

Urban Transformation Applications

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Abstract: Urban transformation aims to renew areas that are deteriorated and unable to meet contemporary needs. In Turkey, this concept emerged after disproportionate migration from rural to urban areas began in the 1950s, leading to unplanned urbanization and infrastructure problems in city centers. Particularly in historical and older settlements, excessive migration caused these regions to become physically and socially obsolete. To address this, various laws have been enacted to renew and reintegrate such areas into society. One such law is Law No. 5366, on the Renewal, Protection, and Utilization of Worn-out Historical and Cultural Immovable Assets. This law seeks to reintegrate protected areas abandoned to neglect by employing urban transformation methods. Another key regulation is Law No. 6306, on the Transformation of Areas under Disaster Risk, commonly known as the "Urban Transformation Law." Its primary aim is to minimize disaster risks and repair existing damages. Numerous transformation projects have been implemented under these laws and continue to progress in Turkey. However, most projects focus on demolishing and rebuilding structures without addressing the region's broader needs. Urban transformation should aim not only to rebuild structures but also to cater to the area's socioeconomic and environmental requirements. In Turkey, urban transformation is often driven by the need to mitigate disaster risks, reflecting the reality of frequent natural disasters. For this reason, understanding its practical and judicial dimensions is crucial for ensuring that urban transformation serves its intended purpose effectively.

Keywords: Urban Transformation, Risky Buildings, Reserve Areas, Urban Renewal

JEL Classification: R14, K25

1. Introduction

Although the region we live in is located in an earthquake risk area, the construction progress ignoring this important fact has revealed the need for urban transformation in our country. The concept of urban transformation emerged in the world in order to regain the cities that were destroyed or even destroyed after World War II (Üstün, 2014:1). The global perspective on urban transformation was to regain cities that had lost their identity after the war and to heal the wounds of post-war period. In our country, this concept began to be discussed after the migrations received in the 1950s.

Although urban transformation was first used to solve the problems of settlements and slums in undeveloped areas, it later became the subject of legal regulations established to preserve the historical and cultural assets. After the 1999 Marmara Earthquake, with the harsh reality of earthquakes which the administration confronted with the concept of urban transformation began to be used for areas at risk of disasters (Çaptuğ, 2014:1).

Unfortunately, it has been observed that some of the regulations put into force in order to improve the damages after the earthquake do not fully meet the needs. The aim here should not merely be to remedy or repair the damage caused by disasters, but rather the main goal should be to ensure that preventive measures are taken against the damages that may occur. In order to overcome these problems, 'Urban Transformation Law' numbered 6306 was enacted in 2012. Although with this law it is aimed to minimise disasters that may occur in places where there is life, the deficiencies identified later cause problems in practice. Based on this information, in this study we will first mention the definition of 'urban transformation' and its relationship with related concepts. Then, we will try to explain the historical development and the implementation process of urban transformation. Finally, we will try to address the problems encountered in the urban transformation process and its judicial review.

2. Definition of Urban Transformation

Urban transformation is one of the most debated topics nowadays. With the change of time, developing technology, the economic and social changes it brings with it have made this concept relevant to various principles.

Urban transformation can be described as a systematic effort carried out with public support to restore the lost spirit of cities or to alter and enhance the existing one. In our country, the concept of urban transformation means the renewal of existing buildings in accordance with urban planning principles in order to prevent possible disasters. Unfortunately, the aim of urban transformation projects conducted on an individual basis, especially in metropolitan cities, is to make profit rather than to protect cities against disasters and take precautions

3. Historical Development of Urban Transformation

In the world, the concept of urban transformation emerged in the 19th century with the aim of regaining and utilising the blighted areas brought about by the disproportionate population growth as a result of the migration of cities. In particular, it is aimed to bring dilapidated areas or abandoned harbour and industrial zones, where low-income people

live in poor physical conditions, back into use for society (Ataöv ve Osmay, 2007:58). The concept of urban transformation in the world has undergone many conceptual and methodological changes between the 19th century, when it was started to be implemented, and today.

