



Bu Proje Avrupa Birliđi tarafından finanse edilmektedir.
This project is funded by the European Union.



**YEREL YÖNETİM REFORMU
PROJESİ (YJR III)**
LOCAL ADMINISTRATION REFORM
PROJECT (LAR III)

COMPARATIVE ANALYSIS REPORT (CURRENT SITUATION ANALYSIS REPORT INCLUDED)

April 2022

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| Reference to the Description of Action | |
|--|---|
| Component | Component 1: Efficient Local Service Delivery |
| Activity | A.1.1.10. Develop recommendations for the development of a draft legislation regulating the legal and institutional infrastructure of Water and Sewer Administrations |
| Output | Comparative Analysis Report (Current Situation Analysis Report Included) |



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Abbreviations

| | |
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| EU | European Union |
| MM | Metropolitan Municipality |
| DOC | Dissolved Organic Carbon |
| ST | Sanitation Tax |
| DSI | State Hydraulic Works |
| EMRA | Energy Market Regulatory Authority |
| GBTR | General Budget Tax Revenues |
| IPA | Instrument for Pre-Accession Assistance |
| ISKI | Water and Sewer Administration of Istanbul |
| PPC | Public Private Collaboration |
| CWMS | Continuous Wastewater Monitoring System |
| SUKAP | Water and Sewer Infrastructure Programme |
| WSA | Water and Sewer Administration |
| GDWM | General Directorate of Water Management |
| UMT | Union of Municipalities of Turkey |
| TOC | Total Organic Carbon |
| TURKSTAT | Turkish Statistical Institute |
| UNDP | United Nations Development Programme |

Executive Summary

The overall objective of the project is to ensure efficient, transparent, inclusive and participatory local governance in Turkey in line with international standards by continuing to support the local administration reform process undertaken between 2003-2013.

There are numerous laws which regulate water and sewer services in Turkey, however, certain gaps in the implementation of these laws complicate harmonization with the EU Acquis in terms of legislation, implementation and investments. The specific objective of this study is to develop recommendations to develop a draft legislation which regulates the legal and institutional structure of Water and Sewer Administrations (WSAs) to assure efficient water and sewer services in compliance with the EU Acquis.

There are numerous laws which regulate water and sewer services in Turkey, however, certain gaps in the implementation of these laws complicate harmonization with the EU Acquis in terms of legislation, implementation and investments. This study aims for developing recommendations to develop a draft legislation which regulates the legal and institutional structure of Water and Sewer Administrations (WSAs) to assure efficient water and sewer services. A current situation analysis and a country based comparative analysis were performed accordingly.

The studies and assessments performed within the framework of the report yielded findings about the roles, responsibilities and performance of services of administrations under the Law No. 2560 which regulates the legal and institutional structure of Water and Sewer Administrations (WSAs) in the current situation in Turkey. Feedback was received from current WSAs through questionnaires about their administrative bodies, roles, powers, revenues, personnel rights and relationships with other institutions and laws. A needs analysis was performed based on the current status of all WSAs with online interviews and a workshop in addition to the questionnaires. The study was concluded with a comparative analysis which also reviewed the current water and sewer management systems in European cities.

This study yielded the following findings:

- **Findings about Service Delivery:**

- Need for a new WSA Law in place of the ISKI Law No. 2560
- Problems with water supply and management of water resources
- Lack of inter-institutional coordination in rainwater collection and flood and water management
- Need for an additional budget in WSAs caused by the expansion of the service area under the Law No. 6360
- Authority to control and monitor being held by other institutions
- Lack of a tariff for rainwater collection and flood
- Uncertainty of powers and services for riverbed rehabilitation
- The opinions of WSAs not being considered in land development plans and modifications in land development plans being extended to long periods

- **Findings about Revenues:**

- Apportionments to be transferred by Ilbank to WSAs based on population being deducted without a certain standard

- Practical challenges in the calculation of contributions based on the “Regulation on the Implementation of the Provisions on Contributions to Expenses of the Law No. 2464 on Municipal Revenues”
- Challenges in accruals and collections
- The debts of districts were transferred to WSAs which had their service area expanded under the Law No. 6360 but no additional funding was transferred over Ilbank.
- **Findings about Investments and Constructions:**
 - Challenges in allocation of spaces selected for investment which are not under the property of WSAs
 - Project preparation for urgent investments, adaption to the technology used for the work and technical specifications under 21E cause the bidding process to slow down and prevent timely completion of investments and constructions
- **Findings about Collections:**
 - Inability to track past-due subscribers – The need for cooperation with the Ministry of Interior (MoI) to reach the residential addresses of past-due subscribers to collect due sums by tracking down by the T.R. Identity Number at home and abroad
- **Findings about Roles and Powers:**
 - Unclear roles and responsibilities for rainwater
 - Unclear rainwater fees
 - Lack of the right and authority to establish or partner with autoproducer electric power companies to create energy recovery facilities (waste to energy) and renewable energy facilities related to water/wastewater
 - Lack of a regulation for the insurance of tools and equipment used for delivery of services
 - The fact that WSAs do not have the same rights and powers as in the PPC Model (service, management, build-operate-transfer, build-operate-continue, design-build-operate, sell-buy back, lease, transfer of operational rights, concessions etc.) lowers their investment capacity.
- **Findings about Service Delivery and other institutions:**
 - Lack of coordination with other institutions
 - DSI (State Hydraulic Works):
 - The fact that rainwater discharge is not permitted in the canals and rivers under the management of the DSI leads legal and technical problems in practice
 - In the protocols concluded with the DSI, challenges with permitting horizontal or parallel transitions and high costs, not permitting land use in infrastructure project of public interest/long permission periods
 - The lack of inter-institutional data sharing (e.g. the fact that well licenses are not shared leads to inability to monitor wastewater subscriptions).
 - Ministry of Environment, Urbanization and Climate Change/Ilbank:
 - It is required to compensate expenses for works and procedures (waste management plan, environmental management services etc.) required

- under the environmental legislation in the specifications for wastewater treatment facilities for which projects and construction biddings are held by Ilbank from the budget of the administrations at the time of their transfer to the related administrations
- In the event of failed equipment in CWMSs (Continuous Wastewater Monitoring Systems), long repair times lead to data loss in the CWMS and the necessary energy incentives are interrupted as it seems the facility is down although it continues operations meanwhile
 - High controlling fees and credit interests in credits provided by Ilbank put an additional burden on the WSA budget
 - The analyses made by the Administration’s laboratory authorized by TURKAK are not accepted as the authorization of the Ministry of Environment, Urbanization and Climate Change is required for wastewater analyses (deep sea discharge – canal discharge)
 - Although Article 21-a titled Exemptions of the Law No. 2560 states “The immovable assets, facilities, procedures and activities used by ISKI for its operations are exempt from all kinds of taxes, duties and charges”, WSAs are charged a revolving fund fee by the related directorates for Land Records and Cadastre procedures as the Revolving Fund Fee is not included in exemptions.
- Ministry of Health: The costs of the analyses performed in the field by the General Directorate of Public Health under the Law No. 1593 on Public Health and the Decree-Law No. 663 on Organization and Functions of the Ministry of Health and Affiliated Entities put a serious financial burden on WSAs.
 - Ministry of Agriculture and Forestry:
 - Administrative and financial problems when the necessary facilities for investments to be made by WSAs for priority services such as potable water and sewer are located on forest lands or meadow lands, the collection of a weed fee when the Meadow Commission considers the respective sites to be meadows on certain occasions when unregistered areas are requested to be registered and allocated, long allocation times due to procedures for a change in the classification of the meadow
 - It is required to submit a Forest Permission Request to the Directorates of Forestry for drilling on forest lands (requirements such as a 2 year preliminary permission period, preparation of the Preliminary Permission file or the Permission File), and when drilling activities yield a negative result, it is required to repeat the study, which leads to serious costs and loss of time
 - Ministry of Energy/EMRA: In the energy market regulated by the Ministry of Energy/EMRA, WSA service buildings are considered in different subscriber groups by their types, the industrial tariff defined for industrial organizations of production is not implemented for energy consumption for potable water supply and wastewater discharge, challenges in data sharing.
 - Ministry of Transport and Infrastructure/General Directorate of Highways:

- Permissions required to be obtained from the General Directorate of Highways during the design and construction of infrastructure and superstructure facilities result in delays in construction times and sometimes the investment not being realized at all due to bureaucratic procedures
- Costs required to locate infrastructure routes across the areas of responsibility of these institutions increase investment costs, challenges in horizontal or parallel transition permissions in Highway protocols, and high costs request leading to problems with funding of investments.
 - Ministry of Culture and Tourism: Problems with permissions required to be obtained from the Ministry of Culture and Tourism for repairs in areas of a historical status, leading to interruptions in operations.
- **Findings about Tariffs:**
 - The principles of “user pays” and “polluter pays” are not implemented in tariff setting
 - The lack of a central and autonomous economic regulatory institution for the water industry in Turkey, which is responsible for reviewing and approving pricing according to objective criteria in the tariffs recommended by WSAs, also including a subsidy mechanism based on objective criteria for different social groups as necessary as access to portable water is a universal right
 - The complete costs basis and/or recommendations for a budget-compatible tariff are evaluated based on political criteria and most of the time, tariffs which exceed the budget are approved
 - Potable water which is produced at high costs but benefits from a discounted tariff due to the incentive of discounted tariffs in the rural is used for agricultural and garden irrigation in these areas
 - The lack of a tariff structure which includes investments and services for rainwater and riverbed rehabilitation, and these services cannot be charged and collected.
- **Findings about borrowing, credits and fund transfers:**
 - While the municipalities where the Mayor and the majority of the Municipal Council are from the same political party do not have problems with the authority of borrowing, there are problems with the authority of borrowing on other occasions
 - Under the article “Budget Revenues” of the Law No. 5216 on Metropolitan Municipalities, the sums to be transferred due to the difference between revenues and expenses in the final accounts of affiliated entities are considered among the revenues of MMs and therefore, WSAs make transfers to municipalities, which negatively affect the funding of future investments.
- **Findings about Revenue Diversification:**
 - Contributions to investment spending are collected to the name of Municipalities rather than WSAs to provide funding for investments for water

distribution, building wastewater and rainwater collection networks and capacity building

- When WSAs offer riverbed rehabilitation services, the source reserved from the Government for riverbed rehabilitation is transferred to the DSI rather than WSAs
 - The costs of training, consultation, operation, maintenance and other services offered to domestic and international water organizations/administrations/stakeholders are not listed among the revenues of WSAs in the legislation
 - Although rainwater service is offered, there is no revenue item in the current situation as the rainwater service fee
 - The budget excess that WSAs will use to compensate the costs of operation, maintenance, investment and funding is not left to WSAs but transferred to the MM
 - Following the termination of the legal personality of Special Provincial Administrations (SPAs) under the Law No. 6360, the revenues of MMs, MDMs and metropolitan organizations with a special purpose are not rearranged for duly serving villages
 - Collection of ST and Domestic Solid Waste Fees over water invoices, leading to an additional burden, loss of time and labour for WSAs
 - Those who use surface water (SW) and ground water (GW) sources for potable and utility water do not make any payment to WSAs based on their water consumption.
- **Findings about Subscription:**
 - Missing documents in subscription applications (other than online applications) leave the application incomplete and delay subscription procedures
 - Citizens' reaction to the fact that guarantees deposited at application are returned at the rate issued in the certificate of inheritance following the death of the subscriber (the guarantee is not refunded in full)
 - Subscriber groups are not standard in all WSAs
 - Uncollectable receivables (dues from subscribers who died, cannot be located, registered to settle in demolished buildings etc.) cannot be deleted
 - Subscribers with past-due water bills are not subject to any sanctions in their transactions with other public organizations (tax administration, SSI, land records and cadastre, municipality etc.) to make them pay their dues
 - **Findings about the Sales of Immovable Assets:**
 - The Law No. 2560 does not include a clear provision on the sales and transfer of immovable assets
 - The sales of immovable assets in some WSAs requires the approval of the MM General Assembly, leading to long and interrupted processes.
 - **Findings about Incentives:**

- The lack of incentive to prevent delays in renewals of portable water supply networks in provincial centres with a high theft-loss rate due to insufficient funding and because 85% of the investments are made in rural areas
- Required investments cannot be made due to the lack of incentive mechanisms to lower the theft-loss rate
- **Findings about Insurance for Services and Equipment:**
 - Inability to provide insurance for the services and tools and equipment used for the performance of services
 - Inability to provide motor insurance for vehicles with government plates
- **Other findings**
 - WSAs are not exempt from litigation fees, while many other institutions are.
- **WSA Management Bodies**
 - The members of the Administrative Board cannot be appointed by the President and Assistant General Managers and Department Heads do not have a seat in the Administrative Board
 - The number of assistant general managers is limited to 4, which prevents improvement in the functioning of WSAs
 - The Permanent Staff Regulation abolished the right and discretion of WSAs to operate within wide limits
 - Auditors' reports do not have sanctioning power in the current situation
 - The remaining 3 members other than the direct members of the Board are recommended by the MM Mayor and approved by the Ministry of Environment, Urbanization and Climate Change
 - Limiting the Assistant General Manager, one of the Board members, with the person with the longest term in the office to be natural member has a negative impact on local administrations and local decision making processes.
- **Findings about Modes of Operation (the principles of meeting and frequency of the General Assembly etc.):**
 - Biannual General Assemblies do not serve their purpose of fast decision making.
- **Findings about Personnel Rights:**
 - Wages differences between personnel with the same roles and responsibilities
 - Not paying depreciation to the personnel
 - WSA Department Heads and MM Department Heads having different supplemental indexes
 - The place of WSA managers and the General Manager in the protocol at the discretion of governors
 - The lack of improvement in personnel rights in administrations under MMs under the Law No. 5216
- **Findings about the Legislation:**
 - Although the WSA General Manager and Board members have a Civil Servant status, other WSA officials do not have the same status
 - It is possible to start a prosecution without the permission of the General Manager

- The WSA personnel is not covered by the Law on Prosecution of Civil Servants.
- **Findings about Investment Programmes, Strategy Development and Planning:**
 - The performance indicators presented by WSAs in strategic plans are not standard and traceable.

