

A New Ministry for the Real Estate Market in Turkey: Environment and Urban Planning

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Introduction

After the elections took place on June 12, 2011 the new cabinet structure has been announced by the Prime Minister Recep Tayyip Erdogan following the approval of the President Abdullah Gul on July 6, 2011.

61st Cabinet of Turkey introduced changes to the Current Cabinet structure which dissolved 8 ministries, established 6 new ministries and merged 2 ministries and transformed 2 others.¹ Ministry of Public Works and Settlement (“the Former Ministry”) has been abolished by these changes and a new ministry, Ministry of Environment and Urban Planning (“the New Ministry”), has been established to carry out similar duties with its predecessor. Any reference to the Former Ministry made in the legislations will be deemed as made to the New Ministry.

The New Ministry founded by the Decree Law no.644, on Organisation and Duties of Ministry of Environment and Urban Planning, published in Official Gazette on 04.07.2011. The Decree states the duties of the ministry, duties of the associated general directorates and other managing units in the ministry. As it is well known, the former ministry used to prepare and apply the regulations regarding environment and housing. This important duty of the former ministry is now among the duties of the new one.

However the Decree Law no.644 has been substantially altered by a subsequent Decree Law no.648 which is published on the Official Gazette on August, 17 2011. This amendment has widened the new ministry’s authority and made alterations on the relevant laws accordingly. The Decree now states that preparing master and application plans at any scale is among the duties of the ministry.

Powers of the New Ministry

Article 2 of the Decree specifies the New Ministry’s purpose, scope and duties;

The main duty of the new ministry is to protect environment and therefore regulate the investments which has an impact on the environment. Article 2 (b) of the Decree clearly stipulates this duty for the new ministry and entitles it to decide on the policies regarding these aforementioned issues. This responsibility of the new ministry actually is the fundamental basis for any other duty of the ministry. Since, the main purpose of the new ministry is to protect environment and minimize the effects of the human activities on it.

Another significant power of the new ministry concerning the Real Estate market is that according to the Article 2 (a) of the Decree the ministry prepares and applies zoning, construction and building

¹ 10.07.2011 Today’s Zaman *Turkey’s 61st Cabinet Gets to Work*
http://www.todayszaman.com/newsDetail_getNewsById.action?load=detay&newsId=249946&link=249946

regulations. Creating building audit systems, improving energy efficiency in the buildings is also among the ministry's responsibilities.

Article 2 (ç) empowers the new Ministry with an authority which the former ministry does not have before. According to this subparagraph of Article 2; the Ministry can make, amend and approve the master and application plans at any scale², maps, and parcelling plans on its own motion without need to consult the related municipalities. However, this authority only applies for the areas that the Ministry is authorized and for the buildings which are to be built on the public lands.³ Another significant point about the power of the Ministry stated in Article 2 (ç) is being bound by the Decisions of the local authorities by no means. The Ministry has the right to grant license and certificate of occupancy *ex officio* if the relevant authority does not grant these permits within 2 months following the application.

Decree Law no.648 insert paragraph (h) to Article 2 of the Decree Law no.644; according to this paragraph the relevant authority should grant permits in three months for maps, master and application plans at any scale , and parcelling plans; otherwise the ministry can grant these permits.

In addition to these powers of the new ministry it will also make and approve the project plans, maps, parcelling; carry out permission and construction works, grant occupancy permits and establish condominium for the projects being made by Housing Development Administration of Turkey.⁴

The new ministry had 18 general directorates, but the recent decree added a new general directorate to these existing ones. The recent directorate, General Directorate of Natural Heritage, is established particularly to organize the natural protected areas and investments (e.g. tourism) to be built within these protected areas. Since Turkey is a leading country in tourism the latest amendment is important for Turkey and it may have an effect on the tourism investments. As per article 13/A (c) of the Decree Law no.644, natural property and natural protection area borders should be determined and managed by the directorate.

Transfer of Power from Municipalities

As it is mentioned above the Decree entitles the new ministry to powers which were only under the local authorities' control such as drawing up zoning plans, parcelling, establishing condominium and giving construction and building permits.

In consequence of these significant changes the procedure to get permits simplified and the problems which could arise due to the law suits against the zoning plans drafted by local authorities minimized. In the previous practice these long lasting law suits could result cancelling or deferment of prospective projects; but thanks to these changes Ankara will be the only authority to draft the plans and it is expected to have less legal problems concerning plans and permits.

² Amendment by Decree Law no.648

³ Final form of Article 2 (h) grants a wider authority

⁴ Decree Law no.644 Article 2 (ğ)

Conclusion

A sole policy maker may correct the chaotic environment which is created by the different practises of the municipalities. It is also a positive development that zoning plans will be drafted by experts of the new ministry. By this way the amendments may satisfy the environmentalists; the ministry is supposed to pay attention to the environmental issues since its duties specified in the Decree clearly state that it should protect the environment while promoting the development of the cities. The duties of the new ministry may be criticized by pointing out the centralization of the administration, however in our view environmental policies should be considered carefully and common standards should be applied in whole Turkey.

As mentioned above the newly established General Directorate of Natural Heritage is another centralization instrument for natural protection areas. It appoints a centre authority to manage natural protection areas.