

New Era in Urban Transformation: Urban Transformation Presidency and Amendments by Law No. 7471

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ABSTRACT

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The earthquake that caused tragic losses in our country on February 6 led to an increase in earthquake-focused discussions on the public agenda. Due to the extensive impact on 11 cities during the earthquake, establishing earthquake-resistant cities and determining comprehensive urban transformation strategies have become a priority public policy. The problems experienced during the implementation processes of urban transformation projects have made comprehensive changes necessary. The mentioned comprehensive changes have necessitated transformation not only in terms of legal regulations but also in administrative structuring. With the Law Amending Some Laws and the Decree-Law No. 375 on the Transformation of Areas at Risk of Disasters, as the name suggests, changes are made to certain provisions of Law No. 6306 on the Transformation of Areas at Risk of Disasters, and some provisions are added to Law No. 6306. With the Law No. 7471 published in the Official Gazette dated November 9, 2023, significant changes have been made in urban transformation institutions. Changes in the identification of reserve building areas, along with the improvement of the identification of risky structures and subsequent practices, will provide a new framework for urban transformation. The establishment of the Urban Transformation Presidency, which will play a key role in the implementation of legal regulations and increasing efficiency in urban transformation practices, is crucial. After the explanation of the basic concepts of urban transformation, the amendments made to the urban transformation institutions by Law No. 7471 and the evaluations to be made on the management model of the Urban Transformation Presidency in two different sections will contribute to the understanding of the paradigm of the new era.

Kentsel Dönüşümde Yeni Dönem: Kentsel Dönüşüm Başkanlığı ve 7471 Sayılı Kanunla Yapılan Değişiklikler

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Ülkemizde acı kayıplara neden olan 6 Şubat Depremi, kamuoyu gündeminde deprem odaklı tartışmaların artmasına yol açarken, depremde 11 şehrin geniş ölçekte etkilenmesi nedeniyle depreme dirençli kentler oluşturma ve geniş kapsamlı kentsel dönüşüm stratejileri belirlenmesi öncelikli kamu politikası haline geldi. Kentsel dönüşüm projelerinin uygulama süreçlerinde yaşanan sorunlar kapsamlı değişimleri zorunlu hale getirmiştir. Sözü edilen kapsamlı değişiklikler, yasal düzenlemelerin yanı sıra idari yapılanma yönünden de dönüşümü zorunlu kılmıştır. 7471 sayılı Afet Riski Altındaki Alanların Dönüştürülmesi Hakkında Kanun ile Bazı Kanunlarda ve 375 Sayılı Kanun Hükmünde Kararıyla Değişiklik Yapılmasına Dair Kanun'la isiminden de anlaşılacağı üzere, 6306 sayılı Afet Riski Altındaki Alanların Dönüştürülmesi Hakkında Kanun'un belirli hükümlerinde değişiklik yapılmakta ve 6306 sayılı Kanun'a bazı hükümler eklenmiştir. 9 Kasım 2023 tarih 32364 sayılı Resmi Gazete'de yayımlanan 7471 Sayılı Kanun ile kentsel dönüşüm müesseselerinde



önemli değişiklikler yapılmıştır. Riskli yapı tespiti ve devamındaki uygulamaların geliştirilmesinin yanı sıra rezerv alan tespitinde yapılan değişiklikler kentsel dönüşüme yeni bir çerçeve kazandıracaktır. Yapılan yasal düzenlemelerin hayata geçirilmesinde ve kentsel dönüşüm uygulamalarında etkinliğin artırılmasında başat rol oynayacak Kentsel Dönüşüm Başkanlığı'nın kurulması önem arz etmektedir. Kentsel dönüşüme ilişkin temel kavramların incelenmesinden sonra iki farklı bölüm halinde, 7471 sayılı Kanunla kentsel dönüşüm müesseselerinde yapılan değişiklikler ve Kentsel Dönüşüm Başkanlığının yönetim modeli üzerinde yapılacak değerlendirmeler yeni döneme dair paradigmanın anlaşılmasına katkı sağlayacaktır.

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INTRODUCTION

Between 1900 and 2017, 210 damaging earthquakes with a magnitude of at least 6.0 occurred, causing loss of life. As a result of these earthquakes, 86,802 people lost their lives and 597,865 houses were severely damaged. In light of these statistics¹, we can state that most of the buildings in densely populated areas in Turkey are located in the earthquake zone. After the August 17, 1999, Gölcük earthquake, when old buildings were reduced to rubble under earthquake loads, regulations on materials, analysis, design, construction, and inspection have paved the way for the design and construction of safer structures. As a result of the evaluation of the condition of old buildings and whether they require retrofitting or demolition under the name of "Urban Transformation", it was understood during the February 6 earthquake that although many urban transformation practices were implemented, their impact was limited. In the report of the Presidency of the Republic of Turkey's Strategy and Budget Directorate on the earthquake²; it was stated that as of March 6, 2023, 1.712.182 buildings were damaged, 35.355 buildings were demolished, 17.491 buildings needed to be demolished urgently, 179.786 buildings were heavily damaged, 40.228 buildings were moderately damaged, and 431.421 buildings were slightly damaged. It was reported that the buildings that were demolished or severely damaged included not only residential buildings but also public buildings such as historical and cultural buildings, schools, administrative buildings, hospitals, and hotels. In light of these data, it is seen that the problem of dense unplanned urbanization continues and the need for comprehensive urban transformation is more urgent than ever.

Considering that earthquakes have such a wide social impact, creating earthquake-resilient cities and developing comprehensive urban transformation strategies can only be realized with the intervention of the State's responsibility. Article 56 of the Constitution stipulates that everyone has the right to live in a healthy and balanced environment and that it is the duty of the state and citizens to improve the environment, and Article 57 stipulates that the state is obliged to take measures to meet the housing need within the framework of planning that takes into account the characteristics of cities and environmental conditions. Due to this duty imposed on the administration by the Constitution, many legal regulations have been put into effect. While the Law No. 6306 on the Transformation of Areas Under Disaster Risk, which is the main legal basis of urban transformation practices and entered into force in 2012, has been amended 11 times with different regulations, the "Law on the Amendment of the Law on the Transformation of Areas Under Disaster Risk and Certain Laws and Decree Law No. 375", which entered into force after being published in the Official Gazette on November 9, 2023, includes serious amendments that take into account the practical criticisms of Law No. 6306. The main basis of legal regulations is to make settlements safe, qualified and habitable. In this context, in order to make settlements safe, qualified and livable; settlement areas at risk of disaster³, physically, socially and economically⁴ inadequate structures and natural, historical and cultural environmental areas that need to be protected should be subjected to liquidation, renovation and improvement within the scope of transformation plans and projects based on the public interest⁵.

¹ Ministry Of Interior Disaster and Emergency Management Presidency, Türkiye'de Afet Yönetimi ve Doğa Kaynaklı Afet İstatistikleri - Disaster Management and Natural Disaster Statistics in Turkey, 2008, p. 48.

² Presidency of The Republic of Türkiye, Presidency of Strategy and Budget, Kahramanmaraş ve Hatay Depremleri Raporu - Report on the Kahramanmaraş and Hatay Earthquakes, 2023, p. 26.

³ Birpınar, M. Emin. "Türkiye'de Kentsel Dönüşüm Olgusu ve 6306 sayılı Yeni Yasa", *Müsiad Journal*, vol. 20, no. 59, 2012, p. 33.

