

# **PUBLIC FINANCIAL MANAGEMENT AND CONTROL LAW**

## **FIRST PART**

### **General Provisions**

#### **FIRST SECTION**

##### **Purpose, Scope and Definitions**

###### **Purpose**

**Article 1-** The purpose of this Law is to regulate the structure and functioning of the public financial management, the preparation and implementation of the public budgets, the accounting and reporting of all financial transactions, and financial control in line with the politics and objectives covered in the development plans and programs, in order to ensure accountability, transparency and the effective, economic and efficient collection and utilization of public resources.

###### **Scope**

**Article 2-** This Law covers the financial management and control of public administrations within the scope of general government, encompassing public administrations within the scope of central government, social security institutions, and local administrations.

Without prejudice to the provisions of international agreements, the utilization and control of European Union funds and domestic and foreign resources allocated to public administrations shall be subject to the provisions of this Law.

(Amendment: 22.12.2005 - 5436/10-b art.) Regulatory and supervisory agencies are subject only to the Articles 3, 7, 8, 12, 15, 17, 18, 19, 25, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 54, 68 and 76, 78 of this Law.

###### **Definitions**

**Article 3-** Particularly, in the enforcement of this Law;

a) Public administrations within the scope of general government: refer to public administrations within the scope of central government, social security institutions and local administrations, which are determined according to international standards.

b) Public administrations within the scope of central government: refer to public administrations in charts I, II and III of this Law.

c) Regulatory and supervisory agencies: refer to agencies defined in chart III of this Law.

d) Social security institutions: refer to public institutions defined in chart IV of this Law.

e) (Amendment: 22.12.2005 - 5436/10-a art.) Local administrations: refer to municipalities, special provincial administrations and to associations and administrations related to or established by them, or where they are a member which perform public activities with authorities limited to specific geographic regions and services.

f) Budget: refers to the document which indicates the revenue and expenditure estimations of a certain period and issues related to their realization, and which is put into force as required by the relevant procedures.

g) Public resources: refer to public revenues including those acquired through borrowing, and to movable and immovables, deposits, receivables and rights and all kinds of valuables, that all belong to the public.

h) Public expenditure: refers to public expenditures consisting of payments for the goods and services acquired and for the works done pursuant to their respective laws, social security contributions, interest payments of domestic and foreign debts, general borrowing expenditures, payments resulting from the discounted sale of borrowing instruments, economic, financial and social transfers, donations and grants, and other expenditures.

i) Public revenue: refers to taxes, levies, charges, holding funds, shares or similar revenues acquired pursuant to their respective laws, revenues from interests, surcharges and fines, all types of revenues acquired from movable and immovables, revenues obtained from services rendered, revenues from premium-sold borrowing instruments, deductions from social security premiums, donations and grants received, and other revenues.

j) Special revenue: refers to revenues indicated in the general budget, which are obtained from the activities, excluding public duties and services, stated in relevant laws of administrations within the scope of general budget, and which are acquired from deliveries of their priceable goods and services.

k) Spending unit: refers to the unit for which appropriation is allocated within the budget of the public administration, and which is authorized to spend.

l) Public financial management: refers to legal and administrative systems and processes that will ensure the effective, economic and efficient utilization of public resources in accordance with defined standards.

m) Financial control: refers to the control system, institutional structure, method and processes, which are established to ensure the effective, economic and efficient utilization of public resources in line with determined aims and the rules established by relevant legislations.

n) Strategic plan: refers to the plan which includes medium and long term goals, basic principles and policies, objectives and priorities and performance indicators of public administrations, as well as the methods and the resource distribution to achieve these.

o) Fiscal year: refers to the calendar year.

## **SECOND SECTION**

### **Public Finance**

#### **Public Finance**

**Article 4-** Public finance covers the collection of revenues, exercise of spending, financing of deficits and the management of public assets, debts and other liabilities.

Public finance is conducted according to the principles of centralized and decentralized management. The duties of public administrations are clearly defined in their relevant laws and taken as a basis for resource allocation.

#### **Fundamental Principles of Public Finance**

**Article 5-** Fundamental principles of public finance are as follows:

- a) Public financial management shall be established and operated as a consistent whole.
- b) Public finance shall be administrated in a manner to ensure the accountability of public officials.
- c) Fiscal policy shall be formed and governed in concordance with macroeconomic and social objectives.
- d) Public financial management shall be conducted in line with the budget appropriated by the Turkish Grand National Assembly.
- e) Public financial management shall ensure fiscal discipline.
- f) Public financial management shall create the environment needed to develop the public choices in a manner to ensure economic, financial and social efficiency.
- g) In producing goods and services of public administrations and meeting their needs, it is required to make cost-efficiency or cost-benefit or other necessary economic and social analyses in accordance with the principles of economic or social efficiency.

Without prejudice to the provisions of relevant laws, the procedures and principles related to the implementation of the principles of public finance shall be defined and monitored by the Ministry of Finance.

#### **Unity of Treasury**

**Article 6-** The revenues, expenditures, collections, payments, cash planning and debt management of public administrations within the scope of central government shall be administered so as to ensure the unity of treasury.

All revenues of public administrations defined in chart I of this Law shall be deposited to the Treasury cash offices, and their expenditures shall be paid thereof. These administrations shall not have their own cash offices.

The provisions of the Law No 4749 dated 28/3/2002 and the Law No 4059 dated 9/12/1994 shall apply to all kinds of domestic and foreign borrowings, foreign grants received, extension of loans and grants and relevant repayments, treasury guarantees, treasury receivables, cash management and other relevant issues.

### **THIRD SECTION**

#### **General Principles on the Utilization of Public Resources**

##### **Fiscal Transparency**

**Article 7-** In order to ensure supervision in the acquisition and utilization of all types of public resources, the public shall be informed timely. Accordingly, the following are compulsory:

- a) To clearly define the duties, authorities and responsibilities,
- b) To prepare government policies, development plans, annual programs, strategic plans and budgets; to negotiate them with the authorized bodies; to carry out their implementation and to make the implementation results and the relevant reports available and accessible to the public,
- c) To publicize the incentives and subsidies provided by the public administrations within the scope of general government, in periods not exceeding one year,
- d) To establish public accounts in line with a standard accounting system and an accounting order in accordance with generally accepted accounting principles.

Public administrations are responsible for making necessary arrangements and taking measures to ensure the fiscal transparency, which shall be monitored by the Ministry of Finance.

##### **Accountability**

**Article 8-** Those who are assigned duties and vested with authorities for the acquisition and utilization of public resources of all kind are accountable vis-à-vis the authorized bodies and responsible for the effective, economic and efficient acquisition, utilization, accounting and reporting of the resources on the basis of law, as well as for taking necessary measures to prevent the abuse of such resources.

## **Strategic Planning and Performance Based Budgeting**

**Article 9-** In order to form missions and visions for future within the framework of development plans, programs, relevant legislation and basic principles adopted; to determine strategic goals and measurable objectives; to measure their performances according to predetermined indicators, and to monitor and evaluate this overall process, public administrations shall prepare strategic plans in a cooperative manner.

In order to present public services at the required level and quality, public administrations shall base their budgets and their program and project-based resource allocations on their strategic plans, annual goals and objectives, and performance indicators.

The Undersecretariat of State Planning Organization is authorized to determine the strategic planning calendar and the public administrations to be in charge of preparing strategic plans, and to set out the principles and procedures concerning the correlation of strategic plans with development plan and programs.

Public administrations shall prepare their budgets on performance basis and in concordance with the mission, vision, strategic goals and objectives included in the strategic plans. The Ministry of Finance is authorized to define the procedures and principles on the compatibility of administration budgets with the performance indicators stated in the strategic plans, and activities to be carried out by these administrations within this framework and other issues on performance based budgeting.

The performance indicators that shall be jointly set by the Ministry of Finance, the Undersecretariat of State Planning Organization and relevant public administration shall be included in the budgets of these administrations. Performance audits are carried out in the framework of these indicators.

## **FOURTH SECTION**

### **Accountability of Ministers and Heads of Public Administrations**

#### **Ministers**

**Article 10-** The Ministers are responsible for implementing government policy and for ensuring the compliance of the preparation and implementation of strategic plans and budgets of their ministries and those of the administrations affiliated, related or associated to, with the development plans and annual programs. Ministers are also responsible for establishing the coordination and cooperation with other ministries in this framework. This responsibility is assigned to the Minister of National Education for Higher Education Council, universities and high technology institutes, and to the Minister of Interior for local administrations.

The Ministers are accountable vis-à-vis the Prime Minister and the Turkish Grand National Assembly for the effective, economic and efficient utilization of public resources.

(Amendment: 22.12.2005 - 5436/10-a art.) Ministers shall inform the public within the first month of every fiscal year about the goals, objectives, strategies, assets, liabilities and annual performance programs of their administrations.

### **Heads of Public Administrations**

**Article 11-** Respectively, in ministries the undersecretary, in other public administrations the highest administrator, in special provincial administrations the governor and in municipalities the mayor is the head of public administration. In the Ministry of National Defense however, the Minister is the head of public administration.

The heads of public administrations are responsible for the preparation and implementation of the strategic plans and budgets of their administration in conformity with the development plan, annual programs as well as with the strategic plan and performance objectives and service requirements of the administration; for the effective, economic and efficient acquisition and utilization of the resources under their responsibility; for the prevention of losses and abuses of such resources; for monitor and supervision of the operation of financial management and control system; and for the accomplishment of the duties and responsibilities defined with this Law. Concerning all these responsibilities mentioned above, the heads of administrations are accountable to the Minister, and to their local councils in local administrations.

(Amendment: 22.12.2005 - 5436/10-c art.)The heads of administrations perform the requirement of this responsibility through authorizing officers, financial services units and internal auditors.

## **SECOND PART**

### **Public Administration Budgets**

#### **FIRST SECTION**

#### **General Provisions**

#### **Budget Types and Scope**

**Article 12-** The budgets of the administrations within the scope of general government shall be prepared and implemented in the form of central government budget, social security institution budgets and local administration budgets. No budget under any other name other than the foregoing shall be prepared by the public administrations.

Central government budget consists of the budgets of public administrations included in chart I, chart II and chart III of this Law.

General budget refers to the budgets of public administrations, which are included in chart I of this Law and which are under the legal entity of the government.

Special budget refers to the budget of each public administration, which is included in chart II of this Law and established as affiliated or related to a ministry for the performance of a defined public service, to which revenues are allocated, and which is authorized to spend from such revenues, with the establishment and operation principles arranged through special law.

Regulatory and supervisory agency budget is the budget of each regulatory and supervisory agency, which is included in chart III of this Law and established in the form of board, agency or supreme board by special laws.

Social security institution budget refers to the budget of each public administration, which is included in chart IV and established by law to provide social security services.

Local administration budget refers to the budgets of public administrations within the scope of the local administration.

### **Budgetary Principles**

**Article 13-** Following principles shall apply to the preparation, implementation and control of the budgets:

a) In the preparation and implementation of the budgets, it is essential to ensure macroeconomic stability together with sustainable development.

b) The spending authority vested to public administrations with the budget shall be exercised with a view to perform the duties and services stipulated in the laws.

c) The budgets shall be prepared, implemented and controlled in conformity with the policies, targets and priorities envisaged in the development plans and programs, and according to the strategic plans, performance criteria and cost-benefit analysis of the administrations.

d) Budgets shall be negotiated and evaluated together with the budget estimations of next two years by considering strategic plans.

e) (Amendment: 22.12.2005 - 5436/10-a art.) The budget shall provide a comprehensive and transparent view of the public fiscal operations.

f) All revenues and expenditures shall be indicated in the budgets with their gross values.

g) The practice of earmarking revenues for specific expenditure shall be strictly limited.

h) It is essential that revenue and expenditure balance is ensured in the budgets.

i) Budgets cannot be implemented unless they are accepted or approved by Turkish Grand National Assembly or by authorized bodies before the beginning of the pertaining year.

j) Budgets shall not contain issues irrelevant to the budget.

k) Budgets shall be prepared and implemented in line with a classification determined by the Ministry of Finance according to the international standards to ensure that the institutional, functional and economic results thereof are seen.

l) Clearness, accuracy and fiscal transparency are essential for budget revenue and expenditure estimations and for reporting of implementation results.

m) All revenues and expenditures of public administrations shall be indicated in their budgets.

n) Public services shall be conducted according to the methods, principles and purposes set forth by legislation, and by using the appropriations to be allocated to the budgets.

o) In budgets, appropriations shall be allocated to accomplish specific purposes.