From the mid-19th century to the Second World War, urbanization accelerated due to the effects of the Industrial Revolution. Rapid and unplanned industrialization led to irregular urban development, environmental pollution, crowded and inadequate housing areas for low-income groups, and unhealthy blighted cities caused by insufficient infrastructure. During this period, the goal was to increase public spaces to create cleaner and more livable cities free from environmental pollution. During this process, the goal was to increase public spaces to purify cities from environmental pollution and create cleaner, more livable cities (TMMOB, 2016:8). After World War II, the method of reconstruction of cities was applied in order to ensure economic development and to get rid of the destruction caused by the war in a collective manner (Yasin ve Şahin, 2013:83). In the 1960s, with the realization that cities physically reconstructed using the urban renewal method could not be improved, the idea of preserving the existing one became widespread. In this process, projects that use urban improvement methods have been given priority. Since the 1990s, in urban transformation approaches, methods such as urban improvement, revitalization, and urban conservation have been highlighted. In this process, in addition to the public administration, the private sector, voluntary organisations, and non-governmental organisations have also played an important role in the development of projects (Ruhi ve Ruhi, 2018:22).

The development of the concept of urban transformation in Turkey has been slower than the development in the West due to the fact that the industrial revolution has not been experienced in the country and the slower transition of migration from rural to urban areas (Yılmaz, 2019:302). Migration from rural to urban areas, which was not very intense before World War II in Turkey, gained speed with the effect of industrialisation. The insufficient housing stock in cities led to unplanned and illegal settlements and paved the way for the emergence of slum areas (Yasin ve Şahin, 2013:85). By the 1960s, unregulated and unplanned construction had brought along infrastructure problems. For these reasons, the Slum Law No. 775, which defined the concept of slum for the first time and aimed to prevent the construction of new slums through the rehabilitation and clearance, was adopted in 1967 (Kasımoğlu, 2010:31). However, the adoption of this law failed to prevent the uncontrolled growth of cities. The concept of urban transformation came up with the aim of integrating city centers and slum areas that had received intense migration in the 1980s. In 1999, the massive destruction caused by the Marmara

Earthquake once again highlighted the urbanisation problems of cities and urban transformation projects have gained momentum in order to make cities more livable. In order to minimise the risk of disasters and improve the damages caused, the Law on the Transformation of Areas Under Disaster Risk (Law No. 6306) was adopted on May 6, 2012. Despite all these developments, the devastation caused by the earthquake centered in Kahramanmaraş on February 6, 2023, which affected 10 provinces and led to the loss of tens of thousands of lives, revealed the fact that we are still at the beginning of the phase in terms of urban transformation. According to us, the concept of urban transformation needs to be implemented with a holistic perspective that takes into account the region's climate, topography, and cultural characteristics, rather than demolishing and rebuilding existing buildings.

4. Purpose of Urban Transformation Practices

Although the issues brought by urbanization, their solutions, and the associated regulations vary across different parts of the world, in terms of the objective of urban transformation practices generally converge on common objectives. One of the main objectives of urban transformation is to reorganise the problematic areas of cities in socio-cultural and economic terms and to provide individuals with a healthy and livable environment in the light of temporal developments (Demirkol ve Bereket Baş, 2013:41).

Urban transformation comes to the forefront with the existence of many different reasons. The main reasons that make urban transformation necessary are undoubtedly the population increase and the large migration of cities. Rapid population growth and disproportionate migration to urban centres, especially from rural areas, increases the demand for housing, public spaces and social facilities in cities. This population surge further exposes inadequacies in infrastructure and coupled with the rising number of vehicles, necessitates new roads. As a result of this situation, in order to make the best use of the cities, the land in the cities cannot expand horizontally due to its surface area, so urbanisation is spreading vertically. Nowadays, cities are formed by dividing the land into blocks/parcels, and then establishing condominium ownership and assembling apartment buildings that form a combination of even smaller pieces. Living in apartments, disconnected from the land, makes people's souls restless and causes them to lose their true selves. This, in turn, results in cities becoming soulless and typicalised (Saner, 2003:373). Another important reason necessitating urban transformation is the deterioration of existing buildings in cities, their inability to meet current needs, damage caused by natural disasters, or the need for precautionary measures against potential disasters. With the irregular urbanization in cities and the accompanying rise of slum

housing, cities by losing their souls and identity, undermines their sustainability. For this reason, with urban transformation it is aimed to prevent unplanned and irregular settlements and to restore the identity and social values of cities.