⁴ Özden, P. Pınar. "Kentsel Yenileme Uygulamalarında Yerel Yönetimlerin Rolü Üzerine Düşünceler ve İstanbul Örneği", *Siyasal: Journal of Political Sciences*, no.24, 2001, p.257.

⁵ Ülger, N. Enver. *Türkiye'de Arsa Düzenlemeleri ve Kentsel Dönüşüm*, Nobel Akademik Yayıncılık, 2010, p. 55.

There are opinions that the previous Law No. 6306 did not offer a holistic approach to urban transformation⁶. Especially, the renewal of risky buildings is planned not as part of an urban design but simply by demolishing and rebuilding existing risky buildings without significant changes to the general settlement and usage pattern of a city or region⁷. It is evident that the urban transformation campaign primarily focused on earthquake safety has not mobilized the societal dynamics. There is a need for sustainable models that embrace a holistic approach, capable of creating an impact across society. Therefore, the necessity⁸ for comprehensive and sustainable land management paradigms compatible with urban planning and implementation approaches has been one of the main reasons for the new regulation. In order to create a new dynamism in urban transformation practices, fundamental amendments were made to the 'risky building' and 'reserve building area' issues, which are among the main applications of Law No. 6306.

Due to the intensification of the earthquake agenda in our country, discussions on urban regeneration have started to receive the necessary public attention. The public sector, private sector, local communities, and civil society organizations play various roles in urban transformation practices. It is necessary to strengthen institutional capacity in order to increase the effectiveness of decision-making processes in the initial project design and implementation phases of urban regeneration, which is a complex process involving many stakeholders. New legislative regulations aimed at accelerating transformation practices, particularly in anticipation of potential future earthquakes (especially the Marmara earthquake), have gained significance. Significant changes have been made in terms of the effectiveness of institutional-bureaucratic capacity in urban transformation. With the establishment of the Urban Transformation Presidency under the Ministry of Environment, Urbanization, and Climate Change by the "Presidential Decree on Making Amendments to Some Presidential Decrees" published in the Official Gazette dated October 16, 2023, and numbered 32341, it is believed that a new management approach will be developed for urban transformation practices. In this study, the first section will evaluate the definition, purpose, and scope of the concept of urban transformation. The second section will assess the new management approach and the Urban Transformation Presidency concerning urban transformation practices. The final section will discuss the changes made in urban transformation practices and institutions in light of recent legislative amendments.

I. THE CONCEPT OF URBAN TRANSFORMATION

The concept of urban transformation has emerged as a result of efforts to address the problems encountered in cities due to industrialization and the associated population growth⁹. Considering the implementation processes, scopes of impact, and target programs, it is possible to make different definitions¹⁰. In light of the various functions mentioned, the concept of urban transformation is included in the doctrine¹¹ under various names such as urban renewal, urban redesign, urban gentrification,

⁶ İnal, Emrehan. *Kentsel Dönüşüm Hukukunda Riskli Yapı*, On İki Levha Yayıncılık, İstanbul, 2017, p. 8.

⁷ Üstün, Gül. *Kentsel Dönüşüm Hukuku*, On İki Levha Yayıncılık, İstanbul, 2014, p. 10.

⁸ Yomralıoğlu, Tahsin. "1st International Urban Regeneration Symposium", Chamber Survey and Cadastre Engineers, Ankara, 2013.

⁹ Kandaloğlu, Nihat. *Kentsel Dönüşüm ve Bir Dağıtım Modeli Önerisi*, Unpublished Doctoral Thesis, Istanbul Technical University, İstanbul, 2012, p. 5.

¹⁰ Uzun, C. Nil. *İstanbul'da Seçkinleştirme (Gentrification): Örnekler ve Seçkinleştirme Kuramları Çerçevesinde Bir Değerlendirme, İstanbul'da Soylulaştırma: Eski Kentin Yeni Sahipleri*, İstanbul Bilgi Üniversitesi Yayınları, 2006, p. 31; Keleş, Ruşen. "Kentsel Dönüşümün Tüzel Altyapısı", *Mimarist Dergisi*, no. 12, 2004, p. 73; Göksu, A. Faruk. "Kentsel Dönüşüm: Yeni Yaklaşımlar ve Yenilikçi Modeller", *Mimarist Dergisi*, no. 12, 2004, p. 81; Zheng, HW / Shen, GQP / Wang, H. "A review of recent studies on sustainable urban renewal", *Habitat International*, vol. 41, 2014, p. 272.

¹¹ "Urban renewal involves the complete demolition and reconstruction of structures in an area where rents have

revitalization, and others¹².

If a universal definition of urban transformation is to be developed based on the definitions made regarding the concept¹³, urban transformation can be defined as the activity of renewing, changing, improving, revitalizing, reproducing, and restructuring the old, dilapidated, and worn-out urban fabric over time through the use of public power within a strategic approach involving social and economic programs, in accordance with contemporary urban planning principles and planning principles¹⁴.

Article 1 of Law No. 6306 provides the framework for the concept of urban transformation. The relevant article of the Law sets out the final concept with the provision:

"The purpose of this Law is to determine the procedures and principles regarding the improvement, liquidation and renovation of the areas under disaster risk and the lands and lands outside these areas where risky buildings are located in order to create healthy and safe living environments in accordance with the norms and standards of science and art."

Urban transformation is defined as strengthening residential areas in terms of physical, economic, and social well-being. In addition to the multidimensional strengthening of urban design, the concept of urban transformation¹⁵ has come to the agenda at the point of reshaping areas that have completed their economic life, lost their function and uncontrolled built areas in terms of physical and socio-cultural aspects. The history of urbanization and policies of countries also determine the course of urban transformation. Therefore, urban transformation is a multi-layered decision-making and implementation process rather than a spontaneously occurring process. This is because it involves social, economic, cultural, and political dimensions. In other words, urban transformation is a comprehensive vision and action process¹⁶ that provides a permanent solution to the economic, social, physical, and

fallen sharply, revitalizing the existing structures. Regeneration entails creating a new urban fabric or improving the existing one in areas that have become blighted, integrating them back into the city. Sanitation involves upgrading the performance of a deteriorating environment with inadequate infrastructure through limited investments. Revival or revitalization focuses on bringing back to life urban areas experiencing decline socio-culturally, economically, or physically, by eliminating or altering the factors contributing to the decline. Rehabilitation aims to restore old urban areas that have not yet lost their original character despite the onset of deformation. Urban planning and rehabilitation involve legitimizing illegitimate areas in terms of urban planning, providing assurance to residents, and improving their quality of life. Urban conservation generally entails preserving the characteristics of cultural and natural properties within legal frameworks, aiming to rescue historical sites from disappearance and integrate this heritage with contemporary life. Gentrification addresses the rehabilitation of the social structure in areas that have suffered socio-cultural decline, consequently affecting their physical surroundings." Üstün, Gül. *Kentsel Dönüşüm*, Doctoral Thesis, Marmara University, Istanbul, 2008, p. 6.

¹² Çaptuğ, Mehpare. *İdare Hukuku Açısından Kentsel Dönüşüm*, Seçkin Yayıncılık, Ankara, 2016, p. 17.