### **Draft Laws to Influence Revenues and Expenditures**

**Article 14-** (Amendment: 22.12.2005 - 5436/10-c art.) In the preparation of Draft Laws that may cause an increase in public expenditures or a decrease in public revenues and thus impose a liability on public administrations, the public administrations within the scope of central government shall calculate the financial burden by the Draft Law of a minimum period of three years and within the framework of medium term program and fiscal plan, and shall attach it to the Draft Laws. The Draft Laws on social security shall also include actuarial calculations of at least 20 years. In addition, the opinion of the Ministry of Finance, and that of the Undersecretariat of State Planning Organization or the Undersecretariat of Treasury according to its relevance, shall be attached to these Draft Laws.

## **SECOND SECTION**

### **Central Government Budget Law**

#### **Scope of Central Government Budget Law**

**Article 15-** Central Government Budget Law is the Law that indicates the revenue and expenditure estimations of the public administrations included in the central government and that grants authority and permission for their realization and implementation.

Central Government Budget Law should include revenue and expenditure estimations of the first year and following two years; budget deficit or surplus amount, how the deficit will be covered or where the surplus will be used if any; tax revenues renounced due to tax exemptions, exceptions, reductions and similar practices; borrowing and warranty limits; authorities to be granted for the implementation of budgets; relevant schedules and provisions, pertaining to revenues and expenditures, to be totally or partially implemented or not to be implemented at all during the fiscal year. The revenue-expenditure estimations of each public administration within the scope of central government may be presented in special sections or schedules of the Central Government Budget Law.

## **Medium Term Program, Medium Term Fiscal Plan and Budget Preparation Guide**

**Article 16-** Ministry of Finance is responsible for the preparation of the Central Government Budget Draft Law and for ensuring the coordination between the related public administrations.

The preparation process of central government budget begins with the Council of Minister's meeting to be held until the end of May, where the Council adopts the medium term program prepared by the Undersecretariat of State Planning Organization and including basic macro policies, principles, and economic figures as targets and indicators in line with the development plans and strategic plans of the institutions and the requirements of general economic conditions. Medium term program shall be published in the Official Gazette within the same term.

As consistent with the medium term program, the medium term fiscal plan prepared by the Ministry of Finance and including deficit and borrowing positions targeted, total revenue and expenditure projections for the following three years and the ceilings of appropriation proposals of the public administrations shall be determined by The High Planning Council until the fifteenth of June, and published in the Official Gazette.

In order to guide the preparation process of the budget proposals and investment programs of the public administrations; The Budget Call and the Budget Preparation Guide as its supplement shall be prepared by the Ministry of Finance, and the Investment Circular and Investment Program Preparation Guide as its supplement shall be prepared by the Undersecretariat of State Planning Organization, and all shall be published in the Official Gazette until the end of June.

Budget Preparation Guide and the Investment Program Preparation Guide serving as a basis for the preparation of budget proposals shall encompass the general principles, objective and measurable standards and calculation methods to be followed by public administrations as well as other information, sample schedules and tables to be used in relation to these.

### **Preparation of Central Government Budget**

**Article 17-** Basic principles that will be taken into account while developing revenue and expenditure proposals are as follows;

a) Basic figures, principles and basis determined in the Medium Term Program and Medium Term Fiscal Plan,

b) Appropriation ceilings determined in the framework of strategic plans of the administration, and priorities of development plan and annual program,

c) Multi-year budgetary framework consistent with strategic plans of public administrations,

d) Performance objectives of the administration.

The public administrations shall prepare their expenditure proposals taking into account the appropriation requests of their central and decentralized units. The general budget revenue proposal shall be prepared by the Ministry of Finance, and the revenue proposals of other budgets shall be prepared by the administrations concerned.

(Amendment: 22.12.2005 - 5436/10-a art.) The expenditure and revenue proposals shall be prepared in line with the classification system defined by the Ministry of Finance in line with international standards so as to enable economic and financial analysis and to ensure accountability and transparency.

In the framework of the principles stated in Budget Preparation Guide and strategic plans, public administrations shall prepare their budget revenue and expenditure proposals accompanied by the statement of reasons and signed by their competent authorities, and send them to the Ministry of Finance until the end of July. The investment proposals of public administrations shall be submitted for evaluation to the Undersecretariat of State Planning Organization within the same term.

Following the submission of the budget proposals to the Ministry of Finance, meetings may be held with the representatives of public administrations on their expenditure and revenue proposals.

Regulatory and supervisory agencies shall prepare their budgets according to three-year budgeting concept, strategic plans and performance objectives and to the institutional, functional and economic classification system.

### **Presentation of Central Government Budget Draft Law**

**Article 18-** Following the finalization of macroeconomic indicators and budget figures by High Planning Council latest during the first week of October, the Central Government Budget Draft Law and National Budget Estimation Report, which are prepared by the Ministry of Finance, shall be presented to the Turkish Grand National Assembly by the Council of Ministers no later than seventy-five days prior to the beginning of fiscal year.

Followings shall be attached to the Central Government Budget Draft Law to be considered on the deliberations thereon;

- a) Budget memorandum including Medium Term Fiscal Plan,
- b) Annual economic report,
- c) Schedule of public revenues renounced due to tax exemptions, exceptions, reductions and similar practices,
- d) Public debt management report,

e) Last two years' budget realizations and next two years' revenues and expenditures estimates of public administrations within the scope of general government,

f) Budget estimates of local administrations and social security institutions,

g (Abolishment of paragraph g 22.12.2005 - 5436/10-c art.)

h) List of public administrations that are not within the scope of central government but subsidized from central government budget and of other agencies and institutions,

(Amendment: 22.12.2005 - 5436/10-b art.) Turkish Grand National Assembly, Turkish Court of Accounts and the regulatory and supervisory agencies shall submit their budgets directly to the Turkish Grand National Assembly until the end of September, and send a copy to the Ministry of Finance.

### **Deliberations on Central Government Budget Draft Law**

**Article 19-** Turkish Grand National Assembly deliberates the text of Central Government Budget Draft Law on article basis and the revenue and expenditure schedules on institutional basis, and puts the Draft Law to a vote on section basis. After approval by the Assembly, Central Government Budget Law shall be published in the Official Gazette before the beginning of the fiscal year.

Public investment program shall be prepared by the Undersecretariat of State Planning Organization according to the Central Government Budget Law, and published in the Official Gazette by the Decree of Council of Ministers in fifteen days following the entry into force of aforesaid Law.

In the event that the Central Government Budget Law does not enter into force as a result of force majeure, Provisional Budget Law shall be adopted. Provisional budget appropriations are determined on the basis of a certain ratio of previous year's initial budget appropriations. The implementation of Provisional Budget Law shall not exceed six months. The provisional budget implementation shall end when the current year budget enters into force, and the expenditures, commitments and revenues realized up to that date shall be included in the current year budget.

In the event that the appropriations in the budgets of public administrations included in the central government turns to be insufficient, or in order to carry out unforeseen services, a supplementary budget shall be prepared in a way to capture revenues to meet expenditures.

### **THIRD SECTION**

## **General Principles for Implementation of Budgets**

### **Utilization of Appropriations**

**Article 20-** Following principles apply to the utilization of budget appropriations:

a) (Amendment: 22.12.2005 - 5436/10-a art.) Public administrations within the scope of the general budget shall prepare their detailed expenditure programs, and submit them to the Ministry of Finance to be visaed. On the basis of the principles determined by the Ministry of Finance, budget appropriations shall be utilized according to the release rates and detailed expenditure programs visaed by considering cash planning.

b) (Amendment: 22.12.2005 - 5436/10-a art.) Special budget agencies and social security institutions shall prepare their detailed financing programs and make their expenditures according to this program.

c) (Amendment: 22.12.2005 - 5436/10-a art.) Procedures and principles regarding the preparation of detailed expenditure and financing programs, visa, application and monitoring of the application shall be determined by the Ministry of Finance.

d) Public administrations are not allowed to spend in excess of the appropriations indicated in their budgets. The appropriations provided with the budget shall be used in line with the purposes they are allocated for to cover the works done, goods and services purchased and other expenditures made in the pertaining year. However, previous years' overdue debts that are neither recorded in custody account nor subject to lapse of time, and debts based on a written judicial decree shall be paid from the current budget of the relevant public administration.

e) (Amendment: 22.12.2005 - 5436/10-a art.) Appropriations that could not be used during the current year shall be cancelled at the end of the year.

f) In the event of general or partial mobilization, declaration of war or compulsory military preparations based on the Council of Ministers Decree, the available appropriations in the budget of the Ministry of National Defense, that of the General Commandership of Gendarmerie and of the Commandership of Coast Security may be consolidated and used, provided that the consolidated amount does not exceed the total amount of the appropriations of these administrations. In case that the said amount is not sufficient, an additional amount up to fifteen percent of the total appropriations may be spent. In above-mentioned cases, for expenditures related to travel and transport, adequate amounts of advance shall be given to the paymasters assigned by the approval of authorizing officers and deducted from the appropriation to be sent within one month.

### **Appropriation Transfers**

**Article 21-** Appropriations transfers among the budgets of the public administrations within the scope of central government shall be carried out on the basis of law.

However, public administrations within the scope of central government are entitled to perform appropriation transfers within their budgets up to the amount of five percent of the appropriation in the item from which the appropriation will be transferred, unless a different ratio is defined in the budget law of pertaining year. Such kind of transfers shall be notified to the Ministry of Finance in following seven days.

No transfer to other items shall be carried out from personnel expenditure items, items to which transfers have already been made, and items to which transfers have been made from contingency appropriations.

Last paragraph (Abolishment 22.12.2005 - 5436/10-c art.)

### **Dispatch of Appropriations to Decentralized Units**

**Article 22-** By issuing an Appropriation Dispatch Document, authorizing officers in the central organizations of the public administrations shall dispatch appropriations to decentralized units to be utilized for their necessities.

The Minister of Finance is authorized to determine the procedures and principles for the dispatch of appropriations to the public administrations within the scope of central government.

### **Contingency Appropriation**

**Article 23-** (Amendment: 22.12.2005 - 5436/10-a art.) In order to realize the services and objectives stated in the Central Government Budget Law, to remedy any appropriation shortage or to perform services not foreseen in the budgets, the contingency appropriation, not to exceed two percent of the general budget appropriations, may be allocated to the budget of Ministry of Finance to be transferred to the budgets of administrations under chart I and those which are to be shown in the central government budget law of the administrations included under chart II of this Law. The Minister of Finance is authorized for the transfers from this appropriation.

Within fifteen days following the end of the year, The Ministry of Finance announces the distribution, in terms of type, amount and administrations, of the transfers from the contingency appropriation within the fiscal year.

### **Covert Appropriation**

**Article 24-** Covert appropriation refers to the appropriation included in the budget of the Prime Ministry to be used for the necessities of the government in confidential intelligence and defense services; in national security and high interests of the State as well as the requirements of State prestige; in achieving political, social and cultural objectives, and in providing extraordinary services. The covert appropriations may be included in the budgets of public administrations that perform intelligence services required by the duties appointed by Law. Covert appropriation shall not be used for any purpose other than the foregoing, or to meet the

expenditures relating to the management, propaganda or election campaigns of political parties or the personal expenditures of the Prime Minister or his/her family. Total amount of covert appropriations allocated in the relevant year shall not exceed five per thousand of the sum of the initial appropriations in the general budget.

The place of utilization of the covert appropriation included in the budgets of the Prime Ministry and other relevant administrations; the person who will effect the expenditure; the method of booking and closing of accounts; the documents to be delivered to the new responsible person in case of a change in the person effecting the expenditure shall be determined by the Prime Minister.

Expenditures from covert appropriations and relevant payments shall be effected on the basis of a decree signed by the Prime Minister, the Minister of Finance and the relevant minister.

