

ANNEX 3.1 Turkish Expropriation Law

TURKISH EXPROPRIATION LAW

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Refer to the numerical index of the “Codex of Regulations” arranged as per the related laws for the regulations of this Law enforced with the Cabinet Decree.

SECTION ONE

GENERAL PROVISIONS

PART ONE

PURPOSE, SCOPE AND DEFINITIONS

PURPOSE AND SCOPE

Article 1 – This Law regulates the proceedings to be carried out for the expropriation of the immovable properties under the ownership of real persons and legal entities subject to private law, by the State and the public legal entities; calculation for the cost of expropriation; registration of the immovable property and the right of easement thereto, in the name of the administration; return of the unused portion of the immovable property; transfer of the immovable properties between the administrations; matters regarding reciprocal rights and liabilities and the settlement procedures and methods of the disputes arising therefrom, in cases so required in the public interest.

Provisions of this Law shall apply for the expropriations to be carried out in the name of real persons and legal entities subject to private law based on private laws.

DEFINITIONS

Article 2 – For the purpose of this Law, the following terms shall correspond to the meanings cited next to them:

- a) Administration: public legal entities, public institutions and organizations, real persons and the legal entities subject to private law which are authorized to carry out expropriation, and
- b) Location of the immovable property or resource: province or district at the title deed office of which the immovable property is registered, otherwise at which it is required to be registered.

PART TWO

EXPROPRIATION PROCESS

TERMS OF EXPROPRIATION

Article 3 – The administrations shall expropriate the immovable properties, resources and easement rights required for the performance of public services or initiatives they are liable to carry out as per the relevant laws provided that costs thereof are paid in cash and in advance or in equal installments in cases mentioned below.

The amount specified in the General Budget Law of the relevant year over the cost of expropriation payable to a real person or a legal entity subject to private law shall be paid in cash and in advance regarding the expropriation proceedings to be carried out for the realization of large-scaled power and irrigation projects and the development projects ratified by the Cabinet, establishment of new forests, preservation of the coastal line and those proceedings aimed at tourism. The said amount shall not be less than one sixth of the cost of expropriation. Costs of expropriation exceeding the said amount shall be paid in equal installments provided that they are not less than the amount of the advance payment and payable in utmost five years time together with the interest accrued thereon. Maximum interest rate foreseen for Public Borrowings shall be applied to the installments as from the date following the date of advance payment.

As for the lands expropriated, the portion of the amounts belonging to the individuals cultivating the land by themselves and carrying out minor agricultural activities shall at all times be paid in advance.

Expropriation proceedings shall not be initiated prior to the provision of sufficient amount of allocation by the Administrations.

ESTABLISHMENT OF RIGHT OF EASEMENT

Article 4 – In lieu of expropriating the immovable property, right of easement applicable through expropriation shall be established on a certain section, height, depth of the immovable property or on the resource provided that such proceeding meets the purpose.

AUTHORITIES DECIDING IN THE PUBLIC INTEREST

Article 5 – The authorities to decide in the public interest are as follows:

- a) Public administrations and public legal entities;
 1. the related ministry regarding the expropriations to be carried out for the purposes specified under paragraph two of article 3,
 2. Executive Village Board for the expropriations conducted in the interest of the village,
 3. Municipal council for the expropriations conducted in the interest of the municipality,
 4. Standing provincial council for the expropriations conducted in the interest of the Special Provincial Administration,
 5. Executive Provincial Board for the expropriations conducted in the interest of the State,
 6. Higher Education Board for the expropriations conducted in the interest of Higher Education Board,
 7. Executive Boards of the institutions for the expropriations conducted in the interest of universities, Turkish Radio and Television Authority, Atatürk Supreme Board of Culture, Language and History,

8. Executive District Board for the expropriations conducted in the interest of more than one village and municipality located within the same provincial borders,
 9. Executive Provincial Board for the expropriations conducted in the interest of villages and municipalities affiliated to more than one district located within the same provincial district,
 10. The Cabinet for the expropriations conducted in the interest of more than one public legal entity affiliated to different provinces,
 11. The Cabinet for the expropriations conducted in the interest of the State within the borders of more than one province.
- b) Executive board or steering committee for the expropriations conducted in the interest of public institutions, otherwise the authorized management bodies;
 - c) As for the expropriations conducted in the interest of real persons, upon the application of such persons; and for the expropriations conducted in the interest of legal entities subject to private law, upon the application of their executive boards or steering committees – otherwise their authorized management bodies, the village, municipality, special administration or the ministry by which the above mentioned real persons and legal entities are audited with respect to the service delivered by the same.

APPROVING AUTHORITY

Article 6 – Decisions in the public interest are ratified in the following manner:

- a) Decisions of executive village boards and the municipal councils with the approval of the sub-governors in districts and the governor in provinces,
- b) Decisions of the executive district boards, standing provincial councils and executive provincials boards with the approval of the governor,
- c) Decisions of the executive boards of universities with the approval of the president of the university,
- d) Decisions of Higher Education Board with the approval of the chairman of the board,
- e) Decisions of the executive board of Turkish Radio and Television Authority with the approval of the general director,
- f) Decisions of the executive board of Atatürk Supreme Board of Culture, Language and History with the approval of the president of the Supreme Board,
- g) Decisions of the executive board or steering committees of the public institutions or the decisions of the authorized management bodies with the approval of the minister by which such institutions are audited,
- h) Decisions taken by the village, municipality or the special administration in the interest of real persons or the legal entities subject to private law with the approval of the governor.
- i) Decisions taken by the Ministries or the Cabinet in the public interest need not be further approved.

It is not required to take a decision in the public interest and to further approve such decisions for the services to be conducted in accordance with the approved development plan or special plans and projects approved by the related ministries. In such cases, a decision is taken stipulating that the expropriation is initiated by the authorized executive body.