5. Urban Transformation Methods

Urban transformation, defined as restoring the lost functions of cities in a systematic manner or changing their existing appearance, can be implemented by various methods.

Urban transformation can be carried out through methods such as urban renewal, regeneration, revitalization, rehabilitation, zoning-improvement, gentrification, restoration, and preservation. These methods can be applied alone or as several of them can be applied together (Çaptuğ, 2014:20). It is understood what kind of expectation is expected from the urban transformation area with the determination of these methods and how the implementation will be carried out is determined.

Urban Renewal; it is the reconstruction of the city by removing the existing buildings when it is realised that a rehabilitation or regulation work to be carried out in the current state of the cities will not work. Urban renewal is one of the most radical methods among urban transformation methods (Çağtuğ, 2014:20).

Regeneration; It is used to give a new identity and spirit to cities that have become declining areas in physical or social terms, or to bring them to the city by improving the existing ones (Kaplan, 2017:30).

Revitalisation; It is the revitalisation of cities that are declining due to certain reasons (social, cultural, economic, physical) by eliminating or changing the factors that cause decline (Özden, 2000/2001:257).

Rehabilitation; It is to make cities more efficient and usable with a limited budget due to the inadequacy of the existing infrastructure (Kaplan, 2017:30).

Restoration-Zoning/Rehabilitation; with the method of restoration it is the protection and altering of historical cities that are on the verge of deterioration. Zoning Regularization / Rehabilitation is the transformation of cities through the acceptance of the legitimacy of areas built without considering the existing zoning plans (Çaptuğ, 2014:22).

Urban Conservation; it means the preservation of cultural and historical buildings and natural formations existing in cities by taking them under protection with a legal regulation and preserving them within the city. What is important here is not only to protect historical assets but also to integrate these works into the daily life of the city (Saraç, 2014:21).

Gentrification; It is the method of changing not the physical structure but the population living in these socially deteriorated cities, whose physical environment is deformed due to this reason. Population replacement means raising the consciousness of the population or replacing it with a more socially and economically conscious population. As a result of this method, violations of rights arise as urban communities are obliged to leave their places (Çakır, 2018:9).

6. Determination of Risky Building in Urban Transformation Applications within the Scope of Law No. 6306

Within the scope of Law No. 6306, the existence of risky buildings is firstly required for the realisation of urban transformation projects. With this his law it is aimed to provide citizens with safe, healthy and modern living spaces through the renovation of risky buildings and areas. The term "risky structure" is defined in Article 2, titled Definitions, of Law No. 6306 as follows: "Risky Structure: Buildings within or outside the risky areas that have completed their economic life or are identified based on scientific and technical data as being at risk of collapse or heavy damage."

Article 7 of the Implementation Regulation of Law No. 6306 specifies the characteristics of the buildings that will be subject to the determination of risky buildings (Erdidal, 2019:42). Article 7: "...Risky buildings detection applies to structures that are independent, covered, and accessible to people, used for living, working, entertainment, resting, or worship, as well as buildings used for protecting animals and goods. Buildings that are under construction but not inhabited and whose structural integrity has been disrupted due to abandonment or partial demolition are not subject to risky building determination."

Firstly, buildings must be completed, meaning they should not be under construction but fully finished and ready for habitation. Secondly, they must have maintained their structural integrity and not suffered degradation due to abandonment. If a building meets both criteria, it can be assessed for risk. If static and dynamic calculations confirm

the risk, a risk analysis report is prepared, and the building may be declared a "risky structure" within the scope of urban transformation.

There are three methods for identifying risky buildings. Article 7 of the Implementation Regulation of Law No. 6306 outlines these procedures (Erdidal, 2019:42).

The first method is owner-initiated assessment. A co-owner may request an inspection from an authorized institution without needing the consent of other owners. If the building is found risky based on technical calculations indicating potential collapse or severe earthquake damage, a report is submitted to the municipal authority. Once confirmed, the building is officially declared risky within the scope of urban transformation (Yazıcı, 2018:12).

The second method falls under the jurisdiction of the relevant authority. Authorities can require property owners to obtain a risk analysis report when necessary. They may issue legal notifications instructing owners to prepare an urban transformation file or apply for a risk determination report. If owners fail to act within the given timeframe, the authority commissions the report itself and charges the cost to the owners. These two methods are covered under Article 7 of the Implementation Regulation of Law No. 6306. The third method, which we will now address, is outlined in Article 6/A of the law (Yazıcı, 2018:14).