### **Public Investment Projects**

**Article 25-** Public investment projects shall be prepared, implemented and monitored in the framework of Decree Law No 540 dated 19/6/1994, Investment Program Preparation Guide and other relevant legislation provisions.

During the process of determination of appropriations for the projects in the investment programs of public administrations within the scope of central government, the Undersecretariat of State Planning Organization shall work in cooperation with the Ministry of Finance in order to ensure the unity of budget.

The investment projects of administrations in chart III of this Law shall be included in the investment program of its pertaining year for information. In addition, the principles and procedures on the implementation and monitor of the investments of social security institutions and local administrations shall be determined by the Undersecretariat of State Planning Organization.

The realization and implementation results of public investment projects shall be submitted by the relevant public administrations to the Court of Accounts, the Ministry of Finance, and the Undersecretariat of State Planning Organization as a report by the end of March of subsequent year.

Among the new public investment project proposals, except the ones on disasters, the cost of which is above the limit to be set by the “Decree of Council of Ministers on The Implementation, Coordination and Monitoring of Current Year Program”; those which do not have a feasibility study including environmental analysis and cost-benefit or cost-efficiency analysis; and those which are not examined and approved for feasibility by the Undersecretariat of State Planning Organization shall not be included in the investment program.

### **Making Commitments**

**Article 26-** Commitment means undertaking a future payment obligation against a work order, purchase of goods or services, depending on the provisions of an agreement duly concluded or on the provisions of the Law. No commitment shall be made for works for which adequate appropriation is not allocated in the budget. The term of commitment is limited to the fiscal year. Authorizing officers are entitled to undertake commitments within the limits of allocated appropriations. The appropriations for the committed amounts shall be reserved, and shall not be used for other works or for the purchase of other goods or services.

### **Commitments Carried Over to Next Year**

**Article 27-** Subject to the approval of the head of public administration, commitments carried over to the next year may be undertaken for following tasks and services that can not be limited by the fiscal year and are continuous because of their nature; provided that, for each task, it does not exceed fifty percent of the appropriation provided in the budget and does not continue longer than June of the subsequent year and its term does not exceed twelve months:

a) Construction, repair, study and project works, as well as research-development projects, garments and food purchases, machinery-equipment, arms-munitions-equipment purchases of Turkish Armed Forces, and maintenance, repair and manufacture works thereof.

b) Food, fuel for heating, fuel oil and mineral oil requirements.

c) Medicaments, vaccines, serums and medical consumables that are difficult to obtain and preserve.

d) (Amendment: 22.12.2005 - 5436/10-b art.) Purchase of periodicals, transportation, protection and security, cleaning and meal services.

e) (Amendment: 22.12.2005 - 5436/10-a art.) Compulsory pecuniary liability insurance for the vehicles and transportation insurance issued in order to insure the delivery of arms, arms equipment and munitions from abroad against any and all risks.

f) (Amendment: 22.12.2005 - 5436/10-a art.) Maintenance and repair works of the machinery and equipment, roads and highways, computer and communication systems; any type of repair works and electronic information access services.

(Amendment: 22.12.2005 - 5436/10-b art.) However, the provision stipulating that fifty percent of the appropriations provided in the budget is not to be exceeded for the tasks and services listed in subclause (d), shall not be sought for the Ministry of National Education.

### **Commitments Carried Over to Subsequent Years**

**Article 28-** (Amendment: 22.12.2005 - 5436/10-c art.) Public administrations within the scope of central government may undertake commitments carried over to the subsequent years for the investment projects that cannot be completed in one fiscal year.

Within the framework of Law No 3833 dated 2/7/1992, the Ministry of National Defense or the Ministry of Interior, according to its relevance, is authorized to undertake commitments carried over to subsequent years for the projects included in the Strategic Goal Plan of Turkish Armed Forces.

Upon the positive opinion of the Ministry of Finance, the Ministry of Foreign Affairs may undertake commitments carried over to the subsequent years for the purchase of a building or a land or the construction or lease of a building for foreign representation.

(Amendment: 22.12.2005 - 5436/10-b art.) Provided that there is appropriation in the annual budget and the positive opinion of the Ministry of Finance is obtained, commitments may be undertaken with the approval of the head of public administration for a period not to exceed three years and spread over the coming years for any type of machinery and equipment, devices and vehicles whose purchase is not economically profitable, the rental of air and marine vehicles for fire extinction, purchase of vaccines and anti serum, and forestation and arrangement works.

### **Grants from Budgets**

**Article 29-** No real or legal person is allowed to use, to be granted or to benefit from any public resources without a legal ground. However, grants to associations, foundations, unions, institutions, organizations, funds and similar entities may be given by aiming public interest, on condition that they are foreseen in the budgets of public administrations within the scope of general government.

The procedures and principles on providing, utilizing, monitoring, auditing and publicizing grants shall be determined by a regulation to be prepared by the Ministry of Finance and to be issued by the Council of Ministers.

### **Budget Policy, Monitoring Revenues and Expenditures**

**Article 30-** Regarding the implementation of the Central Government Budget, with the purpose of ensuring economy in expenditures and conducting a consistent, balanced and effective budget policy; the Minister of Finance is entitled to take necessary measures to organize the practices in matters stipulated under the laws, by-laws, regulations and decrees concerning the revenues and expenditures, to set standards, to impose restrictions, to steer the determination and implementation of public employment policy, to monitor budget expenditures and realizations, to determine certain principles governing the distribution and utilization of appropriations and to impose binding arrangements for public administrations on these matters.

In order to determine and monitor all revenues and expenditures, debts and financial resources of the general government; public administrations within the scope of general government, institutions, organizations, foundations and associations and similar entities subsidized from the central government budget shall submit their revenue and expenditure estimations, financial statements, the details of the amounts receivable from and payable to each other, and all kinds of

information and documents concerning their personnel expenditures to the Ministry of Finance when requested. The Minister of Finance is authorized to take necessary measures concerning the public administrations and other organizations which have not presented such documents or account statements or which have not effected expenditures in due manner.

(Amendment: 22.12.2005 - 5436/10-a art.) Administrations within the scope of the general government shall announce the implementation results of their budgets for the first six months and their expectations, objectives and activities regarding the second six months and the Ministry of Finance shall announce the implementation results of first six months of the central government budget law, the financing condition, expectations and objectives regarding the second six months and the financial condition comprising the activities to the public in the month of July.

## **FOURTH SECTION**

### **Spending Authority and Authorizing Officers**

**Article 31-** (Amendment: 22.12.2005 - 5436/1 art.) Head of each spending unit to which appropriation is allocated with the budget is the authorizing officer.

However, in administrations where there are difficulties in determining the authorizing officers because of reasons such as the organizational structure and personnel conditions and in administrations in whose budgets spending units are not classified, the spending authority may be carried out by the head of public administrations or persons to be determined by the head of public administrations; upon the positive opinion of the Ministry of Interior Affairs in local governments and the Ministry of Finance in the other administrations.

In expenditures performed based on the authority vested by the laws and with the resolution of the board of directors, executive committee, commission and similar boards or committees, the responsibility arising out of the spending authority belongs to the board, committee or commission.

In public administrations within the scope of general government, the principles and procedures on the determination of the authorizing officers according to administrations, central and decentral units and their duty titles, on combining the spending authority at an upper management level and on the transfer of spending authority shall be defined by the Ministry of Finance. Transfer of the spending authority does not relieve the administrative responsibility of the person transferring the spending authority.

Authorizing officers may effect expenditures up to the amount of the appropriation foreseen in the budget and authorizing officers who are supplied with the appropriations via Appropriation Dispatch Document may effect expenditures up to the amount of appropriation allocated.

### **Spending Instruction and Responsibility**

**Article 32-** Effecting expenditures from budgets is pending to the delivery of a spending instruction issued by the authorizing officer. The spending instruction shall include information on the statement of the purpose of service as well as subject, amount, duration, available appropriation and realization procedure of the work to be performed and on realization officers.

Authorizing officers are responsible for the compliance of spending instructions with the budget principles and basics, laws, by-laws and regulations and other legislations, for the effective, economic and efficient utilization of the appropriations and for other transactions they shall perform in the framework of this Law.

### **Realization of Expenditure**

**Article 33-** (Amendment: 22.12.2005 - 5436/10-a art.) In order to effect expenditure from the budgets, that the works, goods or services are performed or received in accordance with the defined principles and rules shall be approved by the designated person or commission, and the realization documents shall be issued. The realization of the expenditures shall be completed when the payment order, which is prepared by the person determined by the authorizing officers, is signed by the authorizing officer and upon the payment of the due amount to the rightful person.

Upon the spending instruction, realization officers shall perform the duties of having the work to be done, receiving goods or services, completing the receiving formalities, documenting and issuing the documents required for payment.

(Amendment: 22.12.2005 - 5436/10-b art.) In expenditure to be performed by utilizing a common database to be established on an electronic environment, data input procedures shall be deemed realization duties. Principles and procedures on the performance of this paragraph shall be determined by the Ministry of Finance.

Realization officers shall be responsible for the duties and transactions they should perform in the framework of this Law.

(Amendment: 22.12.2005 - 5436/10-b art.) The forms and types of the realization documents to be required according to the type of the expenditure shall be determined by regulations to be issued upon obtaining the positive opinion of the Ministry of Finance by the Ministry of Finance for public administrations within the scope of central government, by the Ministry of Interior for local administrations, and by the affiliated or related ministries for social security institutions, provided that the positive opinion of the Undersecretariat of Treasury is obtained for those related to public debt management.

### **Unpaid Amounts and Budgeted Debts**

**Article 34-** (Amendment: 22.12.2005 - 5436/2 art.) Amounts which are not paid although they have been bound to the payment order document shall be deposited in and paid from custody accounts by recording them as expenditure in the budget. However the amounts at the custody accounts which are not claimed until the end of the fifth year following the fiscal year of the

purchase of the goods or the performance of the service shall be recorded as revenue to the budget. Amounts recorded as revenue shall be paid upon court decision.

In the event that the cash amounts available to the public administrations do not suffice to cover all of the payments, expenditures shall be paid according to the accounting record order. However, priority shall be given in the following order to; taxes, duties, levies, premiums, fund deductions, shares and similar amounts to be paid to the other public administrations, scheduled payments, debts subject to court decision, debts to impose additional load in case of non-payment such as delay penalty or interest and solicited amounts in custody accounts.

Debts that are not claimed in written by their payees without any valid reason until the end of the fifth year following the pertaining fiscal year or those that could not be paid because of the related documents were not submitted shall be subject to lapse of time and discontinue in favor of the public administrations.

Expenditures at the public administrations within the scope of the general budget, which have no appropriation at the place and time and which are related to expenditures not subject to an undertaking and an expenditure order and are performed from economic codes to be determined by the Ministry of Finance and whose appropriation is foreseen in the budget, are duly realized by adding the expenditure documents which constitute the basis and included in the related accounts and are paid after the appropriation has been received. Appropriation dispatch documents regarding these amounts shall be sent to the accounting unit latest until the end of the fiscal year and their accounting procedures shall be completed. The principles and procedures for the implementation of this paragraph shall be determined by the Ministry of Finance.

### **Prepayment**

**Article 35-** (Amendment: 22.12.2005 - 5436/10-a art.) Subject to the positive opinion of the authorizing officer and provided that the corresponding appropriation is reserved; prepayment in the form of advance payment or credit extension may be executed in the case of urgent or mandatory expenditures for which the realization of formalities and cases foreseen in the relevant laws can not be awaited. The upper limits of the advance payment shall be included in the central government budget law.

Provided that it is stated in the relevant contract and not exceeding thirty percent of the contracted total amount, extra-budgetary advance payment against warranty may be made to the contractors. The provisions of relevant laws on extra-budgetary advance payment shall be reserved.

(Amendment: 22.12.2005 - 5436/10-a art.) Excess credit amounts of opened letter of credits shall be carried over to the next year and their appropriations shall be cancelled. The amount carried over shall be recorded as appropriation in the related item in the budget of public administrations within the scope of the general budget by the Minister of Finance and of other public administrations by the head of administration.