PROCEEDINGS TO BE EXECUTED PRIOR TO EXPROPRIATION AND ADMINISTRATIVE ANNOTATION

Article 7 – The administration to carry out the expropriation shall develop or have others develop a scaled plan demonstrating the borders, surface area and type of the immovable properties or resources to be expropriated or on which right of easement be established through expropriation, and shall define and document the owners of the immovable properties being expropriated, possessors of such properties in case there exist no registered title deed and their addresses with the help of the records

kept at the title deed offices, tax offices and the registries or by means of an external investigation to be conducted.

The related tax office shall present the tax statement and values of the immovable properties and the resources or the value appraised in lieu of statement in cases where there does not exist any tax statement utmost within one month upon the request of the administration.

After the decision for expropriation is taken, the Administration shall notify the title deed office, at which the immovable property subject to expropriation is registered, on annotating the expropriation proceeding at the title deed registry office. On the condition that the owner of the immovable property is changed after the date of notification, the relevant title deed office shall be liable to notify the administration having conducted the expropriation, on the changes to occur with respect to ownership or the in kind rights except for ownership. Such annotation shall be removed by the title deed office at its own initiative, in the event that the certificate to be received from the court certifying that it is requested to determine the cost of expropriation as per article 10 and be registered in the name of the administration, is not presented to the title deed office by the administration within six months as from the date of annotation.

PURCHASING PROCEDURE

Article 8 – The Administrations shall, as per this Law, primarily apply the purchasing procedure for the expropriations to be carried out on the immovable properties registered at the title deed office.

After the decision for expropriation is taken, the administration to carry out the expropriation shall assign one or more than one value appraisal commissions comprising of at least three individuals under its own body for the purpose of determining the estimated cost of the immovable property, on the basis of article 11 of this Law and by taking reports from experts, institutions or organizations specialized in this field and if necessary by using the information to be taken from the Chambers of Industry and Trade and the local real estate agencies.

Furthermore, the administration shall assign one or more than one reconciliation commission comprising of at least three individuals under its own body for the purpose of executing and completing the purchasing works through bargaining over the estimated cost and through barter.

The administration shall notify the owner in writing through an official registered letter, without mentioning the estimated cost determined by the value appraisal commission, on the fact that the administration is willing to purchase through bargaining the immovable property or take over the property through barter with another immovable property of the administration, provided that the cost of the immovable property or the resource decided to be expropriated or the cost of the rights of easement over the same shall be paid in advance or in case paragraph two article 3 of this Law is applicable, be paid in installments as per the provisions of this paragraph.

In case the owner or his/her authorized representative applies to the administration within fifteen days as from the date of notification of this letter together with the request that s/he is willing to sell the immovable property subject to expropriation through bargaining and negotiating or through barter, the bargaining negotiations shall be held on a date designated by the commission. On the condition that an agreement is reached at a cost or barter not exceeding the designated estimated cost, a minutes is issued regarding the agreement concluded and the minutes including all the legal and actual properties of the immovable property subject to agreement and the cost of expropriation shall be signed by the owner or his/her authorized representative and the members of the commission.

The administration shall make the cost specified in the minutes available for payment at the latest within forty five days as from the date of issuance of the agreement minutes and notify in writing the owner or his/her authorized representative on this matter and request from the owner or his/her authorized representative to transfer the immovable property in the name of the administration on the

date specified at the title deed office. On the condition that the owner or his/her authorized representative transfers the immovable property in the name of the administration at the title deed office, the cost of expropriation shall be paid thereto.

The immovable property, resource or the right of easement purchased or bartered as per this article shall be considered as purchased from the owner through expropriation and no objection cases shall be filed against expropriation and its cost carried out in this manner.

On the condition that no agreement is reached or the transfer is not performed, provisions of Article 10 of this Law shall apply.

Land for which there is no registration or cadastral records

Article 9 – The administration shall apply to the local civil administrator in the places where there is no registration or cadastral records at the title deed and cadastre office and shall request for the selection of four experts, as two principal and two substitute members, at the place where expropriation be carried out. The civil administrator shall ensure within eight days as from such request of the administrator that the experts are selected, oaths are given before the court of justice of peace and names are notified to the administration to carry out the expropriation.

The village headman or his/her proxy, two members of the executive village board and two experts shall work together while determining the costs.

The village headman or his/her proxy, members of the executive village board and the experts working for this cost determination shall be paid as per article 29, for the days being worked.

SECTION TWO

BASIS ON THE DETERMINATION OF THE COST OF EXPROPRIATION BY THE COURT, ITS REGISTRATION BY THE ADMINISTRATION, RIGHT OF ACTION AND EXPERTS

PART ONE

DETERMINATION OF THE COST OF EXPROPRIATION BY THE COURT AND REGISTRATION OF THE IMMOVABLE PROPERTY IN THE NAME OF THE ADMINISTRATION

Article 10 – On the condition that expropriation is not performed by means of purchasing, the administration shall apply to the court of first instance authorized at the location of the immovable property by presenting a petition to which information and documents gathered as per article 7, cost determination made as per article 8 and the other information and documents regarding the matter are attached, and shall request for the award of a decision for the determination of the cost of expropriation of the immovable property and registration of such immovable property in the name of the administration, provided that the cost of expropriation is paid in advance or in installments in case the cost is paid as per paragraph two of article 3.

The court shall summon the owner of the immovable property by notifying the date of hearing, which is designated as at the latest thirty days after the date of application of the administration, by attaching the action petition and one copy from each of the document given by the administration, either through annotated invitation or to those owners whose addresses are not reached at the end of the investigation

carried out by the administration through announcement as per article 28 of the Law on Notifications No. 7201 of 11 February 1959. The administration shall also be notified on the date of the hearing.