The third method is ex officio assessment by the Urban Transformation Presidency. Particularly after major disasters, the Directorate conducts field inspections to evaluate building conditions. Assessments rely on observations, categorizing buildings as slightly, moderately, or severely damaged. Since collecting structural samples is often impractical in post-disaster conditions, the Directorate mandates the preparation of a risk report. Owners of moderately or severely damaged buildings are notified to submit a report within a short deadline, and in some cases, the Ministry directly appoints an authorized firm. Unlike the other methods, where the process may take up to 90 days, this method has much shorter deadlines. Owners are notified within 5 days after the report is prepared. Following the notification, they have 2 days to file an objection. If no objection is raised, the building must be evacuated and demolished within 3 days.

This framework ensures the timely identification and transformation of risky structures, enhancing urban safety.

7. Paths to be Followed in the Urban Transformation Process with Respect to Risky Buildings

As part of urban transformation, the first step is to obtain a 'risk analysis report' to assess whether the existing building is resistant to disasters. The first step to obtain this report is to apply to the Municipality or the Provincial Directorate of Environment and Urbanization where the building is located, or to private companies authorized by the Ministry of Environment and Urbanization. Owners can also apply to the provincial special administrations for the report. No majority is required for the application. An owner can request an assessment report independently. The important aspect here is that the owners are able to make the application. In this case, the Ministry may even provide the owners with a 'determination loan' to accelerate the urban transformation process. If the risk analysis report is clean, there is no further action to be taken. However, if the existing building is deemed risky within the scope of Law No. 6306, the Provincial Directorate of Environment and Urbanization is notified.

After the 'risk analysis report' is obtained and approved by the ministry, the 'risky building registration' process is completed by making a notification to the land registry. After registration, the owners are sent a notification by the Land Registry Office to inform them of their right to object to the transaction. A 15-day period is given for objection. Within 15 days, if the owners do not notify their objections, the title deed registration process becomes final. Owners who have objections can submit an objection petition to the municipality that approved the report or to the provincial directorates in other provinces within 15 days (Öngören, 2013: 94). In the case of an objection, the report, which was previously sent digitally to the Ministry through the Disaster Risk Areas Transformation (A.R.A.A.D.) information system by the municipality, is submitted to the Ministry of Environment and Urbanization Infrastructure and Urban Transformation Directorate for Istanbul, with the written form of the objection added to the system. The Directorate appoints 7 academic experts from universities to evaluate the objection. These experts conduct their examination based on the procedures and principles for the determination of risky buildings. If they do not find any deficiencies, the objection is rejected and the building is confirmed to be risky. If they find errors in the report, they state their reasoning and the firm that prepared the report is given time for correction. Once the firm makes the revisions, if the report is re-examined by the committee and the building is still determined to be risky, the report is finalized. If the committee decides that the building is risk-free, the annotation on the title deed is removed. When the "risky building analysis report" is finalized as a result of the objection, the Municipality itself sends the notification for the building (Bilke, 2018:108).

After the finalization, the owners are given a period of not less than 60 days by the administration to evacuate the buildings. Instead of demolishing a risky building, retrofitting is presented as a second option to the owners, provided certain conditions are met. The first condition for retrofitting is the approval of at least a 4/5 majority. The second condition is to prove that the building can be retrofitted according to the relevant national regulation 'Turkey Building Earthquake Regulations'. If both conditions are met, an application for a retrofitting license can be made to the authority.

The building must be evacuated within the 60-day period granted for evacuation. During this process, the co-owners must decide either to demolish the building or retrofit it, provided that the conditions for retrofitting are met. For the retrofitting procedure, with the consent of the co-owners in the ratio of four-fifths, whether the risky building can be retrofitted or not, a further inspection must be made according to the current earthquake regulations by taking samples from all floors. As a result of the inspection, for a retrofitting license it can be applied to the municipality. Buildings that are categorized as risky and do not have occupancy are not granted the right to be strengthened. Except for urban transformation, even if it is not risky, every building with occupancy has the opportunity to be retrofitted.

