gerek bilcümle memurin ve gerek efrad-ı ahali tarafından icra edilecek tamir, tadil, nakil ve hedim gibi hususatında encümen-i mezkûre tahriren müracaat olunacak karar tahriri üzerine hareket edilecektir.

21 "Muhafaza-i Abidat Nizamnamesi"

22 Madde 1: Bilcümle kadim kaleler, burçlar ve kasaba surları ile herhangi devre aid olursa olsun kaffe-i emakin ve asar, Âsar-ı 'atika Nizamnamesinin beşinci maddesi mucibince asar-ı 'atikadan maduttur.

23 Madde 3: Hükümetce bir kasaba surunun veya bir kalenin veyahud birinci maddede muharrer sair âsar ve emakinin kamilen veya kısmen hedmine idareten lüzum-u kati görüldüğü takdirde vilayatta Maarif Müdürünün taht-ı riyasetinde cihet-i mülkiye ve askeriyeden birer memur ile Nafia ve Belediye mühendislerinden ve mahalli müze memurlarından mürekkep bir heyet teşkil olunur.

24

Madde 5: Bu gibi kale ve sur duvarlarının ve sair âsar ve emakinin maili inhidam bulunmasından dolayı civarındaki emâkin bir tehlike-i karibeye mâruz bulunduğu tahakkuk eylediği ve üçüncü maddede beyan olunan muamele- nin tamamen ifasına dahi imkan müsait olamadığı takdirde hükümet-i mahalliyece mahalli mühendisin veya sair erbab-ı vukufun nezareti tahtında tehlike refedilir. Ancak mezkûr kale ve surların vesair asar ve emakinin nukuş ve hututu mevcudeyi havi olan aksamı, taş iseler bunlar bozulmak- sızın çıkarılır ve eğer sıva üzerine menkuş ise fotografi- leri veya resimleri alınır veya sair suretle eşkal-i zap- tedilir ve keyfiyet Maarif Nezaretine işar olunur.

25

"Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulu"

26

Madde 51: Yurt içinde bulunan ve bu kanunda tanımlanan korunması gerekli taşınmaz kültür ve tabiat varlıkları ile ilgili hizmetlerin bilimsel esaslara göre yürütülmesini sağlamak üzere Kültür ve Turizm Bakanlığına bağlı, merkezi Ankara'da "Taşınmaz Kültür ve Tabiat Var- lıkları Yüksek Kurulu" ile Kültür ve Turizm Bakanlığınca tespit edilecek bölgelerde "Taşınmaz Kültür ve Tabiat Varlıkları Bölge Kurulları" kurulur.

27

Madde 52: Taşınmaz Kültür ve Tabiat Varlıkları Yüksek Kurulunun görevleri şunlardır:

a)Korunması gerekli taşınmaz kültür ve tabiat varlıklarının korunması ve restorasyon ile ilgili işlerde uygulanacak ilkeleri belirlemek,

b)Kültür ve Turizm Bakanlığınca tespit olunan korunması gerekli kültür ve tabiat varlıklarının tescilini yapmak,

c)Anılan varlıklarla ilgili olarak Yüksek Kurula intikal edecek veya bizzat bilgi edindiği konu ve uyuşmazlıklar hakkında Kültür ve Turizm Bakanlığına görüş bildirmek,

d)İlke kararları ve diğer görüşler doğrultusunda yapılacak uygulamalarda Kültür ve Turizm Bakanlığına yardımcı olmak ve sonuçlarını izlemek,

e)Bu kanunla verilen diğer görevleri yapmak.

#### IV. THE DEVELOPMENT of CONSCIOUSNESS: FROM "REPAIR" TO "RESTORATION"

The activities that began by the second half of the nineteenth century, concerning the protection of antiquities and the foundation of museums, did not lead the intellectuals in the field to take the necessary measures for the organization of restoration activities which was a necessary branch. The reason behind this can be the idea that "after all buildings cannot be smuggled by the Europeans". For it is known that the essential problem of this era was the smuggling of the archaeological heritage. All the measures taken were aimed at preventing this activity. Also, there was a tendency to turn to Europe's experience as a guide. Under such a guidance it seems quite normal to protect the antiquities only to the expense of other examples of historical heritage. Since the historical property was functional in meeting the needs of the society they were not regarded in the same context with "antiquities". Preservation was not a social need for the Ottoman society. The conditions that motivated the Europeans were not valid for the Ottomans.

One of the frequently discussed issues is that whether the Ottomans were conscious of the historical heritage or not. The widespread tendency is towards defining the Ottomans as a society unconscious of its cultural values.

It is known that pieces of the cultural heritage

were given as present to the foreign princes or ambassadors who felt an appetite for the antiquities, in order to keep good relations. Ortaylı says:

"Ama bilinçsizce değil, ciğerden koparır gibi"<sup>1</sup> (Ortaylı,1985:II)

It is obvious from the regulations issued consecutively that they suffered greatly from this flow of antiquities outside the borders.

By the year 1845 Grandduke Constantine, while travelling across Çanakkale saw and approved of a panel with inscription at a mosque in a village called Pirkâr. It was used as "musalla taşı"<sup>2</sup> and was written in Greek. After some correspondence, the panel was given to him as a present.(Ortaylı,1985:II) The examples show that in many cases, the loss of antiquities was involuntary.

Ortaylı mentions that the year-book of Aydın city comprises several pages explaining how to visit Ephesus and Pergamon. It seems impossible for the Ottoman bureaucrats, who had prepared this perfect guide, to define Ephesus and Pergamon as "pile of stones". The curious point is the fact that the altar of Pergamon was sold to Germans. The reality behind this was the economic shortage of the Empire. The debt to Kaiser and the railway construction issue led the Sultan to order the transport of the altar by a firman, although the governor of the province had sent the gendarmes to stop the German group. (Ortaylı,1985:II)

On the other hand, during the First Congress of

Turkish History held in 1937, while Dr. Reşit Galip, General Secretary of Research Society of Turkish History, was talking about the archaeological excavations, Halil Ethem interrupts and mentions about an official report<sup>3</sup> granting permission for the carrying of antiquities away, asserting that they are plentiful, but any gold or silver found among them would be kept within the borders. (Reşit Galip, 1937:162) The date of the report is not given but a rough estimate of the information of Halil Ethem gives 1857. If we take the year 1845-46, when Fethi Ahmet Bey, Tophane-i Amire Müşiri, collected archaeological objects from all over the country and housed in Hagia Irene: the first museum, as the beginning of interest in preservation activities, then, the issue of such an official report just after a decade makes the activity lose its meaning. Moreover, the report indicates a self-centered, and profit seeking approach rather than an awareness.

This report and the examples mentioned by Ortaylı are in contradiction. So, were the Ottomans conscious of their heritage or not? Both are difficult to claim, for those contradictory operations were the signs of indigestion. It was a period of "introduction" including positive approaches on the one hand and negative ones on the other. It is seen that similar cases were met with different solutions depending on the economic and political situation of the country. The examples make it clear that there was no established policy to deal with such problems. And the absence of a policy or organization stimulates this

chaotic situation.

Protection of the cultural heritage was not a social need for the Ottoman society, for it had not been a "heritage" in those years yet. However, one has the impression that it is not a social need for the Turkish society, either.

During the foundation years of the Republic, the trend was towards breaking off the ties with the old order, to lean the new State on a new base. But this tendency brought in the danger of treating the Ottoman heritage as of no account. But the consequences of this mentality, which would have been very destructive, were tried to be stopped by taking the necessary measures:

Atatürk's Konya telegram<sup>4</sup> that dated 20.2.1931, asks for the immediate repair of several monuments in Konya and states the importance of training specialists abroad for this purposes. (Kocatürk,1971:25)

Later, in 1936 we see the circulation<sup>5</sup> by Prime Minister İnönü to the ministries asking for the protection of each mosque, mescid or any building belonging to Wakfs and forbidding the occupation of them whatever the reason is. This is circulated after realizing the ill-treat of Diyarbakır, Hüsreviye and Behramiye Mosques by the approval of the governor of the province. (Ülgen, 1943)

Another circulation<sup>6</sup> was issued after the demolition of Üsküdar Mihrimah İmaretı, Edirne İkikapılı Han and Sarıhan, in 31.1.1938 . (Ülgen,1943)

Two years after Atatürk's telegram, the demolition



of İplikçi Mosque in Konya where Mevlana had lectured was stopped by the interference of Prof. Remzi Oğuz by chance. (Meric, 1963:441)

It is learned from Meric that in 1924, the historical monuments in Edirne were sold or pulled down by the Wakfs or municipalities, sometimes even without preparing the architectural report of the building. (Meric, 1963:443)

Regarding the historical monuments in poor physical appearance and remains of them as ruins, the monument and the land upon which the building rests were sold. The stones of the ruins were used in the construction of new buildings or pavements. Meric gives the list of the Wakf buildings which were sold, stating the date, price and the name of the purchaser. (Meric, 1963:486-487-488) From his list, it is seen that the sales spanned the years 1926-1958 which shows the continuation of the sales even after the establishment of the High Committee of Antiquities.

Das Schönste<sup>7</sup> dated January, 1963 reports, with photographs, the use of material from historical monuments in new buildings in Aegean villages.

Ünsal gives a list of monuments whose demolition is offered by the government and the municipality in 1958's among which there were Sinan buildings like Beşiktaş Sinan Paşa Bath and fountain, Unkapanı Süleyman Subaşı Mosque. (Ünsal, 1969:7-60)

During this period, in spite of the warning of the government, most of the historical monuments were replaced by boulevards, parks, stadiums, schools as a result of

the inefficiency of the regulations, the articles of the regulations which were open to interpretation, and the wrong interpretation of the Atatürk reforms which gave way for the gradual elimination of the cultural heritage. All the examples and the telegram of Atatürk and circulations of İnönü prove this.

The administration of the Republic dealt with a very important aspect of preservation issue and founded the educational basis to train the necessary staff which would spread on the consciousness of preservation. History, art history, and archaeology which were not formerly included in higher education, were accepted into the university programs. (Çeçener, 1984:52)

Louis Albert Gabriel, a French architect who was given the task of participating in archaeological excavations in Anatolia by the Turkish government during the years 1926-1930, states the importance of keeping the original characteristics of the monuments while repairing them.<sup>8</sup> (Gabriel, 1938:12)

For Ülgen who was a leading personality in the post-Republican era, the additions in historical buildings were indispensable.<sup>9</sup> The process of adding famous styles is seen as a loose attitude by him.<sup>10</sup> (Ülgen, 1943:61-80)

The persistent and widespread recognition of the protection issue at an international level also affected the interest in historical monuments. The recent developments in Europe, the effects of 'Carta del Restauero', the communique issued at the end of the International Congress

held at Athens in 1931, 'Venice Charter' issued in 1964, and the announcement of the 'Heritage Year' in 1975 are felt in the recent Law of Protection of Cultural and Natural Entities (1983) which no longer confined the conservation of historic monuments to the welfare of single structures but included a wide set of complex aspects. (Article 1 and 8, Appendix D)

Parallel to the principles and practices of preservation which had undergone turning points over the last few decades, the concept of the "historic monument" is being replaced by that of "cultural entity". (Law No:2863, Article 1, Appendix D) The definition is expanded so as to encompass the monuments' environment. An awareness of "historical environment" develops.

Today, we are also confronted with the change in approach which began to consider "modest buildings", for the representation of an era's social, political, economic and cultural aspects as well as the "monuments". Süleymaniye Project is a good example of this.

Another recent tendency is towards respect for the building in the form it is found.

Besides Middle East Technical University, three more centres of advanced training in conservation, one at Mimar Sinan University, one at Istanbul Technical University and the other at Yıldız University in Istanbul, are now offering post-graduate programs leading to a masters degree in the conservation of monuments and sites.

The graduate program of Middle East Technical University leading to the degree of 'Master of Architecture

in Restoration' consists of a minimum of four semesters. Prior to the submission of the thesis students are required to complete 60 credit hours through courses. Design in Restoration, The Theory of Restoration and Conservation, The History of Architecture in the Middle East, The Diagnosis and Treatment of Structural Faults and Material Decay, Architectural Photogrammetry, Techniques of Conservation of Historic Urban Environment, The Laboratory and Conservation of Structure and Materials and Summer Practice are among the graduate courses. (M.E.T.U. General Catalog, 1983-1984:31-32)

The graduate architectural programs at Istanbul Technical University which started with the academic year of 1974-1975 present four areas of specialization one of them being 'restoration'. Within the graduate program of Architecture, 50 working days of practical work is required in addition to the academic education. (I.T.U. Catalog, 1980-1982:100) Theories of Restoration, Traditional Building Materials, Photogrammetry, Construction Techniques in Antiquity and Byzantine, Seljukid Construction Techniques, Evolution of Style in Seljuk and Ottoman Architecture, Ottoman Construction Techniques, Architectural Decoration in Byzantine and Anatolian-Turkish Architecture, Urban Conservation are among the graduate courses. (I.T.U. Catalog, 1980-1982:110) Istanbul Technical University has an "Institute of History of Architecture and Restoration". The Institute's aims are the study of the monuments and sites constituting the cultural heritage of Turkey; listing of these monuments, sites and towns to help the preserva-

tion of their traditional setting; elaboration of projects for the renovation and the conservation of historic buildings and sites individually or in cooperation with other institutions. The program of the Institute also includes the publication of studies concerning restoration and the history of architecture. A bulletin is published twice a year. (I.T.U.Catalog,1980-1982:95)

Although Boğaziçi University does not have a Faculty of Architecture, the master program in Art History already includes an introductory level course in Conservation and Restoration.