¹³ See also different definitions., "Urban transformation refers to the method designated to simultaneously address issues concentrated in urban deteriorated areas" Donnison, D. "The Challenge of Urban Regeneration for Community Development" *Community Development Journal*, 1993, p. 293. "It can also be defined as an agreement on the need to better understand urban decay processes and the outcomes to be achieved through transformation" Linchfield, Dalia. "Urban Regeneration for the 1990s" *London Planning Advisory Committee*, London, 1992. "Another definition of urban transformation is the continuous improvement of the social, physical, economic, and environmental conditions of a region through a comprehensive and integrated vision and action" Roberts, Peter/ Sykes Hugh. "The Evolution, Definition and Purpose of Urban Regeneration", *Urban Regeneration A Handbook*, London, 2008.

¹⁴ Özden, P. Pınar. *Kentsel Yenileme Yasal-Yönetmelik Boyut, Planlama ve Uygulama*, İmge Kitapevi, Ankara, 2008, p. 44.

¹⁵ Friesecke Frank. "The Role of Partnerships in Urban Regeneration-Similarities and Differences between Germany and United Kingdom", *Strategic Integration of Surveying Conference*, Hong Kong, 2007.

¹⁶ Özkan, Y. Emre/ Sidal, Süleyman. "Kent'in Dönüşümü ve Yoksulluk" *Eğitim Bilim Toplum Dergisi*, vol. 6, no. 24, 2008, p. 22.

environmental conditions of a region undergoing change, thereby solving urban problems. If urban transformation is defined with a holistic approach, it is described as an integrated action to improve the physical, economic, environmental, and social conditions of an area in a regular manner¹⁷. To advance such a complex process towards comprehensive objectives, it occurs through external intervention in the utilization of urban areas. Ensuring the legality of these interventions, which require balancing the public interest and individual property rights, is possible through effective public planning and judicial oversight.

Urban transformation is subject to different evaluations due to its multidimensional structure that intersects with various disciplines and fields of science. In addition to the development of different disciplines, urban transformation has been handled with different definitions due to the socio-economic structure of countries, and the problems and solutions have also varied until today due to the differences in implementation in the historical process. In parallel with shaping urbanization policies within the framework of the political and economic conditions of the period, urban transformation has also been implemented with different scopes and objectives. Therefore, while the definitions around the concept of urban transformation are constantly being updated, there will continue to be conceptual changes from the past to the future.

The main objective of the conceptual changes is to achieve results that will make the social demand for urban transformation more widely accepted and that will encourage the political institution to adopt regulations that will make urban transformation more feasible. Today, different outcomes¹⁸ stand out as follows:

“Contributing to the resolution of directly sociologically linked problems such as haphazard urbanization, aesthetic distortion, shantytowns, environmental pollution, and high crime rates.

Contributing to the development of the city in accordance with the requirements of the era.

Increasing the welfare of society and individuals, strengthening the competitive structure of the city.

Preventing unplanned and irregular settlements.

Facilitating the development of policies and strategies for the city alongside rational policies.”

The subject of urban regeneration practices are both publicly owned buildings and privately owned buildings. Some restrictions¹⁹ may be imposed on these structures within the framework of the purpose of the project and the public interest. Areas under disaster risk, shantytowns, areas with a high density of illegal apartment buildings, areas at risk of natural destruction, areas of urban decay in urban centers, and urban areas that have reached the end of their economic life may be the subject of urban transformation practices, which include the improvement, development, renewal of the urban structure or the preservation of historical areas of use²⁰. In our country, transformation projects are primarily implemented for risky buildings located in areas under disaster risk.

¹⁷ Roberts, Peter/ Sykes, Hugh, p. 9.

¹⁸ Roberts, Peter/ Sykes, Hugh, p. 9.

¹⁹ Melikşah, Yasin. “Kentsel Dönüşüm Projelerinin Hukuki Boyutu”, *Türkiye Barolar Birliği Dergisi*, no. 60, 2005, p. 111.

²⁰ Keleş, Ruşen. *Kentleşme Politikası*, İmge Yayınevi, 2013, p. 388.

Numerous legislative regulations regarding urban planning have been implemented since 1848²¹. Regulations, increasingly comprehensive and extensive since the early Republican periods, have cumulatively contributed²² to urban transformation practices, paved the way for today's level of development. The final form of the legal framework was determined by the 'Law No. 6306 on the Transformation of Areas Under Disaster Risk and Making Amendments in Some Laws and Decree Laws No. 375,' which was published in the Official Gazette on November 9, 2023, and entered into force. The establishment of the Urban Transformation Presidency, which became the main executor of this legal framework, is indicative of a new milestone.

II. URBAN TRANSFORMATION PRESIDENCY

The public sector, private sector, local residents, and civil society organizations play roles of varying effectiveness levels in urban transformation practices. The significance of legal regulations in addressing potential issues during the planning and implementation stages of urban transformation projects, involving multiple stakeholders, cannot be overstated. In addressing the identified problems in urban transformation practices, it is crucial to evaluate the capacity and approach of actors within the transformation ecosystem (public-private sector-residents) in legislative efforts.

Today's urban regeneration policies are based on the principles of participation, sustainability, cooperation and comprehensiveness, although the main scope and forms of implementation vary across countries²³. The organizational capability of the public sector is crucial for ensuring effective public participation in the process. Therefore, it is important to evaluate the reasons behind the need for urban transformation and its legal and implementation dimensions from the perspective of public administration²⁴. Ultimately, urban transformation involves large-scale interventions planned for urban areas.

Nevertheless, the effectiveness and competency of the public sector within the urban transformation ecosystem have often been a subject of debate. Especially considering the challenges in coordinating and financing urban transformation projects aimed at creating earthquake-resistant cities, it must be acknowledged that public administration will be the necessary executor. This can be ensured through a robust legal framework and strong institutions. It is crucial that large-scale projects planned within the framework of urban transformation be centralized under a central authority, coordinated, and encourage effective resource utilization through collaborations. With the establishment of the Urban Transformation Presidency on October 16, 2023, it is hoped that it will accelerate the country's urban transformation process in an organized and coordinated manner. Evaluations will be made regarding the Urban Transformation Presidency in terms of its past and current status from the perspective of the public sector.

A. Previous Status of Institution

The Republic of Turkey switched to the Presidential Government System as of 09.07.2018. Law No. 6771 on the Amendment of the Constitution of the Republic of Turkey, published in 2017, made fundamental changes to the 1982 Constitution. With the Presidential Decree No. 1, the organizational

²¹ Çakallı, M. Emin. *Kentsel Yenilemede Bir Araç Olarak Kentsel Dönüşüm Projeleri ve İlgili İdari Yargı Kararları*, Adalet Yayınevi, Ankara, 2015, p. 42.

²² Gül, 2008, p. 20.

²³ Roberts/ Sykes, p. 5.

²⁴ Genç, F. Neval. "Türkiye'de Kentsel Dönüşüm: Mevzuat ve Uygulamaların Genel Görünümü", *İ.İ.B.F Yönetim ve Ekonomi Dergisi*, 2008, p. 115.

structure of the Ministries was determined. With the Presidential Decree on the Organization of the Presidency, which entered into force after being published in the Official Gazette dated 10/7/2018 and numbered 30474, the General Directorate of Infrastructure and Urban Transformation Services, which was organized as an affiliated unit of the Ministry of Environment and Urbanization, was authorized in matters related to urban transformation. The General Directorate, which does not have a separate public legal entity and is under the hierarchical supervision of the Ministry to which it is affiliated under the state legal entity, was tasked with determining the principles and procedures regarding urban transformation. Within the General Directorate, central units were established as Department of Infrastructure, Department of Monitoring and Evaluation, Department of Transformation Areas, Department of Risky Structures, Department of Financing, Department of Real Estate, and Department of Management Services. Infrastructure and Urban Transformation Directorates established in Bursa, Istanbul and Izmir were assigned as the units of the provincial organization²⁵.