All findings from the report are to be used as a basis for developing legal recommendations to assure efficient, transparent, inclusive and participatory local governance in line with international standards.

1 Introduction

1.1 Background

The term local administration was used for the first time in the history of our country in Articles 11, 12, 13 and 14 of the Constitution of 24 April 1921. Municipalities were mentioned for the first time in Article 85 of the Constitution which was enacted in 1924. The Law No. 1580 of 1930 on Municipalities, the Law No. 1593 on Public Health of a later date and the Law No. 2290 of 1933 on Municipality Structures and Roads introduced significant regulations for municipalities. Especially the Law No. 1580 assigned all kinds of local services as a duty to municipalities according to the conditions of the time (Article 15), moreover, municipalities were authorized to engage in all kinds of actions to be of interest to the local people (Article 19). The Law stipulated the merger of the municipality and governorate under a joint administration in Ankara and Istanbul (Articles 94, 95, 96). Despite certain actions taken later to strengthen municipalities including the establishment of the Municipalities Bank (1933) and the transfer of supply of potable water and intra-city transport in Istanbul to the municipality or affiliated entities, for which construction and operation rights had previously been assigned to foreign enterprises on concession basis in the past, these functions were undertaken by the central government in time as the respective entities were unable to fully fulfil their duties due to a lack of resources. This was a setback in the roles and powers of municipalities which deteriorated by the challenges of the World War II. The fact that municipal revenues did not increase following the enactment of the Law No. 5237 of 1948 made municipal administrations inoperable. The Law No. 6200 on the Organization and Duties of the General Directorate of State Hydraulic Works was enacted in 1953. This initiated a new period that assigned the DSI a general authority on the use of water resources. A new regulation introduced in 1960 commissioned the DSI to perform works for potable water for villages and municipalities with a population below 3.000. This authority assigned to the DSI was transferred to the Ministry of Village Affairs established under the Law No. 4591 in 1963. The Law No. 167 on "Ground Waters" was enacted on 16 December 1960. Article 1 of the Law considered ground waters under the control and at the discretion of the government as they had the status of general waters. All kinds of operations on ground waters were left to the control of the DSI. Although the DSI can transfer the right to use operational wells it drills itself to real persons or legal entities, what is transferred is only the right to operate and property is not transferable. The preferences for "Planned Development" were developed in the 1960s and the Development Plans of five years introduced some new policies and programmes for municipalities.

Article 116 of the Constitution of 1961 states "local administrations are public legal entities which meet the common local needs of the people of the province, municipality or village and the general decision making bodies of which are elected by the public", and provides for the supply of income sources for these administrations proportional to their functions.

With the Law No. 1053 of 1968 on the supply of potable, utility and industrial water for Ankara, Istanbul and cities with a population over one hundred thousand, it became possible to establish dams, pipelines and treatment plants by the DSI and storage and distribution networks by municipalities as water resources in cities with a population above one hundred thousand.

The DSI was authorized to establish facilities through interest free borrowing of municipalities for 30 years in cities with a population above one hundred thousand.¹ During the late 1970s and early 1980s, the world saw instances of global environmental pollution which significantly affected water resources, leading to a period of substantial changes in water resources management and policies.

The Law No. 2380 of 2 February 1981 on the “Allocation of General Budget Tax Revenues to Municipalities and Special Provincial Administrations” was enacted to allocate a share of 5% of the total collection of general budget tax revenues to municipalities, which provided a kind of financial relief to a certain degree. This rate increased further from 1985. The period of the Constitution of 1982 is a period of new regulations for municipalities. First, it is stated in Article 127 of the Constitution that “local administrations are established to meet the common local needs of the people of the province, municipality and village” and the last paragraph of the article states that local administrations can establish unions and associations among themselves for public services upon the permission of the Council of Ministers, which is to be regulated by the Law, thereby provides for the capacity of developing special forms of administration for metropolitan provincial centres.

While the Law No. 1580 on Municipalities remained organically the same in this period, it was complemented by the Law No. 3030. This law included MMs and DMs to the normal municipality system in Turkey. The new Law No. 3194 on Land Development was also enacted in 1985.

With regard to water, which is under the control and at the discretion of the government on the basis of the Constitution, an institutional and legal organization was preferred based on service delivery under public monopoly starting from the Republican Era until the 1980s. It should be noted that numerous legal regulations were existent on water rights and management, especially the civil law, law on waters, law on villages and law on municipalities, exhibiting a highly dispersed and complicated structure. The use of water for multiple purposes can be considered among the reasons for such a dispersed organizational structure. There was also a rather complicated service organization among the central government and local administrations with regard to the delivery of water services including under the water legislation. The ISKI Law enacted in 1981 was the first step in the reform movement in water services which had been delivered under public monopoly based on the coordination and planning of the DSI until the 1980s.

Under this new regulation called the “ISKI Model”, it was possible to perform duties for water and sewer services of municipalities through administrations established as separate legal entities. The ISKI model allowed for partnering with the private sector for the delivery of water and sewer services when necessary, even transferring the whole of these services to the private sector under contract. İlbank which played a highly dominant role in the delivery of water and sewer services at the local level moved away from this function of its following the establishment of MMs, transferred its functions with regard to the urban infrastructure in metropolitan settlements slowly to municipalities. İlbank was completely removed from the investment area with the changes in the institutional and legal structure of the bank and

¹ CUMHURİYET DÖNEMİNDE TÜRKİYE’DE KENTSEL ŞEBEKE SUYU YÖNETİMİNİN KURUMSAL VE YASAL GELİŞİMİ Eray ACAR, Dumlupınar University, Asst. Prof. HUKUK ve İKTİSAT ARAŞTIRMALARI DERGİSİ Volume 4, Issue 1, 2012 ISSN: 2146-0817 (Online)

turned into a development and investment bank which provided municipalities with funding for infrastructure services.

The Metropolitan Municipality model implemented in Istanbul, Ankara and Izmir was expanded under the Law No. 3030 to cover Adana in 1986, Bursa, Gaziantep and Konya in 1987, Kayseri in 1988, Mersin, Eskişehir, Diyarbakır, Antalya, Samsun, Izmit and Erzurum in 1993. With the Law No. 2560, it was decided to establish the Water and Sewer Administration in Istanbul (ISKI) in 1981 and to establish the ISKI model in all MMs in 1986.

The reorganization process gained a serious momentum in the 2000s. The European Union process gained prominence as a main component depending on external factors. Globalization had considerable effects in addition.

The Parliament was sent the draft Law on Municipalities, draft Law on Special Provincial Administrations and draft Law on Metropolitan Municipalities on 03.03.2004. While the Law on Special Provincial Administrations was adopted by the Parliament with the Law No. 5197 on 25.06.2004 and the Law on Municipalities with the Law No. 5215 on 09.07.2004, both laws were returned by the President with certain provisions to be discussed by the Parliament. The Law on Municipalities was adopted again by the TGNA with the Law No. 5272 on 07.12.2004 and enacted on 24.12.2004 following the approval of the President. The Law on Metropolitan Municipalities which was adopted by the Parliament with the Law No. 5216 on 10.07.2004 was enacted following the approval of the President.

The Law No. 5393 on Municipalities adopted on 03.07.2005 abolished the Law No. 5272 of 07.12.2004 on Municipalities.

Therefore, the Law No. 1580 on Municipalities which maintained its presence as the main law since 1930 and the order of municipality it introduced expired due to a need for change and Turkey arrived at a point to implement the new principles of a modern municipality approach with the adopted of the Law No. 5393 on Municipalities and the Law No. 5216 on Metropolitan Municipalities. These laws had in their background the principles of modern management which formed the basis of a restructuring process around the world.

When it comes to the present, there was a need for developing a draft legislation to regulate the legal and institutional structure of Water and Sewer Administrations (WSAs) for filling the gaps in the implementation of numerous laws which regulated water and sewer services in the local administration reform project between 2003-2013 and achieving efficient water and sewer services in compliance with the EU Acquis.

For this reason, it was decided to execute the Local Administration Reform support project funded by the EU under the IPA Funds and performed by the UNDP. The first phase of this project series (LAR I) was performed between 2005-2007, the second phase (LAR II) between 2009-2011 and the last phase (LAR-III) between 2018-2021. The co-beneficiaries of the project are MoI and Ministry of Environment, Urbanization and Climate Change.

The overall objective of the project is to ensure efficient, transparent, inclusive and participatory local governance in Turkey at international standards by continuing to offer implementation support for the local administration reform process undertaken between 2003-2013. The specific objective of the project is to develop and strengthen the administrative capacity and cooperation of MoI and local administrations in the duty of efficiently realizing the new local administration model in line with the principles of democratic governance.

The study under this project aims for “A.1.1.10. Developing recommendations for the development of a draft legislation regulating the legal and institutional infrastructure of Water and Sewer Administrations” under the Local Administration Reform Project Phase III (LAR-III).

1.2 Objective of the Project

Overall Objective

The overall objective of the Project is to ensure efficient, transparent, inclusive and participatory local governance in Turkey at international standards continuing to offer implementation support for the local administration reform process undertaken between 2003-2013.

Specific Objective

There are numerous laws which regulate water and sewer services in Turkey, however, certain gaps in the implementation of these laws complicate harmonization with the EU Acquis in terms of legislation, implementation and investments. The specific objective of this study is to develop recommendations for developing a draft legislation which regulates the legal and institutional structure of Water and Sewer Administrations (WSAs) to assure efficient water and sewer services in the with the EU Acquis.

2 Current Situation Analysis for Water and Sewer Administrations

The reason for existence of local administrations is to perform local and joint public services in the geographical area under their responsibility. In this framework, local administrations undertake a highly critical role in public service provision. This function that can be summarized as offering public service delivery in an efficient and productive way with scarce public resources is also important for improving the life quality of the local people in the remit of local administrations.²

Water and Sewer Administrations are administrative structures created to perform potable and wastewater services in a balanced and holistic way within infrastructure systems across the city. They had only served within the urban area until 2014 when the Law No. 6360 was enacted. With the extension of the service area also to cover the rural under the Law, however, they have been experiencing serious administrative and financial problems in recent years. The requirement under the Law for creating and offering services by a single authority within the provincial administrative boundaries required water and sewer administrations to offer “cost intensive” services. This financial challenge, combined with a lack of organization, led to problems hard to manage by WSAs.

2.1 Preparations

Online interviews were made with 12 WSAs between 17-18 June 2021 under the project conducted to develop recommendations to contribute to preparing a draft legislation which would allow WSAs to use effective local service delivery methods. The interviewed WSAs were the Trabzon WSA, Aydın WSA, Van WSA, Denizli WSA, Antalya WSA, Istanbul WSA, Erzurum WSA, Balıkesir WSA, Muğla WSA, Urfa WSA, Ankara WSA, and Ordu WSA. In this process, an interview form of ten questions was sent to each WSA. In this respect, an interview form of ten questions listed in Annex 2 was prepared and submitted to the WSAs. The interview forms and the responses of the WSAs are provided in Annex 2.

Furthermore, online interviews were made with the Union of Municipalities and the Ministry of Environment, Urbanization and Climate Change, General Directorate of Local Governments on 2 July 2021.

All these interviews and the responses on the questionnaire forms provided a highly productive input for assessment.

Consultation meetings were held in two groups on four days in total between 20-23 September to share the studies on the current situation analysis and legal recommendations with related institutions and create an input for the study. Before these consultation meetings, study forms were created compiling from the headings developed as a result of the assessment of the answers to the questions on the interview forms received from the related WSAs as presented in Annex 2. The study forms are presented in Annex 3.

- The first consultation meeting (20-21 September) was attended by the representatives of the Ministry of Environment, Urbanization and Climate Change,

² “Eleventh Development Plan 2019-2023, Local Administrations and Service Quality Specialised Commission Report”, T.R. Ministry of Development, p.191, Ankara 2018

UMT, Istanbul WSA, Izmir WSA, Balıkesir WSA, Trabzon WSA, Denizli WSA, Antalya WSA, Tekirdağ WSA and Konya WSA.

