Legal Confiscating based on Zoning Plan in Turkey

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1. Story towards an article
2. Problem
3. Aim
4. Conceptualization
5. Conclusions
1. FIG 2019 cancelled
2. Transferred into a paper
One of the most important violated rights is the right of ownership.

The most common violation is the process of legal confiscation without expropriation.

These kinds of violations are often the issue in Turkish courts, as well as in international courts.
Zoning plan implementation techniques

Zoning Implementation Techniques

Mandatory (By Public Authorities)
- Land readjustment (Zoning Law)
  - Expropriation
  - Urban Transformation

Volunteer (By owners)
- Volunteer Implementations based on Zoning Law
  - Urban Transformation (The Law numbered 6306 which enables the process parcel/building based)

Registration on Land Registry
Legal confiscation of property

(a) Cadastral parcel boundaries with zoning plan: buildings, a public facility and green areas

(b) Compulsory application

(c) Partially voluntary application
In this study, the claims and proofs legal confiscation are discussed along with the related process.

to create conceptualize some flowchart and

to explain the process according to ECtHR

This study aims to develop proposals for eliminating the problem of legal confiscation.
Private property areas subject to confiscation

<table>
<thead>
<tr>
<th>Type</th>
<th>Legend</th>
<th>Ownership</th>
<th>Registration</th>
<th>Legal Confiscation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sea</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>No</td>
<td>impossible</td>
</tr>
<tr>
<td>Forest</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
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<td>impossible</td>
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<tr>
<td>Coastal area</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
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<tr>
<td>River</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>No</td>
<td>impossible</td>
</tr>
<tr>
<td>Pasture</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>Yes</td>
<td>impossible</td>
</tr>
<tr>
<td>Lake</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>No</td>
<td>impossible</td>
</tr>
<tr>
<td>Road</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>No</td>
<td>impossible</td>
</tr>
<tr>
<td>Bridge</td>
<td><img src="image" alt="Legend" /></td>
<td>State</td>
<td>No</td>
<td>impossible</td>
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<tr>
<td>Cadastral Parcel</td>
<td><img src="image" alt="Legend" /></td>
<td>Private/State*</td>
<td>Yes/State**</td>
<td>possible/impossible</td>
</tr>
</tbody>
</table>

* Public Special Provincial and Treasury, ** other Public Bodies
Relationship between planning hierarchy and legal confiscation

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>Scale</th>
<th>Abstract/Tangible</th>
<th>Legal Confiscating</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Planning</td>
<td>Unscaled</td>
<td>Abstract</td>
<td>Not possible</td>
</tr>
<tr>
<td>Spatial Strategic Plan</td>
<td>Unscaled</td>
<td>Abstract</td>
<td>Not possible</td>
</tr>
<tr>
<td>Environmental Plan</td>
<td>1/100000</td>
<td>Abstract</td>
<td>Not possible</td>
</tr>
<tr>
<td>Province based Environmental Plan</td>
<td>1/500000</td>
<td>Abstract</td>
<td>Not possible</td>
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<tr>
<td>Master Development Plan</td>
<td>1/25000   1/5000</td>
<td>Abstract</td>
<td>Not possible</td>
</tr>
<tr>
<td>Implementary Zoning Plan</td>
<td>1/1000</td>
<td>Tangible</td>
<td>Possible</td>
</tr>
</tbody>
</table>
Zoning plan functions leading to legal confiscation

1. Religious facility
2. Police office
3. Building block
4. Park (6 decares)
5. Park (2 decares)
6. School
7. Municipal services area
8. Cultivated area
9. Areas to be afforested (geological objectionable area)
10. Health facility
11. Forest
12. Areas to be afforested (There is construction permit.)
13. Areas to be afforested (There isn’t construction permit.)
14. Natural / archeological protected area

Cadastral parcel boundary
(Road) 50 m
10 m
25 m
10 m
The problem of legal confiscation could be minimized by the application of the LR method within a specified period after the implementation zoning plans come into force.

Some examples of possible solutions for the problem can include granting each immovable property a specific right of zoning, regardless of the function in the zoning plan, transferring of zoning rights and issuing of certificates for protected areas. Besides, an alternative to expropriation might be considered, such as Land Banking, which consists of immovable properties within the public property in the planning zone.

In conclusion, taking the decisions of the ECtHR into account, it is inevitable that the planning concept and its effects on private property should be developed more practically and reasonably in order to ensure the achievement of reasonable levels of sustainability for urban settlements.
THANK YOU FOR INTEREST

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