However, the public is indifferent to the preservation issue. During the formation process, they do not participate, do not express their attitude, but once the endeavour is accomplished they readily appreciate it. What is more obvious is that it is not the laws, nor international organizations, nor restorers who can turn a conservation project into reality, but it is the public.

Tanpınar complains about the fact that we do not contribute to the improvement of the environment.<sup>11</sup> (Mil-liyet,1984)

In general, ours is a 'silent' society. We do not tend to share our ideas or problems, we do not speak much. Even when there is consensus within the group, no sign of reaction is seen. We tend to abandon our problems. This image of 'silent society' seems to be an extension of traditions. It is known that talking was associated with badmanners according to the rules of traditional education, and it was a disgrace to speak in a group if there were

people older than you. Today, the remnants of this reinforcement still show itself in our attitudes towards many problems. The impossibility of receiving the proper degree of publicity is a good example of this.

Economic forces is another factor that appears as an obstacle in front of architectural restoration activities. One of the principal causes of the failure of preservation of historical buildings, especially civil architecture, is that they have been subjected to the fate of their commercial fortunes and to the whims of speculation. What comes to the scene is the reality that we are on the threshold of a crucial era of change in the urban way of life. On the other hand historical buildings are usually characterized by poor heating, insanitation, poor physical structure, etc. And all these, forces the owner into action which requires ability to pay for repairs. In this respect, the biggest threat comes from the demands imposed by modern life. Man, being the prisoner of his comfort, desires to live a better life and therefore these historical buildings do not seem attractive to live in. Also the approach asking for the preservation of civil architecture without providing any technical or materialistic facilities is effective in making a choice on the part of the owner. As a result of these, they change owners and occupants many times. As they become unattractive, they are rented at lower figures. Those who have low income, group there changing the characteristics of the quarter, and the area turns out to be the unfavourable

part of the city. They become undesirable places to live in and work. However, the houses in such areas are already preserved but with small modifications, mostly not considering the original characteristics.

Another solution found by the owners to counteract this situation without suffering and profiting, is to sell the building. For, at a certain point, speculation clashes with the needs of the inhabitants. Being a developing country, industry is not a fully developed field, therefore, the capital and savings are directed towards investment in immovables which encourages speculation. This activity concentrates in urban centres mostly, because they have the necessary substructure and transportation facilities. Under these conditions, the land gains value each day. Here, many items, such as the location of the land upon which the building rests, the quality of neighborhood, the income groups residing there, also the periods of prosperity and depression, all affect the value and cost of the property. As a result of this, the speculator's offer seems advantageous to the owner, and even relatively new buildings are pulled down in order to build higher ones. The preservation of historical buildings seems to be very difficult when we consider the annual income, reaching billions, earned out of speculation.

In case of minor cities, tourism is a driving force in maintaining preservation of historical buildings. Since the industrial areas are concentrated in big cities or closer to them, in such places, the historical buildings

supply a source of income. Recently, the increase in the number of tourists visiting Turkey, and the interest of foreign people in our historical monuments, and furthermore, the realization of this as a growing source of income lead the local people to perceive the monuments in a different way, considering their economic and historical aspects.

It is possible to reach each new aspect of culture, only by moving from a common platform. However, it is known that social consciousness tends to be slow to change, weighed down by conservatism. On the other hand, the material environment changes rapidly. (Kuban, (2) 1975: 21) This is why this 'imported' idea of conservation is indigestible.

Another reason is that for the rest of the population, who form the moderate and low income group, the protection and transfer of cultural heritage is not a vital need. Being the member of a developing country, they are faced with more serious problems like making a living, finding a job, etc..

The way from "repair" to "restoration" which is a modern concept that stems from a new approach to the monuments of the past is determined by the change in needs of the society, by the development of extensive international movements which has assumed concrete form in different documents, by the economic factors, by the approach to history, by the recognition of the responsibility to safeguard the historical values for future generations.



## FOOTNOTES

- 1 "Not unconsciously but suffering greatly, hurting deeply."
- 2 "the stone on which the coffin is placed during the funeral service"
- 3 "Halil Ethem Bey-'... O zaman ki hükümet ricalı arasında en büyük ve en münevver adamlar bulunduğunu zannediyorum. Layard hafriyata başladığı zaman -zannederim ki seksen sene kadar oluyor-(...) O zaman Meclis-i Has ı Vükela'nın bir kararı vardı, çünkü, bu taşları götürmek için izin istemişlerdi, yazılan mazbatayı gördüm, kararda diyorlarki: "Saye-i Şahane'de böyle taşlar memleketimizde lauyattır, onların hepsini götürsünler, yalnız altına, gümüşe dair bir şey varsa onu bize alıkoyalım." (Gülüşmeler) Bunu arz etmek istedim. (Şiddetli alkışlar)" (Reşit Galip, 1937:162)

- 4 Acele ve önemlidir. 20.2.1931
- Son tetkik seyahatimde muhtelif yerlerdeki müzeleri, eski sanat ve medeniyet eserlerini de gözden geçirdim

I. İstanbul'dan başka Bursa, İzmir, Antalya, Adana ve Konya'da mevcut müzeleri gördüm. Bunlarda şimdiye kadar bulunabilen bazı eserler muhafaza olunmakta ve kısmen de ecnebi mütehassısların yardımıyla tasnif edilmektedir. Ancak, memleketimizin her tarafında emsalsiz defi-

neler halinde yatmakta olan kadim medeniyet eserlerinin tarafınızdan meydana çıkarılacak ilmi bir surette muhafaza ve tasnifleri ve geçen devirlerin sürekli ihmali yüzünden pek harap bir hale gelmiş olan abidelerin muhafazaları için müze müdürlüklerinde ve hafriyat işlerinde kullanılmak üzere arkeoloji mütehassıslarına kat'î lüzum vardır. Bunun için Maarifce harice tahsile gönderilecek talebeden bir kısmının bu şubeye tahsisi muvafık olacağı fikrindeyim.

2. Konya'da asırlarca devam etmiş ihmaller sebebiyle büyük bir harabi içinde bulunmalarına rağmen sekiz asır evvelki Türk medeniyetinin hakiki şaheserleri kıymette bazı mebani vardır. Bunlardan bilhassa Karatay Medresesi, Alaaddin Camii, Sahip Ata Medrese, Cami ve Türbesi, Sırçalı Mescit ve İnce Minare, derhal ve müstacelen tamire muhtaç bir haldedirler. Bu tamirin gecikmesi, bu abidelerin kamilen indirasını mucip olacağından evvela asker işgalinde bulunanların tahliyesinin ve kaffesinin mütehasıs zevat nezaretiyle tamirinin temin buyurulmasını rica ederim.

Gazi Mustafa Kemal

(Kocatürk, 1971:25)

5 "(...) Bundan sonra tasnif harici dahi olsa, Vakıflar Umum Müdürlüğünün muvafakati alınmadıkça, hiçbir cami, mescit ve vakfa ait diğer binaların ve alakadar en yüksek makamın muvafakati munzam olmadıkça Vakıftan gayrı idarelere ait eski eserlerin de hiçbir sebep ve bahane ile işgali ne ve talebederim." (adı ge-

çen camilerin valinin tensibiyle Ziraat Bankası'na  
buğday ambarı ittihaz edildiğinin anlaşılması üzerine)  
(Ülgen,1943:)

6 "Milli varlığımızı ve medeniyetimizi bugün ve  
gelecek asırlarda dünyaya tanıtan ve tanıtabilecek olan  
kıymetli abidelerin manalı manasız bahanelerle yıktırıl-  
ması değil, bilakis, beşerin ve tabiatın tahribatına  
karşı titiz bir itina ile korunulması mültezimidir; yal-  
nız kanuni bir vazife değil milli bir borçtur. Bir eserin  
kıymetini muhafazası lazım olup olmadığını ancak mütehas-  
sıs olan daire tayin edebileceğinden bundan sonra şehir  
ve kasabalarda, köylerde ve kırlarda, mevcut bulunan  
eski eserlerin her güne tahribata karşı muhafazalarına  
itina olunmasına ve Maarif Vekaletinin muvafakatı alın-  
madıkça hiçbir eserin hiçbir bahane ile yıktırılmasına  
katıyen meydan verilmemesini talep ve aksi takdirde yık-  
tıranlar ve müsamaha edenler hakkında şiddetle takibat  
yapılacağını tamimen beyan ederim." (Ülgen,1943:)

7 Das Schönste, IX, January, 1963.

8 " ... eserin evsaf-ı mahsusasını ve hüviyet-i  
zatiyesini muhafaza etmek icab eder. Hile yapılmıyacak,  
sahte taklitler irtikap edilmeyecektir."

9 "Binaenaleyh harabelerin tamirinde hiçbir ilave-  
nin yapılmaması lâzım gelir."

IO "Yeni motifler ibda eylemek, yeni kompozisyonlar yapmak bu işlerle meşgul bir ilim adamının yapamayacağı hafifliklerdendir."

II "Biz çoktan beri şehir fikrini kaybettik... Bilir misin ki, biz şehrin sahibi değiliz. Sadece içinde oturuyoruz. Devletin veya belediyenin bir misafiri gibi. Ve başından beri bu böyle. (...) Hakikat bu ki, yapıcı olarak şehrin hayatına iştirak etmiyoruz."(1962)

## V. DIFFERENT ORGANIZATIONS INVOLVED IN RESTORATION WORK

Different organizations contributed lot to the preservation and restoration of historical monuments by forming financial support for the necessary work.

The common difficulties met by these institutions both official and unofficial, are the lack of well-organized teams of specialists including architects, urban planners, economists, etc., the lack of cooperation between the specialists and authorities responsible for decision-making, the lack of skilled workers, the lack of financial means, in short, the lack of a realistic estimate of means which will be available for the attainment of the objectives.

Although these institutions approach the restoration problem with good intention, their likely failure appears to be the result of one or more of the above mentioned difficulties.

## 5.1. Official Organizations

### 5.1.1. General Directorate of the Wakfs

The Ministry of "Evkaf and Şer'iyeh" which has a history of about a century, is abolished by the second article<sup>1</sup> of the Law No:429 in 3.3.1924 and by the seventh article<sup>2</sup> of the same Law the establishment of a general directorate is committed to the charge of Office of Prime Minister and the management and control of the Wakfs are given to this General Directorate. (Vakıflar Genel Müdürlüğü, 1973:12)

General Directorate of the Wakfs is the owner of a great number of historical buildings in the name of State. Its financial sources and staff are insufficient. It has two technical directorates, one in Istanbul and the other in Ankara.

Registration of 3687 monuments is done out of 6276 by the 'Archives of Registration'<sup>3</sup> which is founded in 1961. (Vakıflar Genel Müdürlüğü, 1973:35)

The allowance for the restoration works of 1984 Fiscal Year is 347 000 000 TL.. The program comprises nine provinces: 20 buildings in Istanbul, six in Edirne, one in Tekirdağ, two in Kırklareli, three in Bursa, two in Balıkesir, 11 in Çanakkale, one in Kocaeli, a total of 46 buildings. (1984 Mali Yılı Eski Eser Onarım Programı, İstanbul Vakıflar Başmüdürlüğü)

The program shows that the amount saved for

restoration is very limited. A great number of buildings are restored with limited financial resources and in the end the effort is of no use. Also, the restoration work of a monument lasts for years because of limited resources, and in the course of time, it requires a re-restoration for the early repaired parts which is costly and time consuming.

The shortage of craftsmen skilled in the art of restoration has become increasingly apparent, however, being one of the oldest institutions, the Wakfs still do not have a project of training personnel for architectural restoration.

