

# Monthly Updates

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Taboğlu

## COMMUNIQUE ON ISSUANCE OF BUILDING CERTIFICATES

The Communiqué on the Procedures and Principles Concerning the Issuance of Building Registration Certificates published by the Ministry of Environment and Urbanization (the “**Ministry**”) in the Official Gazette dated 6 June 2018 and numbered 30443 and entered into force on the same date (the “**Communiqué**”) is in the pursuance of prescribing the procedures and principles of the issuance of building certificates as per the temporary Article 16 of the Zoning Law which was published in the Official Gazette dated 9 May 1985 and numbered 18749 (the “**Zoning Law**”).

The Communiqué provides a statutory remedy for building owners for their buildings without a proper building certificate or a building usage certificate. Owners of such buildings are now entitled to apply for a building certificate within a time frame as prescribed in the Communiqué.

This Monthly Update aims to provide a brief explanation on procedures and principles of obtaining building certificates and rights and duties of the relevant administrative bodies with regards to this Communiqué.

### *Application Procedure*

Building registration certificates are only issued for buildings constructed before 31 December 2017. Applicants for the building certificate should apply on or before 31 October 2018, however such period may be extended by the President of the Republic of Turkey. Both building owners and their proxies may apply for a building registration certificate through e-Government system or bodies authorized by the Ministry. Applicants shall fill in the building certificate registry form and pay a registration fee as detailed in Communiqué (the “**Registration Fee**”).

As per the Communiqué, the Registration Fee shall be calculated based on the sum of the property tax value of the land on which the building is located as specified in Property Tax Law and the approximate construction cost of the building. For residential buildings and for commercial buildings, only 3% and 5% percent of the abovementioned sum respectively shall be paid as the Registration Fee.

Property tax value is calculated in accordance with the data provided by the relevant municipality regarding unit value of the land (per square meter) on which the building is located and the construction cost of the building. Approximate calculation for the construction costs of the building is as follows: (i) TL 200 per square meter for basic agricultural buildings; (ii) TL 600 per square meter for 1-2 story buildings and basic industrial buildings; (iii) TL 1,000 per square meter for 3-7 story buildings and integrated industrial buildings; (iv) TL 1,600 per square meter for 8 story or higher buildings; (v) TL 2,000 per square meter for luxury buildings, villas, shopping malls, hospitals, hotels and similar buildings and; (vi) TL 100,000 per megawatt for solar power plants. For buildings being used for both residential and commercial purposes, the calculation of the Registration Fee shall be made separately for both the property used for residential purposes and the property used for commercial purposes.

For buildings without a building certificate or a building usage certificate, the building registration certificate shall not be issued unless the Registration Fee is paid in full. For buildings with a building usage certificate in which the independent unit of such building causes a violation, the independent unit owner shall be responsible for the Registration Fee for the independent unit and upon payment, a building registration certificate shall be issued for such independent unit independently from other independent units on the same building.

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## Post-Issuance Period

Subsequent to obtaining of a building registration certificate, building owner shall submit a copy of the building registration certificate to the relevant municipality. Thereafter, buildings that have a building registration certificate (the “**Registered Building**”) may get a temporary water, electricity and gas connection. Furthermore, Registered Buildings that previously marked for demolition shall not be demolished and uncollected administrative fines imposed by the Ministry due to the lack of proper certificates in accordance with the Zoning Law shall not be imposed.

Building registration certificates also provide an opportunity for the establishment of condominium ownership, type conversions on the deed, conversion of the intended use (e.g. commercial to residential) without a building certificate or a building usage. To do so, an application to the relevant directorate of land registry with the following documents is required: (i) Registered Building’s building registration certificate; (ii) Registered Building’s project plan; (iii) a document provided by the relevant municipality demonstrating that part of the land of the Registered Building coinciding with a public service area has been vacated; (iv) Registered Building’s management plan; and (v) site investigation report procured from the special survey engineering offices and licensed cadastral surveying offices. A registration fee equal to the Registration Fee shall be paid during the application process.

Buildings still under construction are also within the scope of the Communiqué. A building registration certificate may be issued to the parts of the building completed before 31 December 2017, under the condition that no additional constructions sites are allocated to the completed parts of the building. Incomplete construction works may be completed after obtaining the building registration certificate.

Registered Buildings constructed on the lands owned by the Treasury shall be allocated to the Ministry. Following the finalization of the allocation process, upon the request of the building registration certificate holders, the Ministry shall sell the property in question to the person who made such request. Sale price shall be based on the market value calculated by the Ministry. At least 10% of the sale price shall be paid in full and the remaining amount may be paid in instalments. An equivalent process also applies to the Registered Buildings constructed on the lands owned by a municipality.

Building registration certificates shall be effective until a reconstruction or an urban renewal project affecting the building in question.

## Exceptions for the Building Registration Certificate

The exceptions of obtaining a building registration certificate are prescribed in a *numerous clausus* of five. A building registration certificate shall not be issued if the building in question is located; (i) on the coastline of the Bosphorous as identified in the Law of Bosphorous numbered 2960; (ii) on the historical peninsula of İstanbul as identified in the Zoning Law; (iii) on the historical sites of Gallipoli; (iv) on land owned by third person(s) and (v) on public spaces used for social purposes.

Any building registration certificates issued for the buildings located on abovementioned lands shall be cancelled. Any false statements made in relation to relevant exceptions are punishable by law.

## Conclusion

The Communiqué mainly regulates the procedures and principles with regards to a building registration certificate. Applications are processed in accordance with the statement of the building owners. Process is simplified due to e-Government application system. The Communiqué will provide an ample opportunity for building owners to comply with the Zoning Law. Through this Communiqué, it is also expected that the Treasury will generate a significant revenue. Extension of the application period is expected.