The following matters shall be specified in the notification to be delivered by the court either directly to the owner through annotated invitation or through announcement:

- a) The place where the immovable property is registered at the title deed office, location, spot number, block number, parcel number, type and surface area of the immovable property to be expropriated,
- b) Name(s) and surname(s) of the owner(s),
- c) Name of the administration carrying out the expropriation,
- d) The fact that they have the right to file an action of annulment of the expropriation proceeding before administrative courts or correction against substantial errors before civil courts within the period specified under article 14 as from the date of notification or the announcement,
- e) The party to be sued in the actions to be filed,
- f) The fact that the expropriation proceeding shall be finalized and the immovable property shall be registered in the name of the administration carrying out the expropriation over the cost of expropriation determined by the court, on the condition that those who have filed an action of annulment before administrative courts against the expropriation proceeding, fail to document that they have filed an action and received the decision on the cessation of execution within the period specified under article 14,
- g) The bank to which the cost of expropriation determined by the court be deposited in the name of the right holder,
- h) The fact that they are required to notify the court in writing on all the defenses and evidences related to the matter and the value of the immovable property within ten days as from the date of notification.

The court shall ensure the publication of a summary of the expropriation proceeding and the related documents at least once at one of the local newspapers – in case there is a local newspaper at the place where the immovable property is located – or at one of the national newspapers.

The judge shall invite the parties to reach an agreement on the cost of the immovable property at the hearing to be held on a date specified by the court. In case the parties reach an agreement regarding the cost, the judge shall accept the cost agreed between the parties as the cost of expropriation and shall proceed as per the second and subsequent sentences of paragraph eight.

In case the parties fail to reach an agreement on cost at the hearing held before the court, the judge shall set a date of estimation at the latest for within ten days and a date of hearing for thirty days thereafter and shall make an on site estimation for determining the value of the immovable property with the help of the experts mentioned under article 15 and before all the related parties. An invitation is sent to the headman of the village or the neighborhood at which the immovable property is registered for ensuring the attendance of the headman to the estimation to be carried out. Statement of the headman shall also be considered by ensuring his attendance to the estimation.

The experts shall submit their reports to the court, which state the cost of the immovable property in compliance with the provisions of the Article 11 by considering the statements of the parties and other related authorities within 15 days. The court shall notify this report to the parties without waiting for the hearing. The judge of the court shall invite the parties and their representatives and the experts to the hearing. In such hearings the objections of the parties – if any- to the expert reports and the statements of the experts against such objections shall be heard.

On the condition that the parties cannot reach a consensus on the amount, a new expert council shall be appointed by the judge to finalize the situation within 15 days. And the judge shall set a just and

fair cost of expropriation by benefiting from the report or reports of the experts and the statements. The amount set by the court is the cost of the expropriation of the immovable property, resource or the right of easement. The administration shall be given 15 days; i) to pay the amount agreed between the parties or set by the court as the cost of the expropriation in cash and in advance, ii) to deposit the first installment of the said amount in the name of the person in cash and in advance if the cost of the expropriation is determined in accordance with the second paragraph of the Article 3 of this Law and iii) if the right holder is not determined yet to deposit the first installment of the said amount in the bank specified in the invitation and announcement issued by the court to be given to the right holder in the future according to the Article 10. And the administration shall submit the receipt showing that such amount is deposited to the bank. The court, if necessary may extend this period for once. The court shall decide for the registration of the immovable property in the name of the administration and for the payment of the cost of the expropriation to the right holder, upon the submittal of the receipt by the administration showing that such amount is deposited in the name of the right holder or blocked in the bank account to be given to the right holder in the future. And this decision shall be notified to the title deed office and the related bank. The verdict for registration is final and the right of the parties to apply for the Court of Appeal is reserved.

The proceedings stated in this article shall be carried out in the absence of the related person if the invitation of the court is not realized.

When the right holder cannot be determined, the measures shall be taken to provide yield to the cost of expropriation and the amount is deposited to a time deposit account with a term of 3 months.

Provided that the expropriated immovable property is no longer required to be registered due to the fact that it is allocated for a public service, the court shall take the decision of annulment of the registration upon request.

During such registration and annulment proceedings the owners of the immovable property do not have any tax obligation related to such immovable property. However the title deed office shall notify the situation to the related tax office.

In the event that the right holder files an annulment lawsuit before the administrative courts within the period specified in the Article 14 and that the related courts decide to cease the execution, the court shall consider the lawsuit files before the administrative court as a blocking action and act accordingly.

If the authority to be sued is not clearly stated in the invitation and in the announcement or not stated correctly during the annulment lawsuits filed before the administrative courts by the right holder against the expropriation proceedings or during the corrective actions filed before the civil courts against substantial errors, the actual counter-party is notified and the lawsuit is continued.

PRINCIPLES FOR THE DETERMINATION OF THE COST OF EXPROPRIATION

Article 11- The expert council to be established in accordance with the Article 15 shall visit the place of the immovable property or the resource with the court commission. And the council shall listen to the related people. And then the council shall consider the below mentioned facts:

- a) type and quality of the immovable or the resource
- b) surface area
- c) all the qualities and properties that can affect the value of it and the values of every quality and property
- d) tax statement, if any
- e) amount estimation made by the official authorities on the date of expropriation

- f) net revenue of the land, immovable property or resource according to the location and conditions valid on the date of expropriation and the fact that the land, immovable property or resource is used in their original condition.
- g) Sales amount of the similar land sold before the date of the expropriation without any special purpose.
- h) official unit prices, construction cost estimations and depreciation of the buildings on the date of expropriation
- i) other objective measurements that can be effective on the determination of the amount.

The council shall take the aforementioned facts as the basis and state the comments on these facts one by one. And the council shall set the amount of the immovable property dependent upon an evaluation report with rationales by considering the statements of the related authorities.

During the determination of the cost of the immovable property, the value increase caused by the enterprise that require development and services and profit that can bring as a result of the use of the immovable property in the future shall not be taken into consideration.

In granting the right of easement through expropriation the decrease of the value of the immovable property or the resource due to the expropriation shall be stated with its rationales. Such decrease in the value is the cost of expropriation.