- The second consultation meeting (22-23 September) was again attended by the representatives of the Ministry of Environment, Urbanization and Climate Change as well as the Aydın WSA, Van WSA, Erzurum WSA, Eskişehir WSA, Urfa WSA and Ordu WSA.

The WSA were divided into groups of five to discuss each article one by one under the coordination of the international and local experts on the study forms presented in Annex 3, and the joint decisions were recorded on the study forms. Two-session activities were held with the study groups. The first sessions evaluated the findings for the current situation as determined during the meetings held on 17-18 June and 2 July as divided by topic on the “A.1.1.10 – Study Paper for Current Situation Analysis” presented in the first part of Annex 3. The study paper and the current situation analysis were further supported by the answers of the WSAs to the questionnaire forms as presented in Annex 2.

The second sessions asked for the participants’ opinions about the findings during the activities performed with the “A.1.1.10 – (Legal) Recommendations Group Study Paper” presented in the second part of Annex 3. The three groups made presentations on both the first and the second sessions and other groups were consulted to for their opinions.

Solid rationales were identified for the need for the study as a result of the activities of the WSA representatives.



Figure 1 Respondent WSAs to the Questionnaire

2.2 Current Situation Analysis for the Legal Framework

2.2.1 Legislation for Water and Sewer Administrations

The basic legal framework is determined by the Constitution of 1982 in Turkey. The legislation is organized by the Constitution, international agreements of a statutory nature, laws, decree-laws, Presidential decrees, regulations, communiques and decisions in the order of priority. There are multiple laws and decree-laws within the framework of the roles, powers and responsibilities of institutions, as well as multiple regulations, communiques and circulars regulating the implementation thereof.

The local administration structure includes municipalities, special administrations and village administrations within the framework of the foundational principles of the Constitution and its procedures. With regard to water, which is under the control and at the discretion of the government on the basis of the Constitution, an institutional and legal organization was preferred based on service delivery under public monopoly starting from the Republican Era until the 1980s. It should be noted that numerous legal regulations were existent on water rights and management, especially the civil law, law on waters, law on villages and law on municipalities, exhibiting a highly dispersed and complicated structure. The use of water for multiple purposes can be considered among the reasons for such a dispersed organizational structure. There was also a rather complicated service organization among the central government and local administrations with regard to the delivery of water services including under the water legislation. The ISKI Law enacted in 1981 was the first step in the reform movement in water services which had been delivered under public monopoly based on the coordination and planning of the DSI until the 1980s. Under this new regulation called the "ISKI Model", it was possible to perform duties for water and sewer services of municipalities through administrations established as separate legal entities. The ISKI model allowed for partnering with the private sector for the delivery of water and sewer services when necessary, even transferring the whole of these services to the private sector under contract. İlbank which played a highly dominant role in the delivery of water and sewer services at the local level moved away from this function of its following the establishment of MMs, transferred its functions with regard to the urban infrastructure in metropolitan settlements slowly to municipalities. İlbank was completely removed from the investment area with the changes in the institutional and legal structure of the bank and turned into a development and investment bank which provided municipalities with funding for infrastructure services. The Metropolitan Municipality model implemented in Istanbul, Ankara and Izmir was expanded under the Law No. 3030 to cover Adana in 1986, Bursa, Gaziantep and Konya in 1987, Kayseri in 1988, Mersin, Eskişehir, Diyarbakır, Antalya, Samsun, İzmit and Erzurum in 1993.

The main legislation which regulates the legal and institutional structure of Water and Sewer Administrations is the Law No. 2560 on Organization and Functions of the General Directorate of the Water and Sewer Administration of Istanbul.

With the ISKI Law No. 2560 of 1981, the General Directorate of the Water and Sewer Administration of Istanbul was established to perform the water and sewer services of the Istanbul MM and establish all kinds of facilities, take over those already established and operate the same from a single centre to this end.

With the Water and Sewer Administration of Istanbul, as an institution operating under the Istanbul MM with a separate budget and public legal personality, a new model was developed to be tried in Istanbul.

With an amendment to the Law No. 2560 under the Law No. 3305³ in 1986, it was decided to implement the model described in the Law to be implemented in all MMs. The Law assigns

³ The Law No. 3305 on Amending Certain Articles of and Adding Two Supplementary Articles and a Provisional Article to the Law No. 2560 of 20.11.1981 on Organization and Functions of the Water and Sewer Administration of Istanbul, Supplementary Article 5.

large powers and roles to the General Directorates of the Water and Sewer Administration between service institutions for water at the local level.

The General Directorate of the Water and Sewer Administration was established to offer water and sewer services within the boundaries of each MM between 1986 and 1993. Water and sewer services in other municipalities are offered by the municipalities themselves. These services are offered by SPAs in areas outside the municipal boundaries. According to the Law No. 5302 of 04.03.2005 on Special Provincial Administrations, the remit of SPAs covers the provincial boundaries. SPAs are units of local administration which are headed by the governor as the representative of the central government, have the representatives from both the central government and the local administration in their decision making bodies, and operate within the provincial or district boundaries. SPAs have roles and powers such as to engage in all kinds of activities to fulfil the roles and services they are assigned under the law; issue permissions and licenses for and inspect the activities of real persons and legal entities as described in the law; enact regulations and orders, issue and implement prohibitions within the authority they are assigned by the law, impose penalties as described in the law; purchase, sell, hire or lease out, exchange movable and immovable assets and put limited real rights on the same for delivery of services; issue licenses to and inspect non-sanitary establishments and places of rest and amusement open to public outside the municipal boundaries. In addition to their duties of delivering services with regard to health, agriculture, industry and trade; the environmental layout plan of the city, public works and settlement, soil preservation, prevention of erosion, social services and aids, micro loans for those in poverty, child hospices and orphanages; supply of land, construction, maintenance and repair of buildings and meeting other needs of primary and elementary schools within the boundaries of the city; they are also responsible and authorized to perform services with regard to land development, roads, water, sewer, solid waste, environment, emergency assistance and rescue, culture, tourism, youth and sports; supporting forest villages, afforestation, and services for parks and gardens outside the municipal boundaries.

The Law No. 6360 extended the service area of metropolitan municipalities to the provincial boundaries in 2014. Again with this law, the legal personality of SPAs and villages in 30 metropolitan municipalities was abolished, and villages was converted to neighbourhoods. It was decided to have their water and sanitation services performed by metropolitan municipalities, affiliate entities or district municipalities. Following this amendment, WSAs to offer water and sewer services in 30 MMs started to offer services to all areas within the provincial boundaries. Under the Law No. 6360, the Special Provincial Administrations were abolished in all MMs, leading to the total number of SPAs to drop from 81 to 51. While the establishment and roles of WSAs are regulated by the Law No. 2560, certain definitions are made in the Law also by referring to the Laws listed in Table 1 below.

Table 1. Governing Laws For Water and Sewer Administrations under the Law No. 2560

| Title/No. of Law | Description |
|-------------------------------|---|
| Law No. 657 on Civil Servants | This Law enacted in 1965 is applicable to civil servants employed in Institutions with General and Annexed Budgets, SPAs, Municipalities, and the unions established by SPAs and Municipalities and their affiliated organizations with revolving funds, funds established under the law, surety funds and the Regional Directorates of Physical Training. This Law regulates civil servants' conditions of service, qualifications, appointments and placements, progress and promotion, |

| Title/No. of Law | Description |
|------------------------------------|---|
| | <p>roles, rights, powers and responsibilities, monthly wages and allowances as well as other personnel procedures.</p> <p>Public services are performed through civil servants, contracted personnel, temporary personnel and workers based on the types of employment under Article 4.</p> <p>A) Civil Servant: Those commissioned in the performance of essential and continuous services executed by the state and other public legal entities according to the general principles of administration irrespective of their current structure are considered civil servants in the implementation of this Law.</p> <p>Those commission and authorized in activities including general policymaking, research, planning, programming, management and auditing in institutions other than those listed above are also considered civil servants.</p> <p>B) Contracted Personnel: Public service personnel decided to be commissioned on a contract to be limited with the financial year in positions to be created according to the principles and procedures determined by the President in temporary works which require special professional knowledge and expertise, exclusive to indispensable and exceptional conditions, required for preparing, performing, operating and ensuring functioning of important projects in development plans, annual programmes and work programmes.</p> <p>The part on Local Administrations and Affiliated and Associated Institution on Row 3 of Table II annexed to the Law No. 657 assigns a supplemental annex of 3600 to the position of Assistant General Manager. The supplemental index is an important factor in determining the monthly wages and retirement pays for civil servants.</p> |
| Law No. 831 on Waters | The Law No. 831 on Waters was adopted in 1926 and basically regulates the supply and management of waters for meeting the needs of people in cities, towns and villages. |
| Law No. 2464 on Municipal Revenues | <p>This Law enacted in 1981 regulates the revenues and codes of practice of Municipalities.</p> <p>Under Article 44-bis of the Law, buildings used as residence, workplace and others which are located within the municipal boundaries and adjacent areas and use sanitation services of municipalities are subject to the sanitation tax. The sanitation tax calculated based on water consumption is considered to have accrued by separately displaying on the water bill. This tax is collected by municipalities together with the water consumption fee. Within the MM boundaries and adjacent areas where water and sewer services are regulated under a separate law, the sanitation tax is collected by water and sewer administrations established under the Law No. 2560 of 20.11.1981. Water and sewer administrations report to the related municipality eighty percent of the sanitation tax they collected from the residential buildings located within the municipal boundaries and adjacent areas in every district or first-tier municipality in MMs, and if the said tax was not paid in due time, of the delay interest they collected together with a notification until the evening of the twentieth day of the month following the collection, and pay in the same period of time. They transfer twenty percent of the collected tax and delay interest to the account of the MM until the event of the twentieth day of the month following the collection to be exclusively used in the establishment and operation of waste disposal facilities. Twenty percent of the sanitation tax represented by the municipalities themselves within the boundaries of MMs is transferred to MMs according to the same principles.</p> |
| Environmental Law No. 2872 | The purpose of this Law enacted in 1983 is to ensure protection of the environment, a common asset of all living creatures, according to the principles of sustainable environment and sustainable development. In all activities in the protection of the environment, prevention of environmental degradation and elimination of pollution, the Ministry and local administrations cooperate with chambers of profession, unions and non-governmental organizations as necessary. Authorized organizations to make decisions on land and resource use and evaluate projects observe the principle of sustainable development in their decision making processes. The benefit of economic activities to be performed and their impact on natural resources are evaluated in the long term according to the principle of sustainable development. |

| Title/No. of Law | Description |
|---|--|
| | <p>The right to participate is essential in creating environmental policies. The Ministry and local administrations are responsible for creating an environment of participation to allow chambers of profession, unions, non-governmental organizations and citizens to use their environmental right. It is essential to use environmentally friendly technologies which reduce waste generation at source and provide waste recovery to ensure efficient use of natural resources and energy in all activities. Expenses for preventing, limiting and eliminating pollution and degradation and improvement of the environment are borne by those who pollute and degrade. Expenses accrued by public institutions and organizations when necessary measures are not taken by the polluter to stop, eliminate or reduce pollution or degradation, or when these measures are directly taken by competent authorities are collected from the polluter under the Law No. 6183 on Procedures for Collecting Public Claims.</p> <p>The sixth and eleventh paragraphs of Article 11 of the Environmental Law requires collection of a fee at a tariff to be determined by the municipal council and other responsible administrations from those who use municipalities' wastewater collection, treatment and disposal services and solid waste collection, handling and disposal services.</p> <p>The sanitation tax is calculated a price per cubic meter based on the water consumption amount and the amount of the sanitation tax and reflected on water bills.</p> <p>In residences, the sanitation tax is calculated based on the water consumption amount and separately displayed in the bill, therefore it is considered to have been levied and accrued. The sanitation tax within the boundaries of MMs and adjacent areas where water and sewer services are regulated by a separate regulation is collected by water and sewer administrations established under the Law No. 2560 on Organization and Functions of the General Directorate of the Water and Sewer Administration of Istanbul. The sanitation tax for buildings used as a workplace and otherwise is listed in a table in 7 groups and 5 levels under the Law No. 2464 on Municipal Revenues.⁴</p> |
| Law No. 5216 on Metropolitan Municipalities | The purpose of this Law enacted in 2004 is to regulate the legal status of the MM administration and ensure planned, programmed, efficient, productive and harmonized performance of services. The provincial municipalities of cities with a total population above 750.000 can be converted to a MM under the law. The Law on Metropolitan Municipalities holds MMs and MDMs responsible for ensuring the protection of water basins, executing water and sewer services, rehabilitation of riverbeds and establishing related facilities. According to Article 7 of this Law, these duties within the boundaries of MMs are distributed among the MM and MDMs. MMs perform their water and sewer services through the affiliated Water and Sewer Administrations (WSAs). |
| Turkish Criminal Code No. 5237 | The purpose of the Turkish Criminal Code enacted in 2004 is to protect personal rights and freedoms, public order and security, the rule of law, public health and the environment, social peace and prevent crime. The law regulates the basic principles of criminal responsibility to this end and types of crimes, penalties and security measures. |
| Law No. 5393 on Municipalities | The Law No. 5393 on Municipalities enacted in 2005 is to regulate the establishment, bodies, administration, roles, powers and responsibilities and principles and procedures of operation of municipalities. A municipality can be established in settlements with a population of 5.000 and higher. It is required to establish a municipality in provincial and district centres. According to Article 14 of the Law, the Municipality performs and causes to perform water and sewer, urban infrastructure, environment and environmental health, cleaning and solid waste services. |
| Regulation on the Principles and Standards of Job Positions in Municipalities and | The purpose of this Regulation is to ensure effective and productive use of public resources and balanced distribution of local services, improve quality in services offered by municipalities, and employ a necessary number of personnel equipped with necessary qualifications and titles. This Regulation covers civil servants, contracted personnel, permanent workers and those in temporary work positions |