B. Current Status of the Institution

The 6th of February Earthquakes, which have resulted in tragic losses in our country, have led to an increase in earthquake-focused discussions in the public agenda. Meanwhile, the feasibility level of urban transformation projects and the difficulties encountered in their implementation processes have added another dimension to the discussions. Besides technical and financial issues, the challenges in implementing legal regulations have prompted the state's executive power to explore different institutional models.

The complexities and difficulties encountered in urban transformation, which have led to various search for solutions, can be categorized as follows:

- Property Issues²⁶: Urban transformation generally entails changes in property ownership. However, in some cases, property rights may be uncertain, inheritance matters may become complex, leading to delays in the process.

- Financial Challenges²⁷: Urban transformation often requires significant financial resources. Financing issues can arise both for individuals as homeowners and for the government in supporting this process.

- Social Acceptance²⁸: Decisions regarding urban transformation can lead to various reactions within society. Particularly, resistance from current residents against the change in their traditional neighborhoods may occur.

- Infrastructure Problems²⁹: Old settlements often have inadequate infrastructure. When

²⁵ See for decree determining the structure, functioning, duties and authority of limits state institutions, Article 99 of Presidential Decree No.1.

²⁶ Yasin, Melikşah. "Kentsel Dönüşümün Uygulamalarına İlişkin Temel İlkeler", *Kentsel Dönüşüm Hukuku*, Ed. Melikşah Yasin, Cenk Şahin, İstanbul, On İki Levha Yayınları, 2015, s. 2; İnam, Şaban/ Başarır, Aslı. *Kentsel Dönüşüm ve Toprak Mülkiyeti Sorunları*, Toprak Mülkiyeti Sempozyum Bildirileri, pp. 256-271.

²⁷ T. Yücememiş, Başak/ Kurt, Timuçin. "Türkiye'de Kentsel Dönüşümün Finansmanında Yenilikçi ve Alternatif Finansman Modellerinin Kullanılma Potansiyelinin Belirlenmesine Yönelik Araştırma", *Finansal Araştırmalar ve Çalışmalar Dergisi*, vol. 13, no. 25, 2021, p. 937.

²⁸ Ecer, Halil/ Kalelioğlu, M. Ragıp. "Kentsel Dönüşümün Toplumsal Yansıması: Gaziantep Örneği", *Journal of City and Civilization*, 2020, pp. 178-183.

²⁹ Alaybeyoğlu, Ayşegül/ Kılıç, Uğur/ İregöl, Ayşe/ Konbul, Yunus. "Kentsel Dönüşümde Mahalleler Arası Öncelik Sıralaması: Örnek Bir Karar Destek Sistemi", *Uludağ Üniversitesi Mühendislik Fakültesi Dergisi*, vol. 21, no. 2, 2016, p. 379.

infrastructure improvements are required during urban transformation, this can make the process more complex.

- **Management Challenges³⁰:** Managing the urban transformation process requires coordination among various stakeholders. Without effective communication and management, the process may encounter disruptions.

- **Legal Processes³¹:** Urban transformation often involves legal procedures. Legal uncertainties regarding property rights, zoning regulations, and other issues can prolong the process.

- **Social Inequality³²:** During urban transformation, those with better financial means may benefit more, while low-income groups may face greater difficulties. This situation can lead to social inequalities.

These problems can make urban transformation processes complex and challenging. Successful urban transformation requires good planning, effective communication, and a comprehensive approach involving the participation of all stakeholders. Considering the duties and powers of the abolished Directorate General of Infrastructure and Urban Transformation Services, it is clear that it would not be able to demonstrate sufficient effectiveness in solving the mentioned problems. With the establishment of the Urban Transformation Presidency under the Ministry of Environment, Urbanization, and Climate Change by the "Presidential Decree on Amendments to Some Presidential Decrees" published in the Official Gazette numbered 32341 on October 16, 2023, it is aimed to overcome the obstacles encountered.

Since 2012, when Law 6306 entered into force, urban transformation in disaster-prone areas has gained a certain momentum, but it became evident after the February 6 earthquake that it was insufficient to create earthquake-resistant cities. With the establishment of the Urban Transformation Presidency; it is aimed to follow a different course by increasing the share allocated to urban transformation from public resources, increasing institutional capacity, and increasing central and effective intervention capacity.

The establishment of the Urban Transformation Presidency, replacing the Directorate General of Infrastructure and Urban Transformation Services abolished under the relevant decree, has increased institutional capacity. New central units have been formed, and a legal entity for the public component has been established. Upon examining the articles of the decree, it is understood that the public component of the urban transformation ecosystem will practically deploy all its capabilities in the field. It would be beneficial to examine the innovations brought by the Urban Transformation Presidency.

1. Having Public Legal Entity Status

Law No. 6306, along with relevant legislation, had positioned the Infrastructure and Urban Transformation Services General Directorate, which was repealed, within the hierarchical structure. According to Article 792/K-(1) of the Presidential Decree regulating the establishment of the Urban Transformation Presidency established under the Ministry of Environment, Urbanization, and Climate

³⁰ Gül, Atila/ Cesur, Büşra. "Ülkemizde Kentsel Dönüşüm Uygulamalarında Karşılaşılan Sorunlar ve İrdemeleme [Problems in Urban Renewal Implementation in Our Country and Discussion]", *Süleyman Demirel University Press*, 2016, p. 243.

³¹ Genç, p. 123.

³² Dinçer, İclal. "Kentsel Dönüşümde Kaybedilen Müşterekler", *Mimarlık Dergisi*, no.427, 2022, p. 9.

Change; the Presidency was designated as a public legal entity with a special budget within the state.

The primary reason for granting legal entity status to public entities outside the state, namely public administrations, is to provide autonomy to these institutions vis-à-vis the state³³. In essence, public legal entities³⁴;

- “ Have the capacity for rights and actions and can enter into rights and obligations.
- Have their own decision-making and management bodies.
- Can establish legal transactions by expressing their will.
- Have the capacity to be a party in court and participate in litigation.
- Have property ownership.
- Have their own specific budgets.
- Can employ personnel exclusively for themselves.”

In addition to the mentioned characteristics, public legal entities benefit from the power and privileges of the state. Here, the term "public power and privileges" refers to characteristics that surpass special legal rules such as unilateral action, ex officio execution, and benefiting from the presumption of legality³⁵.

The aim of granting the Urban Transformation Presidency the status of a public legal entity is understood to be the desire to carry out urban transformation efforts much more quickly and effectively. Ensuring balance among the components of the urban transformation ecosystem and expediting the urban transformation process will be the primary responsibilities of the Urban Transformation Presidency.

2. Granting Authority for Resource Development

Urban transformation practices are inherently financial resource-intensive. The financial dimension of urban transformation encompasses the parties involved in urban transformation - the public and investors - as well as individuals affected by urban transformation. In this regard, there are various practices such as credit and rental assistance provided by the state, capital market instruments, and various legal regulations. However, the need for both housing adequacy and the transformation of existing housing requires the proliferation of urban transformation financing mechanisms³⁶.