In the event that, by the end of the term of the contract, a certain part of the service could not be completed yet, or the performance of the contract could not start because of force majeure

but a time extension has been granted by the relevant administration and such extension prolongs to the next fiscal year; the excess contract amount at the end of the year shall be carried over and the provisions on letters of credit shall apply to the appropriations concerning these amounts. If the service corresponding to the excess contract amount carried over is accomplished within the course of time extension and the related evidencing documents are submitted, such amount shall be paid by recording as expenditure in the budget of the year when the service be performed.

Every paymaster is under the obligation of submitting to the accounting officer the evidencing documents related to the amounts he/she spent from the prepayments, if not provided in the relevant laws in one month time for advances and in three months for credits. She/he is also under the obligation of returning the excess amount. For advances not set off in due time, the provisions of the Law No 6183 dated 21/7/1953 shall apply.

(Amendment: 22.12.2005 - 5436/10-b art.) In public administrations within the scope of central government, the forms of prepayments, transfer and offsetting transactions, determination of the amounts and rates of the prepayments in terms of administration and expenditure, amount and offsetting period of the prepayment for the expenditures to be performed in obligatory cases, assignment of paymasters, and the procedures and principles related to other transactions shall be arranged by a regulation to be prepared by the Ministry of Finance and issued by the Council of Ministers. For other public administrations, the procedures and principles on prepayments shall be provided in relevant legislations by considering the provisions of this article.

Provisions of the Law No 3833 and dated 2/7/1992 concerning advances and credit transactions are reserved.

## **FIFTH SECTION**

### **Revenue Policy and Principles**

**Article 36-** Following principles shall apply to the collection of revenues:

- a) At the beginning of each fiscal year, the Ministry of Finance publicizes its principles, objectives, strategies, and commitments regarding revenue policies and their implementation.
- b) Necessary services shall be provided and measures shall be taken to facilitate the performance of taxes, levies, charges and similar obligations of taxpayers and responsables.
- c) The tax compliance of taxpayers and responsables shall be encouraged.
- d) Necessary measures shall be taken by concerned administrations for informing the taxpayers on the protection of the rights and the obligations.

### **Basis of Revenues**

**Article 37-** Taxes, levies, charges and similar financial liabilities shall be imposed, amended or removed by laws.

(Amendment: 22.12.2005 - 5436/10-b art.) The legal grounds of the revenues of the public administrations within the scope of general government shall be indicated in their budgets. The revenues indicated in the budgets shall be imposed, accrued and collected in accordance with the procedures set out in their respective laws. The imposition, accrual and collection of general budget revenues shall be performed by the Ministry of Finance or by the administrations authorized according to the legislation related to imposition and accrual.

The shares to be given to other administrations, institutions and organizations from the taxes, levies, charges and other revenues collected by public administrations within the scope of general government shall be covered by the appropriations to be included in the budget of the revenue collecting public administration for this purpose. The available amount that may be utilized during the fiscal year cannot exceed the share amount to be calculated by considering the collected amount according to the provisions of the related law. In the event that the amount of the share calculated in this manner exceeds the appropriation amount allocated for this purpose, in administrations within the scope of general budget, the Minister of Finance and in the others the head of the public administration is authorized to allocate supplementary appropriation provided that it does not exceed the said difference.

Without prejudice to the provisions of relevant laws, the principles and procedures applicable to writing off the revenues subject to lapse of time shall be determined by the Ministry of Finance.

### **Revenue Collection Responsibility**

**Article 38-** Those who are authorized for and in charge of the imposition, accrual, collection of the public revenues are responsible for the timely and proper performance of the imposition, accrual and collection transactions stipulated in the applicable laws.

### **Special Revenues**

**Article 39-** The amount of special appropriations allocated to the administrations against special revenues shall be indicated in the budgets of relevant administrations. The amount of special appropriation available during the fiscal year may not exceed the amount of special revenues collected. In the event that the collected special revenues exceed the amount of the appropriation, no supplementary appropriation is allowed.

Price lists of priceable goods and services, which are stated in relevant laws, and the procedures and principles related to their practice shall be determined by the relevant public administrations by obtaining the opinion of the Ministry of Finance.

Authorities and transactions related to the recording, carrying over to the subsequent year and cancellation of appropriations concerning special revenues shall be indicated in the Central Government Budget Law.

## **Donations and Grants**

**Article 40** - No donation or grant may be collected by any real or legal person in return for or in relation to a public service or under similar denominations.

All kind of donations and grants made to the public administrations shall be recorded as revenue in their budgets. Donations and grants that are not in cash form shall be valuated and recorded according to the relevant legislation.

Without prejudice to the provisions of Law No 4749 dated 28/3/2002 for conditional donations and grants provided through foreign financing, upon the approval of the head of public administration which will render the service, the conditional donations and grants to be used by the public administrations pursuing public interest shall be recorded as revenue in an item to be established in the budget and as appropriation in an item to be established for the use for its imposed purpose. Apart from the imposed purpose, no transfer from this appropriation to another item is allowed.

Amounts of such appropriations unused until the end of fiscal year shall be carried over to the subsequent year's budget and recorded as appropriation until the purpose of the donation or grant is accomplished. However, the Minister of Finance for the public administrations within the scope of the general budget and the head of public administration for others is authorized to cancel the appropriation amounts which remain after the purpose of allocation is accomplished; which are not sufficient for the realization of the purpose or which not exceed the amount indicated in the pertaining year budget and not spent after being carried over for two consecutive years.

In the event that the donations and grants are requested to be returned because of non-utilization or out-of-purpose utilization, they shall be paid back to the relevant person by recording to the budget as expenditure. Those who are accounted responsible are obliged to recover the expenses occurring due to out-of-purpose utilization of conditional donations and grants or losses arising from not using them in time.

## **SIXTH SECTION**

### **Accountability Reports and Final Account**

#### **Accountability Reports**

**Article 41-** (Amendment: 22.12.2005 - 5436/3 art.) Within the framework of accountability, the heads of public administrations and authorizing officers to whom appropriations are allocated in the budget shall issue accountability reports each year. On the basis of unit accountability reports prepared by authorizing officers, the heads of public administrations shall prepare and publicize the “administration accountability reports”, which present the activity results of their administrations. Public administrations within the scope of central government and social security institutions shall submit a copy of their administration accountability reports to the Court of Accounts and to the Ministry of Finance.

Each one copy of the accountability reports prepared by local governments shall be sent to the Court of Accounts and to the Ministry of Interior. The Ministry of Interior shall take these reports and shall prepare and publicize the “local governments general accountability report” which include also its own evaluations. A copy of the report shall be sent each to the Court of Accounts and the Ministry of Finance.

Results of the activities of public administrations within the scope of central government and social security institutions in one fiscal year shall be presented in the “general accountability report” to be prepared by the Ministry of Finance. This report shall also include general evaluations regarding the financial structures of local governments. The Ministry of Finance shall publicize the general accountability report and send one copy to the Court of Accounts.

Except for the reports of local administrations, the administration accountability reports, the general accountability report on local administrations and the general accountability report shall be submitted to the Turkish Grand National Assembly by the Court of Accounts by presenting its own opinions considering external audit results. Within the framework of these reports and evaluations, the Turkish Grand National Assembly deliberates the public administrations’ management and accountability with regard to the acquisition and utilization of public resources. It is compulsory for the heads of public administrations or deputies to be appointed by the heads to join these deliberations together with the related ministers

The accountability report of the administration shall be prepared so as to include, along with the general information on the related administration, the resources used, and the reasons of the deviation arising regarding the budget targets and realizations, financial information comprising the information regarding the activities of associations, institutions and organizations aided through assets and liabilities; and information on activities and performance information performed as per strategic plans and performance program.

The subjects to be included in these reports, the preparation of the reports, their delivery to pertaining administrations, the publication and the terms and other procedures and principles concerning these transactions shall be determined by a regulation to be prepared by the Ministry of Finance by obtaining the opinions of the Ministry of Interior and the Court of Accounts.

### **Final Account Law**

**Article 42-** The Turkish Grand National Assembly exercises its power of approving the implementation results of the Central Government Budget Law through the Final Account Law.

Basing on the accounting records, the Ministry of Finance shall draft the Final Account Law in consistency with the form of Central Government Budget Law. The Draft Law together with the statement of reasons including the comparative assessments on yearly implementation results shall be submitted to the Turkish Grand National Assembly by the Council of Ministers latest until the end of June of the subsequent fiscal year, and a copy shall be sent to the Court of Accounts.

Followings shall be attached to the Draft Final Account Law;

- a) General Trial Balance,

- b) Budget revenues final account schedule and explanations thereon,
- c) Budget expenditures final account schedules and explanations thereon,
- d) Budget revenue and expenditure distribution in terms of provinces and administrations,
- e) Schedules of state debts and treasury warranties,
- f) Schedule of public receivables written-off during the same year,
- g) (Amendment: 22.12.2005 - 5436/10-b art.) Asset management account summary charts
- h) Other documentation required by the Ministry of Finance

(Amendment: 22.12.2005 - 5436/10-a art.) The principles and procedures concerning the preparation of final accounts of public administrations within the scope of central government shall be determined by the Ministry of Finance.

Administration accountability reports, general accountability report, external audit general evaluation report and Draft Final Account Law shall be deliberated by the commissions of Turkish Grand National Assembly together with the Central Government Budget Law. However, priority is given to the discussion of these reports and general conformity statement.

The implementation results of budgets of local administrations and social security institutions shall be entered into the final account in accordance with the provisions in the relevant laws.

### **General Conformity Statement**

**Article 43-** The Court of Accounts submits the General Conformity Statement, which it shall prepare for the public administrations within the scope of central government, to the Turkish Grand National Assembly latest in seventy-five days after the submission of the Draft Final Account Law.

General Conformity Statement shall be prepared by taking into account the external audit reports, the administration accountability reports and the general accountability report.

The submission of the Draft Final Account Law and the General Conformity Statement to the Turkish Grand National Assembly does not suspend ongoing audits of the Court of Accounts, and does not purport that the accounts of the related year are finalized.

## **THIRD PART**

## **Movable and Immovables**

### **Movable and Immovables Transactions**

**Article 44-** (Amendment: 22.12.2005 - 5436/10-a art.) The acquisition, management, bartering and disposal of movable and immovables by the public administrations within the scope of general government, the method to apply in the collection and follow-up of property related fees, the management and protection of places owned and enjoyed by the State, the evacuation of unduly used assets shall be regulated through relevant laws. The procedures and principles on recording the assets, the protection and utilization of the movable assets and submitting the accountability on asset management, the determination of authorized persons for asset management and the persons to be on duty together on behalf of them shall be set out in regulations to be prepared by the Ministry of Finance and issued by the Decree of Council of Ministers.

(Amendment: 22.12.2005 - 5436/10-a art.) The procedures and principles on recording, management and internal audit of the movable assets for the aim of defense and security owned by Turkish Armed Forces (including General Commandership of Gendarmerie and Commandership of Coast Security), National Intelligence Organization and the General Directorate of Security shall be prepared together with the Ministries of National Defense, Interior and Finance and set out in the regulation to be enforced by the Council of Ministers.

### **Movable and Immovable Acquisition**

**Article 45-** When required by the public services, public administrations within the scope of general government may purchase movable and immovables of the required quality and quantity inland and abroad by paying in front or in installments or by means of financial leasing. Public administrations may perform transactions of procurement and expropriation of immovables through another public administration by means of delegation of authority. The immovables acquired by public administrations within the scope of general government shall be registered under the name of the State Treasury and those owned by other public administrations shall be registered under the legal entities of such administrations, in the land registry. The immovables registered under the name of the State Treasury shall be managed by the Ministry of Finance. This registration completed for the relevant administration shall be notified to the administration's unit where such immovable is located.

In the event that goods produced by public administrations are used for their own consumption, the prices of such products shall be entered by their market values to the relevant appropriation item and the corresponding amount shall be recorded as revenue.

The public administrations may transfer their movable assets in excess of their needs to other public administrations free of charge. They may also transfer their immovables to other public administrations free of charge with the condition of annotating in the land registry that the assets shall be used in public services required under their duties and that the assets are to be returned when not used in purpose. The Ministry of Finance shall determine the movable and immovables that shall not be transferred, as well as the procedures and principles on transferring and recording.