⁴ Atık su ve Eysel Katı Atık Hizmetlerinin Ücretlendirilmesi Vergilendirme Tartışmaları ve Tam Maliyetlendirme Uygulaması, TBB Dergisi, June 2015, Dr. Mehmet Ali Özyer, Prof. Dr. H. Hakan Yılmaz

| Title/No. of Law | Description |
|---|---|
| Affiliated Entities and Unions of Local Governments | commission in municipalities and affiliated entities and unions and local administrations that municipalities and SPAs are a member of. In unions of local administrations, personnel required in all kinds of operations related to executing, monitoring, evaluation and coordinating EU supported programmes or projects related to these programmes are outside the scope of this Regulation. It was prepared based on Article 49 of the Law No. 5393 of 3/7/2005 on Municipalities, Articles 21 and 28 of the Law No. 5216 of 10/7/2004 on Metropolitan Municipalities and Articles 17 and 22 of the Law No. 5355 of 26/5/2005 on Unions of Local Governments. |
| SSI Circular on Workers to Become Permanent Staff under the Decree-Law No. 696 | The Decree-Law No. 696 on Making Certain Regulations under the State of Emergency was published in the Official Gazette of 24 December 2017 issue 30280. The Council of Ministers is authorized upon the opinion of the Ministry of Finance and the State Personnel Department and the proposal of MoI to determine the principles and procedures of monitoring recruitment of workers in companies under the scope of this article, the upper thresholds for the share of personnel expenses for workers in total expenses, annual limitations based on the criteria to be determined for workers to be employed for the first time and related procurements and spending. The companies more than half of the capital of which belongs to SPAs, municipalities and affiliated entities separately or together with the administrations listed in the annex (I) to the Decree-Law No. 375 as well as the public administrations in tables no. (I), (II), (III) and (IV) attached to the Law No. 5018 and their affiliated organizations of circulating capital report to the Social Security Institution the workers whose current workplace has the same sector with the workplace of their previous subcontractor before the transition as operating in the current workplace in the said sector, and those whose current workplace has a different sector as operating in the new workplace to be registered in the sector of the workplace of the subcontractor of the worker before the transition, among the workers who are transferred to permanent worker staff, temporary worker positions or worker status under Transitional Article 23 and Transitional Article 24 of the said Decree-Law. SPAs, municipalities and affiliated entities and unions of local administrations they are a member of can have services for employing personnel performed by one of the available companies more than half of the capital of which belongs to these administrations separately or together and from which they currently procure services in this respect, or in the absence of such a company, a new company to be exclusively established for this purpose, through direct service procurement without being subject to the limits and conditions under Article 22 and the limitations under clause (e) of the first paragraph of Article 62 of the Law No. 4734 of 4/1/2002 on Public Procurements. |
| Law No. 5779 on Apportionments from General Budget Tax Revenues to Special Provincial Administrations and Municipalities ⁵ | This Law which was enacted in 2008 and comprehensively amended by the Law No. 6360 regulated the principles and procedures on apportionments from the total collections of general budget tax revenues to SPAs and municipalities. Necessary adaptations were made in the Law No. 5779 on Apportionments from General Budget Tax Revenues to Special Administrations and Municipalities as new metropolitan municipalities were established in fourteen provinces. The share of MMs in the general budget tax revenues collected within the municipal boundaries (other than tax collected from petroleum and petroleum products in Table (I) annexed to the Law on Special Excise) increased from 5% to 6%. The share of MDMs in the general budget tax revenues increased from 2,5% to 4,5% in parallel to the increase in the number of MDMs. Accordingly, the share of other provinces and districts fell from 2,85% to 1,5%. The share of SPAs was reduced from 1,15% to 0,5% as SPAs were abolished in thirty provinces where an MM was established. In total, the share municipalities other than MMs in the general budget tax revenues did not change and remained at the same level of 6,5%. In previous practice, 70% of the share calculated for MMs was directly given to the related MM, and 30% was collected in a pool to be distributed to MMs in proportion to their population. With the Law, these shares were amended as 60% and 40%, respectively, and with regard to distributing 40% collected in the pool, it was provided under the law to distribute the said sum among MMs by 70% based on their population and 30% based on the surface area of the province. |

⁵ The Law No. 2560 refers to the Law No. 2380. The Law No. 5779 abolished the “Law No. 2380 of 2/2/1981 on Apportionments from General Budget Tax Revenues to Municipalities and Special Provincial Administrations”.

| Title/No. of Law | Description |
|---|---|
| Law No. 6107 on Ilbank | <p>Ilbank was established as a development and investment bank of a joint stock company status with legal entity, partners of which were SPAs and municipalities, under the Law No. 6107 on Ilbank enacted in 2011. The bank is associated with the Ministry of Environment, Urbanization and Climate Change. The purpose of the bank is to meet the need for funding of SPAs, municipalities, affiliated entities and unions of local administrations which they are the only members of, develop projects for the local common service for the people living within the boundaries of these administrations, offer consultancy services to these administrations, assist in performing urban projects and infrastructure and superstructure works of a technical nature, and perform all kinds of development and investment banking functions. It can meet the funding needs of companies more than 50% of the shares of which are owned by municipalities, SPAs or unions of local administrations. It can mediate the grant of domestic and foreign sourced funding and grants including the general budget to be used in all kinds of projects of local administrations under the Law on the establishment of the bank. Mediation can be in the form of direct transfer of resources to local administrations as well as assisting the execution of projects to be funded with these resources. The principles and procedures on the execution of these projects to be funded this way are provided in regulation.</p> <p>Upon the request of local administrations, it can perform or cause to perform all kinds of maps, land development plans, surveys, urban projects and infrastructure and superstructure works, provide all kinds of technical know-how and personnel support, perform the control and inspection of works which are partially or completely performed on the loans of the bank solely or jointly with local administrations. It can also have inspection and control works performed through procurement of service or consultation.</p> |
| Law No. 6183 on Procedures for Collecting Public Claims | <p>The Law enacted in 1953 regulates measures on protection of public claims and the principles of forcible collection. The payment order is the first step in the collection of public claims. It is a paper unilaterally issued by the creditor public administration.</p> |
| Law No. 6360 on Establishment of Metropolitan Municipalities and Twenty Seven Districts in Fourteen Provinces and Amending Certain Laws and Decree-Laws | <p>Under the Law No. 6360, 14 provinces were advanced to the metropolitan status, and the "Law on Establishment of Fourteen Metropolitan Municipalities and Twenty Seven Districts and Amending Certain Laws and Decree-Laws" was amended, the boundaries of service were extended to the provincial boundaries for these new metropolitan municipalities and current 16 metropolitan municipalities. Furthermore, with this Law, the legal personalities of SPAs and villages in 30 metropolitan municipalities were abolished and villages were converted to neighbourhoods. It was decided to have their water and sewer services performed by MMs, affiliated entities or district municipalities. Under the Law No. 6360, the remits of both MMs and water and sewer administrations were extended to the provincial boundaries. Therefore, a process of service production and presentation started also in the rural area outside areas of population density.</p> |

Water and Sewer Administrations serve directly or indirectly bound by the laws that local administrations are governed by because they are affiliated entities of MMs and their remits were extended to the provincial boundaries under the Law No. 6360. Governing laws for local administrations are provided in Annex 1.

Although the establishment, roles and powers of WSAs are basically subject to the Law No. 2560 and the foregoing laws referred to within the law, the laws that govern them in terms of service delivery, human resources and funding are presented below in Table 2.

Table 2 Governing Laws for Water and Sewer Administrations in terms of Service Delivery, Human Resources and Funding

| Law Title/No. | Description |
|--|--|
| Law No. 4483 on Trial of Civil Servants and Other Public Officials | The purpose of this Law enacted in 1999 is to identify the competent authorities to permit the prosecution of civil servants and other public officials for the crimes they commit and regulate the procedures to follow. This Law is applicable to the crimes that civil servants and other public officials who fulfil essential and continuous duties required by the public services they perform according to the general principles of administration out of their said duties. Article 3 of the Law authorizes the Minister of Interior to give permission for the prosecution of MM mayors, provincial and district mayors, MM, provincial and district municipal council and provincial councillors; the district governor for town mayors and town municipal councillors in districts; and the governor of the respective province for town mayors and town municipal councils in central districts. |
| Law No. 5018 on Public Fiscal Administration and Control | The purpose of this Law enacted in 2003 is to regulate obtaining and using public resources in an effective, economic and productive way in line with the policies and targets in development plans and programmes, the structure and operation of the public fiscal administration to ensure accountability and financial transparent, preparing and implementing public budgets, accounting and reporting all financial transactions and financial control. This Law covers the financial administration and control of public administrations under the central government, social security institutions and public administrations within the general administration comprising of local administrations. |
| Regulation on Local Governments Budgeting and Accounting | <p>The purpose of this Regulation issued in 2006 is to determine the principles, procedures and standards for preparing revenue and expenses budgets of SPAs, municipalities, affiliated administrations and unions of local administrations, final settlement of accounts, ensure transparency, accountability and uniformity in the accounting and record systems, preventing transactions left out of record, accounting their activities in a healthy and safe manner true to their nature,, preparing and issuing financial statements in a timely and accurate manner, within the framework of the basic concepts of accounting and the generally accepted principles of budgeting and accounting, at international standards, to meet the information needs of the administration and other related persons and form a basis for the final account, and ensure effective functioning of decision making, control and accountability processes.</p> <p>The provisions of this Regulation cover the budget and accounting records and transactions of SPAs, municipalities, affiliated administrations and unions of local administrations</p> <p>The activities which are subject to the corporate tax performed by the administrations covered by this Regulation are only subject to the provisions of this Regulation which are related to the accounting and reporting of budget transactions in terms of the account plan. These activities are subject to the accounting standards, uniform chart of accounts and the principles and procedures for issuing financial statements as defined by Article 175 and Article 257-bis of the Law No. 213 of 4/1/1961 on Tax Procedures.</p> |
| Law No. 4734 on Public Procurement | The Law No. 4734 on Public Procurement defines the principles and procedures for procurements of public institutions and organizations which are subject to the public law or under the control of the public or use public resources. Procurements of goods or services and building works which are paid for from all kinds of resources at the use of municipalities and their affiliated entities of circulating capital, unions (other than those which operate as a professional association and their parent organizations), and legal entities are performed according to the provisions of this Law. |
| Law No. 167 on Ground Waters | The Law No. 167 on Ground Waters enacted in 1960 provides that ground waters are under the control and at the discretion of the state and regulates all kinds of research, use, protection and certification procedures for these waters. This Law assigns the DSI with the roles of drilling or cause to drill wells for ground water research and surveys, distributing ground waters, protecting and certifying ground waters and issuing exploration, use and rehabilitation-amendment certificates. |
| Law No. 6200 on Services Performed by the General Directorate of State Hydraulic Works | This Law enacted in 1953 assigns the DSI with the roles of dam construction, flood protection, irrigation, rehabilitation of marsh areas, hydroelectric power generation, river rehabilitation and performing or causing to perform all kinds of related surveys, projects and constructions, and ensuring the operation, maintenance and repair of these facilities. |

| Law Title/No. | Description |
|---|--|
| Law No. 6085 on Court of Accounts | <p>The purpose of this Law enacted in 2010 is to regulate the establishment, operation, control and procedures of litigation of accounts of the Court of Accounts, the qualifications and appointment of its members, their roles and powers, rights and responsibilities and other personnel procedures, and the election and indemnification of its President and members for the Court of Accounts to engage in inspections to be performed to the name of the Turkish Grand National Assembly, issuing final judgments on the accounts and procedures, and engage in review, inspection and judgment processes under the law, in order to ensure public administrations operate in an effective, economic, productive and lawful manner within the framework of the principles of accountability and financial transparency and public resources are obtained, maintained and used fit for their purposes and targets in line with applicable laws and other legal regulations.</p> <p>The Court of Accounts inspects public administrations and social security institutions within the framework of the central government budget, local administrations, joint stock companies established under special laws or Presidential decrees which directly or indirectly have public share in their capita (other than professional associations of a public organization nature), all kinds of administrations, organizations, enterprises, unions, businesses and companies operating under the administrations or established by these administrations or director or indirectly partnered with by these administrations, and all kinds of domestic and foreign sourced borrowing, lending, loan repayments, use of foreign sourced grants, granting, Treasury guarantees, Treasury receivables, cash management and other related activities, all kinds of resource use and transfers and the use of other domestic and foreign sourced resources and funds including the EU funds performed by public administrations.</p> |
| Law No. 3194 on Land Development and Planning Control | <p>All public and private structures to be built under plans to be located within and outside the municipal boundaries and adjacent areas are subject to the provisions of this Law enacted in 1985. If there are land development plans available comprising of a Master Plan and an Implementation Plan, municipalities prepare or cause to prepare master plans and implementation plans of locations within the municipal boundaries in compliance with the decisions for the regional plan and the environmental plan.</p> <p>Plans take effect upon approval of the municipal council. The metropolitan municipal council decides whether the rural settlement characteristics are preserved for locations which were converted to neighbourhoods after extending the MM boundaries to the provincial boundaries and have a population below 5,000.</p> |

2.2.2 Problems Arising from the Legislation

2.2.2.1 Legal Framework for Service Delivery

Water and Sewer Administrations are service organizations. It is important to establish a balance between the funding and institutional capacity required for service delivery in administrations.