The main financing model involves the direct transfer of funds from the central budget to the budgets of public institutions for use in urban transformation, or the pooling of resources allocated to public activities within the central administration into funds/programs, which are then allocated to urban transformation as grants based on predetermined priorities³⁷.

The allocation of revenues from the sale of publicly owned real estate to finance urban renewal projects is considered a new approach. For the implementation of this new method, the Presidential Decree regulating the establishment of the Urban Transformation Presidency, in Article 792/Ö-(1)-c,

³³ Gözler, Kemal. *İdare Hukuku*, Ekin Kitabevi Yayınları, vol. 1, Bursa, 2019, p. 198.

³⁴ Gözler, p. 628.

³⁵ Zabunoğlu, Y. Kazım. *İdare Hukuku*, Yetkin Yayınları, Ankara, 2012, p. 136.

³⁶ Koç, Neslihan. “Kentsel Dönüşümde Finans Yöntemleri ve Kamu Müdahalesi”, *Maliye ve Finans Yazıları*, 2019, p. 293.

³⁷ Noon, David/ Smith-Canham, James/ Eagland, Martin. *Economic Regeneration and Funding*, Sage Publications, 2000, p. 61.

established the Directorate of Real Estate and Resource Development as a central organizational unit.

One of the distinctive aspects of the planned authorities of the Urban Transformation Presidency is the establishment of the ability to generate equity. During the preparation phase of the Presidency's establishment, Minister Özhaseki stated in his assessment³⁸, "Our Directorate of Real Estate and Resource Development will create resources for the urban transformation process by conducting identification, planning, and valuation procedures for real estate. With the model we have developed, we will prepare strong cities without creating a financial burden on the treasury.

Indeed, the Urban Transformation Directorate announced in its announcement³⁹ dated November 9, 2023, that the auction method would be used to sell 389 various plots of land in Ankara. Additionally, in the announcement dated July 21, 2021, it was announced that the auction method would be used to sell 65 residential units, 83 commercial properties, and 1 hotel in Ankara, Konya, Diyarbakır, and Samsun.

3. Strengthening the Regional Approach

The Presidential Decree regulating the establishment of the Urban Transformation Directorate, in Article 792/Ö-(1)-m, arranged the Urban Transformation General Directorate, while additionally (b) included the Marmara Urban Transformation General Directorate among the central organizational units.

The earthquakes that occurred in Gölcük on August 17, 1999, and in Düzce on November 12, 1999, resulted in the loss of 18,000 lives, destruction and damage to 15,400 buildings, and budget losses ranging from 10 to 25 billion dollars. The August 17, 1999 earthquake, the most recent of the seven major earthquakes that have occurred along the North Anatolian Fault since 1939, largely progressed westward. Istanbul⁴⁰, located just northwest of the region and heavily shaken in 1999, has been rapidly growing over the past 15 centuries and has suffered severe damage from earthquakes 12 times. Istanbul is facing the reality of risky structures due to rapid urbanization and uncontrolled construction, with 15% of its buildings at risk. Approximately 1.1 million homes in Istanbul were built without engineering services, either without any building inspection or with inadequate and dysfunctional supervision, known to be illegal and unlicensed.

The Marmara Region's location in a dangerous earthquake zone, consisting mainly of densely populated cities like Istanbul, a significant portion of the building stock lacking necessary qualifications, and its economic significance, necessitate a more comprehensive and detailed urban transformation planning. The establishment of a separate general directorate for urban transformation efforts in the Marmara region is a significant manifestation of the reinforcement of a regional approach.

The Marmara region, which is the region with the highest earthquake risk, can be defined as the region where urban transformation works will be carried out most intensively. Increasing the institutional capacity in this region would be a correct and strategic approach.

³⁸ See for the statements of the Minister of Environment, Urbanization, and Climate Change, Access Date:28/01/2024, <https://www.aa.com.tr/tr/gundem/kentsel-donusum-uygulamalari-icin-kentsel-donusum-baskanligi-kuruldu/3021307>.

³⁹ See for the announcement, Access Date: 29/01/2024, https://webdosya.csb.gov.tr/db/altyapi/duyurular/ankaramuzayede-gorseli_20231109041113.pdf.

⁴⁰ Parsons, Tom/ Toda, Shinji/Stein, Ross/ Barka, A.A./ Dieterich, James. "Heightened odds of large earthquakes near Istanbul: An interaction- based probability calculation", *Science*, no. 288, 2000, p. 665.

4. Granting Authority to Ensure Coordination and Collaboration

Harvey highlights the importance of social consensus and collaboration-based dialogue in urban planning, stating⁴¹, "Any comprehensive strategy concerning urban systems must include and reconcile policies that affect social processes in a city—those structures and activities that link people to people, institutions to people, employment opportunities to workers, income earners to services, and so on, with policies designed to alter the spatial form of the city. Ideally, we would need to harmonize these policies to achieve a consistent social purpose."

Urban transformation is a multi-layered decision-making and implementation process, involving social, economic, cultural, and political dimensions. Urban transformation practices, aiming to provide a sustainable solution to the economic, social, physical, and environmental conditions of the region undergoing change, necessitate dynamic and pluralistic participation. It is evident that a process that considers all segments of society and allows competent organizations to express their opinions can produce more effective results.

According to Article 792/Ş-(1) of the Presidential Decree regulating the establishment of the Urban Transformation Directorate, the Directorate is authorized to ensure cooperation and coordination with public institutions and organizations, universities, local governments, non-governmental organizations, the private sector, and international organizations regarding its duties. Additionally, Article 92/Ş-(1) stipulates that the Presidency will obtain numerical and non-numerical data and inventory information produced by public institutions and organizations for urban transformation purposes in compliance with the provisions of the Law No.6698.

Urban transformation is subject to various evaluations due to its multidimensional nature, touching upon different disciplines and fields of science. The scientific assessments conducted by universities, particularly on earthquake and disaster risks, should be taken into account from the planning to the implementation stages of urban transformation. Analyses carried out in various fields such as finance, engineering, law, sociology, and more, regarding the impacts experienced throughout the process, are essential considerations. The activities of civil society organizations hold significant importance in the urban transformation ecosystem as they reflect societal demands and realities, emphasizing the concept of public interest. With the data that the Urban Transformation Presidency can obtain from universities and civil society organizations, a more systematic and effective urban transformation process can undoubtedly be pursued.