Within the 60-day period specified, the property owners must gather and sign the "Joint Agreement Protocol of Building Owners". In case the owners cannot gather together to prepare this protocol, a notification is sent to the owners to call the board of condominium owners for a meeting upon the request of the manager, auditor or one third of the building owners through a notary public. In the meeting held, by discussing with the building contractor the process to be followed and the outcome should be concretely set out. In cases where a unanimous decision could not be reached as a result of voting among the owners on the determined process, the shares of the remaining unagreed owners had to be purchased with the agreement of at least two-thirds majority on the land share. However, with the amendment made to Law No. 6306 in 2024, a new legal arrangement was made in order to prevent the slow progress of the urban transformation process and the process, including obtaining a construction license, could be initiated with an absolute majority (50+1 percent) decision. This regulation aims to provide urban transformation projects proceed faster and more efficiently. The decisions taken at the meeting, along with the minutes proving that the decisions were accepted by at least an absolute majority, are sent to the shareholders who do not want to agree through a notary in order to officially notify them of all their rights and interests. The share values of the parties that do not reach an agreement are evaluated by CMB (Capital Markets Board) approved experts (Sönmez, 2018:95). If the minority

shareholders still do not accept the agreement as a result of the evaluation, the owners apply to the municipality with the notification and decisions taken. The municipal minutes examine whether the contents of the contract with the contractor have been performed in due form. If no irregularities are found, the municipality by setting a date and place mediates the auction sale of the shares of the party that does not wish to agree. The important point here is the municipality sets the sale price based on the market value determined by its own valuation commission, rather than the value determined by the CMB-approved valuation firms. In the first auction meeting to be held, other property owners are given priority due to the right of first refusal (shufa right). If no result is achieved in the first meeting, third parties can participate after the municipality announces the sale.

At the end of the 60-day period granted for the demolition of the risky building, the demolition inspection is carried out by the relevant authority. If it is determined that the demolition has not been carried out, the property owners are given an additional 30-day period. If the demolition is not carried out by the owners within this period, it is carried out by the local authority. If the building is not demolished despite the demolition order and the expected time period, the demolition is carried out by the Ministry.

The cost of the demolition process carried out by the Ministry or the administration, which is not carried out by the owners, is declared to the land registry office. A mortgage is arranged by the land registry office on the shares of the owners in the land where the building is located, based on the amount of the cost.

For the reconstruction of the demolished building, the zoning status of the parcel related to urban transformation is obtained from the municipality to which the building is connected. According to the zoning status received, "application projects" (architectural, static, electrical, mechanical projects and soil investigation report) are prepared in accordance with the municipal council decisions and regulations. Upon approval of the projects, a license is obtained from the relevant municipality.

Construction is carried out by companies holding a Contractor License issued by the Ministry, based on the approved project on the parcel where the demolition occurred.

Finally, once the construction is completed in accordance with the project, the occupancy permits for the building are obtained from the relevant municipality.

8. Conclusion

Urban transformation, although applied for different purposes and by various methods around the world, has become one of the most important tools in seeking solutions to existing urban problems. The process rooted in the 19th century initially aimed to give identity to cities, repair worn-out and risky buildings, and revitalize urban areas. Over time, along with the rapidly growing population of cities it has become a crucial solution to challenges such as, irregular urbanization, inadequate infrastructure, and changing public needs. Urban transformation aims to address these issues while also enhancing the quality of life and modernizing existing structures. However, the success of this process depends on which methods are used, local dynamics, and the level of social participation.

In Turkey, urban transformation is intensively implemented to renew buildings that are at risk of damage due to natural disasters. However, this renewal process often fails to provide a complete solution to problems such as irregular urbanization and infrastructure deficiencies. Urban transformation projects, especially in metropolitan cities, are mostly shaped by a rent-seeking approach. This situation causes urban transformation to go beyond its purpose and turned into a profit-making tool for investors rather than making cities safer. On the other hand, residents expect the creation of a comfortable and sustainable living space that aligns with their lifestyles. However, contractors prioritizing the profits they aim to make from the land by pushing the boundaries of vertical architecture often results in disregarding the demands of condominium owners and the general public. As a result, at the end of these processes, cities lose their identity and their existing culture and spirit. For urban transformation projects to succeed, not only physical but also social and cultural elements should be taken into consideration. In this sense, social benefit should be prioritized, and transformation should be guided by the needs of the people rather than solely by economic interests.

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