PARTIAL EXPROPRIATION

Article 12- The value of the immovable property that is partially expropriated shall be estimated as follows:

a) Provided that there does not exist any change over the value of the part, which is not expropriated due to the expropriation, the value of the partially expropriated immovable property shall be the part allocated for the expropriated part thereof from the amount determined for that immovable property according to the provisions of the Article 11.

b) If there is a decrease in the value of the part, which is not expropriated due to the expropriation, the value of the partially expropriated immovable property shall be the amount calculated through addition of the said decrease to the expropriation amount determined for the part of the immovable property expropriated in compliance with the paragraph (a).

c) If there is an increase in the value of the part, which is not expropriated due to the expropriation, the value of the partially expropriated immovable property shall be the amount calculated through subtraction of the said increase from the expropriation amount determined for the part of the immovable property expropriated in compliance with the paragraph (a).

And the deduction to be made according to the paragraph c) cannot be more than 50% of the expropriation amount.

The decreased and increased amounts stated in paragraphs (b and c) shall be determined in accordance with cost estimation method within the framework of the provisions of the Article 11.

On the condition that the part of the immovable property not to be expropriated is available for living according to the legislation of public works, the expenses and costs for the reinstatement of the buildings, surrounding walls, sewerage canals, water, electricity and gas canals and facilities such as machinery that are to be damaged shall be determined and added to the cost of expropriation. Such costs and expenses are not taken into consideration in the determination of the decrease in the value of the immovable property stated in the paragraph (b).

On the condition that the part of the immovable property not to be expropriated is not available for living and use and that no lawsuit is filed against the expropriation proceedings before the civil courts, such part of the immovable property must be expropriated as well upon the written application of the owner of the immovable property within utmost 30 days as from the notification of the expropriation decision.

In the event that the environment, social, economic and settlement orders are damaged as a result of the expropriation made for dam constructions and that the neighboring immovable property cannot be used economically and socially, such neighboring immovable property shall be expropriated as well upon the written applications of their owners. The regulation defining the principles thereof is prepared by the Ministry of Energy and Natural Resources by taking the comments of the Ministries of Interior Affairs, Finance, Development and Public Works, Agriculture and Rural Affairs, Forestry and the Cooperatives. The said regulation is enforced through the Cabinet decree within one year as from the date of enforcement of this Law and published in the Official Gazette. Accordingly the provisions of the Articles 22 and 23 shall not apply for the expropriation of the neighboring areas. The administration shall have the right to make any savings over the said immovable property within the framework of the provisions of the legislation of public works. And the administration can transfer the said immovable property to the Treasury free of charge.

Previously, the partially expropriated immovable property having more than one owner has been left to the disposal of one or more owners of thereof after being divided into actual parts. However if such partial expropriation includes such immovable property as a whole or a part thereof, the expropriation proceedings are conducted in the name or names of such stakeholder/s and the costs of the expropriation shall be paid to them in the ratio of their shares. The stakeholder/s shall have the right to file lawsuit only for such part. They shall not have any right over the part not expropriated and their names are omitted from the list of the stakeholders. Such immovable property expropriated in that manner is registered at the title deed in the name of the administration.

The disputes possible to arise due to the practice of this article shall be settled before the civil courts.

SECOND PART

RIGHT OF ACTION AND EXPERTS

NOTIFICATION

Article 13 – This article has been annulled according to the Article 21 of Law No 4650.

RIGHT OF ACTION

Article 14 – The owner of the immovable property subject to expropriation shall have the right to file a annulment lawsuit before the administrative jurisdiction and a correction lawsuit against substantial errors before civil courts in accordance with the Article 10 within 30 days as from the date of notification made by the court or the date of announcement in the newspaper made by the court in return for the notification.

The lawsuits filed before the administrative jurisdiction shall have the priority.

In case of joint ownership or participation, the stakeholders shall have the right to file lawsuits by themselves.

The administration shall have the right file correction lawsuits against substantial errors before civil courts within 30 days as from the date on which the expropriation documents are submitted to the court.

On the condition that the real owner of the immovable property is a person other than the owner or the possessor determined according to the provisions of this law during the lawsuit filed by the

administration against the determined owner or the possessor , the real owner of the immovable property or his/her heirs if he/she is dead shall be included in the lawsuit.

The results of the lawsuits shall not have any effect on the other who do not file lawsuits.

EXPERTS

Article 15 – Each professional chamber affiliated to the Turkish Chamber of Engineers and Architects shall appoint 15 or 25 experts for every province by considering the provinces they settle, and provincial boards shall appoint 15 experts for the provinces and district boards shall appoint 15 experts for the districts among the owners of immovable properties who are engineers and architects and residing at these provinces or districts every year in the first week of January. The lists stating the names and addresses of the selected experts shall be submitted to the office of the governors. The qualifications and working principles of the engineers and architects who are to act as experts shall be determined through a regulation prepared by the Ministry of Finance and Ministry of Development and Public Works by taking the views of the Turkish Chamber of Engineers and Architects.

The experts selected by the chambers from the lists approved by the office of the governor shall be notified to the court of first instance in the provinces and districts and the experts selected by the administrative boards in the same manner shall be notified to the courts of first instance of these places they are selected for.

The expert, who has completed his/her term of office, can be reselected.

The expert council shall comprise of 5 experts, three from the list of the chambers and two from list of the administrative board.

Three of the experts can be from the same profession group due to the superior nature of the immovable property concerned.

The persons, who are working for the administration realizing the expropriation, who are among the owners of the immovable property being expropriated or ancestors and distant relatives or one of the spouses of the owners, or the relatives through blood or marriage including the third degree of the owners and who have interests from the owners of the immovable property concerned, shall not be appointed as experts.

