

2023/5

TESEV
BRIEFS

**After the February 6
Earthquakes:
A Critical Overview of the
Legal and Administrative
Framework**

TESEV Briefs aim to share with the public different opinions and recommendations on issues that are under TESEV's working areas.





Akif Burak Atlar

UCTEA Chamber of City Planners

Akif Burak Atlar graduated from Mimar Sinan Fine Arts University, Department of Urban and Regional Planning in 2009. In 2017, he completed the Urban Planning Master's Programme at the Institute of Science of the same university. He contributed to the development of the Environmental Plan for the Central and Eastern Black Sea Region. He served as the Secretary and President of the Board of Directors of the Istanbul Branch of the Chamber of Urban Planners. He worked as a project manager at TESEV in 2018, before he was in charge of Co-operation and Communication management at BIMTAŞ in 2019. Since January 2022, he has been working as Institute Coordinator at Istanbul Planning Agency (IPA).

While public agencies failed to meet expectations in the aftermath of the earthquakes, it was the sense of mobilisation and active organised solidarity that helped society to get over the great shock at least a bit.

The earthquakes of February 6, 2023 were one of the most horrific disasters to afflict republican Türkiye in its century-long history. They caused great devastation and immeasurable pain and suffering, the traces of which are likely to remain. While public agencies failed to meet expectations in the aftermath of the earthquakes, it was the sense of mobilisation and active organised solidarity that helped society to get over the great shock at least a bit. Meanwhile, the fact that chaos and conditions of crisis prevail in different places in the earthquake region even after months raises a disconcerting question: Will things play out the same way in the next major earthquake? Before trying to answer this question, we should go back twenty-four years in time and examine what measures have been taken from August 17, 1999 up until February 6, 2023.

Following the 1999 earthquakes, various new legal regulations on disasters and building supervision and safety were enacted and entered into force, each of them building up hopes in the public. However, these regulations, far from decreasing the urban building stock's vulnerability against disasters, brought along some new problems in terms of both their consequences and the problems observed in practice.

The legislative efforts made after 1999 to improve the system of building supervision were vital indeed, but they alone were not enough to solve the problems arising from shortcomings in their implementation and the fact that the wheels of the system were not running smoothly. Moreover, anchoring the system in the private sector fostered a commercial relationship between building owners or authorised contractors and supervision firms.

While some of these new regulations turned out to be inadequate due to implementation difficulties, others became market instruments because content-wise they were related to the dynamics of the property market. In addition to these disaster-specific changes, zoning amnesties legalized the uncontrolled and illegal building stock, thereby obscuring existing risks. In this brief, I will try to evaluate the steps undertaken since 1999 under a number of headings.

Building Supervision

After the 1999 earthquakes, there was a pressing need for safe building supervision which first led to the Decree Law No. 595 on Building Supervision and then the Building Supervision Law No. 595, which entered into force on 10.04.2000. Repealed soon after, this law was replaced by the Law No. 4708 on Building Supervision which was enacted and entered into force on 29.06.2001. Initially implemented on a pilot basis in 19 provinces, the provisions of the new law were amended to cover

all provinces across the country only on 01.01.2011. The new law transferred the responsibility for building supervision, an area that should be under the control of the public authority, to private building supervision companies. Meanwhile, the competences of these companies were audited by the ministry, giving the professional chambers no independent role in the audit process. One of the main targets of this revised system of building supervision was to ensure that newly constructed buildings would be earthquake-resistant and free of vulnerabilities. However, the earthquakes of February 6 revealed that numerous buildings constructed after 2000 can also turn into rubble.

The legislative efforts made after 1999 to improve the system of building supervision were vital indeed, but they alone were not enough to solve the problems arising from shortcomings in their implementation and the fact that the wheels of the system were not running smoothly. Moreover, anchoring the system

→ The February 6 earthquakes showed that disaster management should not be under the authority and responsibility of the central government only, but that it requires a multifaceted institutionalisation and that local administrations and non-governmental organisations play an important part in this organisation.

in the private sector fostered a commercial relationship between building owners or authorised contractors and supervision firms, with hazardous ramifications in at least two ways: Contractors may opt to purchase services below market value and the informal market conditions may weaken the supervision mechanism.