Local governments continue to be a crucial component in urban transformation practices with their legal authorities. The legal framework has been established by Law No. 5216 on Metropolitan Municipalities and Law No. 5393 on Municipalities. Law No. 5393 has granted necessary powers to municipalities for resolving urban issues. This law has provided municipalities with the legal assurances they have long awaited for ensuring healthy urbanization, housing production, and urban transformation, thereby eliminating some uncertainties in practice. The law has also empowered municipalities to build housing, mass housing projects, purchase land for this purpose, establish operations and partnerships. Articles 69 and 73 of Law No. 5393 are of particular importance for our topic, as they enable municipalities to engage in urban transformation. According to Article 69, municipalities are authorized to produce urban land within the municipal and adjacent area boundaries to ensure orderly urbanization, meet the demand for housing, industrial, and commercial areas, among other purposes. They can build, sell, lease housing and mass housing projects, purchase land for these purposes, expropriate land,

⁴¹ Harvey, David. *Sosyal Adalet ve Şehir*, Trans. Mehmet Moralı, Metis Yayınları, 2013, p. 52.

exchange these lands, collaborate with other public institutions, organizations, and banks, and undertake joint projects when necessary. Article 73, titled "Urban Transformation and Development Area," sets certain criteria for declaring urban transformation and development areas. Accordingly, municipalities can declare urban transformation and development areas through municipal council resolutions for various purposes such as creating residential, industrial, commercial, technology park, public service, recreational, and social facility areas, renewing and restoring deteriorating urban parts, preserving the historical and cultural texture of the city, or taking measures against earthquake risks. For the declaration of an urban transformation and development area according to Law No. 5393, one or more of the mentioned criteria must be met, and the area must be within the municipal or adjacent area boundaries. Local governments, empowered at all stages of urban transformation, will be an important component for strengthening collaboration in the field for the Urban Transformation Presidency.

It is a fact that the service model based solely on the centralization of public services will create handicaps in the realization of multidimensional project models such as urban transformation. In addition to the units of the central government, local governments also constitute an important public power in the execution of urban transformation processes. While the participation and preferences of the public are not important in the decisions taken by the central government, it can be said that it is easier to ensure the participation⁴² and social acceptance of the society in the processes carried out by local governments. Laws No. 5393 and No. 5216 give local governments the most important duty and authority to decide on the city's zoning applications (zoning plan, parcelization, demolition, etc.). Despite the many conveniences and flexibility that local governments can provide in the execution of urban transformation projects, it can be said that the same local governments play a limited role in the redesign of the city.

Another factor affecting urban regeneration is hybridization⁴³. This approach is based on the idea that urban planning is a highly technical and physical discipline, and instead, individual-centered and developmental approach to urban planning. This approach brings new approaches such as social rationality, sustainable development, public participation, integrated planning, urban efficiency and performance, and strategic planning to the forefront. It is certain that local governments will be the structure that will strengthen this hybrid approach that can be integrated into the city's zoning practices and reflect the preferences of the public. At this point, references to local governments in the definition of the duties and powers of the Urban Transformation Presidency gain importance. However, it is seen that this understanding is adopted to a limited extent in the regulations.

The regulation is crucial for the proliferation of urban transformation projects and the progression of planning based on accurate data. With this regulation, it is vital for the Presidency to operationalize its authority to collaborate and coordinate with public institutions, universities, local governments, civil society organizations, the private sector, and international organizations.

5. Ability to Establish Companies or Participate in Established Companies

In Turkey, urban transformation projects have generally been conducted with financial models developed by the public sector. However, due to the insufficient development of financial instruments by the public sector, there is a need for private enterprises in urban transformation projects. Among the

⁴² Doğan, H. Hüseyin. "Yerel Yönetimlerin Kentsel Dönüşüm Uygulamaları Sürecine Halkın Katılımı", *Hitit Sosyal Bilimler Dergisi*, no. 2, 2015, p. 519.

⁴³ Korkmaz, Hatun. "Yerel Politikalarda Kentsel Dönüşüm Uygulamaları: Kayseri İli Örneği", *Yerel Politikalar*, Konya, 2013, p. 121.

private sector entities involved in urban transformation projects are construction firms, companies undertaking construction, marketing organizations, real estate companies where agreements are made, organizations providing financing, property owners, and private investors. Expecting the private sector to take the lead in the urban transformation process where commercial profitability and rent mechanisms are not operational would be wrong. Therefore, to involve the private sector in transformation efforts, urban transformation projects need to be presented as opportunities that benefit the private sector. Moreover, it is noted that the private sector has made significant contributions to urban transformation projects in terms of project, implementation, financial support, and management⁴⁴. Therefore, private sector stakeholders will continue to be important in the coordination and cooperation efforts of the Urban Transformation Presidency.

Article 792/S- (1) of the Presidential Decree regulating the establishment of the Urban Transformation Presidency stipulates that the Presidency can establish companies or become a partner in established companies with the Presidential Decree.

This regulation is an important consequence of the Presidency becoming a public legal entity. It will also provide important opportunities for increasing the institutional capacity of the Presidency and realizing fund-like initiatives to finance urban transformation practices.

III. CHANGES IN URBAN TRANSFORMATION PRACTICES UNDER THE LAW NO. 6306

Important regulations were made with the Law No. 7471. It is seen that the purpose of the regulations⁴⁵ is to accelerate the processes of scanning the building stock in our country, which is located in an earthquake zone, identifying risky buildings, ensuring the evacuation and demolition of the identified risky buildings and building safe buildings. Within the scope of the regulations, important changes have been made in the 'reserve building area' and 'risky building' practices. It is clear that it is useful to mention the important changes.

The effects of the amendments to the law are analyzed in the light of the evaluations made on the balance of public interest and individual interest. the objections made by the individual bring to the agenda the violation of three different fundamental rights: the right to property, the right to respect for family life and housing, and the freedom to seek rights. Violations of these rights are subject to individual application⁴⁶ to the Constitutional Court. In addition, the amendments made to Law No. 6306 are subject to Constitutional review.

⁴⁴ Kalağan, Gökhan/ Çiftçi, Gökhan. “Kamu-Özel Sektör İşbirliğinin Kentsel Mekana Yansıması: Kentsel Dönüşüm Örneği ve Yeni Aktörler”, *Sosyal ve Beşeri Bilimler Dergisi*, vol. 4, no. 2, 2012, p. 128.

⁴⁵ See the draft text of Law No. 7471.

⁴⁶ See Constitutional Court decisions for individual applications, Application N.2018/14460, 15/09/2021; Application N.2018/1406, 30/06/2021; Application N.2018/16483, 14/09/2021; Application N.2018/1567, 10/02/2022; Application N.2017/24356, 08/07/2020; Application N.2016/8649, 15/02/2017; Application N.2017/20694, 21/04/2021.

Considering the Constitutional Court's decisions⁴⁷ in 2014⁴⁸ and 2017⁴⁹, where numerous provisions of the Law were found to be unconstitutional and subsequently annulled, leading to significant changes in the Law, it is possible to argue that these criticisms are not legally unfounded and that the requirements of human rights law were not adequately considered during the preparation of the Law. The balance between the interests of public authorities attempting to address the reality of earthquakes in the country and the fundamental rights and freedoms of individuals will continue to be the focal point of new regulations. Indeed, the new legal amendments introduced by Law No. 7471 have also been brought before the Constitutional Court for review⁵⁰.

A. Reserve Building Area

Urban transformation is essentially a land use planning process. When implementing urban transformation, existing areas are redesigned. Accurate urban transformation practices are possible with good land planning⁵¹. Determination of reserve building area is the basic application in improving land management in urban transformation projects. The decision of reserve building area, which directly affects the property and housing rights of individuals, is taken by following certain principles and procedures. This determination authority should be used in a limited manner in area-scale applications carried out on reserve building areas and when determining the reserve building area. This is because this determination should be made when the on-site transformation of risky buildings and areas is out of the question. The administration should use its discretionary power in accordance with the principles of environment and urbanism, planning principles and public interest in the determination of the reserve building area, which is an administrative act that limits the property rights of many people and affects the rights and interests of the people living in the application area. In this respect, it is important that the decision of the Ministry regarding the determination of the reserve building area is objective and justified⁵².