In the provinces and districts where the professional chambers cannot provide lists or if it is not possible to appoint experts from the lists due to real and legal reasons, scientists from regional units the Ministries of Development and Public Works, Agriculture and Rural Affairs and Forestry and from the other related official departments and institutions shall be appointed to the expert councils. On the condition that such scientists cannot be provided from the above stated institutions or that it is not possible to appoint such scientists due to real and legal reasons, the scientists from the chamber lists of the neighboring provinces or from the official departments and institutions mentioned in this paragraph shall be appointed to the expert councils.

In the event that the parties cannot reach a consensus about the experts from the ones stated in the lists submitted to the courts or among the ones stated in the above paragraph, the judge shall appoint the experts.

The judge has the expert administer an oath. The expert council shall determine the value of the immovable property in accordance with the provisions of the Articles 11 and 12, and shall submit the reports with the rationales to the court within 15 days.

The date on which the documents are submitted to the court by the administration shall be taken as the basis for the cost appreciation made by the experts.

SECTION THREE

CONTROVERSIAL PROPERTY, DETERMINATION OF THE COST OF EXPROPRIATION OF THE IMMOVABLE PROPERTY NOT REGISTERED IN THE TITLE DEED AND THE RIGHTS OF THE POSSESSOR .

PART ONE

CONFISCATION

IMMEDIATE CONFISCATION AND REGISTRATION

Article 16- This article has been annulled according to the Article 21 of Law No 4650.

PART TWO

CONTROVERSIAL PROPERTY AND REGISTRATION OF IMMOVABLE PROPERTY WITH A TITLE DEED

Article 17 – This article has been annulled according to the Article 21 of Law No 4650.

CONTROVERSIAL PROPERTY

Article 18 – The administration shall determine whether there exists any controversy on the immovable property agreed to be expropriated by investigating and querying the situation before the title deed office in charge of the property, land cadastre authority and the civil courts.

Should, as a result of the inquiries made, it be revealed that there exists any controversy on the immovable property although registered at the title deed office or that there exists any suit filed before the cadastre courts with respect to the property in question although registered at the land cadastre office, the administration shall provide all the documentation prepared in accordance with the Article 10 above to the court of first instance in charge of the immovable property in question, and shall ask the respective court to appraise the expropriation cost of the immovable property and to decide on the registration of the immovable property in question in the name of the administration in return for either cash payment to the right holder, who is to be identified as a result of the settlement of the dispute existing on ownership or for payment in installments in case the expropriation is made in accordance with the second paragraph of Article 3 herein.

After the notifications and announcements are made to all the parties of the case on the controversies related to the immovable property as per Article 10, the cost of expropriation of the property shall be appraised as per the procedure specified in this Article 10 and this amount shall be deposited by the administration to any bank and to a time deposit bank account with to three month terms as per Article 10 and as agreed by the court to be paid to the right holder, who is to be identified by the settlement of dispute on the property, the Court shall decide on the payment of such amount to the right holder to be identified later and registration of the property in the name of the administration, and shall notify this decision to the title deed office and to the bank which the money is deposited to. For any expropriation

made as per the second paragraph of Article 3, the first and the subsequent installments of the expropriation cost agreed by the court shall be deposited to any bank and time deposit bank account with three month terms as agreed by the court.

The money shall be paid to the right holder upon submittal of the instruction of the court for payment of money to the right holder that is to be inscribed following the application of the right holder to the court at the conclusion of the case on controversial property.

Should the parties of the case fail to act in accordance with the invitation of the court, the proceedings specified in this article shall be concluded in the absence of the related party.

Should the immovable property under expropriation have become a property that no longer needs to be registered to the deed as per the public service it was meant to be, the court may, upon request, decide on relinquishment of registration. During this registration and cancellation procedure, tax liabilities of the owner due to this immovable property shall not be investigated. However, the related title deed office shall notify the situation to the tax office.

This amount specified by the court shall be the expropriation cost of the immovable property, resource or the right of easement.

Should the right holders apply to administrative jurisprudence for cancellation of the expropriation procedure within the time limits specified in Article 14 and should the administrative courts resolve on cessation of execution, the court shall consider the suit filed before the administrative jurisprudence as a suspended case and shall act accordingly.

If, in any corrective action filed before the civil courts against any annulment or any calculation errors or before any administrative court against the expropriation proceedings, the opposition party is incorrectly named due to non-specification or misspecification of the counterpart in the notifications and the announcement documentation, the case shall be continued after the real counterpart is notified about the lawsuit in question.

Registration of Unregistered Immovable Property

Article 19 – The administration shall firstly reveal whether or not the unregistered immovable property agreed to be expropriated is one of the public property enlisted in Article 16 of the Land Cadastre Law of 21 June 1987 No 3402 by querying the related authorities.

Should, at the end of the inquiry made by the Administration, it be understood that the unregistered immovable property agreed to be expropriated is not among the public property enlisted in Article 16 of the Land Cadastre Law No 3402 and that the immovable property in question is under possession and is claimed to be acquired through possession, the administration shall, through the experts selected as per the provisions of Article 9, make examinations on site, collect evidence and shall affirm the situation through the minutes. These minutes shall specify the surface area of the immovable property, the identity of the owner, the tax information, the initial date and duration of ownership, and whether the conditions for acquisition of ownership has been satisfied or not.

All the documents prepared by the administration and collected as per Article 10, shall be submitted to the court of first instance at the location of the immovable property and that court of first instance shall be the authority to decide on the cost of expropriation and the registration of the property in the name of the administration in return for payment of the said amount either in cash or in installments, if the expropriation proceedings were carried out in accordance with the second paragraph of Article 3 of this law herein.

The court shall reach a conclusion on the cost of expropriation of the immovable property subject to the procedure and in accordance with the time limits stipulated in Article 10. Should it be deemed sufficient by the Court that the information and documents provided by the administration constitute satisfactory evidence for the acquisition of the immovable property by the owner at the time of expropriation under the provisions of the Turkish Civil Code and through possession, the court shall notify the expertise report on the cost of expropriation to the administration and all the other documents provided by the administration together with this report to the possessor .

