

Act No: 5366 (English)

Date of Enactment: 16.06.2005

Object and Scope

ARTICLE 1- The object of this Act is by reconstruction and restoration in line with the progress of the area of zones which are registered and declared as SIT (Conservation) areas by boards of conservation of cultural and natural assets which have been worn down and tending to lose their characteristics, by metropolitan municipalities, district and first level municipalities within the boundaries of metropolitan municipalities, provincial and district municipalities and municipalities with populations over 50,000 and outside the scopes of authority of such municipalities by provincial special administrations, formation of residence, commerce, cultural, tourism and social facility areas in such zones, taking of measures against the risks of natural disasters and restoration and conservation of and use by living in historical and cultural immovable assets. This Act covers the terms and procedures relating to the determination of the restoration areas to be created in line with the foregoing objects, setting of technical infrastructure and construction standards, formation of drawings and on application, organization, management, supervision, participation and use thereof.

Identification of zones

ARTICLE 2- Restoration zones shall be determined by the decision of the simple majority of the full membership of the provincial general assembly in provincial special administrations and the municipal assembly in municipalities. Decisions adopted by the provincial general assembly and in municipalities other than metropolitan municipalities, those adopted by the municipal assembly shall be submitted to the Council of Ministers. In metropolitan municipalities, such decisions adopted by district and first level municipal assemblies shall be submitted to the Council of Ministers, provided they are approved by the metropolitan municipal assembly. The Council of Ministers shall decide within three months whether the project shall be implemented or not. The implementation in zones approved by the Council of Ministers may be designed in stages within a schedule. Stage projects and programs shall be implemented upon decision by the simple majority of the full membership of the assemblies and the approval of the mayor in municipalities and the governor in provincial special administrations. All immovables within the boundaries of the said zone shall be subject to the provisions of the restoration project to be prepared in accordance with this Act, following determination by the board of conservation of cultural and natural assets, of the restoration projects to be prepared by the

municipality and provincial special administration. Restoration projects, which are outside those to be implemented by the metropolitan municipalities within the boundaries of metropolitan municipalities, shall be effectuated upon approval of the metropolitan mayor once they are prepared by district and first level municipalities and are ratified in applicable assemblies. Expropriation and application shall be carried out accordingly. Creation of the technical infrastructure and construction standards of restoration zones, the management of such zones and terms and conditions on participation of right holders at the application zones or participation of the people in the area shall be determined by a regulation.

Implementation

ARTICLE 3- The restoration projects and implementations prepared or caused to be prepared by provincial special administrations and municipalities in zones designated as restoration zones shall either be carried out through the applicable provincial special administrations and municipalities or shall be caused to be implemented by public agencies or organizations or natural and legal persons. Joint applications with Mass Housing Authority may be carried out in such zones or application may be caused to be carried out by the Mass Housing Authority.

Applications not initiated by metropolitan municipalities in metropolitan municipalities shall be carried out or caused to be carried out solely or jointly by district and first level municipalities. In applications in building plots within the restoration zone, buildings which will be restored conserving its plot and structure fully may be carried out by the plot owner, provided the integrity of the project is not disrupted, provided the project approved by the municipality is adhered to and it is used for the purpose to be set by the provincial special administration and the municipality. In such cases, the application must be initiated and completed simultaneously with the project. Otherwise, the provisions of this Act shall be enforced by the provincial special administration and the municipality. In zones where Ministry of Public Works and Habitation determines that there is the risk of natural disaster during implementation of the restoration projects in restoration zones, provincial special administrations and municipalities may make the necessary arrangements and impose bans including discharge on restoration projects for taking necessary measures. Terms and procedures in such regard shall be set by a regulation. Any control, supervision and follow-up operations during implementation shall be carried out or caused to be carried out and finalized by the applicable private administration and the municipality. Such operations shall be caused to be carried out by expert persons, agencies and teams on the matter, depending on the characteristics of the project. Applications in restoration zones are exempt from any

taxes, duties, charges and fees. Adequate number of regional boards of conservation of cultural and natural assets shall be formed as per Article 51 of Act on Conservation of Cultural and Natural Assets no. 2863 to approve the restoration projects. Projects approved by the Board shall be implemented by the private administration or the municipality. In applications to be carried out in restoration zones, any purchases of goods and services and construction works are exempt from the provisions of public tenders act no. 4737, save provisions banning participation in tenders and penalties. Restoration projects shall comprise the layout, restitution and restoration projects for immovable cultural and natural assets which are within the boundaries of the application zone and projects stipulated in the zoning regulations for structures which will be repaired or re-built.