The disputes between public administrations concerning the ownership of immovables shall be settled by the competent courts.

### **Sale of Movable and Immovables**

**Article 46** – Ministry of Finance is authorized for the sale of any kind of movable and immovables owned by public administrations within the scope of general budget. The proceeds shall be recorded as revenue in the general budget. The movable and immovables owned by other administrations shall be disposed upon the decision of the competent bodies defined in their particular laws.

Among the immovables owned by the public administrations within the scope of central government, those having values exceeding the limit set forth in the Central Government Budget Law shall be sold upon the Decree of Council of Ministers.

### **Allocation of Immovables**

**Article 47-** (Amendment: 22.12.2005 - 5436/4 art.) The public administrations may allocate immovables and the places under the jurisdiction and possession of the State among each other and to village legal entities free of charge to perform the public services set out in their relevant laws. The allocated assets cannot be used other than the aim.

The authority for allocating the immovables under the special possession of the State Treasury and under the jurisdiction and possession of the State as well as the authority for lifting the allocations of the immovables which are not necessary for public use belongs to the Ministry of Finance and the authority for allocating and lifting the allocation of the other immovables belongs to the owning public administration.

Special provisions in the laws are reserved.

### **Effectiveness and Responsibility in Asset Management**

**Article 48-** The public administrations shall be responsible for the management, recording, maintenance and utilization of movable assets. No responsibility shall be assumed for the depreciation arising from the special features or ordinary use of the movable assets, and for losses determined according to relevant procedures.

Attendants to whom any movable asset is delivered for use are responsible for the protection of the asset and for damages caused to the asset. The public administrations shall be responsible to ensure that any damage caused is compensated by those who are responsible for such damages.

On the basis of efficiency and economy principles, the acquisition, lease, allocation, management, use and disposal of the movable and immovables owned by the public administrations shall be performed in line with the rules stipulated in the relevant legislation and in accordance with the purpose of the service. Those who are authorized for the management or

utilization of the assets shall be liable for the losses that may arise from the actions and operations not complying with these principles.

## **FOURTH PART**

### **Public Accounts and Financial Statistics**

#### **FIRST SECTION**

##### **Public Accounts**

###### **Accounting System**

**Article 49-** (Amendment: 22.12.2005 - 5436/5 art.)The accounting system shall be established and managed in a manner to constitute the basis for the preparation of financial reports and establishment of the final account and to ensure the efficient performance of the decision, control and accountability processes.

Public accounts shall be kept with a view to provide necessary information for the public and for the officials in charge of management and audit, by ensuring that all kinds of transactions on revenues, expenditures and assets of the public administrations and transactions having financial consequences, or causing a decrease or increase in the equity, and guarantees and liabilities are recorded in the accounts under a defined system.

The accounting and reporting standards to be implemented by the administrations within the scope of the general government, shall be set forth by the State Accounting Standards Board to be established with the participation of the representatives of the Court of Accounts, Ministry of Finance, the Undersecretariat of the State Planning Organization, the Undersecretariat of Treasury and the other related organizations in accordance with the international standards within the organization of the Ministry of Finance. These standards shall be published in the Official Gazette. The structure, working procedures and principles as well as other issues shall be stipulated by a regulation to be issued by the Ministry of Finance.

Those who are assigned in this Board continue to carry out their primary duties. The Chairman and the members shall be paid, not to be more than twice a month, an attendance pay not exceeding the amount calculated by multiplying the index figure (3000) by civil servant monthly coefficient, for every day of meetings.

The form, period and types of the reports to be prepared with the framework chart of accounts to be applied by the public administrations within the scope of general government shall be determined by the Ministry of Finance by taking the opinions of concerned administrations within the frame of the accounting and reporting standards determined by the Board and shall be arranged with the regulation to be enforced by the Decree of the Council of Ministers.

The arrangement regarding the form and types of the documents to be used in the accounting transactions, chart of accounts and accounting of the transactions shall be determined, in line with the Regulation mentioned in the fifth paragraph, by taking the opinion of concerned administrations, by the Ministry of Finance for the public administrations within the scope of the central government; by the concerned administrations for the social security institutions, and by the Ministry of Interior for the local governments by taking the appropriate opinion of the Ministry of Finance. The subjects regarding the detailed chart of accounts of the public administrations within the scope of the general government are determined by the Ministry of Finance.

**Recording Time** (Amendment: 22.12.2005 - 5436/10-c art.)

**Article 50-** An economic value shall be booked when it is produced, transformed, exchanged, transferred or terminated. It is mandatory that all financial transactions are booked, and all accounting records are based on documents.

Second paragraph (Abolishment 22.12.2005 - 5436/10-c art.)

Third paragraph (Abolishment 22.12.2005 - 5436/10-c art.)

**Year of Public Revenues and Expenditures and Offsetting Period**

**Article 51-** Public revenues and expenditures shall be indicated in the accounts of the fiscal year of their accrual.

Budget revenues shall be booked in the year of collection and budget expenditures in the year of payment.

Public accounts shall be kept on fiscal year basis. Offsetting operations of the payments actually performed but not offset until the end of fiscal year may be realized in one-month time following the end of the fiscal year, provided that their appropriations are reserved. In force majeure cases, this period may be prolonged by the Ministry of Finance for a maximum of one month for budget expenditures and for a maximum of five months for other transactions.

## **SECOND SECTION**

### **Financial Statistics**

**Scope, Basic Principles and Institutional Environment**

**Article 52-** Financial statistics shall cover the financial transactions of the public administrations within the scope of general government.

Within the framework of the principles of integrity, reliability, usefulness, methodological validity and accessibility and in consistency with the international standards, the financial statistics shall be prepared by the staff, who have received proper professional training, on the basis of the data in the accounting records and by using statistical methods.

During the preparation of the financial statistics, the administrators of public administrations shall take necessary measures for the creation of a suitable institutional environment.

### **Preparing and Publicizing Financial Statistics**

**Article 53-** The financial statistics relating to public administrations within the scope of general government shall be compiled by the Ministry of Finance. The public administrations outside the scope of central government shall prepare their financial statistics in accordance with the predetermined principles and submit them to the Ministry of Finance within the prescribed periods.

The financial statistics of the public administrations within the scope of central government shall be published monthly by the Ministry of Finance. The financial statistics of the public administrations within the scope of general government shall be obtained through combining the financial statistics of the social security institutions, local administrations and the public administrations within the scope of central government, and shall be published quarterly by the Ministry of Finance.

It is essential that the financial statistics are understandable and easily accessible to the users.

### **Evaluations of Financial Statistics**

**Article 54-** The yearly financial statistics shall be evaluated by the Court of Accounts in March of the following year in terms of preparation, publication, accuracy, reliability and conformity to the predetermined standards. The evaluation report prepared for this purpose by the Court of Accounts shall be submitted to the Turkish Grand National Assembly and the Ministry of Finance, and the Minister of Finance shall take the necessary measures concerning these evaluations.

## **FIFTH PART**

### **Internal Control System**

#### **Definition of Internal Control**

**Article 55-** (Amendment: 22.12.2005 - 5436/10-a art.) Internal control is the whole of the financial and other controls comprising organization, methodology, procedure and internal audit established by the administration in order to provide that the activities are performed in an effective, economic and efficient way in accordance with the aims, defined policies of the administration and with legislation, the assets and resources are protected, the accounting records are held correctly and completely, the financial information and management information are produced in time and securely.

(Amendment: 22.12.2005 - 5436/10-a art.) The standards and procedures related to the financial management and internal control processes shall be defined, developed and harmonized by the Ministry of Finance and those related to the internal audit by the Internal Audit Coordination Board, within the framework of their duties and authorizations. These bodies shall at the same time ensure the coordination of the systems, and provide guidance to public administrations.

### **Objectives of Internal Control**

**Article 56-** The objectives of internal control are:

- a) To manage the public revenues, expenditures, assets and liabilities in an effective, economic and efficient way,
- b) To ensure that public administrations operate in accordance with the laws and other legislations,
- c) To prevent irregularities and frauds in all kinds of financial decisions and transactions,
- d) To ensure regular, timely and reliable reporting and acquisition of information for taking decisions and monitoring,
- e) (Amendment: 22.12.2005 - 5436/10-a art.) To prevent the misuse and waste of assets and protect against losses.

### **Structure and Functioning of Control**

**Article 57-** (Amendment: 22.12.2005 - 5436/10-a art.) Public administrations' financial management and control systems consist of spending units, accounting and financial services, ex ante financial control and internal audit.

In order to establish an adequate and effective control system; necessary measures shall be taken by the heads and other administrators of the relevant administrations by considering duties, authorizations and responsibilities, for building high professional values and an honest administration concept; for granting financial authorities and responsibilities to well-informed and qualified administrators and staff; for ensuring that established standards are followed; for avoiding activities against legislation; and for ensuring a comprehensive management approach and a suitable work environment as well as transparency.

Last paragraph (Abolishment: 22.12.2005 - 5436/10-c art.)

## **Ex ante Financial Control**

**Article 58-** (Amendment: 22.12.2005 - 5436/6 art.) Ex ante financial control covers the controls performed during the realization of the procedures in the spending units and the controls performed by the financial services unit.

The ex ante financial control process consists of the preparation of financial decisions and transactions, undertaking commitment, realization of works and transactions and their documentation.

At public administrations ex ante financial control duty is performed within the framework of the managerial responsibility.

The principles and procedures for minimum controls to be performed during the realization of the procedures at the spending units, financial decisions and transactions to be subject to ex ante financial control by the financial services unit and the standards and methods regarding ex ante financial control shall be determined by the Ministry of Finance. Provided not contradicting with these standards and methods the public administration may make arrangements in this subject.

## **Qualifications and Appointment of Financial Control Officer**

Article 59- (Abolishment: 22.12.2005 - 5436/10-c art.)

## **Financial Services Unit**

**Article 60-** (Amendment: 22.12.2005 - 5436/7 art.) In public administrations, below listed duties shall be rendered by the financial services unit:

a) Coordinating the preparation of the strategic plan and performance program of the administration and carrying out the works for consolidating the results,

b) Preparing the administration budget, which includes the budget estimations for the following two years, in accordance with the strategic plan and annual performance program and following and evaluating the compliance of the activities of the administration to these,

c) Preparing a detailed expenditure program within the budget principles and basics to be determined as per legislation and to provide that the appropriation is sent to related units by taking into account the service requirements,

d) Recording the budget, collecting and evaluating the data regarding the budget implementation results and preparing the budget final account and financial statistics,

e) Having the administration's revenues accrued within the related legislation, carrying out follow up and collection procedures of revenues and receivables,

f) Carrying out accounting services at administrations outside the scope of the general budget,

g) Preparing the accountability report of the administration by taking the unit accountability reports as basis, which have been prepared by the spending units,

h) Preparing summary charts regarding the movable and immovables possessed or used by the administration,

i) Coordinating the preparation of the investment program of the administration, following up the implementation results and preparing the annual investment evaluation report,

j) Carrying out and finalizing the financial works and transactions of the administration which are to be followed up at other administrations,

k) Providing necessary information and consultancy to the head of the administration and authorizing officers regarding the implementation of financial laws and other related legislation,

l) Performing ex ante financial control activity,

m) Performing activities on the subjects of establishing the internal control system, implementation and development of standards,

n) Carrying out other duties on the financial issues assigned by the head of public administration.

Out of the purchasing, selling, construction, rental, lease, maintenance-repair and similar financial procedures those which are related to the whole of the administration are realized by the unit performing support services and those which are related only to the spending unit shall be performed by the spending units. However, provided that the duty of authorizing officer remains with them these procedures can be performed by the unit performing support services upon the request of the spending unit and the approval of the head of the public administration.

The structure of the financial services unit shall be shown in the organization laws. The working principles and procedures of the financial services units shall be prepared by the Ministry of Finance by taking into account the organization structure of the administrations and so that the strategic planning, budget and performance program, accounting-final account and reporting, and internal control functions are performed by separate subunits and shall be determined by a regulation to be issued by the Council of Ministers.