Furthermore, the condition of the immovable property shall not only be notified to the senior property officer in charge of that location, but shall also be published for at least once in the local newspaper and any national newspaper of Turkey.

That announcement shall include the following information:

- a) The location, position, boundaries and size of the immovable property,
- b) Identity of the owner,
- c) The bank selected for depositing the cost of expropriation,
- d) The notice specifying that all arguments and evidence on the matter and on the value of the immovable property should be notified to the court in writing within ten days as from the date of announcement on the newspaper,
- e) The warning on the fact that the cost of expropriation shall be paid to the owner in case the right holders do not object to the matter within one month as from the date of last announcement on the newspaper.

Should the Treasury or any other third party raise no objection within thirty days as from the date of the last announcement on the newspaper, the administration shall be allocated a time of fifteen days to deposit in the name of the owner and to the bank account specified in the announcement the cost of expropriation in total and in cash or the first installment thereof in cash, if the expropriation is made in installments as per the second paragraph of Article 3 herein. The administration shall also submit the related receipt within these fifteen days. In necessary cases, the time allocated may be extended by the court only for once. Upon submittal of the receipt to the court certifying that the cost of expropriation has been deposited by the administration to the name of the owner, the court shall resolve on the registration of the immovable property in the name of the administration and payment of the cost of expropriation to the owner. This decision shall be notified to the title deed office as well as the bank, which the money has been deposited to.

In case the Treasury or any other third person raises objection within this time, the court shall decide on the registration of the immovable property in the name of the administration after the cost of expropriation is deposited to the account (with a term of three months) opened at a bank specified at the announcement by the administration to be paid to the individual, who shall in the future be evidenced to be the right holder.

The fact that the cost of expropriation has been paid to the owner shall by no means invalidate the right of those alleging a claim on the immovable property to sue the owner for restitution of property.

SECTION FOUR

EVACUATION, ABSTENTION AND WITHDRAWAL

PART ONE

EVACUATION

EVACUATION OF THE IMMOVABLE PROPERTY

Article 20 – The administration shall ask the execution officer to evacuate the expropriated immovable property, which is registered in the name of the administration at the title deed office. The execution officer shall give notice to the users of the immovable property to evacuate the immovable property within fifteen days. Should the property not be evacuated in this period, it shall be under the responsibility of the Bailiff's office to evacuate the property. The objections and complaints raised shall not impede the evacuation and the court shall by no means take any decision to impose a precautionary measure.

The owner of property and the administration shall not be liable for the payment of any indemnity due to evacuation of the immovable property. In cases when it is not possible to wait until the harvest time, the administration making the expropriation may request the evacuation of the land provided that the cost of crops is indemnified as appraised. If the cost of crops has been taken into consideration for appraisal of the cost of expropriation made as per the Articles 11 and 12, it shall not be necessary to determine and pay such amounts once more for the evacuation of property.

SECTION TWO

ABSTENTION FROM EXPROPRIATION AND WITHDRAWAL

UNILATERAL ABSTENTION BY THE ADMINISTRATION

Article 21 – The administration may, at any stage of expropriation, unilaterally abstain from expropriation either partially or totally upon resolution of the authorized body deciding on and approving the expropriation. However in case of abstention in the course of the judicial process, the judicial expenses as well as the levies and the attorney charges to be agreed at a fixed price by the court considering the significance of the matter in question shall be borne by the administration.

ABSTENTION AND TRANSFER BY MUTUAL AGREEMENT OF THE PARTIES

Article 22 – Should, following the finalization of expropriation and the related cost of expropriation, the expropriation serve no longer for its purpose or for the public interest, this situation shall be notified by the administration to the owner of property or the inheritors thereof as per the provisions of the Law on Notifications No 7201. Upon receipt of such notification, the owner of immovable property or inheritors thereof shall have the right to return the immovable property by paying back the cost of expropriation within three months. However, should there exist any administration other than the one having executed the expropriation apply to the use of such immovable property to be used for any other public interest, the provisions of the above paragraph shall not prevail, but rather the proceedings specified in Article 30 of this Law herein or Article 23 of the Law on General Accounting shall apply.

THE OWNER'S RIGHT TO RETURN THE IMMOVABLE PROPERTY

Article 23 – Should, within five years following the finalization of the cost of expropriation, the administration executing the expropriation or any other administration having been transferred or assigned the property under the second paragraph of Article 22 above, fails to take any action or to install any facility in concordance with the aim of expropriation or transfer of property and leaves the property as received, the owner of property or the inheritors thereof may return the immovable property by paying back the cost of expropriation together with the legal interest to accrue as from the date they have received the cost of expropriation.

Any unused right to return the immovable property shall be annulled within one year after it has arisen. Should more than one immovable property be expropriated at once for the same purpose, the above paragraphs shall apply by accepting such immovable property as parts of an integrated whole.

The provisions of special laws regarding inapplicability of this article shall be reserved. As for expropriations based on the Law on Land Offices No 1164 and for the expropriations made in cases specified in the second paragraph of Article 3 herein, the provisions of this article shall not apply.

SECTION FIVE

LOSSES, RIGHTS AND DEBTS TO ARISE, BARTER OR IMMEDIATE EXPROPRIATION

PART ONE

LOSSES

LOSSES DEDUCTIBLE FROM THE COST OF EXPROPRIATION

Article 24 – If any building or fixed premise on the immovable property and any cultivated section thereof that are abstained to be expropriated or that are returned as per the provisions of Articles 21, 22 and 23 herein are damaged, demolished or destructed, the owner or the inheritor thereof may, while returning the property, ask for the deduction of the difference at the time of expropriation from the cost of expropriation he/she shall pay.

Any dispute to arise during the implementation of this article and the Articles 21, 22 and 23 herein shall be settled before judicial authorities.