Restrictions on dealing with immovables and expropriation

ARTICLE 4- The private administration and municipality may impose temporary restrictions on the properties which are in zones declared as restoration zones until the project is completed as regards any build-up, use or operation. In evacuation, demolition and expropriation of the buildings in the restoration zones, agreement shall be sought. Where no agreement is reached, immovables owned by natural or private law legal persons may be expropriated by the applicable

private administration or municipality. Expropriations to be effected under this law shall be deemed as expropriations for realization of residential projects in paragraph 2 of Article 3 of the Expropriation Act no. 2942. Expropriation procedures shall be carried out in accordance with the provisions of the same article for immovables for which the ownership box is blank in the Land Registry Office and the inheritor of which is unknown on which an administrator is appointed or which are in dispute subject to lawsuits or on which real rights regarding ownership and other than ownership have been established. Private administrations and municipalities are authorized to cause inheritance certificates to be issued, administrators to be appointed and carry out transactions according to the last owner registered in the land registry in carrying out of the expropriation operations. Instead of expropriation of the title to the immovable property, private administrations and municipalities may establish restricted real rights by way of purchasing in consideration of floors and establishment of right of usufruct or right of superficies set out in applicable articles of Turkish Civil Code no. 4721 should they so deem appropriate. Real properties within the boundaries of the restoration zone owned by Treasury shall be transferred to the private administration or municipality conducting the project without requiring any further process. In case of sale or transformation into a revenue bringing business, twenty-five percent of the income after deduction of project and application costs shall be paid to the Treasury. Transfer procedures shall be

carried out by the applicable land registry office in its own motion upon request of the private administration and municipality. Such transactions are exempt from any taxes, duties and charges. Properties, which are covered by the restoration project in zones declared as restoration zones may not be sold, rented out or allocated by the treasury. Funds shall be transferred to municipalities out of the account of contribution to conservation of immovable cultural assets formed in accordance with Article 12 of Act on Conservation of Cultural and Natural Assets to be used in the expropriation, planning, project and construction operations of the projects to be implemented in the restoration areas. For plots, lands, buildings and facilities allocated to Ministry of National Defence, sites covered by Act on military prohibited zones and security zones and which are covered by civil and military airports and obstruction plans, schools owned by Ministry of National Education, properties owned or administered by General Directorate of Foundations and Immovables for which there is foundation annotation in land registry records are subject to how the provisions of this Act shall be implemented, shall be determined jointly by Ministry of National Defence, applicable Ministry and Directorate of Foundations or private administrations and municipality.

Establishment of Restricted Real Rights

ARTICLE 5- Real rights may be established restricted to associations operating to the benefit of the public for educational, health, cultural and social purposes, foundations, professional associations which are public organizations and other public agencies and organization and Universities and natural or private law legal persons to be used in commercial operations. Terms and procedures relating to establishment of real rights and fee and usage period shall be set by the applicable municipality or applicable public agency or organizations in accordance with Turkish Civil Code, Private Administration Act, Municipalities Act and other applicable regulations.

Regulation

ARTICLE 6- The regulation on implementation of this Act shall be effectuated within three months from publication of the Act by Council of Ministers upon recommendation of Ministry of Internal Affairs.

Unimplementable provisions

ARTICLE 7- Without prejudice to obligations arising from international law, provisions in violation of this Act of other laws shall not be enforced in the restoration zones covered by this Act.

Effectiveness

ARTICLE 8- This Act shall go into effect as of the date of its publication.

Enforcement

ARTICLE 9- The provisions of this Act shall be enforced by Council of Ministers.

July 4, 2005