#### 5.1.2. General Directorate of National Palaces

The General Directorate of National Palaces is connected to the Head Office of the Great National Assembly. They have no staff for restoration and therefore realize this duty through the Ministry of Public Works which has no department qualified with protection discipline. (Çeçener,(2)1984:7)

According to the eight, ninth and tenth articles of the Law No:431, enacted in 3.3.1924, palaces and kiosks and summer palaces are transferred to the nation. By a decree of the Council of Ministers in 18.1.1925. Topkapı Palace is given to the Office of Museums and Dolmabahçe and Beylerbeyi Palaces to the Directorate of National Palaces. In 1930 Yalova Kiosk, in 1966 Ihlamur Summer Palace and in 1981 Maslak Summer

Palaces group are connected to the Directorate of National Palaces. (Milli Saraylar Müdürlüğü, İdare Şube Müdürlüğü, Dolmabahçe, İstanbul, 8.5.1985)

Today, the General Directorate of National Palaces is responsible of the palaces and summer palaces in Istanbul:

- Dolmabahçe Palace
- Beylerbeyi Palace which is composed of six buildings named Sarı Kiosk, Mermer Kiosk, Harem and Selamlık, Yalı Kiosk and service building.
- Şale Kiosk in Yıldız Palace
- İhlamur (Nüzhetiye) Summer Palace at Beşiktaş which includes the summer palaces known as Merasim and Ma'iyet, and service buildings.
- Maslak Summer Palaces group at Haznedar Çiftliği which is composed of four buildings known as Mabeyn-i Hümayun, Kasr-ı Hümayun, Department of Paşa's, and Çadır Kiosk.
- Ayazağa Hunting House
- Summer Palace at Hasköy known as Aynalıkavak
- Küçüksu Summer Palace at Göksu
- Yalova Atatürk Kiosk, Yaverlik Kiosk, and House of the General Secretary.

Among the activities of the General Directorate of National Palaces is the Symposium, held in November, 1984. The aim of the symposium was to maintain better preservation and better use of the national palaces, and



to make them known abroad. (Milli Saraylar Müdürlüğü, İdare Şube Müdürlüğü, Dolmabahçe, İstanbul, 8.5.1985)

### 5.1.3. General Directorate of Highways

The General Directorate of Highways is a State institution which is responsible to the Ministry of Public Works. It is founded in March 1950. The goal of its foundation is to build, repair, and maintain the upkeep of roads, bridges, and highways. In this Directorate, the Office of Historical Bridges is the only department responsible for the preservation of immovables. The staff and the allowance are insufficient. (Çeçener, (2)1984:7)

## 5.2. Unofficial organizations

### 5.2.1. Turkish Foundation for the Promotion and Preservation of National Heritage

The Turkish Foundation for the Promotion and Preservation of National Heritage, abbreviated as the T.A.Ç. Foundation, was established in Istanbul<sup>4</sup>, in 1976. Its aim is to preserve and protect the art, culture and architectural heritage, natural, historical, cultural, aesthetic and touristic riches of Turkey, Turkish people and Anatolian civilizations, thus linking the past to the present. (Brochure of T.A.Ç. Foundation prepared by the Technical Bureau of T.A.Ç Foundation)

The fact that the religious buildings are restored by the Wakfs and other organizations and the fact that the owners of the historical houses need support to keep their buildings in good repair motivated this foundation in stating its aim. The Ministry allows 100 million TL. every year. Another source is the works of the Technical Bureau of the Foundation such as T.E.V. projects. (Personal Interview with architect Süheyla Türkgenç from the Technical Bureau of T.A.Ç. Foundation, 6.5.1985)

Restoration and reconstruction of several houses in Istanbul, Ankara and Bursa are among the works of T.A.Ç. Foundation.

### 5.2.2. Turkish Touring and Automobile Club

The history of Turkish Touring and Automobile

Club goes back to "Türk Seyyahin Cemiyeti"<sup>5</sup> which was founded by Reşit Saffet Atabinen in 1923. The aim of the Club was to make Turkey known abroad and increase the number of tourists visiting Turkey by getting into touch with railroad and maritime lines. The head of the Club was Atabinen for 44 years. (Sanat Çevresi, 1984:II)

The tariffs of the harbours and porters, the licence of the tourist guides, the first touristic publications, the first road map were prepared by the Club. The World War affected the activities of the Club. During those years, they began to deal with the preservation of historical values. Atabinen was a member of the Committee at the Archaeological Museum. They found the grave of İbrahim Müteferrika and carried it to Galata Mevlevihanesi and repaired the Mevlevihane. (Sanat Çevresi, 1984:13)

After the death of Atabinen in 1965, Çelik Gülersoy was chosen as the General Director whose initiative has played a major part in the restoration activities of the Club.

By the year 1978, after signing a contract with Istanbul Municipality, the Club began a series of restoration activities comprising pavillions and houses in Istanbul.

The Club, by the restoration of Malta Kiosk has won the "International Award of Restoration" given by the Federation of European non-governmental Conservation Organization, "Europa Nostra" in 1979. (Cumhuriyet,

December 1, 1979) Konak at Sultanahmet has won the same award in 1984.

The annual income of the Club was over a billion in 1982. One third of this was spent for the expenses, 40 per cent of the rest was for the tax, and all of the remaining 300 million TL. was spent for cultural activities. (Gülersoy, 1983:4)

The Club is a member of the "World Tourism Organization", "Fédération Internationale de l'Automobile" in Paris, and "Alliance Internationale de Tourisme" in Genève.

The Club has many cultural publications among which there is a three-monthly journal called Revue du Touring et Automobile Club de Turquie, the first issue of which published in 1930.

Since 1974, the Club prepares documentary films such as "Atatürk ve Dolmabahçe Sarayı", "Safranbolu Evleri", "Piri Reis Haritası", "Istanbul'un Tarihsel Su Sistemi", "Anadolu Uygarlığından İzler". (Sanat Çevresi, 1984:96)

The response of Yavuz to the questionnaire of the art magazine, Sanat Çevresi which asks the critiques of famous intellectuals, clearly evaluates the activities of the Club. The activities of the Club are not considered as "restoration" technically but a kind of "acknowledgement of the heritage"<sup>6</sup> (Sanat Çevresi, 1984:105)

## FOOTNOTES

- 1 "Şer'iyeye ve Evkaf Nezareti mülğadır."
- 2 "Evkaf umuru millet hakiki menafisine muvafık bir şekilde halledilmek üzere bir müdüriyeti umumiye halinde şimdilik Başvekalet'e tevdi edilmiştir."
- 3 "Tescil ve Abide Arşivi"
- 4 Tepebaşı, Mısrutiyet Cad. 57-3, Beyoğlu, İstanbul.
- 5 "Touring Club Turc"
- 6 "Çelik Gülersoy'un İstanbul'un tarihsel ve doğal çevresi için yıllardan beri giriştiği etkinlikleri yakından izliyorum. Doğrusunu söylemek gerekirse, buna gerçek anlamda "koruma" denip denemeyeceğini bilemiyorum. Belki, yapılan iş , teknik anlamda bir "restorasyon" olarak da adlandırılmaz. Gene de Çelik Gülersoy'un bilimsel anlamda "çevre koruması", ya da "restorasyon" sayılmasa bile, somut olarak gerçekleştirdikleri ortadadır. Buna ben, "sahip çıkmak" diyorum. (...) Gülersoy, doğaya ve tarihsel çevreye "sahip çıkıyor". Bunu kimse yadsıyamaz." (Yavuz, 1984:105)

## VI. EXAMPLES

Since the orientation of this thesis is history dominated, therefore the examples are not studied according to the format used in evaluating architectural restoration works. For, the purpose of presenting examples is just to emphasize the change in approach to historical monuments rather than a critical evaluation.

### 6.1. Restoration Example From the Present:

#### Şemsi Paşa Mosque 988 (M.1580)

It is a Sinan building founded by Şemsi Ahmet Paşa, the vezier of Süleyman the Magnificent, Selim II, and Murat III. (Türk Ansiklopedisi, 1946:252) Next to the Mosque is the Tomb of the founder which is a single domed square building, and a medrese. It is built at the coast of Üsküdar, overlooking Bosphorus.

The Mosque (Fig.1) is a small one with square plan surrounded by the medrese rooms after leaving a wide courtyard around it. It has a dome placed on an octagonal drum and four half domes. (Fig.2) It was exposed to many earthquakes and stream waves for years and the walls and the domes were moved and lost their verticality. The minaret except the base part, the interior plaster, windows, the door, the surrounding walls completely collapsed. (Mimarlık, 1944:9)

The Mosque is restored by the General Directorate of Wakfs in 1940. The cut-stone construction of the

façades are completely rebuilt. The walls and the domes are brought back to their original place. The iron grills of the windows are repaired. The 'elvan' windows are reproduced according to the original design and color. (Figs.3 and 4) The external stucco frames are strengthened with concrete. The minaret is rebuilt from the base to the 'alem' in its original height, using the original stone. The balcony, the scalactites and the conical cap are all rebuilt and a new alem is placed on top.

Inside the Mosque, the maroon minber, window frames (Fig.5) and the entrance door are repaired.

The surrounding walls facing the sea are rebuilt of the same stone.

Except the stove and the pipe going out through the window next to the mihrab (Fig.6) , the clock, the large earthenware water jar and the fire extinguisher in the window bay (Fig.5) , and the electric cable which surrounds the inner walls and reaches the dome passing through the mihrap (Figs.7 and 8) , which do not please the eye and endanger the whole complex, what is noteworthy of the restoration work is the respect for the original forms in restoring the building.

## 6.2. Example of Reconstruction

Mimar Sinan Mescid 991 (M.1583) - 1975

Originally, it was a Sinan building located in Istanbul, at Fatih, Yenibahçe. In Hadikat-ül Cevami it is shown at Süleymaniye, Ağakapusu.<sup>1</sup> (Hüseyin bin İsmail, I28I:199) But Konyalı mentions that in the manuscript form of the Hadikat-ül Cevami it is described to be located at Yenibahçe. (Konyalı, 1948:97)

It completely collapsed after the fire in 1334 (M.1918) , leaving only the minaret and the fountain nearby. (Fig.9)

It was a building with a rectangular plan and with a flat timber roof covered with red tiles. The most interesting part of the Mosque was its octagonal minaret which was built off the Mosque. Its balcony is formed of a series of windows. Instead of a pointed conical cap, it has a small dome. (Fig.10)

Konyalı mentions that the manuscript form of Hadikat-ül Cevami informs about the plan of the Mosque as having two parts; one for summer and one for winter. (Fig.11) (Konyalı, 1948:98)

The walls were of stone blocks with three layers of brick inbetween.

Konyalı mentions Cornelius Gurlitt publishing the plan and photographs of Mimar Sinan Mescid on page 67 of his Die Baukunst Constantinopels. (Konyalı, 1948:100) However, the book<sup>2</sup> contains neither information nor a photograph of Mimar Sinan Mescid.



There is no information about the original inner decoration.

The uninscribed fountain is of stone with an oval arch. Next to it is a reservoir. On the left side of the fountain is a niche probably for easy loading of the jugs. (Fig.I2)

The cracks of the minaret were repaired in 1939 by the Office of Museums.

In 1974, Mimar Sinan Mescid was reconstructed by the General Directorate of Wakfs keeping the original plan and the scale. (Fig.I3)

Today, again, brick and stone combination is used in outer walls. (Fig.I4) The same window design is realized. The roof is again flat and covered with red tiles. And the inner ceiling is of timber. (Fig.I5)

The inner frames of the windows and the mihrab are of stone. (Fig.I6) The inner walls are whitewashed with script decoration on it. (Fig.I7)

Although the elements found in the Mosque, which are meeting today's practical needs, such as a loudspeaker placed at the top of the roof (Fig.I4) , a fluorescent lamp on top of the mihrab script (Fig.I8) , a kerosene stove, a map on one of the walls (Fig.I9), a kerosene lamp hanging down the chandelier (Fig.I5), a bookshelf, the carpet on the wall (Fig.20) , do not harmonize with the inner decoration and help for the loss of the mystic air, this Mosque represents a good example of reconstruction with respect to original forms.

### 6.3. Restoration Example From the Past

It is not easy to find an example carrying the original traces of repair work done in late nineteenth century which represents the Ottoman approach to repair work, for most of such buildings are restored by the official or private organizations and the rest were repaired by the local mosque building associations. Regardless of the original characteristics, additions and superfluous decoration are made by them or the original elements are modified or hidden under paint. This approach wipes out the individual characteristics of the building. By the superimposition of the signs belonging to previous periods, the value that the work of each period assigns to the building which becomes part of history, is removed.

#### Dra'man Mosque (Tercüman Yunus)

The original building was built by Sinan at Dra'man in 948 (M.1541). The founder of the Mosque was the translator of Süleyman the Magnificent, Tercüman Yunus who had died before the Mosque was completed and was buried at the "Hazine"<sup>4</sup> of the Mosque and therefore the building was finished up by his brother Mustafa. (Hüseyn bin İsmail, 1281:112) It was demolished by fire in 1729 and restored by Ahmet III. (Cezar, 1963:30) The present building is restored in 1914. Paper called Sabah dated 9.9.1326 (M.22.9.1914) writes:

"Being susceptible to collapse, Dırağman Yunus Mosque at Dırağman, Çarşamba, was demolished; and its ruins remained in

the area until the reconstruction."<sup>4</sup>

The statement of the Paper gives the impression as if the Mosque was reconstructed in 1914. But an observation of the present Mosque gives the impression that only the porch is rebuilt. The rest of the Mosque seems to carry the signs of repair from the period of Ahmed III. Since there is no available information about the original building this only remains to be an assumption.