The duty of the authorizing officer and accounting officer cannot be combined on one person. Those performing ex ante control duty in the financial services unit cannot be on duty in the financial transaction process.

In the financial services units of the administrations financial services experts may be employed. They shall enter into the profession as financial services assistant experts after a special competitive examination to be held for the graduates of the faculties of law, political

sciences, economics, business administration, economics and administrative sciences that provide at least four year bachelor education or graduates of the education institutions within the country or abroad whose equivalence is accepted by the competent authorities, provided that these persons have not completed their 30<sup>th</sup> age as of the beginning of the year of the test and they become eligible to enter into the competency examination to be held after they work at least three years on condition that their employment record is positive. Those being successful at the competency examination shall be appointed as financial services expert. The entrance to the profession and competency examination and the working procedures and principles of the financial services experts shall be arranged by the regulation to be issued by the Ministry of Finance.

(Amendment: 22.12.2005 - 5436/10-a art.) **Accounting Services and the authorities and responsibilities of the accounting officer**

**Article 61-** (Amendment: 22.12.2005 - 5436/10-a art.) Accounting services include; collecting revenues and receivables; making payments to the payees; receiving, keeping and sending to the concerned authorities the deposits and the values that can be expressed as money; and keeping records of all other financial transactions as well as issuing reports thereon. Persons performing these transactions shall be accounting officers. The civil service positions and titles shall have no effect on being qualified as the accounting officer.

The accounting officer is responsible for performing these services and keeping accounting records in a regular, transparent and accessible way. Without prejudice to the provisions of Law No 4059 dated 9/12/1994, accounting services of the public administrations within the scope of general budget shall be rendered by the Ministry of Finance. Accounting officers shall regularly send necessary information and reports to these public administrations.

At the payment stage, accounting officers are obliged to control the payment order document and its appendices for;

- a) The signatures of the authorized persons,
- b) The completeness of the documents listed in the regulations pertaining to payment,
- c) The existence of any material error, and
- d) The information on the identity of the rightful person.

(Amendment: 22.12.2005 - 5436/10-a art.) An accounting officer shall not request any evidencing document other than those set out in the applicable legislation. He/she shall not make any payment in the event of any error or omission with regard to the foregoing. Payment order documents with any missing or erroneous document shall be sent for correction or completion to the authorizing officer in written form with the statement of reasons latest in one working day. When the errors are corrected or the incompleteness is remedied, the payment shall be effected.

Accounting officers shall keep and hold ready for audit the books, records and documentation related to the transactions they perform.

(Amendment: 22.12.2005 - 5436/10-b art.) Accounting officers are held responsible under the provisions on payment in the first paragraph of Article 34 and under their control obligations concerning payment, stated in the third paragraph of this article. The responsibilities of accounting officers in relation to the controls they carry out as herein provided are limited to the documents they examine as required by their duties. The Ministry of Finance shall be authorized to make an arrangement regarding the transfer of the duties and authorities of the accounting officers to their assistants.

(Amendment: 22.12.2005 - 5436/10-a art.) Accounting officer's paymasters are those who are entitled to temporarily collect, pay and send money and values that can be expressed as money, on the name and behalf of accounting officers. Accounting officer's paymasters are directly responsible vis-à-vis the accounting officers. Procedures and principles on the appointment and the authorities of accounting officer's paymasters, the audits on them, and the books and documents they have to keep as well as other issues shall be arranged through a regulation to be issued by the Ministry of Finance.

### **Qualifications and Appointment of Accounting Officer**

**Article 62-** (Amendment: 22.12.2005 - 5436/8 art.) Those to be appointed to perform the duty of the accounting officers should possess the following qualifications in addition to the qualifications set out under Article 48 of the Public Servants Law No 657:

- a) To have graduated from at least a four-year-university,
- b) To have performed the duty of the assistant accounting officer or equal duty at the public administrations provided they have served at least for four years in the accounting services of these administrations,
- c) To have received accounting officer certificate,
- d) To have no negative employment record during the last three years,
- e) To have no penalty for deduction from salary and suspending of rank advance,
- f) To possess the knowledge and presentation skills required by the duty.

Provided that they fulfill the criteria stipulated in the subparagraphs (c) (d) (e) and (f) of the foregoing paragraph and they have served at least for four years in the accounting services of these administrations, those to be appointed to perform the duty of accounting officer in district municipalities and in local administration unions with a population of less than 25000 shall be eligible so long they have graduated from at least high school.

Without prejudice to the provisions of Law No 4059 dated 9/12/1994, accounting officers in the public administrations within the scope of general budget shall be appointed by the Ministry of Finance, and in other public administrations by the head of the public administration.

Those to be accounting officers shall be given professional training by the Ministry of Finance taking into account the characteristics of the duty and those having successfully completed these trainings shall be awarded a certificate.

The training of the accounting officers, procedures and principles governing the issuing of certificates shall be prepared by the Ministry of Finance and arranged by a regulation issued by the Council of Ministers.

### **Internal Audit**

**Article 63-** (Amendment: 22.12.2005 - 5436/10-a art.) Internal audit is an activity of providing independent and objective assurance and consultancy, performed in order to improve and add value to the activities of the public administrations by evaluating whether the resources are managed in conformity with the principles of economy, effectiveness and efficiency, and by providing guidance. Such activities are performed with a systematic, regular and disciplined approach and in accordance with generally accepted standards, aiming to evaluate and improve the efficiency of risk management and of management and control processes on the management and control structures and financial transactions of administrations.

(Amendment: 22.12.2005 - 5436/10-b art.) Internal audit is performed by the internal auditors. Taking into account the structure and personnel number of public administrations, upon the positive opinion of the Internal Audit Coordination Board, internal audit units may be established, which are directly subject to the head of the public administrations.

### **Duties of Internal Auditors**

**Article 64-** Annual internal audit program of public administrations shall be prepared by the internal auditors by considering the proposals of heads of public administrations, and shall be approved by the head of public administration.

The following are the duties of internal auditors shall perform the following duties:

- a) To evaluate the management and control structures of the public administration on the basis of objective risk analysis,
- b) To make studies and proposals with regard to economic, efficient and effective utilization of resources,
- c) To perform ex post audits on legal compliance,

d) (Amendment: 22.12.2005 - 5436/10-a art.) To audit and evaluate the administrations' expenditures, decisions and operations on financial transactions according to their compliance with the objectives, policies, development plan, programs, strategic plans and performance programs.

e) To perform system audit on the processes of financial management and control, and to make proposals thereon,

f) In the framework of audit results, to make proposals regarding the ameliorations,

g) To report to the highest administrator of the administration concerned if a case requiring an investigation is observed during the audit or according to audit results.

The internal auditor performs his/her duties in line with the internationally accepted control and audit standards defined by the Internal Audit Coordination Board.

Internal auditor performs his/her duties independently and no other duty, out of his/her primary duty can be assigned or commissioned to the internal auditor.

Internal auditors submit their reports directly to the heads of public administration. Following the evaluation of the head of administration, these reports shall be given to the concerned units and financial services unit for taking necessary action. Internal audit reports and the actions taken about them shall be sent by the head of public administration, latest in two months to the Internal Audit Coordination Board.

### **Qualifications and Appointment of Internal Auditor**

**Article 65-** The officials to be appointed as internal auditors must possess the following qualifications in addition to the qualifications set out under Article 48 of the Civil Servants Law No 657:

a) To have graduated from at least a four-year-university in one of the areas to be determined by the Internal Audit Coordination Board considering the particularities of the public administration concerned.

b) To have served at least for five years as audit personnel in a public administration or worked at least for eight years in areas to be determined by the Internal Audit Coordination Board.

c) To possess the knowledge, qualification and presentation skills required by the profession.

d) Other conditions required by the Internal Audit Coordination Board.

Those to be appointed as internal auditors in public administrations shall receive professional training from the Ministry of Finance under the coordination of the Internal Audit

Coordination Board. The training program shall be prepared in a manner to provide adequate knowledge to the internal auditor candidates on auditing, budgets, financial control, public procurement legislation, accounting, personnel legislations, EU legislations and other professional issues. Those having successfully completed such training shall receive certificates. The duration, subjects and post-training procedures of the training program for the internal auditor candidates shall be arranged through the regulation to be prepared by the Internal Audit Coordination Board and issued by the Ministry of Finance.

(Amendment: 22.12.2005 - 5436/10-a art.) Internal auditors shall be appointed by the Minister in ministries and related administrations upon the recommendation of the heads of public administrations, and in other administrations by the heads of public administrations from among the candidates having certificates and shall be dismissed from duty with the same procedure. The number of internal auditors for public administrations, their working procedures and principles and other related issues shall be arranged through the regulation to be prepared by the Internal Audit Coordination Board and issued by the Council of Ministers upon the proposal of the Ministry of Finance.

### **Internal Audit Coordination Board**

**Article 66-** The Internal Audit Coordination Board affiliated with the Ministry of Finance consists of seven members. One of these members is proposed by the Prime Minister, one by the Minister in charge of the Undersecretariat of Treasury, one by the Minister in charge of the Undersecretariat of State Planning Organization, one by the Minister of Interior and three, including the chairman, by the Minister of Finance, and appointed for a period of five years by the Council of Ministers. Those who will be appointed to the Internal Audit Coordination Board should possess the qualifications necessary to carry out the tasks defined under Article 67. The person to be proposed by the Minister of Finance should be an academician having a doctoral degree in one of the branches including economics, finance, accounting or business administration. Members may be reappointed at the end of their terms.

If necessary, the Internal Audit Coordination Board may invite experts for technical assistance and consultancy with the condition of having no voting right. The working procedures and principles of the Board and other issues shall be arranged through a regulation to be proposed by the Internal Audit Coordination Board and to be issued by the Ministry of Finance.

Those who are assigned in this Board continue to carry out their primary duties. The Chairman and the members shall be paid, not to be more than four times a month, an attendance pay not exceeding the amount calculated by multiplying the index figure (3000) by civil servant monthly coefficient, for every day of meetings.

### **Duties of Internal Audit Coordination Board**

**Article 67-** Internal Audit Coordination Board performs following duties in order to monitor the internal audit systems of the public administrations and to serve as an independent and impartial body:

a) To determine internal audit and reporting standards, and to prepare and develop audit guidelines.

b) To develop risk evaluation methods in line with international practices and audit standards.

c) To ensure cooperation with the audit units of public administrations.

d) To make proposals in order to take necessary measures for eliminating frauds or irregularities.

e) To make proposals to the public administrations for specific audits out of the program, which will be carried out by the internal auditors in risky areas.

f) To arrange the training programs of internal auditors.

g) To contribute to the settlement of conflicts in cases of divergence of opinions between the internal auditors and the heads of public administrations.

h) To evaluate the internal audit reports of the administrations and to consolidate their results in an annual report to be submitted to the Minister of Finance, and publicize it.

i) (Amendment: 22.12.2005 - 5436/10-a art.) To determine, according to the volume of the transactions and personnel number, whether internal auditors shall be appointed for administrations and district and village municipalities.

j) To determine other procedures on the appointment of internal auditors.

k) To determine ethical rules to be followed by the internal auditors.

l) (Amendment: 22.12.2005 - 5436/10-b art.) To prepare quality assurance and development program and to evaluate the internal audit units within this scope.

## **SIXTH PART**

### **External Audit**

#### **External Audit**

**Article 68-** The purpose of the ex post external audit to be performed by the Court of Accounts is to audit, within the framework of the accountability of public administrations within the scope of general government, the financial activities, decisions and transactions of management in terms of their compliance with the laws, institutional purposes, targets and plans, and to report their results to the Turkish Grand National Assembly

The external audit is performed in accordance with the generally accepted international audit standards by carrying out the following:

a) On the basis of public administrations' accounts and relevant documents, to perform financial audit on the reliability and accuracy of financial statements, and to determine whether the financial transactions related to revenues, expenditures and assets of public administrations comply with the laws and other legal arrangements.

b) To determine whether the public resources are used in an effective, economic and efficient way, to measure the activity results and to evaluate them as to their performance.