PART TWO

RIGHTS TO ARISE UPON NOTIFICATION AND INDEBTEDNESS

RESTRICTION OF RIGHTS AND TRANSFER OF OWNERSHIP TO THE ADMINISTRATION

Article 25 – For the owner of property and with respect to the use of rights and fulfillment of obligations, the expropriation process shall start with the notification to be made by the court as per Article 10 herein. Transfer of ownership to the administration shall be subject to the registration award of the court.

As from the date of the registration award by the court, the owner shall no longer have the right to cultivate the immovable property or to install new buildings or to make significant modifications thereon. The value of any and all such modifications made on the property after that date shall not be considered.

PART THREE

EXPROPRIATION THROUGH BARTER AND IMMEDIATE EXPROPRIATION

EXPROPRIATION THROUGH BARTER

Article 26 – If so agreed with the owner, any immovable property of the administration not assigned for public service may be allocated to the owner either partially or totally, in lieu of the cost of expropriation.

The value of the immovable property to be assigned in lieu of the cost of expropriation shall be determined by the bidding commission of the administration or in the absence of such commission, by any other commission to be set up for this purpose. The difference in-between the cost of immovable properties shall be met by the parties in cash. However, the cost of any immovable property to be assigned by the administration for this purpose shall by no means exceed 20% of the real cost of expropriation.

IMMEDIATE EXPROPRIATION

Article 27 – In cases of expropriation subject to a Cabinet Decree for national defense or an emergency as per the provisions of the Law on National Defense Obligations No 3634 or for the expropriation of immovable property in emergencies as stipulated in special laws, any immovable property may be seized by the related administration. In that case, the proceedings other than those related to appraisal shall be concluded later. Upon request of the respective administration, the value of the immovable property in question shall be appraised by the experts as per the provisions of Article 10 and 15 within seven days. Seizure shall be made after the amount specified in the invitation and the announcement to be made in accordance with Article 10 herein is deposited by the administration in the name of the owner.

The amount to be deposited in cases stipulated in the second paragraph of Article 3 herein shall be the first installment to be paid.

SECTION SIX

FREE-OF-CHARGE USE, PAYMENT OF EXPENSES AND TRANSFER OF IMMOVABLE PROPERTY BETWEEN ADMINISTRATIONS

PART ONE

FREE-OF-CHARGE USE AND EXPENSES

THE AUTHORITY FOR FREE-OF-CHARGE USE

Article 28 – The Ministry of National Defense shall be authorized to use, without paying any duty and levy, the lime, stone and sand quarries that are necessary for construction of defense facilities and premises and not owned and used or benefited under license by real persons and legal entities subject to private law. Likewise, the Ministries of Public Works and Development, Rural Affairs and Cooperatives as well as the Directorates General for State Railways, Highways and State Water Affairs shall, with the same rationales, have the right to use, without paying any duty and levy, the

lime, stone and sand quarries that are necessary for construction of defense facilities and premises and not owned and used or benefited under license by private legal entities.

PAYMENT OF EXPENSES

Article 29 – It shall be the administration executing the expropriation to bear the allowances of the court officials under Article 10, the remuneration of the experts assigned by the court and of the headman as agreed by the court as well as the title deed fees under Article 15 and all other expenses required by this Law.

PART TWO

TRANSFER OF IMMOVABLE PROPERTY BETWEEN PUBLIC INSTITUTIONS AND LEGAL ENTITIES

TRANSFER OF AN IMMOVABLE PROPERTY OWNED BY AN ADMINISTRATION TO ANOTHER ADMINISTRATION

Article 30 – The properties, resources and rights of easement possessed by legal entities and public institutions cannot be expropriated by another legal entity or public institution.

The administration in need of property, resource or right of easement shall determine the value thereof in accordance with Article 8. The owner of the property shall state the amount he/she will pay on the basis of the mentioned value and shall apply to the administration in writing. On the condition that the owner administration does not give consent for the transfer or does not respond to the application within sixty days, the dispute shall be assessed by the related department of the Council of State and resolved within two months upon the application of the administration raising the request.

On the condition that the parties cannot reach an agreement on the price, the administration in request shall apply to the court and claim the determination of the cost of expropriation on the basis of the procedure specified in Article 10 and within 30 days following the transfer agreement or notification of the decision by the Council of State. The court shall not apply the provisions of the Law of 29 June 1938 No. 3533 during the relevant jurisdiction.

The court shall grant a period of fifteen days to the administration in request for depositing the cost of expropriation determined on the basis of the procedure specified in Article 10 in cash and in advance to a predetermined bank account in favor of the owner administration and for submitting the receipt proving the deposited amount. This period can be extended for only once in necessary cases. When the receipt evidencing that the expropriation cost is deposited by the administration in request in the name of the owner administration is submitted, the court shall resolve the registration of the immovable property in the name of the administration handing over the immovable property and the payment of the cost of expropriation to the owner administration and this decision shall be notified to the title deed office and the bank the amount is deposited. The judgment regarding the registration shall be final and binding, and the rights of the parties for applying to the court of appeals shall be reserved.

The immovable property, resource or the right of easement transferred in the abovementioned manner shall be deemed as taken from the owner through expropriation and cannot be used for the purposes of transfer or any other public purpose in the absence of the permission of the administration making the transfer. Otherwise, the administration making the transfer shall have the right to take the respective immovable property back as per Article 23. This matter shall be annotated in the title deed log.

SECTION SEVEN

PROHIBITED ACTS AND PENAL PROVISIONS

PART ONE

PROHIBITED ACTS AND ACTIONS

Article 31 – Below stated acts and actions are prohibited:

- a) It is prohibited for the experts to obtain an interest determined as per Article 15, other than the fee concluded by the court.
- b) Transfer and waiver or assignment of the immovable property after the notification, invitation or announcement made by the court in accordance with Article 10.
- c) Assuming of the expenses of the lawsuit by the lawyers or attorneys or those acting on their behalf.
- d) Prepayment of the expropriation cost completely or partially to the property owner by the lawyers, attorneys or those acting on their behalf in cash or in any other manner whatsoever.
- e) Deciding that the expropriation cost shall belong to lawyers or attorneys or those acting on their behalf completely or partially.
- f) Proposal of the above prohibited acts by the lawyers or attorneys to the property owner directly or through an intermediary or provision of assistance in this regard.