Prior to the latest amendment, a reserve building area was defined as the areas determined by the Ministry of Environment, Urbanization and Climate Change upon the request of the Housing Development Administration of the Republic of Turkey (TOKİ) or the Administration or ex officio,

⁴⁷ See Constitutional Reviews, Application N.2012/87, 27/02/2014, Official Gazette Date.26/07/2014-29072; Application N.2016/133, 15/11/2017, Official Gazette Date.11/01/2018-30298.

⁴⁸ With its decision dated 27.02.2014, the Constitutional Court ruled that subjecting buildings that have not completed their economic life and are not at risk of collapse or severe damage, in other words "other buildings other than risky buildings" to the same rules as risky buildings, violates "the balance between public interest and the rights of owners of non-risk buildings". As a matter of fact, according to the Court, the limitations imposed by the Law on the right to property are regulated by taking into account that the structures are "risky". Therefore, subjecting these structures to the rules set for risky structures without foreseeing a special regulation for non-risk structures rendered the restriction imposed on the right to property disproportionate.

⁴⁹ Following the annulment decision of the Constitutional Court, in 2016, the legislator introduced a new regulation for buildings other than risky buildings. With this regulation, those of the risk-free structures deemed necessary by the Ministry in terms of the integrity of the implementation "provided that the structure is not risky in the valuation studies" Law No. 6306. Thus, the legislator again included non-risk buildings within the scope of the Law, but sufficed to state that the value assessed for these buildings should be different from that of risky buildings. The Constitutional Court, with its decision dated 15.11.2017, annulled this regulation as unconstitutional. The Court ruled that the record stating that the difference in value between risky structures and non-risk structures should be taken into account would not render the interference with the property rights of the owners of non-risk structures proportionate.

⁵⁰ See the news, <https://www.ekonomim.com/gundem/chp-kentsel-donusum-yasasini-aymye-goturuyor-haberi-723184>, Access Date.12.04.2024.

⁵¹ Cılız, A. Buse/ Aksu, Oktay. "İstanbul'da Kentsel Dönüşüm Proje Alanları İçin Rezerv Alan Tespiti", *Türkiye Arazi Yönetimi Dergisi*, vol. 5, no. 2, 2023, p. 58.

⁵² İlgezdi, A. Rıza. *Adım Adım Kentsel Dönüşüm*, Seçkin Yayıncılık, 2024, p. 5.

with the approval of the Ministry of Finance.

With the latest amendment dated November 9, 2023, Article 2 titled 'Definitions' of the Law on the Transformation of Areas Under Disaster Risk has been amended significantly in the definition of the reserve building area. The requirement of obtaining the Ministry of Finance's approval was removed from the text of the law. In addition, the phrase "as a new settlement area" in the definition has been removed from the text, so that 'new' or 'existing' settlement areas can be designated as 'reserve building areas'. The definition and scope of the reserve building area has been expanded and the expression 'new settlement area' has been removed. The removal of the expression "as a new settlement area" from the text of the Law removes the limitations for declaring reserve building areas, paves the way for parcels located in settlements to be designated as reserve building areas, and it is envisaged that not only places with disaster risk but also places designated as reserve building areas can be subject to urban transformation.

The new law imposes a prerequisite for reserve building area requests. In this context, it is stated that real or legal entities must consent to the transfer of ownership of 30% of the construction area square meters of these properties or transfer an equivalent amount to the special account for transformation projects to the Presidency in order to designate the area as a reserve building area.

With its new version, there are some concerns regarding the method of designating 'reserve building areas' in terms of individuals' property rights. It is believed that designating existing residential areas without "risky buildings" and not being in the "risky area" as "reserve building areas" will not serve the purpose of "transformation of areas at risk of disaster" envisaged in Law No. 6306. In the future, uncertainties will be clarified with the reserve building areas to be designated within the scope of the new regulation.

B. Risky Building

In Article 2/1-d of Law No. 6306, a risky building is defined as a structure located inside or outside a risky area, whose economic life has been completed or determined based on scientific and technical data to carry the risk of collapse or severe damage⁵³.

Accordingly, risky buildings can be categorized into three types: buildings whose economic life has been completed, buildings determined to carry the risk of collapse based on scientific and technical data, and buildings determined to carry the risk of severe damage based on scientific and technical data.

The identification of risky buildings, which is one of the cases included in the scope of Law No. 6306, signifies the determination by authorized institutions and organizations that the building is at risk of severe damage or collapse, or that its economic life has ended. This determination⁵⁴ is usually made at the request of the owners. However, if the owners do not request it, the determination of risky buildings may be made at the request of the Municipality or may be conducted ex officio.

The most crucial process regarding the concept of risky buildings is the identification of these buildings. Any unlawfulness in this identification process can directly violate property rights. The law has established a rule that allows public authorities, in addition to property owners' requests, to carry

⁵³ Açar, Emre. "6306 Sayılı Kanun Kapsamında Riskli Yapı Kavramı", *Türkiye Adalet Akademisi Dergisi*, no. 57, 2024, p. 232.

⁵⁴ Aslan, Nurcan. "Kentsel Dönüşüm Sürecinde Riskli Yapı Tespiti Üzerine Alınacak Kararlar ve Akdedilebilecek Sözleşmeleri", *Türkiye Adalet Akademisi Dergisi*, no. 47, 2021, p. 370.

out the identification of risky buildings. In this context, the identification of risky buildings can also be initiated upon the request of the Urban Transformation Presidency. The Urban Transformation Presidency may request property owners or their legal representatives to identify risky buildings within a specified period. If the identifications are not carried out within the given period, the Presidency or the Administration (Municipality) is authorized to conduct or commission the identification process. Additionally, the Urban Transformation Presidency may directly request the Administration (Municipality) for the identification of risky buildings in designated areas within a specified period.

The Urban Transformation Presidency's initiation of identification of risky buildings can be considered as a limitation of property and right to life by the administration. According to Article 13 of the Constitution, limitations on rights must be proportional. In this context, it is crucial for the administration, in line with the principles of the rule of law, to adhere to scientific, technical, and artistic norms while identifying risky buildings and to ensure that mechanisms for objection and legal recourse are effectively operationalized.

Sometimes, difficulties arise in the determination of risky buildings due to actions by property owners. In the scope of the new regulations, new measures have been established to prevent the obstruction of risky building determination. According to Article 3/1 of Law No. 6306, if the determination of risky buildings is hindered, upon request from the Urban Transformation Presidency /Administration (Municipality), with written permission from the local administrative authority, adequate law enforcement personnel may be employed to open or have closed doors/areas opened for the determination process.

One of the major problems encountered in the practice of determining risky buildings is the issue of notification. With the new regulations, certain measures have been developed to address this problem. According to Article 3/2 of Law No. 6306, risky structures are to be reported to the relevant land registry office by the Urban Transformation Presidency or the Administration (Municipality), within 10 working days from the date of determination, to be indicated in the declarations section of the land registry. A record containing information regarding the determination of the risky building will be posted on the risky building, notified to the owners via the e-Devlet Application, and announced at the relevant neighborhood headman's office (Mukhtar) for a period of 15 days. The last day of the announcement at the headman's office (Mukhtar) will be considered the day of notification to the property owners. Additionally, risky buildings will be announced on the Urban Transformation Presidency's website for a period of 15 days. It is believed that these new notification methods will help overcome this problem.

