

The Council of State Assembly of Tax Courts Ruled on Land Registry Fee Exemption for the Sales of Structures Rebuilt in Disaster Risk Areas before 10 December 2018

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The Council of State Assembly of Tax Courts (the "**Council**") decision relates to a series of cases, where the applicants claim that the land registry fees charged to buyers and sellers of properties that are rebuilt pursuant to Law numbered 6306 on Transformation of Areas under Disaster Risk ("**Law no. 6306**") are subject to exemption under Law no. 6306. The applicants filed cases, requesting cancellation of the transactions and refund of the fees paid along with legal interest.

Regional Administrative Courts have made different rulings on whether the fee exemption applies in case the rebuilt properties under the Law No. 6306 are transferred to third parties, who have no legal connection with such property during the rebuilding phase. In furtherance, Ankara Regional Administrative Court's Board of Presidents requested elimination of the inconsistency between the decisions of the Regional Administrative Courts.

In its assessment, the Council noted that the Law no. 6306 has been amended on 10 December 2018 in a manner not leaving any interpretation as to the persons who are exempted from the land registry fees during sales of rebuilt properties to third parties. However, it is accepted that there is an ambiguity for the period before the amendment.

In the decision, it is explained that the purpose of introducing tax and fee exemptions is to encourage the demolition of structures at risk and the construction of new buildings in accordance with the standards, to create motivation by providing some tax relief to taxpayers, and to accelerate the transformation process. It is for this purpose narrow interpretation of the tax and fee exemptions under the Law no. 6098 should be avoided.

The Council also noted that Law no. 6098 sets forth exemptions without any restriction for transactions, contracts, transfers, registrations and applications, and further, the Implementation Regulation of the Law no. 6098 introduced additional exemptions for the first sales, transfers and registrations of the rebuilt structures after 25 July 2014.

In consequence, the Council considered the fact that the amendments made to the Law no. 6098 on 10 December 2018 have limited the fee exemptions for certain parties; and resolved that the fee exemption should be applicable for sales by the owners and contractors of such rebuilt structures to third parties for transactions that have taken place before 10 December 2018.

The full text of the Council of State's decision numbered 2022/2 E. and 2022/7 K. published in Official Gazette dated 26 July 2022 and numbered 31904 is available at this [link](#). (Only available in Turkish)

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