The present building (Fig.21) is reached after climbing up a staircase as in the original one. It is a square planned Mosque (Fig.22) built of cut-stone. Its porch is of timber. Although the roof is flat and of timber covered with red tiles, Öz, amazingly, describes the Mosque as having a dome. (Öz, 1962:49)

Its minaret which was of stone was completely demolished. Its stones are piled up in the courtyard. (Fig.23)

Inside the Mosque, on both sides there is a "maksure"<sup>5</sup>. Above it is the "kadınlar mahfili"<sup>6</sup>, which is reached through the timber staircase from the right maksure.

The upper and the lower parts of the mihrap and its frame are of timber but the niche is of plaster and it is painted. (Fig.24)

The Mosque has sixteen windows. Each upper window has double window and its frame is divided into twelve squares and three triangular pieces. (Fig.25) When looked

from outside, it is seen that, only the upper windows on the mihrap wall have deep bays.(Fig.26) However, the upper windows of the wall facing the "Hazire" and the opposite wall do not have the same design. Instead, they have a little projecting part. (Fig.27)

On the contrary, the deep bays of the lower windows are inside the building. Outside, they all have iron grills. The frames of these windows are divided into eight squares and three triangular units. Only the two lower windows on the left and right side of the mihrap have frosted glass (Fig.28) , the rest are transparent.

The brick arches which frame the lower windows externally are pointed whereas the upper ones are rounded. The inside of these pointed arches are hollow, they are not left blind. (Fig.26) This does not seem to be an original characteristic of the building, but an eighteenth century modification.

Its minber is of timber. Its landing on the staircase has a lattice cover of timber. Above it is a conical cap. (Fig.29)

In this Mosque, lack of goodcare is seen. Signs of humidity is much inside the building. The stucco is peeling off at the corners of the windows and walls. (Fig.30) And the paint is puffy. A hole for pipe of stove is seen on one of the windows on the right wall. Most of the glasses of the second upper windows are broken. The inner ornamentation is simple. Equipment answering to the needs of present times is not found

inside the Mosque except a clock and a fluorescent lamp attached to the right edge of the mihrap frame perpendicularly.

In this Mosque, the mihrap and the window design are the remnants of later periods which do not cope with the characteristic elements of the building.

Besides Dra'man Mosque, the marble mihrap of Yahya Kethüda Mosque in Kasımpaşa, Prinççi Kahya , with columns and superfluous ornamentation, the inner decoration of the dome of Rüstem Paşa Mosque 963 (M.1561) in Tahtakale, Hasircılar Çarşısı, can be accounted as unique examples remaining within the restored mosques, displaying the Ottoman approach which appreciated the fashionable styles of the period disregarding the "identity " of the building.

## FOOTNOTES

- 1 "Mimar Sinan Mescidi der kurbi Ağakapusu"  
(Hüseyin bin İsmail, I28I:199)
- 2 Gurlitt, cornelius Die Baukunst Constantinopels,  
Berlin, 1908. at the Library of Alman Arkeoloji Enstitüsü,  
Sıraselviler, Istanbul. Call number: B II 502
- 3 "enclosed burial place usually behind the Mosque"
- 4 "Çarşamba'da Dırağman'da Dırağman Yunus Camii  
mâili inhidam olub yıkdırıldı, enkazı tecdîden inşâsına  
kadar arsasında kaldı."
- 5 "private gallery"
- 6 "gallery for women"



