

PRESIDENTIAL DECREE



Presidential Decree on Settlement and Construction under the State of Emergency

Decree no. 126

Purpose

ARTICLE 1- (1) The aim of this Presidential Decree is to take certain measures with regard to settlement and construction in the provinces which take place within the scope of the state of emergency declared with the Presidential Decision no. 6785 dated 8 February 2023.

Measures taken with regard to Settlement and Construction

ARTICLE 2- (1) In the provinces declared as disaster area affecting general life due to the earthquakes occurred on 6 February 2023, having regard to criteria such as the distance to fault line, soil suitability and the proximity to settlement centre, the temporary and permanent settlement areas of those affected by the disaster shall be determined *ex officio* by the Ministry of Environment, Urbanisation and Climate Change and notified to the relevant institutions, without prejudice to duties and powers of the Disaster and Emergency Management Presidency (AFAD) on the determination of new settlement areas. In the relevant determination, if necessary, the areas specified in the Pasture Law no. 4342 dated 25 February 1998 and additional Article 16 of the Forest Law no. 6381 dated 31 August 1956 may also be used.

(2) In the areas determined in accordance with Paragraph (1), the classification change shall be made regarding the areas in respect of which a classification change is necessary and these places shall be registered in the name of the Treasury. These actions shall be notified to the relevant institutions. In the areas necessitating classification change, in the event that there are areas set out in additional Article 16 of the Law no. 6381, the immovable property of Treasury, which is not less than two times of this area, shall be allocated to the General Directorate of Forestry for afforestation.

(3) In the areas declared as disaster area affecting general life, upon the request of the Ministry of Environment, Urbanisation and Climate Change and without receiving the opinion of the relevant institutions, the areas which have been left unsurveyed -except the ones in respect of which proceedings are still ongoing as well as the ones in respect of which case process has become final but have not been registered in the land registry- shall be registered in the name of Treasury by administrative means under Article 22 of the Cadastre Law no. 3402 dated 21 June 1987 in line with the aim of this Presidential Decree.

(4) In the permanent settlement areas including village settlement areas and existing urban areas, without planning and zoning implementations to be approved by the Ministry of Environment, Urbanisation and Climate Change, an implementation shall be carried out according to layout plan to be approved and building permit to be issued by the Ministry of Environment, Urbanisation and Climate Change in line with the geological survey report and soil survey report. In planning and parcelling plans approved by the Ministry of Environment, Urbanisation and Climate Change in these areas, the provisions on suspension, announcement and objections in the relevant procedures regarding the planning and parcelling in the Zoning Law no. 3194 dated 3 May 1985 shall not be applicable. In these areas, the ownership of immovable property or zoning rights may partly or completely be transferred to another area. These rights may be subject to swap and exchange procedures. Planning, parcelling, building permit, the ownership of property or transfer of zoning rights, swap and exchange procedures and the documents issued as a result of these procedures shall be free of stamp duty, shares of drawing, fees and expenses. It shall not be charged a fee, revolving fund fee or a fee under any name due to these procedures.

(5) In the temporary and permanent settlement areas determined by the Ministry of Environment, Urbanisation and Climate Change, the authorisations granted pursuant to Law no. 4342, the authorisations granted pursuant to Law no. 6381, the lease contracts drawn up regarding picnic areas, forest parks and immovable properties let on lease by the General Directorate of Forestry pursuant to the Public Procurement Law no. 2886 dated 8 September 1983 as well as the changes in the allocation purpose of areas that have been made under the Law no. 4342 but have not been registered in the name of the Treasury in the land registry and the allocation areas granted under Article 8 of the Law no. 2634 on the Encouragement of Tourism dated 12 March 1982 shall be deemed to have been annulled or terminated *ex officio* according to their relevance.

(6) Except for the authorisations on conditional tenders for producing by-product and final product set out in Article 30 § 3 of the Mining Law no. 3213 dated 4 June 1985, the joint parts of mining license sites coinciding with the temporary or permanent areas determined by the Ministry of Environment, Urbanisation and Climate Change shall be deemed to have been narrowed *ex officio* from the mining license site by the decision of the Ministry of Environment, Urbanisation and Climate Change as from the date of decision. In the event that the temporary and permanent settlement area contains all of the license, mining license shall be deemed to have been annulled *ex officio* by the decision of the Ministry of Environment, Urbanisation and Climate Change as from the date of decision.

(7) In the areas specified in Paragraph (1), the Ministry of Environment, Urbanisation and Climate Change may take a decision of transfer or urgent expropriation for the immovables belonging to public institutions and organisations to be included in the implementation and for