PART TWO

OFFENCES BY THE OFFICERS IN CHARGE AND RELATED PENAL PROVISIONS

OFFENCES BY THE OFFICERS IN CHARGE

Article 32 – Those, who have committed offences among the duly charged officers under this law shall be subject to the penalties applicable to civil servants, but to the extent that any penalty to be applied to any person in this respect shall be increased up to two folds provided that it is not less than half the penalty applicable to that particular offense.

PENALTIES

Article 33 – Should any act not constitute an offense that requires a heavier penalty, those having violated paragraph (a) of the Article 31 herein shall be punished by imprisonment not less than two years and by a fine from two billion to four billion Turkish Liras; those having violated paragraphs (d), (e) and (f) thereof by imprisonment not less than one year and a fine from five hundred million to one billion Turkish Liras; whereas those having violated paragraphs (b) and (c) thereof by imprisonment from six months up to two years and a fine from two hundred million to four hundred million Turkish Liras. The fines stipulated in this article shall be subject to an annual increase as per the provisions of the added second article of the Turkish Penal Code of 1 March 1926 No 765.

SECTION EIGHT

MISCELLANEOUS

THE RIGHT OF THE OWNER TO REFUND ANY BENEFIT

Article 34 – The owners have the right to refund any money they have given or any benefit they have provided to the attorneys or counselors or any individual assigned as per this law or any third person, although prohibited by the Article 31 hereof, within one year.

THE LOCATIONS SUBJECT TO THE PUBLIC DEVELOPMENT LEGISLATION OR SPECIAL SUBDIVISION

Article 35 – As for the locations allocated to roads, green fields and other similar services and facilities seized for once and in return for shares, which are subject to arrangements as per the public development legislation, as well as the places allocated to public services and facilities under a special subdivision upon consent of the owner, the previous owners shall not claim ownership and shall not request any benefit therefrom.

CANCELLATION OF THE TITLE DEED REGISTRATION CONCLUDED AFTER EXPROPRIATION

Article 36 – In the event that a new title deed is issued for the expropriated land in the name of real and legal entities, due to any reason whatsoever, after the respective procedures are completed as required by the expropriation laws and the registered immovable property is transferred to the administration or after the unregistered ones are registered, the judge may, upon the request of the administration, conclude a decision on the annulment of the later record by examining the documentation available and the site, if necessary. These proceedings shall not be subject to any charge and duty.

THE AUTHORIZED COURT AND THE APPLICABLE JUDICIAL PROCEDURE

Article 37 – Any and all disputes arising from this law and that need to be settled by the civil courts shall be under the jurisprudence of the court of first instance in charge of the location of the immovable property.

INVALIDATION OF RIGHTS

Article 38 – All judicial rights of the owners, possessors or inheritors thereof related to any immovable property that has been expropriated but that remains uncompleted in terms of official proceedings or that has never been expropriated but that has been allocated to public service or to any public need shall become invalid after elapse of twenty years. This duration starts as from the date of seizure.

TAXATION

Article 39 – In case the tax value constituting the basis for the real estate tax of the year in which the immovable property is expropriated, remains less than the final cost of expropriation, the real estate tax shall be imposed with a penalty over the difference in between the cost of expropriation and the actual tax value.

In the event that the real estate statement is not duly submitted despite of the time extension granted, the final cost of expropriation shall be accepted as the tax value of the year in which the expropriation has been made and the real estate tax shall be imposed over this value with a penalty.

Annulment of Expropriation Laws

Article 40 – The Law on Expropriation of 31 August 1956 No 6830 and the amendments and annexes thereof as well as the provisions related to value appraisal of any expropriated immovable property stipulated in Article 5 of the Law on Mass Housing of 8 July 1981 No 2487 and in the provisional Article 2 of the Law of 21 January 1982 No 2587 have been annulled. The provisions related to expropriation in special laws including but not limited to the Law on Oil of 7 March 1954 No 6326 and the related amendments, the Law on Repair and Maintenance of İstanbul Covered Bazaar of 15 April 1955 No 6538, shall remain reserved.

REFERENCES TO LAW ON EXPROPRIATION

Article 41 – Any and all references made to this Law on Expropriation or to any of its articles shall be deemed to have been made to this Law herein or to the article or articles thereof arranging the same issues.

Article 42 – This Law shall be enforced on the date of its enforcement.

Article 43 – The provisions of this Law shall be under the discretion of the Cabinet.

Provisional Article 1 – The provisions of this law shall prevail for expropriations agreed but not notified on the date of enforcement of this Law, whereas the previous provisions shall apply to other expropriations.

Provisional Article 2 – In lawsuits filed prior to the enforcement of this law, the legal durations that have started to count in accordance with the previous laws in force shall be determined in accordance with the previous laws.

Provisional Article 3 – The administrations shall be given a time extension of two years as from the enforcement of this law, provided that proceedings have been started or are to be started - in accordance with the provision of Article 22- concerning any immovable property which is expropriated before the enforcement of this law and the cost of expropriation of which is not finalized although four years have elapsed.

Provisional Article 4 – As for any immovable property that is deemed to be expropriated in the name of any public entity or institution due to their position as an individual under the scope of the Law of 5 January 1961 No 221, the provisions of the above referred Law No 221 shall apply to any unresolved case filed by the previous owners or possessors or successors thereof.

Provisional Article 5 – The experts shall be selected in accordance with the previous provisions until the regulation stipulated in the amended Article 15 is enacted.