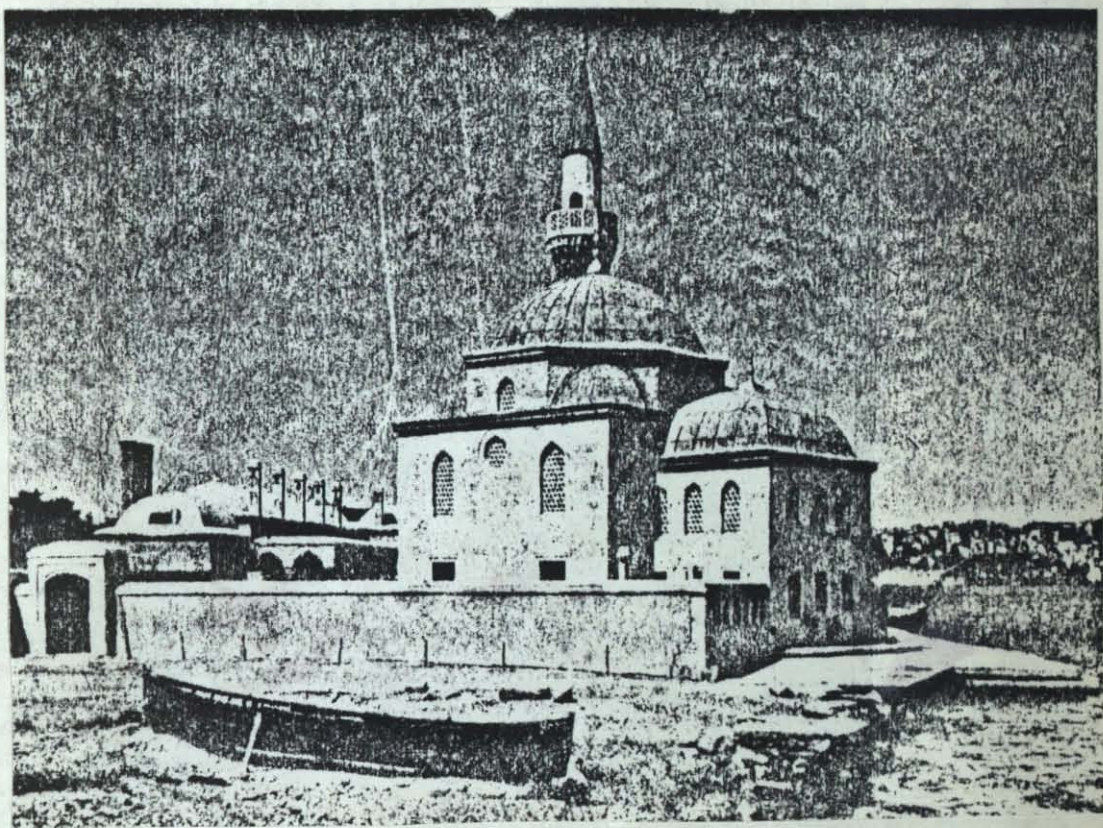


Fig.1



Fig.2





Fig.3



Fig.4





Fig.5

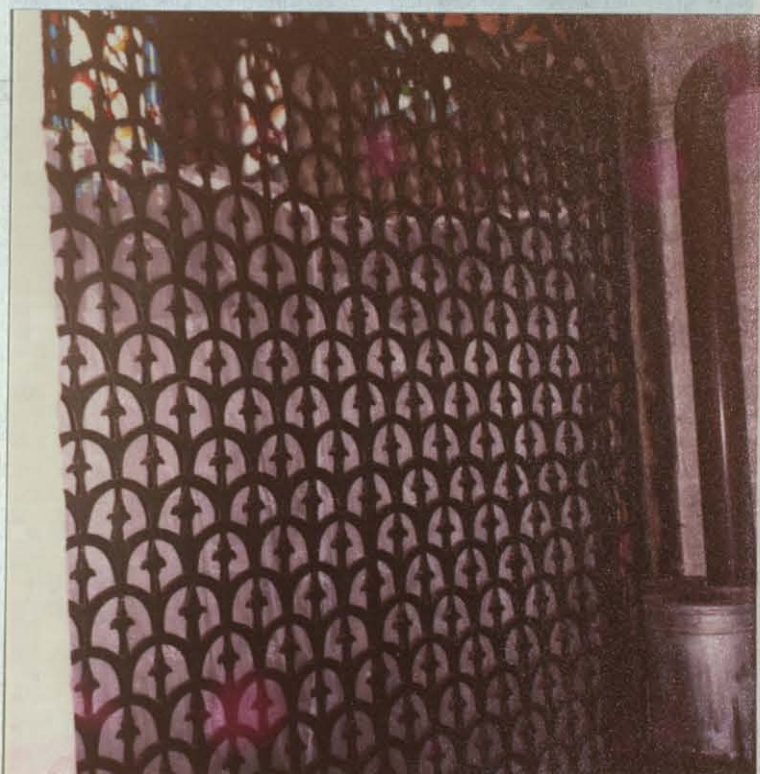


Fig.6



Fig.7



Fig.8

Fig.10





Fig.9



Fig.10



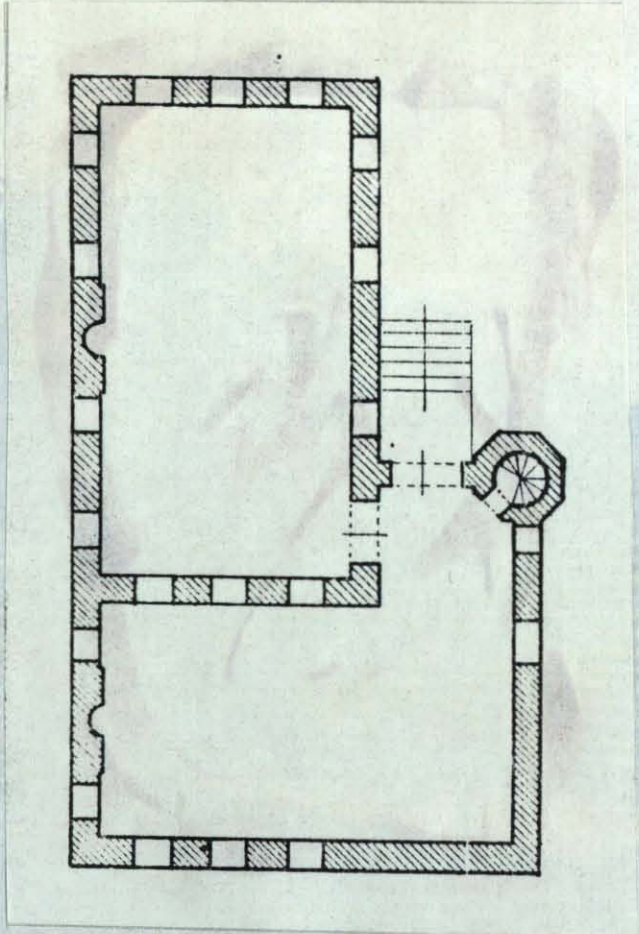


Fig.11



Fig.12



1977



Fig.13



Fig.14





Fig.15



Fig.16



Fig.17



Fig.18





Fig. 19



Fig. 20





Fig.21

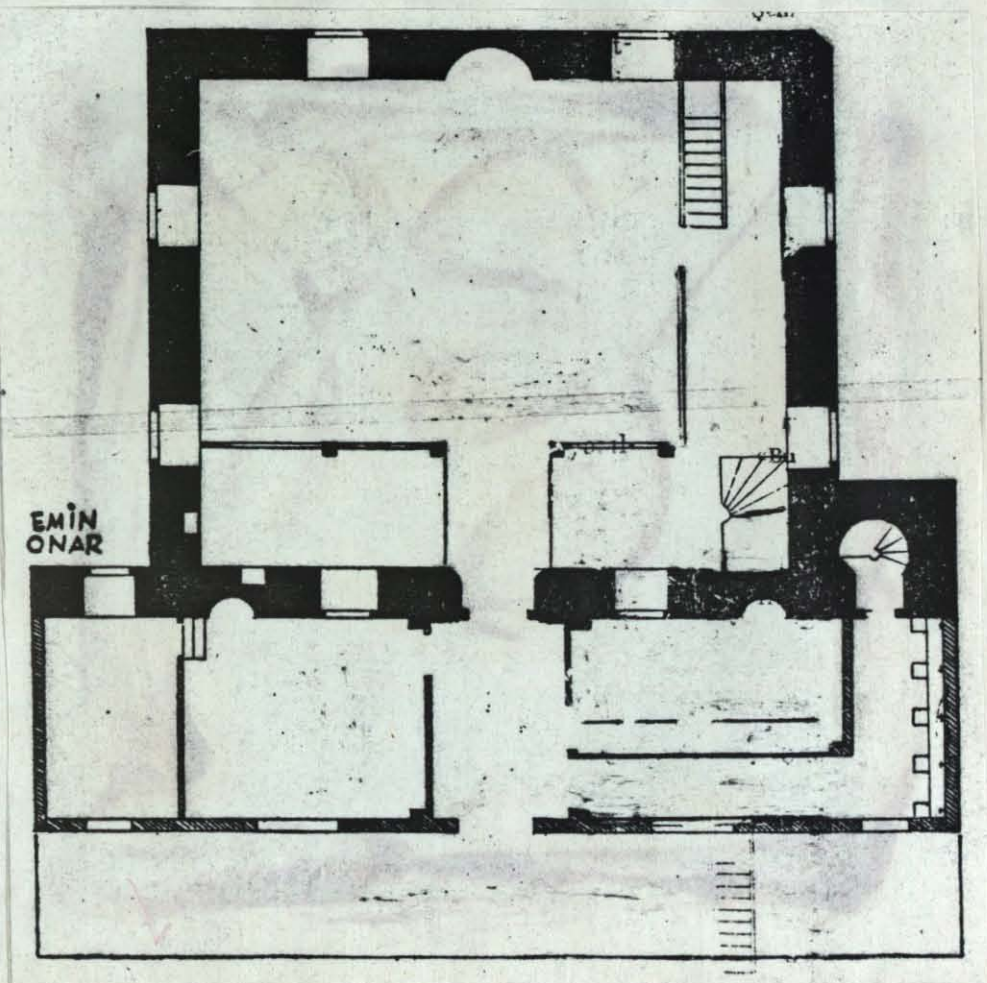


Fig.22



Fig.23



Fig.24





Fig.25



Fig.26

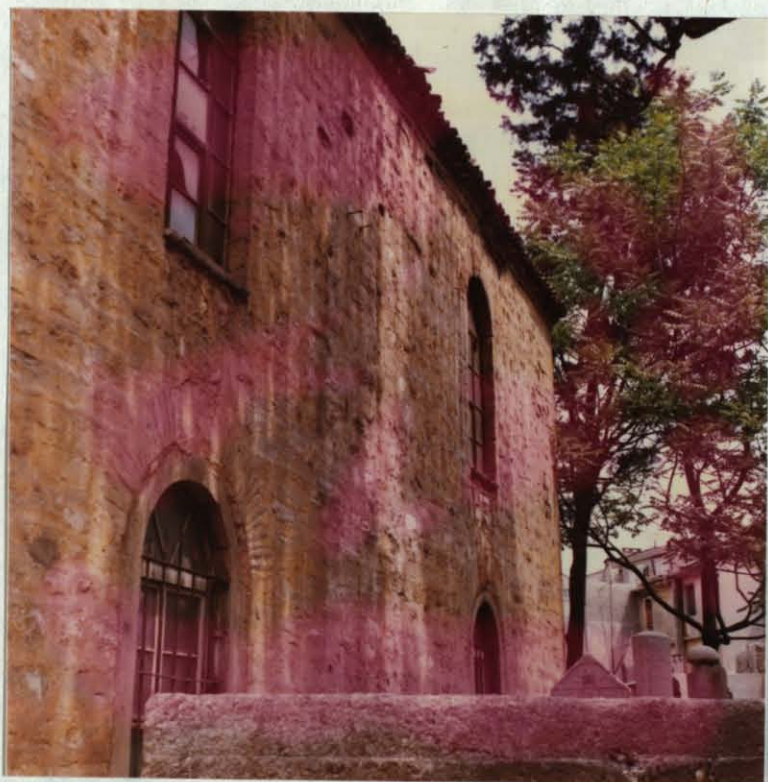


Fig.27



Fig.28





Fig. 29



Fig. 30

them afterwards." (Ruskin, 1910; 356-57)

## VII. CONCLUSION

The protection of historical monuments has been one of the major subjects of interest since the Ottoman period. Although this interest faded during the Republican period due to political reasons, recently it flourished again. However, the aim of this activity and the methods of implementation in each period is different.

This idea was introduced to the Ottoman society as a result of the development of the relationship with the European countries. As a result of this, the concern was directed towards the preservation of antiquities. On the other hand, the lack of interest for the historical heritage also stemmed from the fact that the Wakf institution was already instrumental in contributing lot to the preservation of historical buildings. However, this interest did not comprise civil architecture examples which were repaired by their owners. During this period, it was "repair" carried out with constant care. The Wakf institution took proper care of the monuments which had social, functional, and symbolic meaning through daily-controlled work.

The tendency today is to overlook the monuments unless they are old. We wait for them to fall into bad decay before taking any measures.

"The principle of modern times is to neglect buildings first, and restore them afterwards." (Ruskin, 1910:356-57)

Ruskin's claim is still the dominant practice of the present times.

In the past, the aim of repairwork was to secure the continuity of function; today, it is to secure the continuity of history ~~of history~~. New dimensions are attributed to the monuments.

In the past, there was no respect for the building in the form it is found. Repair work was carried out regarding the famous styles of the period, and additions were allowed. Today, there is respect for the original form of the building.

In the past, preservation activities started as an 'imported' process with the intention of preventing the smuggling of antiquities; today, although some sort of consciousness developed, the issue is still approached as a requirement of being a part of the Western World. Since it was a foreign concept for the Ottomans, and is a foreign concept for today's society it is quite normal that neither the responsible bodies nor the public have seriously taken the question up and thus this issue has remained little more than lipservice.

In the past, there were no established principles of repair; but today, the effects of international restoration principles are observed.

In the past, especially the monumental buildings which had symbolic meaning were considered and the civil architecture was excluded; today, modest buildings which represent an era's social, economic, and cultural aspects

are considered.

In the past, repair work was carried out by qualified craftsmen; although it is accepted that restoration work requires specialists and resources, no measures are taken to train qualified personnel today.

Another problem of today is that neither the institutions nor the universities criticize the restoration works done.

To protect the genuine value of the past as a living, necessary dimension of the present, to ensure a convenient function and significance to the historical buildings within the living context of the city, adequate social and economical action have to be undertaken.

In the final analysis, this requires public opinion, legislation, the will to use those powers, the determination of priorities in allocating money from both public and private sources, and the expertise which can give old buildings new uses.

It is seen that throughout history to the present times, neither the traditions nor socio-economic conditions have given way for the full realization of preservation activities in Turkey.



I am responsible for the translations.

E.T

## APPENDIX - A

Asar-ı 'atika Nizamnamesi, 1284 (1869)

1. Madde: Bundan böyle Memalik-i Mahruse-i .....\* antika taharri itmek istidasında bulunanlar evvel emirde Maarif Nezareti celilesine müracaat ve resm-i istihsal-i mezuniyet etmeeikçe hiçbir tarafta antika taharri edemiyeceklerdir.

2. Madde: Devletce mahzur görülmeyübde kendülerine mezuniyet i'ta olunanlar taharri ve ihraç edecekleri asarı başka devlet memalikine nakl idemeyüb dahilde istediklerine ve talib olur ise hükümete satma'a mezun olacaklardır.

3. Madde: Bir adamın mülkü dahilinde zuhur iden asar-ı 'atika kendüsünün malı olacaktır.

4. Madde: Her nevi 'atik meskukatın harice gönderilmesi sureti ittihaz olunacak memnuiyetten müstesna tutulacaktır.

5. Madde: Antika ihracı için virilecek mezuniyet yalnız zır-i zeminde bulunacak asara hasr olunub merkur olan her dürlü asar-ı 'atikanın onların müstemilat ve teferruatından olan şeylerin vakta men ola .....\* ruhsat virilmeyecek ve buna cesaret iden olur ise kanuna tedib olunacaktır.

6. Madde: Bir devlet tarafından resmen antika talebi için vuku bulacak is'afi itmesek müsa'ade-i mahsusa-ı seniyeğe merhuñ olunacaktır.

7. Madde: Antika taharri ve ihracı hususunda vukuf-u malumat olub da bunu Nezaret-i Celile-i müşarinüleyhe nezdinde isbata muktedir olabilenlerin masraf ve ücretleri canib-i mirîden tesviye ve ifa olunmak üzere kendülerine bu madde için memuriyet ve mezuniyet-i resmiye i'ta olunacağından o misullular Nezaret-i müşarinüleyhe canibine müracaat ideceklerdir.

The Regulation of Antiquities, 1284 (1869)

Article 1: From now on, those who apply for investigating antiquities within Ottoman territories will not be allowed to investigate antiquities anywhere without first applying to the Ministry of Education and documenting that they have acquired permission.

Article 2: Those who are considered appropriate to be given permission by the State will not be allowed to transport the antiquities they are going to investigate and extract, to the lands of other governments, and they will be allowed to sell them to those they want to, and to the government if it demanded so.

Article 3: An antiquity that emerges within a man's property will be his possession.

Article 4: Sending abroad all sorts of ancient coins will be excepted from the prohibitions that are going to be announced.

Article 5: The permission that is going to be given will be restricted to the antiquities that will

be restricted to the antiquities that will be found under the ground and when all sorts of antiquities erected on the ground and those things belonging to their annexes and premises .....\* will not be allowed a licence and if there are those who dare this, they will be legally punished.

Article 6: If the demand of antiquities made by a government is refused, then, they will be subject to the special permission of the "seniye".

Article 7: Those who have been specialized and informed as to the investigation and extraction of antiquities and who can prove this before the above mentioned ministry are to apply to the above mentioned ministry as they are going to be ascribed an official duty and permission for this issue, their expenditures and wages being met from the public treasury.

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\* could not be read

## APPENDIX - B

Toplantı no. ve tarihi 6.1.1984

Karar no. ve tarihi 6.1.1984

Anıtlar Yüksek Kurulunun  
14.1.1978 gün ve 10 200  
sayılı kararının değerlendirilmesi  
sonunda.

Korunması gerekli taşınmaz kültür varlıkları:

I. Grup Yapılar:

Değerlendirmede aranan ve 2863 sayılı Kanun'da belirtilmiş bulunan niteliklerden çoğuna üstün değerde sahip olması nedeni ile gelecek kuşaklar için içi ve dışı ile olduğu gibi saklanması gereken yapılardır. Korunmasında yapılabilecek uygulama ve alınabilecek önlemler bakımından üç bölümde toplanırlar:

I.A. Sadece bakım ve onarım ile yetinilmesi gereken yapılar

I.B. Günümüz yaşantısının gerektirdiği olanakları sağlayacak, ancak yapının iç ve dış görünüşlerini, karakter ve görünen malzeme dokusu ile süslerini ve plan özelliğini bozmayacak müdahalelerin yapılabileceği yapılar.

I.C. Bugün var olmamakla beraber belgelerle varlıklarını ve özelliklerini bildiğimiz I.A. ve I.B. maddelerinden birinin uygulanabileceği yapılar.

II. Grup Yapılar:

Değerlendirmede aranan ve 2863 sayılı Kanun'da

belirtilmiş bulunan niteliklerden çoğuna sahip olması nedeniyle özellikle çevresel niteliklerinin önemi açısından yalnız dış görünüşleri ve gabarileri ile korunması gerekli yapılardır:

II.A.1. Gabarisini, dış mimarisini ve dış cephe malzemesini ve taşıyıcı elemanlarını yıkmadan ve değiştirmeden olduğu gibi korumak ve varsa, belirli bir kısmında plan özelliği ile süslemelerini olduğu gibi korumak koşulu ile kat planı, malzeme ve iç mimari olarak kısmen yenilenebilecek yapılar.

II.A.2. Gabarisini, dış mimari görüntüsünü ve dış cephe eleman ve malzemesini aynen korumak şartıyla, iç taşıyıcı elemanları kat planları, iç malzeme ve iç mimarisi yenilenebilecek yapılar.

II.A.3. Korunması gerekli kültür varlıklarının mimari görüntüsündeki malzeme ve yapı elemanlarında eserin bütünlüğünü ve karakterini bozmamak koşuluyla mimari ve iç taşıyıcı elemanlarında ve gabarisinde bazı önemsiz değişiklikler yapılabilecek, kat planları ve malzeme dış ve iç mimarisi yenilenebilecek yapılar.

II.A.4. II.A.1., II.A.2., veya II.A.3 şartlarından birine uymak kaydıyla özellikle bitişik nizamda Kanunun ileri süreceği şartlarla geçerli imar planındaki yükseklik ve derinliklere uygun yenileme ve eklemelerin yapılabileceği yapılar.

II.B.1. Bir bölümü var olan veya çok değişikliğe uğramış olup görünüşlerinin varsa fotoğraf, rölöve

gibi belgelere dayanarak, yoksa devri ve mimari uslubuna uygun olarak projelendirilebilecek planları malzeme ve mimarisi tümü ile yenilenebilecek yapılar.

II.B.2. Bugün var olmamakla beraber belgelerle varlığını ve özelliklerini bildiğimiz II.A.1., II.A.2., II.A.3, ve II.A.4 maddelerinden birinin uygulanabileceği yapılar.

II.B.3. Çevresi, yukarıda özellikleri belirtilmiş yapılar ile oluşmuş sit bölgelerinde bulunan parsellerde çevresinin içinde yadırganmayacak mimari ile yürürlükteki imar nizamına bakılmaksızın yapılabilecek yapılar.

### III. Grup Yapılar:

III.A. II. Grup yapılardan ama çevresi ve gabari bakımından tümü ile yenilenmiş ve tek başına korunma şansını kaybetmiş veya kamu yararına kaldırılması gereken ve yeterli fotoğrafları ile arşivlenme değeri olduğu yetkili kuruluşlarca onaylanmış rölövelerinin kurulumuz ve Devlet arşivlerine teslimi sonunda yıkılarak yürürlükteki imar nizamına göre uygulama yapılabilecek yapılar.