Emergency Management

Until 2009, the designated units under the Prime Ministry, Ministry of Public Works and Settlement and Ministry of Interior formed the institutional structure of disaster management in Turkey. With the Law No. 5902 of 29.05.2009, the Prime Ministry General Directorate of Emergency Management, the Ministry of Public Works and Settlement General Directorate of Disaster Affairs and the Ministry of Interior General Directorate of Civil Defence were abolished and replaced by the “Disaster and Emergency Management Presidency” (AFAD) under the Prime Ministry. The purpose of the establishment of AFAD was to gather all areas of disaster management under a single roof and to coordinate all

related activities from a single centre. At first glance, it may seem like a good choice to prevent polyphony in disaster management in establishing a single centre. However, the February 6 earthquakes showed that disaster management should not be under the authority and responsibility of the central government only, but that it requires a multifaceted institutionalisation and that local administrations and non-governmental organisations play an important part in this organisation. Especially in the critical first 72 hours, the centralized authority with its hierarchical structure impeded coordination, leading to a delay in the emergency response and slowing down other institutions apart from AFAD that wanted to take initiative.

In other words, lags in emergency response occurred because AFAD, as the institution coordinating emergency management activities, was not organised with field agencies throughout the country. Arguably, an organisation expected to fulfil extremely critical responsibilities in times of crisis, should not act from a single centre but

→ Favours construction projects within the boundaries of at-risk areas, amendments to the zoning plan dissolved the integrity of the plan in residential areas. While new and piecemeal construction increased population density which in turn gave rise to new needs for social facilities, open and green spaces, and areas for educational and health-related services, these needs were not taken into consideration.

would be better equipped to coordinate activities through an organisation extending to the smallest administrative unit, the neighbourhood, throughout the country.

The Disaster Law

Following the Van Earthquake on 23 October 2011, the central government adopted a new course in its legislative efforts by putting into force the Law No. 6306 on the Transformation of Areas under Disaster Risk on 16.05.2012. Established a few months before the earthquake with extensive powers regarding zoning activities, the Ministry of Environment and Urbanisation was in charge of developing this new law, which introduced new legal statuses such as at-risk areas and at-risk buildings and raised public hopes that the fragile building stock would be renewed and made earthquake-resistant. The new law made it mandatory to demolish and renovate buildings identified as being at risk and included legal arrangements to accelerate the regeneration process in areas declared as at risk. However, as in the case of building supervision, due to the market dynamics in the selection of

locations, priority was not given to areas that urgently required regeneration, but to those that were more attractive in terms of property value. Since the ministry could not back up its hasty decisions to declare certain areas as risky with more extensive technical surveys, many of these decisions were later contested through lawsuits and eventually reversed. The advantages provided by the law during the implementation process have come in as a handy tool for real estate projects developed under the name of “urban regeneration”. Favours construction projects within the boundaries of at-risk areas, amendments to the zoning plan dissolved the integrity of the plan in residential areas. While new and piecemeal construction increased population density which in turn gave rise to new needs for social facilities, open and green spaces, and areas for educational and health-related services, these needs were not taken into consideration. Devoid of these vital standards that zoning plans should secure, new housing areas sprung up scattered across cities, exposing the latter to a different level of vulnerability in relation to transport and urban services.

→ The ministry, which issues building registration certificates and holds the data on the buildings covered by the amnesty, does not share this data with the public and local governments so that there is no comprehensive inventory that guides local activities in the area of risk management.

Thus, from a planning perspective, interventions aimed at eliminating building-based risks have increased the potential for the emergence of new urban risks.

In parallel with at-risk areas, the disaster law defined the status of reserve construction areas, which was intended to create new residential areas reserved for permanent housing for the population living in buildings under risk. However, we have observed that this special status has served to legitimize development in formerly undeveloped areas, i.e., areas that cannot have been at risk of disaster, under the pretext of urban regeneration. The simultaneous creation of new real estate areas for projects such as Canal Istanbul based on the reserve area status and the protection of the housing stock in areas with at-risk buildings through regeneration are likely to increase the building and population density in the city as a whole which poses another planning risk.

In force for more than a decade now, the disaster law no. 6306 has failed to promote earthquake-resistant cities. Instead, it has produced an unhealthy and piecemeal urban fabric and created

new problems as uniform housing projects have sprung up everywhere.

The New Zoning Amnesty

As part of TESEV Briefs, I previously wrote an article on the new zoning amnesty, which was put into force on 18 May 2018 with the purported aim of “registering buildings that are undocumented or against licensing conditions and establishing zoning peace.” In the article, I also evaluated the regulation in terms of disaster risks. The zoning amnesty of 2018 did not reduce the current level of fragility of the urban building stock against the earthquake risk caused by illegal construction and interventions but legalised the building stock after years of a lack of control, thereby obscuring existing risks.