The services offered by WSAs are evaluated from the standpoint of the legal framework below. In this regard, the services offered by WSAs, the Law No. 256 and other laws governing the service delivery of WSAs are evaluated.

The issue of service relates to the roles and powers of WSAs. Other aspects of roles and powers are evaluated in a complementary manner under Chapter 2.3.1.

Water supply and water resources:

As stipulated in the Law No. 2560, WSAs are structures established to “perform water and sewer services and build, take over and centrally operate all kinds of facilities to this end”. Water supply service starts from the source water and ends with the supply to the subscriber. The Law No. 2560 states “...Perform or cause to perform surveys and projects of all kinds of facilities to meet the water need from all kinds of ground and surface resources and allocate water to those who need it, from the source to the subscriber”.

Water supply systems start from water resources and water distribution from these resources. Under the applicable legislation, organizations engaged in water allocation are the DSI (to

allocate water and enter in the water registry in accordance with the Basin Water Allocation Plans) and the T.R. Ministry of Agriculture and Forestry, General Directorate of Water Management (to provide sectoral water allocation and create a water data base in accordance with the River Basin Management Plans).

The organization of water allocation followed by municipalities and metropolitan municipalities is as follows.

- For surface waters; it is necessary to apply to the DSI organization in charge of the region of the basin with the form in Annex 1 to the “Regulation on Water Allocations”,
- For ground waters; it is necessary to apply to the DSI organization in charge of the region of the basin for applications to be made according to the Law No. 167 and the charter. Applications are only valid if documents such as the “Ground Waters Exploration Certificate Application Form” (form 2.7.1), the “Ground Waters Use Certificate Application Form” (form 2.7.2) and the “Rehabilitation and Amendment Certificate Application Form” (form 2.7.3) are submitted in necessary order and the order of priority on the basin is deemed appropriate and these certificates are approved of (form 2.7.4, 2.7.5, 2.7.6).

The fact that the foregoing ***allocation applications take a long time affects WSAs’ potable water resource planning and consequently, related investments***. Installation of potable water supply systems at the water source is also delayed when the water source is not clarified. This leads to loss of time and efficiency in the process of water supply, the most important and vital service of WSAs.

WSAs apply for new allocations with an aim to diversify their sources and bring a solution to occasional water scarcity. The Regulation on Water Allocations stipulates with regard to the right to use water that potable-utility water should be the first priority. However, if water is already allocated to sectors such as agriculture, mining and water use for power generation at the concerned source which an application is made for allocation although it comes after potable-utility water in the order of priority, the WSA’s application for allocation results with long communications and processes. For this reason, ***although potable-utility water should be the first priority with regard to the right to use water as far as water allocations are concerned under the Regulation on Water Allocations, the fact that it is the opposite in practice negatively affects the allocation process of WSAs***.

With regard to the sustainability of the water supply system and continuity of the service, all facilities which are a component of the potable water supply system such as dams, ponds, regulators, water intake structures, treatment, pipelines to city reservoirs, potable water tanks and pumping stations should be planned as a whole. ***In the current situation, there are problems with the operation of and investments in the water supply system due to fragmented ownership***. However, monopoly over authority brings certain requirements on administrative and financial terms. WSAs also have problems due to lack of sufficient budgets in return for the transferred powers. An appropriation model should be considered also to include related rights of expropriation and easement for investments in and operation of these facilities.

Although the Law No. 2560 includes the roles and powers of “preventing pollution of water sources, sea, lake and river shores and ground waters within the region with used water and industrial waste, and establishment of facilities and engagement in operations which might lead to loss or reduction of waters at these sources, and taking all kinds of technical,

administrative and legal measures in this respect”, there is an authority conflict in this respect too. For example, if industrial discharges are not terminated with a wastewater collection system, the authority to control and monitor rests with the Ministry of Environment and Urbanization, thus with the Provincial Directorates of Environment and Urbanization at the local level. Similarly, the Ministry of Industry and Technology can solely decide on the establishment of free zones and industrial facilities especially in basin protection areas. Similarly, under the Law No. 167 on Ground Waters, the DSI is authorized to “...inspect whether wells and water structures comply with the requirements for health and environment, and take necessary measures to protect the natural water level in potable water basins and prevent excessive water withdrawal from sources”.

Consequently, ***WSAs have limited authority to take all kinds of necessary technical measures to prevent loss of water as a result of pollution of sources used for potable and utility water with used water.*** Additionally, the use of ground waters outside the control of WSAs leads to water withdrawal from a water body which is located within the remits of WSAs and used for potable-utility water outside their control. Therefore, this problem will inevitably continue to exist unless WSAs have the authority to control and monitor the quality and quantity of ground and surface water use to supply water within the remits of WSAs. Such authority to control and monitor is also important when the water source used for water supply within the remits of WSAs is located outside the boundaries of the related MM. A situation analysis on water supply and water source investments and funding of investments is provided under Chapters 2.3.3 and 2.3.6.

Rainwater Collection and Flood:

Article 25 of the Law No. 2560 stipulates that “*Construction of facilities for rainwater drainage or operation of this type of facilities are undertaken by ISKI with necessary expenses to be borne by the related municipality. Expenses for the construction or operation of these facilities are not included in tariffs*”. Although construction of facilities for rainwater drainage is defined as if a role of WSAs, the same article also provides the requirement of bearing the related costs by district municipalities. ***The lack of monopoly on rainwater drainage and construction of related facilities, service delivery for their operation and bearing related costs create challenges for WSAs in practice.***

Although WSAs are severally responsible for investment, maintenance and operation of rainwater collection lines in cities which had become an MM and had their WSAs established before the Law No. 6360, the respective activities are performed by WSAs. However, in rather young WSAs, different opinions between district municipalities and the institution cause problematic and unsolved situations even leading to “consulting to the opinion of MoI”.

Article 7 of the Law No. 5216 defines riverbed rehabilitation among the roles of metropolitan and district mayors. However, WSAs are not assigned a role with regard to riverbed rehabilitation under the Law No. 2560. In the current situation, although WSAs are not responsible for lawsuits of rainwater overflows and floods, they are made involved in these cases. Similarly, administrations can also be held responsible for damages caused by rainwater collection canals and floods. Uncertainty in this regard can also be observed in the Flood Management Plans prepared by the DGSA. MMs are also identified as responsible institutions together with the DSI in the implementation of the measures listed in these plans.

On the other hand, as required by the Law No. 6200 and Article 55 of the same Law which stipulates “The modes of application of the necessary provisions of this law are determined

by a regulation”, the structures to be established to provide flood control and the design of these structures are clearly identified in the Regulation on Flood and Sediment Control.

The purpose of the Regulation on Flood and Sediment Control issued in 2019 is to identify main hydraulic design criteria for civil structures designed for flood and sediment control and engineering structures on rivers such as bridges and vents, necessary permission and approval procedures for regulations and other activities on riverbeds and in adjacent areas, interventions with riverbeds and flood control facilities and related measures to be taken, and site delivery before rehabilitation. These roles are undertaken by the General Directorate of DSI under Article 20 of this Regulation and Article 55 of the Law No. 6200.

As detailed above, ***although WSAs do not have roles and responsibilities with regard to riverbed rehabilitation as can be clearly seen from the entire legislation, they are made a party in respective lawsuits.***

Water Management and Land Development

Under the Law No. 5216, metropolitan municipalities and district municipalities prepare land development plans. In land development plans which are prepared and implemented by MMs and DMs, WSAs’ investment programme, planning and implementation play a key role in water basin protection. WSAs submit their opinion on these plans to make the land development plans of municipalities compatible with their investment programmes and operating activities. In the current situation, however, ***the fact that WSAs do not receive feedback on whether the opinions they sent to municipalities are accurately reflected on land development plans and sometimes, their opinions are not taken into account, creates a serious obstacle to sustainability in protection of water sources.*** Similarly, with regard to the solution of land development problems in water transfer lines, long processes cause the investment to be late or sometimes not realized at all. Furthermore, The Ministry of Environment, Urbanization and Climate Change can make an amendment on the Environmental Plan, which is a higher scale plan of land development plans, including decisions on land use and water collection basins which are first degree related to the remit of WSAs without seeking the opinion of WSAs. ***Amendments to the land development plan and environmental plan without seeking the opinion of WSAs affect not only the current service quality but also the entire planning.***

Amendments to the plan might be necessary at locations where WSAs need to invest under the Law No. 3194 on Land Development. ***Delays in the amendments to these plans also lead to delays in the investments of WSAs.***

2.2.2.2 Revenue sources

The Law No. 2560 lists the revenue sources of WSAs.

Tariffs:

Fees to be collected from subscribers in return for water sales and drainage of used waters are the main sources of revenue of WSAs. Article 23 of the Law No. 2560 sets forth the principles of tariff setting and under Article 6, tariffs and increases are determined by the WSA General Assembly. A water sales tariff, a wastewater tariff, a service and guarantees tariff, and a sanctions tariff have been created by the Regulations on Tariffs prepared by WSAs. Service costs related to investment, operation and maintenance determine the respective tariff. As an organization which perform these services, WSAs prepare the tariff and submit to the WSA General Assembly. The current situation analysis on tariffs is provided under Chapter 2.3.3.2.

Apportionments from Tax Revenues

Under the Law No. 5779 on “Apportionments from General Budget Tax Revenues to Special Provincial Administrations and Municipalities”, of the total collection of general budget tax revenues, 1,50% is reserved for municipalities other than the MM, 4,50% for district municipalities in MMs, and 0,5% for SPAs and transferred by the Ministry of Finance to Ilbank. These apportionments from general budget tax revenues are distributed to WSAs through Ilbank. Distribution is as follows:

- Apportionment from Provincial Tax Revenues: Of 6% of the tax revenues within the provincial boundaries, 60% is directly distributed, and the remaining 40% is distributed by 70% by population and 30% by surface area.
- Apportionment from District Municipalities: 30% of the apportionment received by district municipalities from total GBTR collections by their population and surface area is transferred to the related MM.
- 4,50% of the general budget tax revenues across Turkey is reserved for district municipalities within the MM boundaries. Of this 4,50% share, 90% is transferred by population and 10% by surface area to metropolitan district municipalities. This apportionment is distributed as follows;
 - 60% directly as the district municipality share
 - 30% as the MM share
 - 10% as the Water and Sewer Administrations share.

While apportionments from General Budget Tax Revenues are being transferred, deductions are made according to past funding records and planning. WSAs find and suggest that these deductions are not standard. The fact that WSAs do not have sufficient information about the deductions from apportionments transferred to WSAs through Ilbank causes them to consider these deductions non-standard. The fact that the debts transferred from the Special Administration are deducted from these apportionments and it is done over a certain period of time leads to non-standard deviations in the revenues of WSAs.

WSAs which have their remits extended under the Law No. 6360 clearly need an additional budget to serve rural neighbourhoods, but no funding has been transferred additionally for these expenses although they are also assigned the debts of districts with regard to the transactions and procedures transferred to the administrations under the Law.

Contributions from users of water and sewer facilities,

There are challenges in practice in the calculation of the contributions to be collected from those who use water and sewer facilities to the name of the municipality under Articles 87 and 88 of the Law No. 2464 on Municipal Revenues and Article 13 “Revenues” of the ISKI Law according to the principles under the “Regulation on the Implementation of the Provisions on Contributions to Expenses of the Law No. 2464 on Municipal Revenues”. In addition, the fact that procedures are also operated for the concerned contributions under Article 23 of the Law No. 3194 on Land Development leads to duplications in accruals and collections.

Funding under SUKAP

SUKAP is a project executed to support water, sewer and infrastructure projects for which activities began in 2011. In this respect, under the Presidential Decree, a grant support is offered at 50% of the project value from the allowance reserved from the general budget for

municipalities with a population of 25.000 and below, and long term loans are offered for municipalities by Ilbank for the remaining 50%. For the municipalities with a population over 25.000 and listed in the annex to the Presidential Decree, Ilbank allocates loans without the need for compliance with the debt stock limit set forth in the Law No. 5393 on Municipalities. Moreover, the projects of municipalities which do not have their projects ready are given priority in the project design by Ilbank.