III.B. Bazı değerli kısımlarının yeni yapıda aynen veya bazı ufak değişikliklerle kullanılması koşulu ile III.A. maddesinin uygulanabileceği yapılar.

Session no. and date 6.1.1984

Affirmation no. and date 6.1.1984

As a consequence of the evaluation of High Committee of Antiquities, affirmation no. IO 200 dated 14.1.1978

Immovable Cultural Entities Requiring Preservation:  
Buildings of the I<sup>st</sup> Group:

These are buildings that should be preserved for coming generations as they are in terms of both internal and external structure because they superbly have most of the qualities that are considered in evaluation and cited in the Code no.2863. They are classified into three divisions with respect to the possible measures and practices for their protection:

I.A. Buildings for which no more than maintenance and repair is necessary.

I.B. Buildings allowing that kind of elaboration which, while endowing the building with the facilities required by contemporary life, does not interfere with its internal and external faces, character, and apparent tissue of material, and ornamentation, and plan characteristics.

I.C. Buildings subject to the I.A. or I.B., which are not actually present, but whose past existence and characteristics are known through documents.

Buildings of the II<sup>nd</sup> Group:

These are buildings that should be preserved only



in terms of their external appearance, and "gabari", especially due to the significance of their environmental characteristics, because they have most of the properties cited in Code No.2863 and considered in evaluation.

II.A.1. Buildings that can partially be restored in terms of plan, material and inner decoration, provided that their "gabari", external architecture and material of the outer façade and support elements are maintained as they are, without any change or demolition and that the character of the plan and ornamentation are maintained as they are in a certain part of the building.

II.A.2. Buildings whose inner support elements plans, inner material and decoration can be restored, provided that their "gabari", external architectural sights, and features and materials of the outer façade are preserved as they are.

II.A.3. Buildings that allow trivial changes upon their architecture and inner support elements and gabari, and renewal of plans, material and outer and inner decoration, provided that the totality and character of the building are intact.

II.A.4. Buildings, especially in contiguous order, that allow restoration and expansion in accordance with the height and depth specified in the current zoning plan and with the public requirements, provided that one of the conditions described in II.A.1., II.A.2., or II.A.3. are satisfied.

II.B.1. Buildings that are only partly in existence, or have undergone a number of changes, whose appearance can be totally renewed in terms of plan, material and architecture that can be subject to projects either on the basis of documents such as photographs, sketch plans, etc., or according to their era and architectural style.

Buildings of the III<sup>rd</sup> Group:

III.A. Originally II<sup>nd</sup> Group buildings that, due to being totally renewed with respect to environment and "gabari" and thus having lost the chance to be uniquely protected, or due to a public need of removing the building, can be demolished and be subject to operations within the frames of the current zoning plan, but only after adequate photographs and sketch plans of the building vindicated to have archivist value by the authorized bodies are submitted to this Committee and to the State archives.

III.B. Buildings allowing the application of item III.A., provided that some of their valuable parts should be used as they are or with minor changes, in the construction of the new building.

## APPENDIX - C

Eski Eserler Kanunu, No: 1710 25.4.1973

Madde 1: Tarihten önceki devirlerle tarihi devir-  
lere ait olup, bilim, kültür, din veya güzel sanatlarla  
ilgili bulunan, yer üstünde, yeraltında veya su içindeki  
bütün yapılara, taşınır ve taşınmaz mallara ve aynı ni-  
telikteki her türlü belgeye eski eser denir.

Bunlardan:

Tarihi mağaralar, kaya sığınakları, yazılı ve ka-  
bartmalı kayalar, höyükler, tümülüsler, ören yerleri, ak-  
ropol ve nekropoller, surlar, kale ve burçlar, her türlü  
mimari anıtlar, tiyatrolar, hipodromlar, stadyumlar, an-  
fiteatrlar, agoralar, kütüphaneler, her türlü resmi veya  
özel yapılar, tarihi yol kalıntıları, köprüler, mesafe  
taşları, dikili taşlar, sunaklar, tersaneler, rıhtımlar,  
su yolları, sarnıçlar, kuyular, tarihi saraylar, köşkler,  
yalılar, camiler, mescitler, namazgahlar, her türlü hay-  
rat, çeşme, sebil, imarethane, darphane, şifahane, muvak-  
kithane, simkeşhane, medrese, tekke ve zaviyeler, mezar-  
lıklar, türbeler, hazireler, lahitler, sandukalar, stel-  
ler, kümbetler, hanlar, hamamlar, sinagoglar, bazilikalar,  
kiliseler, manastırlar ve benzerleriyle bunların birkaçın-  
dan meydana gelen bina toplulukları, külliyeler, sitler,  
diğer taşınmaz mallarla, bunlara ait parçalar, eski anıt  
ve duvar kalıntıları, taşınmaz halde dağınık tuğla ve sair  
yapı malzemesi artıkları taşınmaz eski eserleri,

Her çeşit hayvan ve bitki fosilleri, tarihten

önceki devirlerden kalma insan iskeletleri, çakmak taşları (sileks) , volkan camları (obsidien) , kemik veya madeni her türlü aletler, çini, seramik, benzeri kap ve kacaklar, heykeller, figürinler, tabletler, kesici, koruyucu veya vurucu silahlar, putlar (ikon) , cam eşyalar, süs eşyaları (hülliyyat) , yüzük taşları, küpeler, iğneler, askılar, mähürler, bilezik ve benzerleri, maskeler, taçlar (diademler) , deri, bez, papirüs, parşömen veya maden üzerine yazılı veya tasvirli belgeler, tartı araçları, sikkeler, damgalı veya yazılı levhalar, yazma veya tezhipli kitaplar, minyatürler, sanat değerini haiz gravür, yağlı veya sulu boya tablolar, muhallefat (relique'ler) , nişanlar, madalyalar, çini, toprak, cam, ağaç, kumaş ve benzeri taşınır eşyalar ve bunların parçaları taşınır eski eserleri teşkil ederler.

Eski eserlerden:

Önemli tarihi olaylara sahne olan veya arkeoloji, tarih, sanat bakımından bir önemi ve özelliği bulunan, korunması ve değerlendirilmesi gereken her türlü taşınmaz mimari eserlere ve aynı nitelikteki heykellere ANIT,

Mimarileri, üniteleri ve çevrelere katkıları bakımından korunmaları ve değerlendirilmeleri gerekli görülen, ayrı veya bir arada olan yapı gruplarına KÜLLİYE,

Homojen oluşları ve özellikleri tarihi, estetik, artistik, bilimsel, ekolojik, etnografik, ebedi veya efsanevi önemleri bakımından korunmaları ve değerlendirilmeleri gereken, tabiatın veya tabiatla insanların müşterek eseri olan topografik bölgelere SİT,

Önemli tarihi olayların geçtiği, bu sebeple korunması gereken yerlere TARİHİ SİT,

Antik bir yerleşmenin veya eski bir medeniyetin kalıntılarının bulunduğu yer veya su altında bilinen veya meydana çıkarılan yerlere ARKEOLOJİK SİT (Tarihi şehir kalıntısı) veya ÖREN YERİ,

Korunması gerekli tabiat güzellik ve gariplikleriyle tabii ve jeolojik olayların meydana getirdiği güzel görünüşlere, asırlık ağaç ve koruluklara TABİİ SİT (Tabii anıt) denir, bunların tümüyle değerlendirilerek korunması esastır.

Madde 5: Bu kanunun tarif ve kapsamına giren eski eserleri, tarihi ve tabii anıtları bozmak ve değiştirmek, Gayrimenkul Eski Eserler Yüksek Kurulunun mütalaasına dayanmak kaydıyla, Milli Eğitim Bakanlığının izni olmadan onarmak ve içlerinde veya emniyet sınırları dahilinde, inşaat, tesisat, sondaj ve kazı yapmak, kireç ocağı ve tuğla harmanı tesis etmek, hayvancılıkta, tarımda veya herhangi bir işte kullanmak, yıkılmalarına veya tahrip-lerinden meydana gelen maddeleri almak, bunları geçici veya devamlı olarak herhangi bir maksatla iskan veya işgal etmek, kısmen veya tamamen tahrib etmek, tahriplerine sebep olabilecek hizmetlerde kullanmak, buralarda define aramak yasaktır.

Eski eserlerin, tarihi ve tabii anıtların, şehir harabelerinin, tarihi alanların, iskan edilmesi, kullanılması, onarılması, içlerinde veya emniyet sınırları içinde inşaat, tesisat, sondaj ve kazı yapılması şekil ve şartları

bu kanun hükümlerine ve hazırlanacak yönetmeliğine göre saptanır.

Madde 7: Her kimin mülkiyetinde veya idaresinde olursa olsun, eski eserlerin, tarihi ve tabii anıtların korunmasını sağlamak için gerekli tedbirleri almak veya aldirtmak ve bunların her türlü kontrolunu yapmak Milli Eğitim Bakanlığına aittir.

Milli Savunma Bakanlığının idare ve kontrolunda bulunan eski eserlerin, tabii ve tarihi anıtların korunmasında, Milli Eğitim Bakanlığı ile birlikte hareket edilir.

Vakıflar Genel Müdürlüğünün idaresinde bulunan vakıf eski eserlerin kullanılması ve onarımı Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulunun kararı alındıktan sonra Vakıflar Genel Müdürlüğünce yapılır.

Madde 8: Taşınmaz eski eserler Milli Eğitim Bakanlığının, turizm alanında uzman kişilerin de içinde bulunduğu uzman tespit kurulları tarafından ayrılır ve tasnif ve Gayrı Menkul Eski Eserler ve Anıtlar Yüksek Kurulu tarafından onandıktan sonra tapu kütüğündeki beyanlar hanesine (eski eserdir) kaydı yazılarak tescil ve ilan olunur. Bu ayırma ve tasnif sırasında resmi daire ve kurumlara tahsis edilmiş taşınmaz eski eserler varsa, daire ve kurumun da görüşü alınır.

Madde 12: Kamu tüzel kişilerininin mülkiyetinde veya daimi intifaında bulunan taşınmaz eski eserlerden kaleler, şehir harabeleri ve her türlü tarihi harabelerde bunlara ait teferruat, tarihi ve tabii anıtlar ve bunların

toplu olarak bulunduğu alanlardan Hazine adına kayıtlı bulunmayanları, karşılığında bedel ödenmeksizin Hazine adına tescil ve Milli Eğitim Bakanlığının idaresine devredilirler. Şu kadar ki vakıf eserler ile belediyelere ait olanlar bu hükme tabii değildirler.

Kale ve surları, şehir harabeleri, taşınmaz eski harabeler, ve bu mahiyette diğer tarihi tabii anıtlardan kısmen veya tamamen tüzel ve özel kişilere intikal etmiş veya imar ve ihya hakkı yoluyla kişilerin uhdesine geçmiş olanlar, değer bedelleri üzerinden kamulaştırılma veya değiştirme yoluyla devlete intikal ettirilirler. Bu kamulaştırma ve değiştirmelerde o arazinin üstünde veya altında bulunan ve bulunacak olan eski eserlerin eski eser değerleri hesaba katılmaz.

Bunlardan kaynağı vakıf olan ve çeşitli sebeplerle kısmen veya tamamen tüzel ve özel kişilerin eline geçmiş bulunan taşınmaz eski eserlerle tarihi ve tabii anıtların kamulaştırılmaları, ilgisi dolayısıyla Vakıflar Genel Müdürlüğünce yapılır. Belediye sınırları dahilinde bulunan eski eserlerin tarihi ve tabii anıtların imar kanunu gereğince tesbit edilecek koruma sınırları dahilindeki taşınmaz malların, değer bedelleri üzerinden belediyeler tarafından kamulaştırmalarda bu sahalar çevresindeki eski eserlerin meydana çıkarılmasından doğacak değer farkları hesaba katılmaz.

Madde 13: Mülkiyeti Hazine'ye ait bulunan veya vakıf olan eski eserlerden kullanılması kamu tüzel kişilerine veya derneklere bırakılanların bakım, onarım ve

restorasyon işleri için yapılacak harcamalara, bu eserleri kullananlar da katılırlar. Bu harcamalara ait esaslar, vakıf eserler hakkında Vakıflar Genel Müdürlüğünce, diğerlerinde ise Milli Eğitim Bakanlığınca tespit olunur.

Eski eserlerin bulunduğu çevrelerdeki şehir planlarının tanziminde Milli Eğitim Bakanlığının görüşü alınır, ve bunların ilgili bakanlıkca onanması sırasında bu görüş değerlendirilir.