After the February 6 earthquakes, the ministry stated that 98 per cent of the collapsed buildings had not received building supervision and engineering services. However, with the zoning amnesty it implemented shortly before the earthquake, the same ministry was responsible for the legalisation of the illegal buildings that had not undergone supervision and engineering services. In practice, building registration

certificates were issued to include buildings in the scope of amnesty without examining their durability against the risk of a possible earthquake. Article 9 of the regulation, which describes the procedures and principles regarding the issuance of these certificates, placed all responsibility relating to earthquake risks on the building owner who applied for zoning amnesty: “The building owner bears the responsibility for the earthquake safety of the building and its non-compliance with the scientific and technical norms and standards.”

The amnesty, introduced as the so-called “zoning peace”, further caused uncertainty due to the lack of coordination and communication between central and local governments. The ministry, which issues building registration certificates and holds the data on the buildings covered by the amnesty, does not share this data with the public and local governments so that there is no comprehensive inventory that guides local activities in the area of risk management. For this reason, we cannot say what share of the buildings that collapsed or were damaged in the February 6 earthquakes had benefited from the zoning amnesty, but in any case, we should question why illegally constructed buildings or buildings that were illegally interfered with or expanded and thus vulnerable to seismic risks were legalised.

The zoning amnesty has moreover left existing urban zoning plans rather ambiguous. In planning processes, which are predominantly under the authority and responsibility of local governments, it is

crucial for the ministry to transfer all data on the buildings covered by the amnesty to local governments in the form of an inventory in order to make the necessary examinations and risk-based revisions on zoning plans.

Regarding New Legal Regulations

Having overcome the first shock of the February 6 earthquakes and put behind the general elections in May 2023, Turkey has recently been discussing a range of novel measures targeting both the reconstruction in the earthquake zone and countrywide regeneration. Launching an “on-site regeneration” project to provide grants and credit support to disaster victims who want to build their own buildings in the earthquake zone, the ministry also announced that amendments to the disaster law no. 6306 were underway in order to accelerate the regeneration process. Meanwhile, the ministry is also working on a special law to prepare Istanbul for a possible major earthquake. At this point, the burning issue is that we have been witnessing a series of acute measures, hastily developed, put to discussion, and enacted into law, which have unfortunately and invariably served but to perforate the existing legislation and control system and prevented a holistic approach to risk management. What needs to be done in respect of both crisis management and risk management can only be determined if scientific approaches are prioritised to eliminate all risks and uncertainties deriving from the legislation and if the control mechanisms are reconfigured to involve the public sector.

Recommendations to Conclude

Following this assessment of urban vulnerability to earthquake risk in relation to legal and administrative interventions that have occurred over the past two decades, let us recall the question posed at the beginning: Will things play out the same way in the next major earthquake? There is no need to fall into despair. An optimistic answer to this question is by all means possible. But first, the following below steps need to be taken with a public responsibility:

- Redefining the competences and supervisory roles of central and local governments in building supervision carried out by the private sector
- Re-empowering local governments in disaster management and ensuring that the central government supports a mobilisation approach that includes non-governmental organisations, professional chambers and universities
- Addressing the planning problems arising from the disaster law no. 6306 and reviewing related measures and practices
- Suspending building registration certificates and related measures until the buildings that have acquired legal status as part of the zoning amnesty have been subjected to a comprehensive supervision
- Preparing the ground for a healthy data-based risk management by prioritising building-based data improvement in residential areas
- Reviewing the existing legislation and eliminating problems arising from shortcomings in its implementation through supervision instead of reflexively seeking new legal arrangements in moments of crisis

How to Cite:

Atlar, Akif Burak. 2023. "After the February 6 Earthquakes: A Critical Overview of the Legal and Administrative Framework". TESEV Briefs 2023/5.

This brief was translated from its [Turkish original](#) by Sebastian Heuer.

<https://www.tesev.org.tr/tr/research/After-the-February-6-Earthquakes-A-Critical-Overview-of-the-Legal-and-Administrative-Framework/>

Copyright © October 2023

All rights reserved. No part of this publication may be reproduced by electronic or mechanical means (photocopies, downloading, archiving, etc.) without the permission of the Turkish Economic and Social Studies Foundation (TESEV).

The views expressed in this publication are those of the authors', and may not correspond in part or in full to the views of TESEV as an institution.

TESEV would like to thank the Friedrich-Ebert-Stiftung Turkey Office for their support for this publication.