2.2.2.3 *Investment and Construction*

WSAs are subject to the Law No. 4734 on Public Procurement. The investments to be made for the continuity of service delivery are contracted under this Law. Moreover, funding should be secured in the first place to realize investments. At this point, WSAs have problems with providing funding. This leads to a bottleneck in realizing investments.

There are challenges with site allocations when the parcel selected for investment is not under the property of the WSA. In urgent investments, project preparation processes can take very long due to adaptation to the technology of the work and the technical specifications prepared under 21E.

2.2.2.4 *Regulations and/or Guides Put Into Force by WSAs*

As described in the foregoing chapters, because there are many institutions in charge of water management in the current situation, there are conflicting roles and powers among certain institutions. WSAs have created regulations in certain service areas to centrally manage services at local administrations. Examples are provided below. However, there are challenges in practice as the sanctions and penal provisions in certain issues under this regulation are also stipulated in the legislation of other institutions. As an example; WSAs have a “Special Provision Project” prepared for water sources. But the Ministry of Environment, Urbanization and Climate Change has control over wastewater which is a source of pollution for water sources generated by mining, geothermal and similar industrial activities. In this regard, WSAs do not have an implementing and sanctioning authority. For this reason, ***there is an authority conflict which prevents participation in management in basins and a problem of coordination in practice despite the stakeholder oriented management approach introduced by the EU Water Frame Directive.***

Below are some examples to the regulations issued by WSAs in various service areas:

ISKI:

- General Directorate of Water and Sewer Administration of Istanbul, Regulation on Wastewater Discharge in Sewers (2013)
- General Directorate of Water and Sewer Administration of Istanbul, Regulation on Potable Water Basins (2011)
- Kazandere and Papuçdere Dam Lake Basins Special Provisions
- Büyükçekmece Dam Lake Basin Protection Plan
- Elmalı 1-2 Dam Basin Protection Plan
- Melen Dam Lake Special Provisions
- ISKI Regulation the Principles and Procedures of Inspection of Rental of Spring Waters and Sales, Handling and Consumption of Ground Waters (2014)
- ISKI Regulation on Subscriber Services Tariffs and Implementation (2018)
- MASKI: Regulation on Wastewater Discharge into the Sewer System

- ESKI: Regulation on Potable Water Basin Protection in Erzurum

2.2.2.5 *Other*

It is a highly critical issue to monitor past-due subscribers and collect debts as a significant portion of the budgets of WSAs comprises of collections from subscribers. Debt monitoring is only possible by locating the residential address of the past-due subscriber. Residential addresses can be accessed over the T.R. identification number at home and abroad and it is only possible if authorized by MoI.

2.3 **Current Situation Analysis for the Institutional Framework**

2.3.1 **Roles and Powers of WSAs**

The main roles and responsibilities of water and sewer administrations under the ISKI Law No. 2560 are as follows;

- Prepare or cause to prepare surveys and projects of all kinds of facilities from the source to the subscriber, build or cause to build facilities for these projects, take over and operate those already established and provide or cause to provide maintenance and repair for the same and engage in necessary renewals in order to meet potable, utility and industrial water needs from all kinds of surface and ground water sources and distribute them to those who need it,
- Prepare or cause to prepare surveys and projects of all kinds of facilities starting from subscribers to the point where these waters are to be collected or discharged; build or cause to build facilities for these projects as necessary; take over and operate those already established and provide or cause to provide maintenance and repair for the same and engage in necessary renewals in order to collect used water and rainwater, remove them from settlement areas and carry to the point of discharge without causing any harm or reuse these waters,
- Monitor and inspect domestic and industrial wastewater discharges,
- Prevent activities which might cause pollution to water sources within the region, sea, lake and river shores and ground waters with used waters and industrial waste and lead to water loss or reduction at these sources, take all kinds of necessary technical, administrative and legal measures, and ensure establishment of facilities for prevention,
- Perform duties assigned to municipalities within the service area with regard to water and sewer services, and exercise powers in this respect,
- Build and operate facilities related to the services of WSAs and participate in facilities which have been or are being established to this end.

2.3.1.1 *Roles and Powers:*

Main problems with regard to roles and powers are described below:

WSAs do not have the right and authority to conclude contracts as in the Public Private Collaboration (PPC) Model (service, management, build-operate-transfer, build-operate-continue, design-build-operate, sell-buy back, rental, transfer of operational rights, concessions etc.).

There is no regulation on providing insurance for services and tools and equipment used to perform services.

Although WSAs have authority with respect to water supply, they are subject to the planning of the DSI with regard to the planning of water sources.

Although they have responsibility for the quality of potable water provided to the subscribers, source control is not feasible because there are multiple institutions beside WSAs in charge of taking measures for protection the quality and quantity of water sources.

Although WSAs have authority and responsibility for wastewater collection and treatment, they do not have the authority of prevention and inspection for industrial wastewater discharged into the wastewater collection system.

WSAs are made obligated to offer services for areas such as rainwater and riverbed rehabilitation which are not among their roles and powers.

Although they have responsibility for potable water supply and wastewater collection, they do not have a say in land development practices at location which need to be served, and they further have challenges with leaving reserved areas for water structures despite being fully requested in land development planning.

2.3.2 Service Delivery and Other Institutions

There is a coordination problem in practice due to an authority conflict which prevents participation in management in basins despite the stakeholder oriented management approach introduced by the EU Water Frame Directive.

- Turkey's water sector has a fragmented institutional framework. There are multiple institutions in the sector. Institutions can be broadly grouped in the following categories: Ministries (Ministry of Environment, Urbanization and Climate Change, Ministry of Agriculture and Forestry, Ministry of Health, Ministry of Interior, Ministry of Labour and Social Security, Ministry of Culture and Tourism, Ministry of Energy and Natural Resources, Ministry of Transport and Infrastructure). These institutions define the legal framework which forms the basis of the activities of WSAs.
- The land development plans of WSAs which need to be compatible with water and wastewater projects and practices are prepared by municipalities (MMs, DMs).
- There are multiple stakeholders engaged in activities for the protection of water basins.
- There are institutions which need to coordinate rainwater management together (DSI, WSAs, MMs, Provincial Health Committee, Investment Monitoring and Coordination Department).
- The DSI is the institution in charge of development of water sources and riverbed rehabilitation (to be coordinated with the MM).
- WSA subscribers are the stakeholders who are delivered services.
- The contractors and service providers which assist WSAs in performing services are the other stakeholders in the system.
- Universities and professional associations engaged in research and development in the water sector are the other stakeholders in the system.
- Technical and administrative inspection institutions (the Court of Accounts, Ministry of Interior, Ministry of Finance Internal Audit Coordination Board, Public Procurement Authority) are among the institutions in the system.

Inter-institutional coordination is yet to reach the desired level in the current situation. Efforts are still put to establish coordination through senior management during a limited number of meetings. Lower levels of management are not authorized with regard to connection and coordination with other institutions although they partake in daily administrative operations. There is no rule or procedure to be followed by the lower level management with regard to

coordination to reach desired outcomes. The main problem is that most institutions have a highly centralized organization. Another important aspect which requires strong coordination is the land development plans that should be prepared and implemented by MMs and DMs. Land development planning is of key importance for the planning and implementation of WSAs' investment programmes and protection of water basins. Although WSAs submit their opinions about the said plans to make municipalities' land develop plans compatible with their investment programmes and operating activities, their opinions are not always taken into account by political decision makers and consequently, disruptions are likely in the service level and quality. Therefore, there is a need for strong coordination among municipalities, district municipalities and WSAs in land development planning and implementation.

Furthermore, the Ministry of Environment, Urbanization and Climate Change can make revisions in the environment plans and land development plans without considering the opinions and recommendations of WSAs. Similarly, the Ministry of Industry and Technology can solely decide on the establishment of free zones and industrial facilities especially in basin protection areas. As a result, WSAs have a bigger burden of funding for their infrastructure development activities and their infrastructure needs and requests are not met.

The ISKI infrastructure operations can be interrupted due to problems with permissions with the General Directorate of Highways.

Problems with permissions to be obtained from the Ministry of Culture and Tourism for renovations in areas of a historical nature can lead to interruptions in operations.

As a result, ***there is no efficient mechanism or procedures for establishing cooperation and coordination among the internal and external stakeholders of WSAs.***

2.3.2.1 DSI (State Hydraulic Works)

In the current situation;

- Rainwater discharge into canals and rivers under the management of the DSI is not permissible, leading to legal and technical problems in practice.
- There are challenges with permissions for horizontal or parallel passes, leading to significantly high costs, in the protocols made with the DSI.
- With regard to land use, other public institutions and organizations not giving permission for land use/delaying the permission process in infrastructure projects performed for public interest causes interruptions and lowers the service quality of WSAs.
- The lack of data sharing among institutions has a negative impact on service delivery. As an example, well licenses not being shared causes problems with monitoring wastewater subscriptions.

2.3.2.2 Ministry of Environment, Urbanization and Climate Change/Ilbank

In the current situation;

- The specifications for wastewater treatment facilities for which project and construction contracts are awarded by Ilbank do not stipulate any works and procedures (waste management plan, environmental management service etc.) to be performed under the environmental legislation. Therefore, these expenses which accrue during the transfer of the facilities to the administrations need to be borne from the administrations' budget.

- In the event of failures in equipment in CWMSs (Continuous Wastewater Monitoring Systems) of wastewater treatment facilities, it takes for the authorized technical service to perform repairs, which causes data loss in the CWMS. However, the facility continues to be operated in the meantime. Because the facility seems in downtime although it continues to be operated, there are interruptions in the earned energy incentives. Such interruptions negatively affect the budget and revisions on the facility/facilities.
- The loans offered by Ilbank have high controlling fees and interest rates, which negatively affects the budget of WSAs.
- Wastewater analyses (open sea discharge-canal discharge) require authorization by the Ministry of Environment, Urbanization and Climate Change, and analyses performed by the Administration's laboratory authorized by TURKAK are not acceptable.
- Article 21(a) Exemptions of the Law No. 2560 stipulates "The immovable assets, facilities, operations and activities of the ISKI used to perform its duties are exempt from all kinds of taxes, duties and charges". However, because the Circulating Capital Charge is not included among exemptions, the fact that the related directorates collect a circulating capital charge from the administration during the Land Records and Cadastre procedures causes challenges in practice.

2.3.2.3 Ministry of Health

Under the Law No. 1593 on Public Health and the Decree-Law No. 663 on the Organization and Roles of the Ministry of Health and Affiliated Entities, inspection and monitoring of potable-utility water are performed by the General Directorate of Public Health operating under the Ministry of Health. As stipulated in the "Regulation on Waters Intended for Human Consumption" issued by the Ministry of Health, samples are taken from locations where water is supplied for 50 or more persons from a source. Under this legislation, samples are taken from the field and sent to the laboratory, and laboratory analyses are monitored. The costs of these analyses put a financial burden on WSAs. Moreover, for example, as the Black Sea Region has a highly dispersed network structure, it is required to take samples from multiple points. This requirement leads to high costs disproportionate to population and negatively affects the budget of WSAs.

2.3.2.4 Ministry of Agriculture and Forestry

There are both administrative and financial problems when the necessary facilities for the investments of WSAs to be made for priority services such as potable water and sewer are located within forest lands or meadow lands.

- When it is requested to certify and allocate areas which are out of certification, on some occasions, the Meadow Commission consider these lands as meadow areas and collect a weed fee. On other occasions, allocation times take long due to procedures for change of classification of meadows.
- It is required to make a forest permission application to the Directorates of Forestry for drilling on forest lands. However, this permission process includes a 2 year preliminary permission process and preparations for a preliminary permission file or a permission file. If drilling operations have a negative outcome, the same process is repeated.

The fact that WSA investments are not distinguished from other investments leads to loss of time and an additional financial burden for WSAs.

2.3.2.5 Ministry of Energy/EMRA

On the energy market regulated by the Ministry of Energy/EMRA, administrations' service buildings are considered in different subscriber groups by their types. The industrial tariff which is set for companies of industrial production is unfortunately not applicable for electric consumption used for potable water supply and wastewater disposal.

There are challenges with data sharing with these institutions. For example, data is requested to compare 5 to 10 years of energy consumption retrospectively for some subscribers. However, there are problems with it and the fact that there is no data sharing and/or a common database established among institutions lowers the speed and quality of service.

2.3.2.6 Ministry of Transport and Infrastructure/General Directorate of Highways

The necessity to obtain permissions for horizontal or parallel passes from the General Directorate of Highways while designing and building infrastructure and superstructure facilities cause the construction to be delayed and sometimes the investment not to be realized at all due to bureaucratic procedures. Moreover, the costs of passing infrastructure routes through the remits and areas of responsibility of these institutions increase the investment costs.

2.3.2.7 Coordination

The below table lists some of the positive examples to coordination mechanisms established with other institutions and organizations (central government, provincial administrations of the central government and local administrations) in areas within the remit of WSAs while performing services.