Daha önce tanzim ve tasdik edilmiş imar planlarının, eski eserler, tarihi ve tabii anıtlar bakımından değiştirilmesi gerekli görüldüğü ve bu hususta Gayrimenkul Eski Eserler ve Anıtlar Yüksek Kurulunun kararı alındığı takdirde Milli Eğitim Bakanlığı gerekli değişiklik teklifinde bulunabilir.

Madde 15: Taşınmaz eski eserlerin bu kanunun yayımından önceki malik ve zilyedleri bu eserlerin bakım ve onarımlarını bu kanuna Milli Eğitim Bakanlığının bakım ve onarım hususunda vereceği talimata uygun olarak yerine getirdikleri sürece bu kanunun eski eser zilyed ve malikleri için tanıdığı muafiyet ve haklardan faydalanırlar. Bu eserler üzerindeki mülkiyet ve zilyedlik haklarının tabii icabı olarak ve bu kanun hükümlerine aykırı bulunmayan bütün yetkilerini kullanabilirler. Bakım ve onarımlarını ilgilendiren sorumluluklarını yerine getirmekte aczi sabit olan maliklerle zilyedlerin mülkleri (vakıf eserler hariç) usulüne göre kamulaştırılırlar. Milli Eğitim Bakanlığı, Turizm ve Tanıtma Bakanlığı, Vakıflar Genel Müdürlüğü, özel idareler ve belediyeler lüzum gördüğü



ahvalde bu gibi taşınmaz eski eserlerle tarihi ve tabii anıtların korunma, bakım ve onarımlarına kendi teknik eleman ve ödenegiyle yardımda bulunabilir.

Yapılacak bu yardımın hangi şartlarda faizsiz veya az faizli uzun veya kısa vadeli borç şeklinde olacağı Bakanlar Kurulu kararıyla tespit olunur.

Madde 19: Eski eserlerin ve anıtların bakım, onarım ve restorasyon işleri 1050 sayılı Muhasebe-i Umumiye ve 2490 sayılı Arttırma ve Eksiltme ve İhale Kanunlarıyla bu kanunların ek ve değişikliklerine bağlı kalmaksızın ehliyeti tespit edilenlere yaptırılabilir.

Eski eserlerin ve anıtların bakım, onarım ve restorasyon işlerinde kullanılmak şartıyla Milli Eğitim Bakanlığı veya Vakıflar Genel Müdürlüğünce hariçten getirilmesi gereken her türlü makina, teknik malzeme alat ve edevat biçümüyle gümrük resim ve harçlarından muaftır.

Law of Antiquities, No: 1710, 1973

Article 1: All buildings movable and immovable objects on or underground or underwater, concerning science, culture, religion or fine arts that have remained from historic or prehistoric ages, and all kinds of documents with the same qualities are called antiquities.

Among these:

Historical caves, rock shelters, rocks with writings or reliefs on them, mounds, ruins, acropolis, necropolis, city walls, castle and towers, all kinds of architectural monuments, theatres, hypodromes, stadioms, amphitheatres, agoras, libraries, all kinds of official or private buildings, remnants of historical roads, bridges, mile stones, obelisks, altars, docks, seashores, water channels, cisterns, wells, historical palaces, kiosks, summer palaces, mosques, mescids, all sorts of pious foundations, fountain, sebil, imarets, hospitals, clockroom, silverwire shops, medreses, zaviyes, graveyards, tombs, sarcophagus, steele, khans, baths, synagogues, basilicas, churches, monasteries, etc., and collection of buildings composed of cited buildings, complexes, sites, other immovable goods, and pieces belonging to them, remnants of monuments and walls, remnants of scattered bricks, and similar construction material make up immovable antiquities,

all sorts of animal and plant fossils, human skeletons of prehistoric ages, flintstone, obsidien, all sorts of equipment made up of bone or metal, tile ceramic, or similar pottery, statues, figurines, tablets, cutting or defensive or shooting arms, icons, glass objects, ornamental goods, precious stone for rugs, earrings, broches, seals, bracelets, and the like, masks, crowns, documents written or illustrated on leather, cloth, papyrus, parchment, or metals, weighing tools, coins, framed inscriptions, or illuminated books, miniatures, aesthetically valuable gravures, oil or water color paintings, relics, medals,

movable objects made of tile, soil, glass, wood, cloth, etc., and their pieces make up movable antiquities.

Among the antiquities:

all sorts of immovable architectural products that have been the stage for significant historical events or that have some significance and peculiarity in terms of archaeology, history, or art, and that are supposed to be protected and evaluated and sculptures with the same qualities are called MONUMENT,

separate or gathered groups of buildings that are supposed to be protected and appreciated due to their architecture, contributions to the environment are called COMPLEX,

Topographic areas that are either products of nature or common products of nature and human beings, which should be preserved and evaluated due to their homogeneity, and characteristics, and their historical aesthetical, artistic, scientific, ecological, ethnographical, eternal or mythological significance are called SITE,

Areas that have been the stage for important historical events, and that are therefore supposed to be preserved are called HISTORICAL SITE,

Areas that are known to be or discovered underground or underwater, which have the remnants of an antique residence or an ancient civilization are called ARCHAEOLOGICAL SITE or "ÖREN YERİ"

Natural beauties and peculiarities and the beauti-

ful scenes produced by natural or geological events, aged trees and woods that need to be preserved are called NATURAL SITE, these are essentially to be evaluated and preserved as a whole.

Article 5: It is prohibited to distart or change the antiquities and historical and natural monuments that are included by the definition and comprehension of this code, to repair, to carry out construction, installation, drilling and excavation, to establish lime- stone quarries and brick mills in them or within their security boundaries, to make use of them for the purposes of herding, agriculture and the like, to inhabit or occupy them temporarily or continuously for any purpose, to damage part or whole of them, to employ them in services that may cause damage to them, to search for treasure in these areas without the permission of the Ministry of Education if the immovable is subject to the statement of the High Committee of Antiquities .

The formal ways and conditions for inhabiting, using, repairing the antiquities, historical and natural monuments, and historical areas, carrying out construction, installation, drilling and excavation in them or within their security boundaries are fixed by regulation that is to be formed according to this code and its provisions.

Article 7: Regardless of who holds the possession and management, Ministry of Education is responsible for taking or imposing the necessary measures for providing and maintenance of antiquities and historical and natural

monuments and exercising all kinds of control upon these.. In the protection of antiquities, and of the natural and historical monuments under the management and control of the Ministry of National Defence, action is taken in cooperation with the Ministry of Education.

The employment and repair of the wakf antiquities administered by the General Directorate of Wakfs are carried out by the General Directorate of Wakfs, contingently upon the statement of the High Committee of Antiquities.

Article 8: The immovable antiquities are selected by specialized identification committees including the Ministry of Education and experts in the domain of tourism; and the classification is registered and proclaimed with the remark "it is an antiquity" written in the box of reports in the written survey of the province, after the classification is affirmed by the High Committee of Antiquities. If immovable antiquities allocated to state offices and official institutions are involved in the course of this selection and classification, the opinion of the relevant office or institution is asked.

Article 12: Castles, city ruins, and all sorts of historical ruins and the details belonging to them, historical and cultural monuments and the fields where these are found altogether and which are not registered in the name of Treasury are registered in the name of Treasury, and transferred to the management of the Ministry of Education. Only the wakf monuments and those belonging to

the municipalities are not subject to this provision. Castles and their walls, city ruins, immovable ancient ruins and other historical and natural monuments with these characteristics transferred to legal or private persons partly or as a whole, or appropriated by persons through privileges of construction or revival, are transferred to the state by means of nationalizing with their value prices, or by means of exchange. The antiquity values of the antiquities found or that are going to be found on or under the ground are not considered in these nationalisations and exchanges.

The nationalization of the immovable antiquities and the historical and natural monuments that have been appropriated partly or as a whole, by legal or private persons for some reason or other, while originally belonging to wakfs is carried out by the General Directorate of Wakfs due to its involvement. In the nationalisation with the value prices by the municipalities, of the antiquities, historical and natural monuments, and the immovables within the boundaries of protection that is to be determined in accordance with Law of Zoning and Construction, the value differences that are going to emerge due to the discovery of antiquities around these territories are not considered.

Article 13: In the maintenance, repair, and restoration expenditures of the antiquities which are wakfs, or possessed by Treasury, but which are used by public legal persons or associations, those who use these an-

tiquities also have a contribution. The principles of these expenditures are fixed by the General Directorate of Wakfs for the wakf antiquities, and by the Ministry of Education for others.

In the design of city plans involving the environments with antiquities, the opinion of the Ministry of Education is asked, and this opinion is considered in the affirmation of city plans by the relevant ministry. The Ministry of Education can put forward necessary proposals of modifications if the formerly prepared and affirmed zoning plans are deemed to be in need of being modified with respect to antiquities, and historical and natural monuments, and if there is a relevant decision of the High Committee of Antiquities.

Article 15: The owners of immovable antiquities prior to the enactment of this law benefit from the exemptions and rights provided by this law to the owners of antiquities, as far as they perform the maintenance and repair of these antiquities according to this law and according to the directives and instructions of the Ministry of Education about maintenance and repair. They can exercise all their rights which are natural consequences of their rights of ownership and which are not contradictory to this law. The properties of these owners whose failure in performing the duties of maintenance and repair is observed are nationalized (except for the wakf antiquities) according to the formal procedures. The Ministry of Education, Minis-

try of Tourism and the General Directorate of Wakfs and municipalities can contribute to the maintenance, protection and repair of such immovable antiquities, and historical and natural monuments by means of their own technicians and allowances, whenever they deem it necessary to do so. The conditions under which this contribution will take the forms of loans without interest or with minor interest rates, with short or long terms, are determined by a decision of the Council of Ministers.

Article 19: The task of maintenance, repair, and restoration of antiquities and monuments can be assigned to those who are observed to be qualified, without necessarily appealing to the Laws of General Accountancy (No: 1050) and Auction and Tender (No: 2490), and the appendices and modified sections of these laws.

All sorts of machinery, technical equipment, tools and materials that are to be imported by the Ministry of Education or the General Directorate of Wakfs are free of all sorts of customs and duties, provided they are going to be employed in the maintenance, repair and restoration of antiquities and monuments.



## APPENDIX - D

Kültür ve Tabiat Varlıklarını Koruma Kanunu,

No: 2863 21.7.1983

Madde 1: Bu kanunun amacı, korunması gerekli taşınır ve taşınmaz kültür ve tabiat varlıkları ile ilgili tanımları belirlemek, yapılacak işlem ve faaliyetleri düzenlemek, bu konuda gerekli ilke ve uygulama kararlarını alacak teşkilatın kuruluş ve görevlerini tesbit etmektir.

Madde 3: Bu kanunda geçen tanımlar ve kısaltmalar şunlardır:

a) Tanımlar:

1) "Kültür varlıkları", tarih öncesi ve tarihi devirlere ait bilim, kültür, din ve güzel sanatlarla ilgili bulunan yer üstünde, yer altında veya su altındaki bütün taşınır ve taşınmaz varlıklardır.

2) "Tabiat varlıkları", jeolojik devirlerle, tarih öncesi ve tarihi devirlere ait olup ender bulunmaları veya özellikleri ve güzellikleri bakımından korunması gerekli, yer üstünde, yer altında veya su altında bulunan değerlerdir.

3) "Sit", tarih öncesinden günümüze kadar gelen çeşitli medeniyetlerin ürünü olup, yaşadıkları devirlerin sosyal, ekonomik, mimari ve benzeri özelliklerini yansıtan kent ve kent kalıntıları, önemli tarihi hadiselerin cereyan ettiği yerler ve tespiti yapılmış tabiat özellikleri ile korunması gerekli alanlardır.

4) "Koruma" ve "Korunma", taşınmaz kültür ve tabiat varlıklarında muhafaza, bakım, onarım ve restorasyon, fonksiyon değiştirme işlemleri, taşınır kültür varlıklarında ise muhafaza, bakım, onarım ve restorasyon işleridir.

5) "Korunma alanı", taşınmaz kültür ve tabiat varlıklarının muhafazaları veya tarihi çevre içinde korunmalarında etkinlik taşıyan korunması sorunlu olan alanlardır.

6) "Değerlendirme", kültür ve tabiat varlıklarının teşhiri, tanzimi ve bilimsel yöntemlerle tanıtılmasıdır.

b) Kısaltmalar:

1) "Yüksek Kurul", "Taşınmaz Kültür ve Tabiat Varlıkları Yüksek Kurulu"nu,

2) "Bölge Kurulu", "Taşınmaz Kültür ve Tabiat Varlıkları Bölge Kurulu"nu,

ifade eder.