During the external audit, reports issued by the internal auditors of the public administrations shall be submitted to the information of the Court of Account auditors, if required so.

At the end of the audits, the reports on the issues stated in the subparagraphs (a) and (b) of second paragraph of this article shall be consolidated according to the administrations, and a copy shall be submitted to the relevant public administration and replied by the head of public administration. The Court of Accounts shall prepare the External Audit General Evaluation Report by taking into account the audit reports and replies given thereto, and present it to the Turkish Grand National Assembly.

The finalizations of accounts by the Court of Accounts means taking a decision on whether the revenue, expenditure and asset accounts and related transactions of the public administrations within the scope of general government are in compliance with the legal provisions.

Other issues on the finalization of external audit and accounts shall be stipulated in the relevant law.

(Amendment: 22.12.2005 - 5436/10-b art.) **Audit on Turkish Grand National Assembly and Court of Accounts**

**Article 69-** (Amendment: 22.12.2005 - 5436/10-b art.) Audit on Turkish Grand National Assembly and Court of Accounts is every year conducted on the basis of accounts and related documents, on behalf of the Turkish Grand National Assembly, by a commission which is composed of auditing staff having required professional qualifications and which is appointed by the Presidential Board of the Turkish Grand National Assembly.

## **SEVENTH PART**

### **Sanctions and Authorized Bodies**

#### **Overspending**

**Article 70-** The authorizing officials who have delivered spending instructions which are against the budgets, the detailed expenditure programs or release rates or which are in excess of

appropriation amounts stated in appropriation dispatch documents, without causing public loss, shall be subject to a fine amounting up to two times of the net monthly payment they earn including all kinds of salary, allowance, increase and compensation.

### **Public Loss**

**Article 71-** Public loss is bringing an obstacle to the increase or causing a decrease in the public resource as a result of a decision, transaction, action or negligence that violates the legislation.

When determining public loss, the followings are considered;

a) To make payments in excess of the amount determined as the price of works, goods or services,

b) To make payments without receiving the goods or without having the work or service done,

c) To make payments in excess or without reason, in the case of expenditures in the form of transfers,

d) To buy goods, works or services, or to have them done for a price higher than their market price,

e) Not to impose, accrue or collect the revenues of the administration in accordance with the legislations,

f) (Abolishment: 22.12.2005 - 5436/10-c art.)

g) To make payments although not provided in the relevant legislations.

(Amendment: 22.12.2005 - 5436/10-a art.) A public loss determined upon controls, audits, examinations, final sentence or trial shall be collected together from the relevant persons with its legal interest to be calculated according to the related legislation as of the date of the loss occurred.

Officials who bring an obstacle to the increase or cause a decrease in the public resource by issuing false documents where any money, goods or values which have not in fact been received appear to have been received, any services not rendered appear to have been rendered, or any construction, repair or manufacture works not executed or completed appear to have been executed or completed; and officials who deliberately issue, sign or approve such documents shall be subject to legal action pursuant to the relevant provisions of the Turkish Penal Code or other applicable laws. In addition, those having undertaken such actions shall be subject to a fine amounting up to two times of the net monthly payment they earn including all kinds of salary, allowance, increase and compensation.

The procedures and principles related to the compensation of public losses shall be defined in the regulation to be issued by the Council of Ministers upon the proposal of the Ministry of Finance.

### **Unauthorized Collection and Payment**

**Article 72-** No real or legal person may collect any amount on behalf of the public, nor effect payment from the public revenues unless duly authorized pursuant to the laws.

In the events of unauthorized collection or payment, collection of any donation or grant in exchange of or in connection with a public service by using public authority, or any other collection or payment under similar denominations, such amounts shall be collected from those having performed unauthorized collection or payment, and according to its relevance recorded as revenue in the budget, or recorded in custody accounts to be returned to the concerned persons. In addition, necessary legal and administrative procedures shall be applied to the aforementioned persons pursuant to the relevant laws.

### **Fines and Authorized Bodies**

**Article 73-** The fines stipulated herein shall be imposed by the heads of relevant public administrations. Fines shall be collected by deducting one fourth of all payments earned by the relevant persons including all kinds of salary, allowance, increase and compensation beginning from the month following the imposition of the fine and without requiring any further judgment.

### **Prescription**

**Article 74-** (Amendment: 22.12.2005 - 5436/10-b art.) Starting from the beginning of the fiscal year following the occurrence of the public loss and of the action to be punished by the mentioned fine, public losses and fines that cannot be determined and, provided that the general provisions cutting and stopping the lapse of time are reserved, collected until the end of the tenth year shall be subject to prescription.

## **EIGHTH PART**

### **Other Provisions**

#### **Services to be conducted by Ministry of Finance**

**Article 75-** First paragraph (Abolishment 22.12.2005 - 5436/10-c art.)

In cases where there is a complete breakdown of the financial management and control system or there are indications of a major corruption or a public loss, upon the request of the concerned minister or upon the direct approval of the Prime Minister; the Minister of Finance may have authorized audit staff inspect the entire financial management and control systems, financial decisions and transactions of the public administrations as to their compliance with the legislations. A copy of the reports to be issued at the end of such inspections shall be sent to the

Internal Audit Coordination Board, and another copy for taking required actions to the concerned Minister.

### **Responsibility of Public Administrations**

**Article 76-** Public administrations shall regularly keep all kinds of records, information and documents related to the financial decisions and transactions.

The public administrations and their officials are obliged to; submit the information and documents on the preparation, implementation, finalization, accounting, and reporting of the budget and on the financial management and control systems to the officials authorized to carry out audits; and take the necessary measures and provide any assistance and help ensuring that this duty is carried out properly.

### **Social Security Institutions and Local Administrations**

**Article 77-** The preparation and the implementation of the budgets of social security institutions and local administrations and their other financial transactions shall be subject to the provisions of the relevant laws without prejudice to the provisions hereof. However, the detailed expenditure programs and financing programs of the social security institutions and those of local administrations shall be prepared, deliberated and approved together with their budgets, and the appropriations shall be utilized in this framework.

In cases where there is a complete breakdown of the financial management and control system or there are indications of a major corruption or a public loss, upon the request of the relevant governor for the special provincial administrations or of the mayor for the municipalities or upon the direct approval of the Prime Minister; the Minister of Interior may have authorized audit staff inspect the entire financial management and control systems, financial decisions and transactions of the public administrations as to their compliance with the legislations. A copy of the reports to be issued at the end of such inspections shall be sent to the Internal Audit Coordination Board, and another copy for taking required actions to the governor or mayor concerned.

### **Shares to be collected from Proceeds of Institutions**

**Article 78-** An amount up to fifteen percent of the gross proceeds of state economic enterprises and public corporations shall be collected and recorded as revenue to the general budget. In this respect, the institutions and agencies from which such amounts shall be collected, the ratios of the shares from proceeds and the payment place and time shall be determined by the Council of Ministers. Shares from proceeds not paid in due time shall be collected according to the Law No 6183 dated 21/7/1953 with a late payment interest at a rate stated in the Council of Ministers. The late payment interest calculated shall be collected from the institution's or agency's officers who are authorized for the payment of such shares. However, no late payment interest shall be applied for the additional time granted by the Ministry of Finance.

(Amendment: 22.12.2005 - 5436/10-a art.) Revenue surplus to occur quarterly of the regulatory and supervisory agencies shall be transferred to the general budget until the fifteenth of the month following each quarter. The provision of this paragraph is applied also to the Istanbul Stock Exchange. In case the said amounts are not paid in time, the unpaid amounts are followed and collected by applying delay increase as per the provisions of the Law dated 21.7.1953 and No 6183.

### **Canceling Public Receivables**

**Article 79-** The Minister of Finance for the public administrations within the scope of the general budget, and the heads of public administrations for other public administrations are authorized for the deletion of public receivables which are recorded in the administration's accounts but cannot be followed-up and collected due to any imperative or force majeure reasons and which do not exceed the amount specified in the Central Government Budget Law. Public receivables exceeding specified amounts and envisaged to be deleted shall be indicated in the schedule annexed to the Central Government Budget Law.

### **Authority**

**Article 80-** The Ministry of Finance is authorized to carry out the required arrangements regarding the enforcement of the provisions of this Law.

## **NINTH PART**

### **Annulled Provisions, Provisional Articles and Enactment**

#### **Annulled Provisions**

**Article 81-** Without prejudice to the provisions of the provisional articles of this Law;

- a) General Accounting Law No 1050 and supplements and amendments thereof,
- b) Articles 30, 32, 33, 36, and 37, and other provisions in compliance herewith, of the Court of Accounts Law No 832,
- c) Related to the public administrations within the scope of this Law, with the exception of Articles 98 – 106 of Law No 211 dated 4/1/1961, provisions of other laws that stipulate exception or exemption on the application of the General Accounting Law No 1050, Travel Allowance Law No 6245 and Court of Accounts Law No 832,
- d) The third paragraph of Article 14 of Law No 4749 dated 28/3/2002,
- e) Article 15 of Law No 4481 dated 26/11/1999,

f) Provisions of other laws that are incompliant with those of this Law

are annulled.

**Provisional Article 1-** In the public administrations where the financial transactions have been conducted by the Ministry of Finance until the entry into force of this article, the duties required to be performed according to this Law shall be conducted by the units of the Ministry of Finance until the establishment of financial management and control system defined by this Law. The transfer of authority to the administrations shall be realized upon the proposal of the Ministry of Finance on the basis of each administration when the criteria to be determined by the Ministry of Finance are fulfilled.

In other public administrations, until the establishment of financial management and control system defined by this Law, the duties related to the financial management and control process required by this Law shall be conducted by the units and officers having similar duties and authorizations. Units and officers having similar duties and authorizations in these public administrations shall be determined by the head of the concerned public administration upon the positive opinion of the Ministry of Finance.

In the framework of its guidance and coordination duties, the Ministry of Finance shall assist the establishment of financial management and control systems in public administrations.

Transition period shall not exceed the date of 31/12/2007.

**Provisional Article 2-** The by laws, regulations and other arrangements referred hereto, shall be published latest by 31/12/2004.

**Provisional Article 3-** Until the Board referred in Article 49 of this Law determines, the accounting standards to be applied in the public administrations within the scope of general government shall be defined by the Ministry of Finance.

**Provisional Article 4-** (Amendment: 22.12.2005 - 5436/10-a art.) In the view of adaptation to the financial management and control systems provided by this Law, the amendments required in the Bylaw of Turkish Grand National Assembly and in the legislations related to the administrations within the scope of this Law shall be made latest until 31/12/2007.

(Amendment: 22.12.2005 - 5436/10-a art.) The law that stipulates the activities of the public administrations within the scope of general budget, including those defined in their relevant laws apart from their public duties and services, and that stipulates the revenues obtained from their priceable good and service deliveries shall enter into force until 31/12/2007.

**Provisional Article 5-** (Amendment: 22.12.2005 - 5436/9 art.) As of latest 31/12/2005 and until 31/12/2007;

a) Those actually working in the positions of the Ministry of Finance as Head of Budget Office, Accounting Director, Revenue Accountancy Office Director, County Revenue Director, Accountancy Office Director, Tax Office Director, Tax Director, Military Treasurer, State

Accounting Expert and Accounting Auditor and those who had occupied such positions for at least five years, may be appointed in public administrations as Accounting Officer and their assistants (except for Assistant State Accounting Experts and Assistant Accounting Auditors) and those whose cadre title is accountant as Assistant Accounting Officer,

b) Those actually working as principal responsables in the accounting units of the special budget agencies, of the local administrations and of the social security institutions, and those having assumed for at least five years such positions as Head of Budget Office, Head of Revenue and Expenditure Department, Head of Accounting Department, Revenue Director, Budget Director and Accounting Director may be appointed as Accounting Officer in the mentioned administrations,

c) Those actually working in the positions of Court of Accounts Auditor, Inspector of Prime Ministry, Auditor of High Auditing Board, Finance Inspector, Account Expert, Budget Controller, Accounting Controller, Revenues Controller, National Estate Controller, Controller of Liquidation Transactions and Revolving Fund Enterprises, Treasury Controller and those having assumed such positions for at least five years may be appointed in the public administrations as Internal Auditor,

d) Those who are inspectors or controllers in the Ministries, Undersecretariats, Presidencies or General Directorates and those having assumed such positions for at least five years may be appointed as Internal Auditors in their own administrations, special budget agencies, local administrations or social security administrations,

e) Those who are Accounting Auditors, National Estate Auditors and Tax Auditors, and those who have been previously at these duties for at least five years, may be appointed at special budget administrations and local governments; Municipality Inspectors and Accounts Comptrollers and those having assumed such positions for at least five years may be appointed in local administrations as Internal Auditor.