Table 3 Examples to Coordination Mechanisms WSAs established with Other Institutions and Organizations

| TITLE OF WSA | DESCRIPTIONS |
|--------------|---|
| ISKI | ISKI is in continuous communications with mainly the related Ministries and Istanbul MM, all infrastructure organizations in Istanbul, Water and Sewer Administrations in other cities, universities and municipalities and the private sector. In terms of studies, it is in contact with universities, technocities, research and development centres and the manufacturing industry. It cooperates with related persons and organizations in all its activities and projects within its remit and area of responsibility. |
| Manisa WSA | For all underground works, organizations apply to the Manisa MM Infrastructure Coordination Centre Branch (AYKOMA) which inspects all works for all facilities which are generally underground such as potable water and canal projects, electricity, gas, phone, energy supply projects, central heating channels etc. within the provincial boundaries. Therefore, the works of all organization and municipalities willing to operate in the same area are organized by the AYKOME. By doing so, it is aimed for completing both infrastructure and superstructure works all at once. Public interest is considered by preventing organizations willing to work in the same area from repeatedly disrupting the concerned area and damaging the surfacing. Related Departments and 15 (fifteen) District Offices were established under the District Services Branch to work in coordination under these departments to |

| TITLE OF WSA | DESCRIPTIONS |
|---------------|--|
| | <p>efficiently fulfil their roles and responsibilities according to the requests received by the General Directorate. Other than direct contact with the Departments, the General Directorate also establishes communication and coordination in water and sewer services with district municipalities, district governorates and other institutions through these Offices.</p> <p>To continue with the services of the institution on 24/7 basis, District Offices which operate as provincial organizations hold regular monthly meetings and hierarchic benefits are provided in conclusion of every work and procedure. Therefore, it is considered these District Offices operating under the Department are useful for the institutions as a coordination mechanism.</p> |
| Eskişehir WSA | There is an Infrastructure Coordination Centre (AYKOME) and a Transport Coordination Centre (UKOME). These coordination centres allow for joint operation of all infrastructure organizations in infrastructure services. Necessary measures are taken before infrastructure works begin. |
| Erzurum WSA | Coordination meetings are held with the MM and MDMs in terms of service delivery. For example, after an MDM opened an area to construction, identified the roads and performed necessary filling works, the Erzurum WSA completed the infrastructure. Necessary coordination is provided in areas where operations of the GDH and DSI overlap. |

2.3.2.8 Other Institutions

WSAs are not consulted for their opinions and recommendations during the survey, feasibility and project design processes of potable and wastewater treatment facilities constructed by related ministries within the areas of service and authority of WSAs.

Similarly, WSA technical and administrative personnel are not included in the control committees for infrastructure facilities such as wastewater treatment and potable water treatment, construction and control of which are undertaken by the related ministries, within the areas of service and authority of WSAs. Despite being the final beneficiaries of these facilities, the fact that they do not have any authority in either project or implementation phases can cause problems with the system operation after commissioning.

Problems with obtaining permission for refurbishments in areas of a historical nature from the Ministry of Culture and Tourism can lead to interruptions in the operations.

2.3.3 Financial Management

2.3.3.1 Financial Structure of WSAs

The financial structure of WSAs especially began to be disrupted from 2015. Especially the budget deficit continued at a high level due to a higher increase in expenditures than the increase in revenues, with the exception of 2020. The rate of the budget deficit to the total revenues went as high as 15%. The rate of compensating total operational expenses from water venues dropped from 157% to 114% in this period. The below table outlines the consolidated revenues, expenses and budget balance as well as selected budget ratios for WSAs for the period between 2015 and 2020.

Table 4 30 WSAs' Consolidated Revenues, Expenses and Budget Balance and Selected Budget Ratios

| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|--------------------------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| Bütçe Giderleri | 15,348,203,759 | 18,156,098,669 | 21,514,000,600 | 24,031,514,050 | 24,381,006,013 | 23,256,689,671 |
| Cari Giderler | 9,575,062,926 | 10,932,642,726 | 13,372,625,368 | 14,714,676,583 | 15,348,354,183 | 15,775,323,672 |
| Operasyonel Giderler | 7,652,458,975 | 8,232,852,807 | 9,370,586,939 | 11,438,155,081 | 13,412,289,959 | 14,533,099,989 |
| Sermaye Giderleri | 5,773,140,833 | 7,223,455,943 | 8,141,375,232 | 9,316,837,467 | 9,032,651,830 | 7,481,365,999 |
| Bütçe Gelirleri | 14,180,517,419 | 15,791,617,108 | 19,185,512,071 | 21,260,620,173 | 21,772,651,865 | 22,767,745,277 |
| Cari Gelirler | 14,173,590,965 | 15,757,463,635 | 19,038,356,890 | 21,099,902,584 | 21,715,127,675 | 22,717,665,548 |
| Sermaye Gelirleri | 6,926,454 | 34,153,473 | 147,155,180 | 160,717,588 | 57,524,190 | 50,079,729 |
| Bütçe Dengesi | -1,167,686,340 | -2,364,481,561 | -2,328,488,529 | -2,770,893,878 | -2,608,354,149 | -488,944,394 |
| Cari Denge | 4,598,528,039 | 4,824,820,909 | 5,665,731,523 | 6,385,226,001 | 6,366,773,491 | 6,942,341,877 |
| Su Gelirleri - Cari Giderleri | 3,717,105,094 | 3,654,255,104 | 3,611,169,622 | 4,023,950,257 | 3,106,544,747 | 3,184,941,378 |
| Bütçe Dengesi/ Toplam Gel. | -8.2% | -15.0% | -12.1% | -13.0% | -12.0% | -2.1% |
| Cari Denge/Cari Gelir | 32.4% | 30.6% | 29.8% | 30.3% | 29.3% | 30.6% |
| Oper. Gid./Cari Gelir | 54.0% | 52.2% | 49.2% | 54.2% | 61.8% | 64.0% |
| Personel Gid./Toplam Gider | 13.8% | 12.7% | 10.9% | 10.6% | 12.2% | 13.6% |
| Mal ve Hiz. Al./Top. Gid. | 36.1% | 32.7% | 32.7% | 36.9% | 42.8% | 48.9% |
| Operasyonel Gid./Toplam Gid | 49.9% | 45.3% | 43.6% | 47.6% | 55.0% | 62.5% |
| Top. Op. Gid./Su Gel. | 144.0% | 154.0% | 157.8% | 142.6% | 118.7% | 114.6% |

Source: H. Hakan Yılmaz, Uğur Akarsu, Belediye ve Bağlı İdarelerde Bütçe, Finansal Değerlendirme ve Kredibilite Analizi (2021)

| |
|---|
| Budget Expenditures |
| Current Expenditures |
| Operational Expenditures |
| Capital Expenditures |
| Budget Revenues |
| Current Revenues |
| Capital Revenues |
| Budget Balance |
| Current Balance |
| Water Revenues – Current Expenditures |
| Budget Balance / Total Revenues |
| Current Balance / Current Revenues |
| Operational Expenditures / Current Revenues |
| Personnel Expenditures / Total Expenditures |
| Procurement of Good and Services / Total Expenditures |

| |
|---|
| Operational Expenditures / Total Expenditures |
| Total Operational Expenditures / Water Revenues |

The main development in this disruption is that operational expenditures exceed operational revenues and service production costs increase. Within this development, the share of operational expenditures in operational revenues is above 60%. Therefore service production costs increase in real terms (Yılmaz, Akarsu, 2021). This disruption is especially more prominent in large WSAs.

Table 5 Ratio of Operational Expenditures / Operational Revenues

| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|-------------------------------|------|------|------|------|------|------|
| 30 SUKİ | 54% | 52% | 49% | 54% | 62% | 64% |
| Ankara-İstanbul -İzmir | 43% | 39% | 37% | 43% | 53% | 57% |
| 27 SUKİ | 67% | 67% | 61% | 66% | 70% | 69% |
| 6360 Sonrası Kurulan SUKİ'ler | | | 57% | 72% | 74% | 71% |

Source: H. Hakan Yılmaz, Uğur Akarsu, Belediye ve Bağlı İdarelerde Bütçe, Finansal Değerlendirme ve Kredibilite Analizi (2021)

| |
|---|
| 30 WSAs |
| Ankara-İstanbul-İzmir |
| 27 WSAs |
| WSAs established after the Law No. 6360 |

As the operational budget is disrupted, there is less room for equity use for investments and more outsourcing. While the increase in energy costs and personnel costs in input costs rapidly raises the service production costs, the decrease in the tariffs, loss theft rate and accrual collection performance slows down the increase rate of revenues. Together with these developments, the fact that financial management tools have limited ability to functionally intervene with the process causes measures for service production costs to not be implemented sufficiently. In conclusion, there is a real decrease in equity to be used for investments, which pushes administrations towards outsourcing (Yılmaz, Akarsu 2021).

2.3.3.2 Pricing of Services and Determination of Costs

Tariffs: In tariff setting, calculation is made based on actual values and it is planned to reflect the total system costs on tariffs. While setting the tariff for water sales and removal of used water, it is essential to determine a tariff which would meet management and operating costs, and depreciation costs and provide at least 10% (ten percent) profit. In tariff setting, the assumed measurable water sales amount after deduction of loss following production is the main component. In tariff setting for water sales and removal of used water, management and operating costs are inclusive of energy and material costs, personnel costs, various costs and water distribution and allocation costs. Although the principles of “user pays” and “polluter pays” required under the Water Frame Directive and associated directives are considered in tariff setting, they have not been put to practice yet. The prepared tariffs are discussed at the WSA General Assembly comprising of Municipal Councillors elected at the municipality elections. The tariffs which are approved as a result of these discussions unfortunately remain highly below the tariffs prepared based on complete cost basis. Tariff setting is a process where local politics play an important role. The councillors who are directly appointed through the election system carry responsibilities towards their voters in addition

to all powers conferred by the office. As a result of the fact that local politicians are willing to fulfil their promises given before the elections and have the same concerns towards the new elections, although WSA units try to determine a tariff which meets the costs, mostly these costs are not even discussed at the general assembly or fail to have their approval.

Although a tariff is prepared on complete cost basis and balanced with the budget, the fact that the decision making authority is performed according to political criteria most of the time results in the approval of tariffs which do not meet the budget.

Wastewater Tariff

The Regulation on the principles and procedures of tariff setting for wastewater infrastructure and domestic solid waste disposal facilities published in the Official Gazette of 27.10.2010 issue 27742 **states under Clause 4 of Article 17 that the wastewater tariff cannot exceed 50% of the cubic meter water fee, which contradicts the principle of tariff setting on complete cost basis.** In calculations on complete cost basis, wastewater collection and treatment costs exceed 50% of the cubic meter water fee and the real cost is not reflected on the tariff. However, wastewater treatment facilities offer services for environmental protection with high operating costs.

Rural Tariffs

Under Supplementary Article 3 of the Law No. 5216 on Metropolitan Municipalities enacted in 20014 (Annex: RG - 16/10/2020-7254/Article 10), neighbourhoods which were converted to a neighbourhood from a village or a town municipality and are located within the MM boundaries and determined to have the characteristics of a rural settlement upon the decision of the metropolitan municipal council upon the decision and recommendation of the district municipal council considering their socio-economic status, distance to the provincial centre, accessibility to municipal services, current housing status and similar conditions are accepted as rural neighbourhoods. Under the Law No. 2464 of 26/5/1981 on Municipal Revenues, at settlements determined as rural neighbourhoods or rural settlements; the fee for potable and utility water is 50% of the lowest tariff for workplaces and 25% for residences. **This privilege of determining the fee for potable and utility waters not to exceed 25% the lowest tariff until 31/12/2022 (date included) in villages with terminated legal personality according to Transitional Article 1(10) of the Law No. 6360 leads to a serious fall in the revenues of organizations and institutions which deliver services to thee places.** Considering factors such as the high distance from these locations to service providers, scarce or distant water sources, geographical conditions preventing service delivery and very low population density, the amount of investment at these locations significantly increased and the cost of investment per capita reached very high levels. In these areas where water is supplied as a result of tariff discount incentive in rural neighbourhoods, sometimes subscribers shut down wells, do their agricultural and garden irrigation with potable water and lead to excessive use of potable water with high costs and as a result, the fee collected for the delivered service remains below the related costs and water cannot be delivered to upper layers, preventing quality service delivery.

Rainwater and Riverbed Rehabilitation

Under Article 25 of the Law No. 2560, the construction or operation of the facilities for removal of rainwater is performed by WSAs with necessary expenses to be borne by municipalities. The statement reads "Expenses for building or operating these facilities cannot

be included in tariffs". In the current situation, however, WSAs face DMs and MMs in the performance of these investments and services and have a loss.

Similarly, riverbed rehabilitation is another issue which make WSAs face the DSI. Although it is not defined among the roles of WSAs, WSAs are the first ones to intervene with floods and overflows for delivering fast solutions to the public and there is no tariff for the delivered service (scoops, labour etc.) and WSAs are not paid for this service.

In addition to not compensating the delivered service, in the current situation, WSAs are forced to be a party in lawsuits of rainwater and flood and overflow although they are not in charge.