Article 5/3 of the Law No. 6306, which regulates the demolition procedure of the building determined to be a risky building, has been amended and it has been stipulated that the owners will be given a period of ninety days at once, since the sixty-day period given to the owners for the demolition of the building and the thirty-day period plus the thirty-day period given separately prolong the process.

If required by the implementation, the Urban Transformation Presidency will also be able to carry out the identification, evacuation and demolition works and procedures regarding risky buildings itself. Within the scope of the new regulation, Article 5/4 of the Law No. 6306, in case the evacuation of the buildings is prevented; if requested by the Presidency / Administration (Municipality), based on the written permission to be given by the local administrative supervisor, it can be evacuated by opening or opening the closed doors / areas with sufficient law enforcement force. The costs of identification, evacuation and demolition of the risky building made or commissioned by the Presidency or the Administration (Municipality) may be collected from the owners in proportion to their shares according

to the Law No. 6183. The duties and powers given to the Ministry of Environment, Urbanization and Climate Change regarding the demolition of risky buildings will henceforth be executed by the Urban Transformation Presidency.

C. Decision quorum in Urban Transformation

One of the most contentious issues in urban transformation was the decision quorum. Before the recent regulation, at least a two-thirds majority decision of property owners was required for urban transformation decisions. With the amendment made in Article 6 of Law No. 6306, all procedures and transactions related to urban transformation, including obtaining building permits, can now be carried out based on the simple majority (51%) decision of property owners in proportion to their shares.

New practices necessitate procedures such as consolidation, division, area adjustments, subdivision, establishment, abandonment, registration, as well as all demolition and construction permits and transactions with other authorities/institutions to be carried out based on the simple majority decision of stakeholders in proportion to their shares.

The balance between public interest and individual rights in urban transformation is crucial, and this change from a qualified majority to a simple majority in decision-making regarding urban transformation processes signifies a faster progression from the public perspective⁵⁵. However, it can raise various concerns regarding property rights from the individual perspective. The reality of earthquakes in our country has paved the way for this new regulation, which prioritizes the public interest in Law No. 6306.

In Article 6 of Law No. 6306, another regulation stipulates that the shares of stakeholders who do not participate in the decision taken by the simple majority of stakeholders in proportion to their shares can be sold through an auction method to other stakeholders who agree to a value not less than the appraised value determined by the Directorate. In case the shares cannot be sold to stakeholders in this manner, they can be purchased by the Urban Transformation Presidency, Administration (Municipality), or Housing Development Administration (TOKİ) at the appraised value determined in risky areas and reserve building areas to implement the transformation project.

D. Financial Support in Urban Transformation

Law No. 6306, Article 5/1 has been amended to include the phrase "assistance for construction," thereby introducing a substantial financial support model in addition to rental assistance for evacuated structures. Under agreements, property owners, tenants, and limited real rights holders residing in the structures to be evacuated may receive temporary housing or business premises allocation, rental assistance, or assistance for construction.

The procedures and principles for the assistance for construction will be separately determined by the President. A support package has been initiated by Presidential Decree⁵⁶ for urban transformation in Istanbul. With this decision, in urban transformation applications in Istanbul⁵⁷, property owners may

⁵⁵ Indeed, the necessity of shortening the process and intervening in risky buildings as soon as possible is expressed in the justification and articles of Law No. 7471.

⁵⁶ See for the Presidential decree published in the Official Gazette numbered 32469 dated February 23, 2024.

⁵⁷ Istanbul residents have been waiting for the details of the "half from you, half from the state" campaign for a long time. There was an expectation that half of the house renovation costs would be covered by the government. It is indicated that the assistance specified in the Presidential decision is issued as the counterpart of this campaign.

receive grants of up to 700,000 Turkish Lira per residence, loans of up to 700,000 Turkish Lira, grants of up to 350,000 Turkish Lira per business premises, and loans of up to 350,000 Turkish Lira. Over time, with the introduction of various financial instruments, individuals are planned to be incentivized for urban transformation efforts.

CONCLUSION

After the Kahramanmaraş-centered earthquakes on February 6 that affected 11 provinces, creating resilient cities due to the expected earthquake, especially in Istanbul, because of the active fault lines in the Marmara region, has become one of the country's main agendas. The Law No. 6306 on the Transformation of Areas Under Disaster Risk came into force in 2012 for the transformation of areas under the threat of earthquakes. The law aims to prepare Turkey's risky areas and buildings for earthquakes and other disasters with respect to property rights, ensuring healthy and orderly settlement, securing the maximum social benefit at minimum cost, and using resources in a planned, healthy, and efficient manner. In this context, the law prioritizes physical transformation by focusing on urban renewal projects, improvement in urban areas, and enhancement of buildings.

The framework of urban transformation practices has been outlined within the scope of Law No. 6306. Since its enactment, the law has undergone a total of 11 amendments through decisions of the Constitutional Court and Decree Laws. The reality of earthquakes, along with the country's economic and sectoral data, has necessitated updates within the urban transformation concept.

The Urban Transformation Presidency stands as a significant institutional initiative and the primary executor of urban transformation practices. Granting public legal personality to the Urban Transformation Presidency has led to numerous institutional achievements, enhancing its organizational capacity. With administrative and financial autonomy, its scope of authority and duties has expanded. The Presidency will have the authority to develop budgets for urban transformation practices through the sale of publicly owned immovables. Adopting a regional approach based on Turkey's seismic activity and past earthquake experiences, the organizational structure of the Urban Transformation Presidency has been established. For effective and rapid implementation of measures and urban transformation practices, the Marmara Urban Transformation Directorate has been established as a central unit within the Presidency, focusing particularly on Istanbul-based initiatives. Collaborations are crucial within the complex ecosystem of urban transformation, thus, under the new regulations, the Urban Transformation Presidency has been authorized to coordinate and collaborate with public institutions, universities, local governments, civil society organizations, private sector entities, and international organizations regarding its duties. Another significant outcome of the Urban Transformation Presidency gaining public legal personality is its ability to establish companies or become a partner in existing companies, regulated by presidential decree.

In the scope of the Law No. 7471, significant changes have been implemented in urban transformation practices. Within the scope of the amendments, comprehensive changes in urban transformation have been anticipated to alleviate the bottlenecks experienced in the process.

Under the new legal framework, it is understood that the scope of determining reserve building areas has been expanded. The question of whether old and new settlement areas will remain within the reserve building area continues to be a subject of debate in terms of balancing public interest with individual interest. Similarly, significant changes have been made regarding risky buildings. The widespread and simplified identification of risky buildings, as well as the implementation of compelling measures in case of hindrance to such identification, will accelerate the urban transformation process.

In the past, many urban transformation projects were terminated due to unauthorized notifications. With the new legal regulations, new notification methods involving e-Devlet and mukhtars have been introduced. Moreover, a legal infrastructure regarding state aid for urban transformation has been established. It is expected that aid packages known as 'yarısı bizden', which have been initiated by Istanbul residents, will continue to be introduced, along with similar packages.

Undoubtedly, the most significant step taken in the new legal regulation pertains to the decision-making majority. The transition from a two-thirds qualified majority to a simple majority in deciding on urban transformation processes is considered a turning point in accelerating urban transformation and preparing the country for earthquakes.

Conflict of Interest

There is no conflict of interest.

Author Contributions

The authors did not specify the contribution rate.

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