all other immovables subject to private ownership. Expropriation procedures shall be carried out by the Ministry of Environment, Urbanisation and Climate Change or the Housing Development Administration. The expropriated immovables shall be registered in the name of the Treasury upon the request of the Ministry of Environment, Urbanisation and Climate Change or the Housing Development Administration. During the registration and cancellation process, the tax relationship of the property owners shall not be sought due to this immovable property. However, the land registry office shall notify the situation to the relevant tax office. Following the registration, construction activities may be initiated in these areas. The appraisal for the immovables registered in the name of the Treasury shall be made by licensed real estate appraisal institutions granted authorisation in accordance with the Capital Markets Law no. 6362 dated 6 December 2012 and within one month at the latest from the date of registration. The determined value shall be submitted to the Civil Court of General Jurisdiction by the Ministry of Environment, Urbanisation and Climate Change or the Housing Development Administration and the relevant price shall be deposited in the bank designated by the court to be paid to the owners of the immovable registered in the title deed prior to its registration. The price deposited shall be converted into a three-months' deposit accounts, thereby returning interest and be paid to the right owner together with the interest, if any. The court shall notify the owners of the immovable about the decision with regard to the deposit of the price. Rights such as injunction, expropriation, mortgage, temporary attachment, lien and usufruct right as well as all prohibitive and restrictive annotations in the title deed registry prior to the registration of the immovable shall continue on the price of the immovable; the rights and annotations in the title deed registry shall be removed *ex officio* by the Directorate of Land Registry upon the request of the Ministry of Environment, Urbanisation and Climate Change or the Housing Development Administration and the relevant situation shall be notified to the right owner. Following the deposit of the price, if no agreement is reached in the settlement negotiations to be held over this price, the provisions of the Expropriation Law no. 2942 dated 4 November 1983 and with regard to the determination and payment of the price among those regarding the cases on determination and registration of the price shall be applied. Within the scope of this paragraph, those to be taken over among immovables belonging to public institutions and organizations shall be registered *ex officio* in the name of the Treasury. The price of the immovable shall be determined in accordance with the provisions of Article 30 of the Law No. 2942 within sixty days as of the registration. In cases for which there are no provisions in this paragraph, the provisions of the Law no. 2942 shall be applied.

(8) The Ministry of Environment, Urbanisation and Climate Change shall be authorised to perform construction or have all kinds of construction works performed including infrastructure and superstructure, to determine land shares, to make land use conversion, to establish construction servitude and condominium. These practices may be carried out in cooperation with the affiliated, related and associated institutions, organizations of the Ministry of Environment Urbanisation and Climate Change and their subsidiaries as well as the administrations subject to the Public Procurement Law no. 4734 dated 4 January 2002. The Ministry of Environment, Urbanisation and Climate Change shall be competent to determine the transfer of power to the affiliated, related and associated institutions, organizations and their subsidiaries as well as the Housing Development Administration with regard to the actions and operations stipulated within this scope and to determine which of these actions and operations shall be carried out by the Housing Development Administration and other institutions, organizations and their subsidiaries.

(9) The Disaster and Emergency Management Presidency may have the Ministry of Environment, Urbanisation and Climate Change and its affiliated, related and associated institutions, organizations and their subsidiaries construct housing, workplaces and infrastructure facilities as well as engineering services such as maps, surveys, projects, zoning plans, parcelling in all types and scales required in this regard within the framework of the protocols to be concluded under the relevant Article, or the housings or workplaces constructed to be given to the right owners may be purchased from these administrations. In this context, funds may be transferred by the Disaster and Emergency Management Presidency to the Ministry of Environment, Urbanisation and Climate Change and its affiliated, related and associated institutions, organizations and their affiliates.

(10) The procedures of the Law No. 4734 with regard to the determination of approximate cost and the provisions of subparagraph (c) of the first paragraph of Article 62 shall not be applied to the actions and operations to be carried out within this scope, provided that a preliminary project is carried out. No contribution share and technical infrastructure fee shall be charged from all kinds of transactions with regard to construction works and infrastructure.

(11) The local or foreign persons, institutions and organisations may construct or have construct housing and workplaces in accordance with the typical projects to be designated by the Ministry and in the locations to be shown by the Ministry in order to meet the need for housing and workplaces in the earthquake zone and to be donated to the Ministry of Environment, Urbanisation and Climate Change. The housings and workplaces donated to the Ministry within this scope shall be transferred to the Disaster and Emergency Management Presidency to be given to the right owners.

(12) Natural gas, electricity, water, wastewater and treatment facilities as well as waste treatment facilities, communication and all other kinds of infrastructure investments in these areas shall be primarily completed by the relevant institutions, organizations and distribution companies until the superstructure works are completed.

(13) The debris wastes from disaster areas shall be disposed to the areas designated by the relevant Governorship, provided that precautions with regard to the protection of the environment are taken. The debris wastes may be recycled and used in infrastructure and superstructure investments by meeting the relevant standards and necessary conditions. The relevant disposal sites and the actions and operations to be carried out in these sites shall be exempted from the provisions of the relevant legislation regarding certification.

(14) In order to obtain the resource needed to be used in the actions and operations stipulated under this Article, the resources may be transferred between the Ministry of Environment, Urbanisation and Climate Change, its affiliated, related and associated institutions, organizations as well as its subsidiaries and the Revolving Fund Enterprises with the approval of the Minister of Environment, Urbanisation and Climate Change and by recording expenses in the budget of the relevant administration.

Personnel Assignment

ARTICLE 3- (1) The personnel employed in the Ministry of Environment, Urbanisation and Climate Change pursuant to the fourth paragraph of Article 8 of the Law on Transformation of

Areas Under Disaster Risk no. 6306 dated 16 May 2012 may be assigned by the Ministry in the actions and operations stipulated in this Presidential Decree and conducted by the Ministry, its affiliated and related organizations and their subsidiaries.

Entry into force

ARTICLE 4- (1) This Presidential Decree shall enter into force on the date of its publication.

Execution

ARTICLE 5- (1) The provisions of the hereby Presidential Decree shall be executed by the President.

23 February 2023

Recep Tayyip ERDOĞAN

PRESIDENT