

# BENER LAW OFFICE

YAPI KREDI PLAZA, C BLOK, KAT: 4  
34330 LEVENT, ISTANBUL, TURKIYE  
TEL: + 90 (212) 270 70 50 FAX: + 90 (212) 270 68 65  
[inbox@bener.av.tr](mailto:inbox@bener.av.tr)  
[www.bener.av.tr](http://www.bener.av.tr)

## **Update Report For The Highways And Bridges Privatization**

**Onur Kordel, Partner**

**August 2008**

### **Background**

In April 2007, the Turkish government announced its plans to privatize the operations of several bridges and stretches of highway throughout the country. Slated for privatization are the two Bosphorus bridges linking the European and Asian sides of Istanbul. The bridges together handled in excess of 303 million cars and generated over 640 million New Turkish Liras of revenue from tolls in 2007. Approximately 1,860 KM of highway are also on the agenda. The goals of this privatization effort are clearly to increase quality of service and to guarantee continued/new investment in super- and infra- structures. The Privatization High Council (PHC) passed a resolution outlining a bidding process for that was to begin in early summer 2008 with final contract awards being completed by 31 December 2008.

### **State Council Suspends Privatization Effort**

After reviewing demands made by the Consumer Protection Association (CPA) to suspend the bridge and highway privatization process being undertaken by the Privatization High Council (PHC), the Duty Chamber of the State Council (the Chamber) voted on 19 August 2008 to suspend the privatization process for highways and bridges. The Chamber's rationale for voting in favor of the suspension was made on the premise that without a more comprehensive legal framework, the privatization of highways, bridges and service facilities should not proceed. To establish such a comprehensive outline of the powers and responsibilities of the operator and the State authority it will be necessary to amend the current privatization legislation. The Privatization Administration of Turkey (PA) has the

right to appeal the decision of the Chamber. In such case, the appeal will be heard by the Unified Administrative Chamber of the State Council.

### **Statements made by the PA President before and after the State Council Decision**

Even before the Chamber's decision to suspend the proposed privatizations, Mr. Metin Kilci, the PA President, stated that due to its busy agenda, the draft law concerning the privatization of highways and bridges would likely not be enacted by the Parliament in a timely manner thus making it difficult to complete the privatization of highways and bridges by the end of 2008 as mandated by the PHC ruling.

In a comment made after the suspension decision, Mr. Kilci stated that he expects the draft law currently awaiting Parliamentary approval to eliminate the current concerns of the State Council and the reasons for suspension would be naturally removed by enactment of this law. He further stated that the PA expects to initiate the privatization of highways and bridges towards the end of 2008, with the first tender to include six highways and the Fatih Sultan Mehmet Bridge. The Bosphorus Bridge is planned to be privatized separately.

The general conditions of the privatization would be for the operating rights to be transferred to the private investor for 20-25 years. The selected operating companies would be responsible for toll collection and operation and maintenance of the selected highway or bridge. It is envisaged that the privatization will generate an income of US\$5-6 billion for the Turkish Government.