Madde 6: Korunması gerekli taşınmaz kültür ve tabiat varlıkları şunlardır:

a) Korunması gerekli tabiat varlıkları ile 19 uncu yüzyıl sonuna kadar yapılmış taşınmazlar,

b) Belirlenen tarihten sonra yapılmış olup önem ve özellikleri bakımından Kültür ve Turizm Bakanlığınca korunmalarında gerek görülen taşınmazlar,

c) Sit alanı içinde bulunan taşınmaz kültür varlıkları,

d) Milli tarihimizdeki önemleri sebebiyle zaman kavramı ve tescil söz konusu olmaksızın Milli Mücadele ve

Türkiye Cumhuriyeti'nin kuruluşunda büyük tarihi olaylara sahne olmuş binalar ve tespit edilecek alanlar ile Mustafa Kemal ATATÜRK tarafından kullanılmış evler.

Ancak, Yüksek Kurulca mimari, tarihi, estetik, arkeolojik ve diğer önem ve özellikleri bakımından korunması gerekli bulunmadığı karar altına alınan taşınmazlar, korunması gerekli taşınmaz kültür varlığı sayılmazlar.

Kaya mezarlıkları, yazılı, resimli ve kabartmalı kayalar, resimli mağaralar, höyükler, tümülüsler, ören yerleri, akropol ve nekropoller, kale, hisar, burç, sur, tarihi kışla, tabya ve istihkamlar ile bunlarda bulunan sabit silahlar, harabeler, kervansaraylar, han, hamam, ve medreseler, kümbet, türbe ve kitabeleri, köprüler, su kemerleri, su yolları, sarnıç ve kuyuları, tarihi yol kalıntıları, mesafe taşları, eski sınırları belirten delikli taşlar, dikili taşlar, sunaklar, tersaneler, rıhtımlar, tarihi saraylar, köşkler, evler, yalılar ve konaklar, camiler, mescitler, musallalar, namazgahlar, çeşme ve sebiller, imarethane, darphane, şifahane, muvakkithane, simkeşhane, tekke ve zaviyeler, mezarlıklar, hazireler, arastalar, bedestenler, kapalı çarşılar, sandukalar, siteller, sinagoglar, bazilikalar, kiliseler, manastırlar, külliyyeler, eski anıt ve duvar kalıntıları, freskler, kabartmalar, mozaikler ve benzeri taşınmazlar, taşınmaz kültür varlığı örneklerindedir.

Tarihi mağaralar, kaya sığınaklar, özellik gösteren ağaç ve ağaç toplulukları ile benzerleri, taşınmaz tabiat varlığı örneklerindedir.

Madde 7 : Korunması gerekli taşınmaz kültür ve tabiat varlıklarının tesbiti, Kültür ve Turizm Bakanlığınca yapılır. Kültür ve Turizm Bakanlığı bu tesbiti kendi uzmanlarıyla yapabileceği gibi, varlıkların niteliklerine göre diğer ilgili kurum ve kuruluşların uzmanlarının yardımlarından faydalanarak da yapabilir.

Yapılacak tespitlerde, kültür ve tabiat varlıklarının tarihsel, sanatsal, bölgesel ve diğer özellikleri dikkate alınır. Devletin imkanları göz önünde tutularak, örnek durumda olan ve ait olduğu devrin özelliklerini yansıtan yeteri kadar eser, korunması gerekli kültür varlığı olarak belirlenir. Tespit ve tescille ilgili usuller, esaslar ve kıstaslar yönetmelikte gösterilir. Kültür ve Turizm Bakanlığınca yapılan tespitler, Yüksek Kurul kararıyla tescil olunur.

Tescil kararı, adresleri bilinen maliklere Kültür ve Turizm Bakanlığınca tebliğ ve Resmi Gazete ile ilan olunur. Malikleri bilinmeyen veya mahiyetleri icabın mülkiyete konu olmayan taşınmazların tescil kararı, sadece ilan yoluyla duyurulur.

Tesciller mahallin mülki idare amirliğince mutavazıt vasıtalarla en geç üç gün içinde ilan edilir; ilana dair tutanak, Kültür ve Turizm Bakanlığının en yakın temsilcisine teslim edilir. Bu işlemler tamamlandıktan sonra, mahalli mülki amirin bildirisine üzerine, tapu kütüğünün beyanlar hanesine, korunması gerekli kültür veya tabiat varlığı olduğu hususunda kayıt konur.

Madde 12: Özel hukuka tabi gerçek ve tüzel kişi-

lerin mülkiyetinde bulunan korunması gerekli kültür ve tabiat varlıklarının; korunması, bakım ve onarımı için Kültür ve Turizm Bakanlığınca aynı, nakdi ve teknik yardım yapılır ve kredi verilir.

Bu amaçla, bir devlet bankasında açılacak özel bir hesapta ve Kültür ve Turizm Bakanlığı emrinde "Korunması Gerekli Taşınmaz Kültür Varlıklarının Onarımına Katkı Fonu" kurulur. Bu fonun ita amiri Kültür ve Turizm Bakanındır.

Bu fonun gelirleri, her yıl devlet bütçesinden ayrılacak ödenekler ile bu fondan verilecek kredilerin faizlerinden oluşur.

Kültür ve Turizm Bakanlığınca yapılacak aynı, nakdi ve teknik yardımlar, fondan yapılacak harcamalar ve verilecek kredilerle ilgili usul ve esaslar yönetmelikle belirlenir.

Madde 15: Taşınmaz kültür varlıkları ve bunların korunma alanları, aşağıda belirlenen esaslara göre kamulaştırılır:

a) Kısmen veya tamamen gerçek ve tüzel kişilerin mülkiyetine geçmiş olan korunması gerekli taşınmaz kültür ve tabiat varlıkları ile korunma alanları Kültür ve Turizm Bakanlığınca hazırlanacak programlara uygun olarak kamulaştırılır. Bu maksat için, Kültür ve Turizm Bakanlığının bütçesine yeterli ödenek konur.

b) Menşei vakıf olup da çeşitli sebeplerle kısmen veya tamamen gerçek ve tüzel kişilerin mülkiyetine geçen korunması gerekli taşınmaz kültür ve tabiat varlıkları ve

bunların korunma alanlarının kamulaştırılmaları, Vakıflar Genel Müdürlüğüne yapılır. Bu maksat için Vakıflar Genel Müdürlüğü bütçesine yeteri kadar ödenek konur.

c) Korunması gerekli taşınmaz kültür ve tabiat varlıklarının korunma alanları, imar planında yola, otoparka, yeşil sahaya rastlıyorsa bunların belediyelerce; sair kamu kurum ve kuruluşlarının bakım ve onarımı ile görevli oldukları veya kullandıkları bu gibi kültür varlıklarının korunma alanlarının ise, bu kurum ve kuruluşlarca kamulaştırılması esastır.

d) Kamulaştırmalarda bedel takdirinde, taşınmaz kültür varlıklarının eskilik, enderlik ve sanat değeri dikkate alınmaz.

e) Kamulaştırma işlemleri, bu kanun hükümleriyle, 6830 sayılı İstimlak Kanunu'nun bu Kanuna aykırı olmayan hükümlerine göre yapılır.

Law of Protection of Cultural and Natural  
Entities, No: 2863, 1983

Article 1: The objectives of this law are the determination of the definitions concerning the movable and immovable cultural and natural entities in need of protection, the regulation of the procedures and activities, and the specification of the formation and duties of the organisation that is to make the decisions concerning the relevant principles and applications.

Article 3: The following definitions and abbrevia-

tions have been employed in this law:

a) Definitions:

1) "Cultural entities" are all movable and immovable entities over or under the ground or underwater, that have remained from prehistoric or historical ages, and that concern science, culture, religion, and fine arts.

2) "Natural entities" are those values over or under the ground or underwater, that belong to the pre-historical and historical, and that are supposed to be preserved due to their rarity, beauty, or peculiarities.

3) "Site" refers to cities and city ruins that are products of various civilizations from prehistoric till today, and that reflect the social, economic, architectural, etc., characteristics of their ages; areas that have been the stage for important historical events, and areas that are supposed to be preserved with their identified natural characteristics.

4) "Preservation" is the procedure of protection maintenance, repair, restoration, and transformation of function as to the immovable cultural and natural entities; and task of protection, maintenance, repair and restoration as to the movable cultural entities.

5) "Preservation area" is the area that is necessarily to be protected, and that is important for the preservation of immovable cultural and natural entities or their preservation within their historical surroundings.

6) "Evaluation" is the exhibition, arrangement and presentation, with scientific methods, of cultural and

natural entities.

b) Abbreviations

1) "The High Committee" denotes "The High Committee of Immovable Cultural and Natural Entities",

2) "Local Committee" denotes "The Local Committee of Immovable Cultural and Natural Entities".

Article 6: These are the immovable cultural and natural entities that are supposed to be preserved:

a) The natural entities that are supposed to be preserved and the immovables that had been built until the end of the 19<sup>th</sup> century,

b) the immovables that were built after the cited date, but that are considered by the Ministry of Culture and Tourism, to be supposed to be protected due to their significance and characteristics,

c) Immovable cultural entities within SITE areas,

d) Buildings that have been the stage for great historical events during the National Struggle and the establishment of the Republic of Turkey, the areas that are to be determined, and the houses inhabited by Mustafa Kemal ATATÜRK, regardless of any considerations of period and registration.

On the other hand, immovables about which the High Committee makes the statement that they need not be protected due to their architectural, historical, aesthetical, archaeological, etc. significance and properties are not considered immovable cultural entities that are supposed to be protected.



Rock cut tombs, rocks with writings, pictures, and reliefs on them, caves with drawings in them, mounds, acropolis, necropolis, castles, fortresses, towers, city walls, historical barracks, bastions and the stationary arms in them, ruins, caravanserais, khans, public baths, medreses, tombs, bridges, aqueducts, cisterns, and wells, remains of historical roads, milestones, obelisks, altars, dockyards, historical palaces, kiosks, houses, summer palaces, mosques, mescids, namazgah, fountains, sebils, imarets, hospitals, clockrooms, silverwire shops, zaviyes, cemeteries, hazire, arasta, bedesten, covered bazaars, steles, synagogues, basilicas, churches, monasteries, complexes, remnants of ancient monuments and walls, frescos, reliefs, mosaics and similar immovables, are examples of immovable cultural entities.

Historical caves, trees having peculiarities, etc. are examples of immovable natural entities.

Article 7: The immovable cultural and natural entities that are supposed to be protected are identified by the Ministry of Culture and Tourism. Ministry of Culture and Tourism can make this identification with its own specialists or can benefit from the contributions of specialists from other institutions and foundations according to the properties of the entities.

In the identifications, the historical, artistic, local, and other characteristics are taken into account. Considering the resources of the State, a sufficient number of antiquities that have the qualities of specimens and

that reflect the features of the age they belong to, are specified as cultural entities that are supposed to be protected. The ways, principles, and criteria of identification and registration are indicated in a regulation. The identifications made by the Ministry of Culture and Tourism are registered by the decision of the High Committee.

The statement of registration is notified to the owners with known addresses by the Ministry of Culture and Tourism, and proclaimed in the Official Gazette. The statements of registration about immovables without owners of known addresses, or those that are by their nature no subject to ownership are only proclaimed.

The registrations are proclaimed within three days with the usual media by the civil administration of the locality; the minutes of the proclamation is delivered to the closest representative of the Ministry of Culture and Tourism.

After these procedures are completed, a remark is made in the reports box of the written survey of the province about the cultural and natural entity that is supposed to be preserved, following the statement of the local civil administrator.

Article 12: Contributions are made in kind, in cash, and in technical terms, and credits are given by the Ministry of Culture and Tourism for the protection maintenance and repair of the cultural and natural entities that are supposed to be protected. For this purpose, in a special account that will be opened in a

public bank, and subject to the order of the Ministry of Culture and Tourism, "Fund for Contribution to the Preservation of Immovable Cultural and Natural Entities" is established. The Minister of Culture and Tourism is responsible of this fund.

The income of this fund consists of the annual allowances from the State budget and the interests of the credits given by this fund.

The conditions about the contributions of the Ministry of Culture and Tourism in cash, in kind, and in technical terms, and about the expenditures of the fund and the credit to be given are determined by a regulation.

Article 15: Immovable cultural entities and their preservation areas are nationalized according to the following principles:

a) The immovable cultural and natural entities that are supposed to be protected, that have been appropriated by real or legal persons totally or partially and their preservation areas are nationalized within the frames of of programs that are going to be formed by the Ministry of Culture and Tourism. Sufficient allowance is endowed in the Ministry of Culture and Tourism budget for this purpose.

b) The immovable cultural and natural entities originally belonging to wakfs, that have been appropriated by real or legal persons for various reasons, and their preservation areas are nationalized by the General

Directorate of Wakfs budget for this purpose.

c) If the preservation areas of immovable cultural and national entities intersect with roads, autoparks, green fields in the zoning plan, then these are in principle nationalized by municipalities; preservation areas of such cultural entities used by other public institutions and establishments, or the maintenance and repair of which are undertaken by public institutions and establishments, are nationalized by these institutions and establishments.

d) In the appreciation of nationalisation prices, the antiquity, rarity and aesthetical value of the immovable cultural entities are not taken into account.

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