Those who are carrying out the accounting services of the public administrations as first degree responsible as of 31.12.2005 shall carry out their duty as accounting officer of their public administrations starting from 01.01.2006 until a certified accounting officer is appointed. These persons shall be appointed to an appropriate duty in their personnel in case they cannot get a certificate. However, until the appointment of an accounting officer in the administrations whose accountancy services are carried out by the budget offices, accounting services shall be performed by the persons to be determined by the Ministry of Finance.

Those who will be appointed in order to perform the duty of the accounting officer mentioned in line (a) and (b) shall receive a professional training to be provided by the Ministry of Finance and successfully pass the examination and receive a certificate. However, from those appointed to the duties mentioned in line (a) and (b) the examination condition shall not be sought in their appointment as accounting officer.

Those appointed to the duties mentioned in line (c), (d) and (e) shall be subject to the training for the application of the system foreseen by this Law. In the appointments, the consent of the concerned person and his/her administration shall be obtained.

**Provisional Article 6** – (Abolishment: 22.12.2005 - 5436/10-c art.)

**Provisional Article 7** – (Abolishment: 22.12.2005 - 5436/10-c art.)

**Provisional Article 8-** Chairman and Members of the Internal Audit Coordination Board shall be appointed within two months following the date of publishing of this Law.

**Provisional Article 9-** References made by other laws to the provisions of the General Accounting Law No 1050 shall be deemed to be made to this Law.

**Provisional Article 10-** The external audits on the transactions which the regulatory and supervisory agencies and the special budget agencies perform until 31/12/2005, and which are subjected to the audit of the Court of Accounts for the first time with this Law shall continue to be performed according to the provisions of their relevant Laws.

**Provisional Article 11-** The budgets of the revolving fund enterprises and funds affiliated with the public administrations within the scope of general government shall be included in the budgets of relevant administrations.

(Amendment: 22.12.2005 - 5436/10-a art.) Revolving fund enterprises established in the public administrations under the scope of this Law shall be restructured until 31/12/2007.

(Amendment: 22.12.2005 - 5436/10-a art.) Until the revolving fund enterprises are restructured, the preparation, application, finalization and accounting of their budgets and their control and audit shall be determined by the regulation to be enforced by the Ministry of Finance. Accounting of the funds shall be carried out in accordance with the accounting system foreseen by this Law.

Last paragraph (Abolishment: 22.12.2005 - 5436/10-c art.)

**Provisional Article 12-** According to the first paragraph of Article 45, among the immovables that should be registered under the name of State Treasury, those which are owned by public administrations shall be registered ex officio in the land registry under the name of State State Treasury without any need for further transaction and within the six months following the end of legal entity of these public administrations.

**Provisional Article 13-** The Ministry of Finance shall determine in which chart each public administration established after the publishing of this Law will be included.

**Provisional Article 14-** For the effective and efficient fulfillment of the services required by this Law, the positions in List I annexed to this Law shall be created to be used in the General Directorate of Budget and Fiscal Control, Research, Planning and Coordination Board and Ministry of Finance High Training Center. These positions shall be added to the relevant sections concerning Ministry of Finance of List I annexed to Decree Law No 190, and the positions in List II annexed to this Law shall be annulled and removed from the sections concerning Ministry of Finance of List I annexed to the said Decree Law. The vice president to be assigned to Research,

Planning and Coordination Board shall be appointed by the approval of the Minister, and shall exercise all the rights provided for deputy general directors in the relevant legislation.<sup>1[1]</sup>

**ANNEXED ARTICLE:** (Amendment: 22.12.2005 - 5436/11 art.) The accounting services of Turkish Grand National Assembly and Turkish Court of Accounts shall be rendered by the accounting officers assigned by the President of Turkish Grand National Assembly, whereas the accounting services of the Presidency of the Republic shall be rendered by the accounting officers assigned by the Secretary General of the Presidency.

## **CHART NO I**

### **PUBLIC ADMINISTRATIONS WITHIN THE SCOPE OF GENERAL BUDGET**

**(Amendment: 22.12.2005 - 5436/12art.)**

- 1- Turkish Grand National Assembly
- 2- Presidency of Republic
- 3- Prime Ministry
- 4- Constitutional Court
- 5- Supreme Court of Appeals
- 6- Council of State
- 7- Court of Accounts
- 8- Ministry of Justice
- 9- Ministry of National Defense
- 10- Ministry of Interior
- 11- Ministry of Foreign Affairs
- 12- Ministry of Finance
- 13- Ministry of National Education
- 14- Ministry of Public Works and Settlement
- 15- Ministry of Health
- 16- Ministry of Transport
- 17- Ministry of Agriculture and Rural Affairs
- 18- Ministry of Labor and Social Security
- 19- Ministry of Industry and Trade
- 20- Ministry of Energy and Natural Resources
- 21- Ministry of Culture and Tourism
- 22- Ministry of Environment and Forestry
- 23- General Secretariat of National Security Council
- 24- Undersecretariat of National Intelligence Organization
- 25- General Commandership of Gendarmerie
- 26- Commandership of Coastal Security
- 27- General Directorate of Security

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<sup>1[1]</sup> For the positions mentioned with this Article, please see Official Gazzette issue No. 25326 dated 24/12/2003

- 28- Presidency of Religious Affairs
- 29- Undersecretariat of State Planning Organization
- 30- Undersecretariat of Treasury
- 31- Undersecretariat of Foreign Trade
- 32- Undersecretariat of Customs
- 33- Undersecretariat of Marine
- 34- Secretariat General for the European Union Affairs
- 35- Prime Ministry High Auditing Board
- 36- State Personnel Presidency
- 37- Presidency of Administration for Handicapped
- 38- Turkish Statistical Institute
- 39- Presidency of Revenue Administration
- 40- General Directorate of State Waterworks
- 41- General Directorate of Highways
- 42- General Directorate of Land Registry and Cadastre
- 43- General Directorate of State Meteorology Affairs
- 44- General Directorate of Agricultural Reform
- 45- General Directorate for Petroleum Affairs
- 46- General Directorate of Press-Publication and Information
- 47- General Directorate of Social Assistance and Solidarity
- 48- General Directorate of Social Services and Child Protection Association
- 49- General Directorate of Family and Social Research
- 50- General Directorate on the Status and Problems of Women

## **CHART NO II**

### **SPECIAL BUDGET ADMINISTRATIONS**

(Amendment: 22.12.2005 - 5436/12art.)

#### **A) COUNCIL OF HIGHER EDUCATION, UNIVERSITIES AND HIGH TECHNOLOGY INSTITUTES**

- 1- Council of Higher Education
- 2- Student Selection and Placing Center
- 3- Istanbul University
- 4- Istanbul Technical University
- 5- Ankara University
- 6- Karadeniz Technical University
- 7- Ege University
- 8- Ataturk University
- 9- Middle East Technical University
- 10- Hacettepe University
- 11- Bogaziçi University
- 12- Dicle University

- 13- Çukurova University
- 14- Anadolu University
- 15- Cumhuriyet University
- 16- İnönü University
- 17- Fırat University
- 18- 19 Mayıs University
- 19- Selçuk University
- 20- Uludağ University
- 21- Erciyes University
- 22- Akdeniz University
- 23- 9 Eylül University
- 24- Gazi University
- 25- Marmara University
- 26- Mimar Sinan Fine Arts University
- 27- Trakya University
- 28- Yıldız Technical University
- 29- 100. Yıl University
- 30- Gaziantep University
- 31- Abant İzzet Baysal University
- 32- Adnan Menderes University
- 33- Afyon Kocatepe University
- 34- Balıkesir University
- 35- Celal Bayar University
- 36- Çanakkale 18 Mart University
- 37- Dumlupınar University
- 38- Gaziosmanpaşa University
- 39- Gebze High Technology Institute
- 40- Harran University
- 41- Izmir High Technology Institute
- 42- Kafkas University
- 43- Kahramanmaraş Sütçü İmam University
- 44- Kırıkkale University
- 45- Kocaeli University
- 46- Mersin University
- 47- Muğla University
- 48- Mustafa Kemal University
- 49- Niğde University
- 50- Pamukkale University
- 51- Sakarya University
- 52- Suleyman Demirel University
- 53- Zonguldak Karaelmas University
- 54- Eskişehir Osmangazi University
- 55- Galatasaray University
- 56- (Annex: 1/3/2006-5467/5 article) Ahi Evran University
- 57- (Annex: 1/3/2006-5467/5 article) Kastamonu University
- 58- (Annex: 1/3/2006-5467/5 article) Düzce University
- 59- (Annex: 1/3/2006-5467/5 article) Mehmet Akif Ersoy University

- 60- (Annex: 1/3/2006-5467/5 article) Uşak University
- 61- (Annex: 1/3/2006-5467/5 article) Rize University
- 62- (Annex: 1/3/2006-5467/5 article) Namık Kemal University
- 63- (Annex: 1/3/2006-5467/5 article) Erzincan University
- 64- (Annex: 1/3/2006-5467/5 article) Aksaray University
- 65- (Annex: 1/3/2006-5467/5 article) Giresun University
- 66- (Annex: 1/3/2006-5467/5 article) Hitit University
- 67- (Annex: 1/3/2006-5467/5 article) Bozok University
- 68- (Annex: 1/3/2006-5467/5 article) Adıyaman University
- 69- (Annex: 1/3/2006-5467/5 article) Ordu University
- 70- (Annex: 1/3/2006-5467/5 article) Amasya University

## **B) OTHER SPECIAL BUDGET ADMINISTRATIONS**

(Amendment: 22.12.2005 - 5436/12 art.)

- 1- Undersecretariat of Defense Industry
- 2- Presidency of High Agency of Atatürk Culture, Language and History
- 3- Turkey and Middle-East Public Administration Institute
- 4- The Scientific and Technical Research Council of Turkey
- 5- Turkey Sciences Academy
- 6- Turkish Justice Academy
- 7- General Directorate of Credit and Dormitories Agency
- 8- General Directorate of Youth and Sport
- 9- General Directorate of State Theatres
- 10- General Directorate of State Opera and Ballet
- 11- General Directorate for Forestry
- 12- General Directorate of Foundations
- 13- General Directorate of Health for Borders and Coasts
- 14- Electric Power Affairs and Study Administration
- 15- General Directorate of Mining Study and Research
- 16- Directorate General of Civil Aviation
- 17- Turkish Accreditation Agency
- 18- Turkish Standards Institute
- 19- National Productivity Center
- 20- Turkish Patent Institute
- 21- National Boron Research Institute
- 22- Turkish Atomic Energy Agency
- 23- Presidency of Development and Support of Small and Medium Size Enterprises Administration
- 24- Center for Studies for Developing Exports
- 25- Turkish Presidency of Cooperation and Development Administration
- 26- Presidency of Special Environmental Protection Agency
- 27- Presidency of GAP Regional Development Administration
- 28- Presidency of Privatization Administration
- 29- Agency for Workshops in Punishment and Execution Establishments and Custodies

### **CHART NO III**

#### **REGULATORY AND SUPERVISORY AGENCIES**

(Amendment: 22.12.2005 - 5436/12art.)

1. Radio and Television High Council
2. Telecommunication Agency
3. Capital Markets Board
4. Banking Regulation and Supervision Agency
5. Energy Market Regulation Board
6. Public Procurement Agency
7. Presidency of Competition Agency
8. Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Agency

### **CHART NO IV**

#### **SOCIAL SECURITY INSTITUTIONS**

(Amendment: 22.12.2005 - 5436/12art.)

- 1- Social Security Institution
  - 2- General Directorate of Turkish Labor Agency
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