2.3.3.3 Borrowing, Use of Loans and Fund Transfer

Municipalities borrow because of revenue-expense imbalance, in other words, budget and funding deficit. While municipalities are granted the option of borrowing under the legislation, there are certain limitations to prevent future difficulties in repayment in case of excessive borrowing and interruptions in the activities of municipalities. Article 68 "Borrowing" of the Law No. 5393 on Municipalities regulates the principles and procedures of the borrowing of municipalities. There are two limitations to the borrowing of municipalities according to the related article:

- An annual limit to internal borrowing (authority for the body to decide on the borrowing decision)
- A limit to the total debt stock

While there is no problem with obtaining the authority for borrowing in municipalities where the majority in the Municipal Council is from the same political party, there are problems with obtaining the authority for borrowing on other occasions. Not complying with the borrowing limit is subject to judicial and financial sanctions.

Law Articles:

68-d) The internal and external debt stock amount, interest included, of municipalities and affiliated entities and companies where they held more than fifty percent of the capital cannot exceed the most recent final budget revenues total increased by the rate of revaluation to be determined under the Law No. 213 on Tax Procedures. This amount is applicable one and a half times for MMs.

68-e) Municipalities and affiliated entities and companies where they held more than fifty percent of the capital can make internal borrowing which does not exceed ten percent of their most recent final budget revenues increased by the rate to revaluation to be determined under the Law No. 213 on Tax Procedures during the related year with the decision of the municipal council and which exceeds ten percent of the same with the decision of the absolute majority of the full members of the council and approval of the Ministry of Environment, Urbanization and Climate Change.

According to the ISKI Law No. 2560, WSAs can obtain credits and loans from domestic organizations, Ilbank and overseas organizations with the permission of the Ministry of Finance. With regard to loans to be obtained from Ilbank, WSAs are subject to the provisions on loans given to administrations and organizations listed under the first article of the Ilbank Law.

Article "Budget Revenues" of the Law No. 5216 on Metropolitan Municipalities lists among the revenues of MMs the sums to be transferred as a result of the excess between the revenues and expenses in the final accounts of affiliated entities. The transfers by WSAs to

municipalities as required by this article make it hard to fund future investments. For this reason, it can take up to 4 to 5 years for WSAs to include respective investments in their investment plans.

As of the end of 2020, total liabilities reached 33.1 billion TL (GDP rate 0,22%) and the burden of debt as total liabilities reached 150% (Yılmaz and Akarsu, 2021). This shows us a significant number of WSAs (especially those recently established) reached the borrowing threshold. Therefore, many WSAs reached a critical point on financial terms.

2.3.3.4 Revenue Diversity

Under Article 13 of the ISKI Law No. 2560, WSA generates revenues from the following sources:

- a) Fees to be collected from subscribers based on the tariff in return for water sales and removal of used water,
- b) Contributions to be collected to the name of the municipality from the users of water and sewer facilities under the Law on Municipal Revenues,
- c) Apportionments for municipalities other than MMs, district municipalities in MMs and SPAs from the total collections of general budget tax revenues of the municipalities in the area of service under the Law No. 5779 on “Apportionments From General Budget Tax Revenues to Special Provincial Administrations and Municipalities” (for details, see Chapter 2.2.2.2),
- d) State aids in return for big and main investment programmes,
- e) Revenues generated from facilities and enterprises to be transferred to WSAs,
- f) Revenues from fees for private services for real persons, organizations and institutions, from partnerships and sales of goods,
- g) All kinds of other aids and donations, and other venues.

WSAs have a highly disproportionate responsibility-revenue balance. Despite numerous responsibilities, there are lawful obstacles to certain practices which may contribute to increasing revenues. For example;

- The costs of training and consultancy services offered to domestic and international water organizations/administrations/stakeholders are not included among the revenues of WSAs under the legislation.
- The budget excess that WSAs will use to compensate their operating and maintenance, investment and funding costs is not left to WSAs but transferred to MMs.

Under the Law No. 6360, the legal personalities of SPAs and villages were terminated, and it became necessary to reorganize the revenues of MMs, MDM and special purpose metropolitan organizations to duly offer services to these locations. However, the revenues of municipalities and affiliated entities were not increased, rather increasing their share in the collections of general budget tax revenues was preferred. Under the Law 6360, apportionments were designated from the central government tax revenues in three separate categories for MMs, MDMs and other municipalities. Accordingly, MMs first receive 6% of the tax revenues collected by the central government within their boundaries. An MM receives 60% of these revenues directly. The balance of 40% is collected in a pool and 70% of this sum is redistributed by the population and 30% by the surface area of MMs. 4,5% of the tax revenues collected by the central government is allocated to MDMs. 90% of this apportionment is distributed by the population and 10% by the surface area of municipalities.

Of the revenues reserved for the district municipality, 60% remains with the district municipality, 30% is given to the related MM, and 10% to the water administration.⁶

- The fact that the sanitation tax and Domestic Solid Waste fees are collected through water bills leads to an additional burden and loss of time and labour for WSAs.
- WSAs are not paid according to the amount of water use from those who directly use ground and surface water sources for potable and utility water.

2.3.3.5 Subscription Process

In subscription applications (other than online applications) missing papers cause the application to be rejected. This leads to delays and queues during subscription procedures and negative reactions from citizens.

The fact that subscriber groups are not standard in all WSAs leads to problems in practice. There is a need for a new regulation to clear off receivables of WSAs which cannot be collected (dead subscribers, those who cannot be located, residing in demolished buildings etc.). There is no final provision in the law to cut off water of past-due subscribers.

When the subscriber or a person to receive the notice cannot be located at the residential address, the notification or notice delivered to the address is not considered duly served.

There is no sanction for past-due water subscribers in the processes and procedures in other public institutions (tax administration, SSI, land register and cadastre, municipality).

2.3.3.6 Sales of Immovable Assets

As the Law No. 2560 does not include any clear provision on the Sales and Transfer of Immovable Assets, there are hesitations in practice. In some WSAs, the sales of immovable assets requires the approval of the MM General Assembly. Therefore, procedures can take long with interruptions.

2.3.3.7 Incentives

The theft-loss rates are very high in provincial centres and urban networks need renovations. Renovations are delayed in the networks of central neighbourhoods due to a lack of funding and a large part of investments being made in the rural. ***As incentive mechanisms to reduce the theft-loss rate are lacking, necessary investments cannot be realized.***

2.3.3.8 Service and Vehicle Insurance

Tools, vehicles and equipment used for service delivery need insurance.

Motor vehicle insurance is not possible for vehicles with a government plate.

2.3.3.9 Other

While many institutions are exempt from litigation charges, WSAs are not.

2.3.4 Institution Management

2.3.4.1 Management Bodies of WSAs (General Assembly, Administrative Board, Auditors, General Directorate, Departments)

According to the ISKI Law No. 2560, the management of Water and Sewer Administrations is performed by four bodies, namely the General Assembly, Administrative Board, Auditors and General Directorate.

In the current situation, the Administrative Board is comprised of a president and five members, headed by the MM Mayor. The General Manager and Assistant General Manager are ordinary members of the Administrative Board. The other three members of the

⁶ UMT, 2015: 46, 47

Administrative Board are appointed upon the recommendation of the MM Mayor and approval of the Ministry of Environment, Urbanization and Climate Change. Board members are authorized to inspect the execution of the decisions of the Administrative Board according to the law and legislation. Members cannot be commissioned without the decision of the Administrative Board. Members of the Administrative Board have a 3 year term of office and can be appointed again after expiry.

The fact that WSAs' Administrative Board Members cannot be appointed by the President and Assistant General Directors do not have a seat in the Administrative Board makes the Administrative Board less efficient.

The presence of up to 4 assistant general directors to assist the General Director in the performance of the General Directorate services according to the ISKI Law No. 2560 is determined according to the Permanent Staff, not the institutional capacities of WSAs. This presents an obstacle to improvements in the operations of WSAs.

The present Law provides for the establishment of the General Directorate, Departments as required by the service, the Directorate and sub-units operating thereunder. However, this flexibility of WSAs was terminated with the Regulation on Permanent Staff issued after the establishment of WSAs. ***The administration does not have the right and authority to create an organizational structure within large boundaries.***

The positions which require expertise in WSAs are filled by the members of the said profession. Department Heads, President of the Inspection and Control Board and the 1st Legal Counsel are appointed upon the recommendation of the General Director, the decision of the Administrative Board and the approval of the MM Mayor; directors, technical staff, lawyers, inspectors, deputy heads of departments and doctors are appointed upon the recommendation of the General Director and the decision of the Administrative Board, and other WSA personnel are appointed by the General Director. The fact that all technical appointments for technical personnel are received by the Administrative Board as WSAs are technical establishments challenges and slows down the process.

According to the Law No. 2560, the operations of WSAs are audited by two auditors to continuously work during their term of office. Auditors report to the General Assembly on the shortcomings, interruptions and illegal transactions they identify in the operations of WSAs. In the current situation, the fact that the reports prepared for auditors by WSAs which are required to be inspected by the Court of Accounts do not have a sanctioning power makes this position non-functional.

The fact that other than the direct members of the Board (MM Mayor, General Director and Assistant General with the longest term in the office), the remaining 3 members to be in the office until the next local elections (3 years currently) are recommended by the MM Mayor and approved by the Ministry of Environment, Urbanization and Climate Change has a negative impact on local administrations and local decision making processes. Furthermore, there is a limitation with the regulation that the Assistant General Director with the longest term in the office is an ordinary member to the Administration Board.

2.3.4.2 Modes of Operation (General Assembly frequency etc.)

According to the ISKI Law No. 2560, the WSA General Assembly gathers with a special agenda in May and November every year. General Assemblies, held twice a year, fail to serve to the purpose of fast decision making.

2.3.5 Human Resources Management

2.3.5.1 Personnel Rights

- Wage difference among personnel with the same roles and responsibilities leads to poor motivation in personnel.
- Water and sewer services are generally very dangerous and classified as hazardous work. The personnel in these institutions are not given service increments.
- WSA Department Heads and MM Department Heads have different supplemental indexes.
- The place of WSA directors and the General Director is at the discretion of the governor under the law with regard to the regulation issued in 2012 and this situation causes problems in practice.
- As the Law No. 5216 made improvements to the personnel rights of Department Heads and First Legal Counsels, this regulation did not include administrations operating under MMs, therefore Department Heads and Legal Counsels in the related water and sewer administrations which are affiliated administrations cannot benefit from this improvement.

2.3.5.2 Legislation

In the current situation, WSA personnel are subject to the provisions of the Law No. 657 on Civil Servants. However, WSA personnel cannot benefit from the Law on Prosecution of Civil Servants.

Furthermore, it is possible to start an investigation about WSA personnel without obtaining permission from the civil administrator.

2.3.6 Investment Programmes

According to the provisions of paragraph (d) of Article 9 and paragraph (c) of Article 11 of the ISKI Law No. 2560, an annual investment programme is prepared to reach the objectives, targets and performance indicators in the strategic plan and performance programme according to the principles in the Investment Programme Preparation Guide issued every year by the Strategy and Budget Office of the Presidency. The Investment Programme and Plan takes effect upon being approved by the WSA General Assembly held in the Municipal Council. Preparations for the budget for investment plans and the financial programme are made by the Strategy Development Departments (Departments of Financial Services in some administrations).

2.3.6.1 Strategy Development and Planning

In the current situation, strategic plans are prepared in WSAs and it is not included among the roles of WSAs. There is a gap in the legislation with regard to the preparation and approval process of strategic plans. The performance indicators provided by WSAs in the strategic plans are not standard and traceable.

3 Current Status in EU Countries

Prior to the interviews, the International Individual Consultant (IIC) prepared a structured survey questionnaire, presented in annex 3, which was used by interviewed persons to organize their presentation. Interviews were conducted bilaterally, online and lasted approximately 1-hour long. TAT, LIC and IIC attended each meeting.

General aspects of WSA governance were approached during these online meetings with particular focus on:

- Legal and institutional framework review of types of Water and Sewerage Administrations.
- Problem areas in terms of which hinders the effective working of administrations, including their relations with other government organs and private sector service providers (if any).
- Financial relations and transfer mechanisms between Water and Sewerage Administrations and their municipal owners and other government entities (if any) and related transparency issues.
- Harmonization of EU Acquis and internalization problems.

3.1 EU legal Framework

In UE, water distribution and supply services and waste-water services are considered as services of general economic interest. Although, governance of water and waste-water services is not directly addressed in EU legislative directives, their functioning couldn't be well presented without an introduction to the EU legal framework. Three directives are to be considered here. They are briefly presented above as a preliminary context to the WSA description.

3.1.1 Drinking Water Directive

The Drinking Water Directive was adopted in 1998; it concerns the quality of water intended for human consumption. Its objective is to protect human health from adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. The Directive laid down the essential quality standards at EU level. A total of 48 microbiological, chemical and indicator parameters must be monitored and tested regularly.

The Drinking Water Directive applies to:

- all distribution systems serving more than 50 people or supplying more than 10 cubic meter per day, but also distribution systems serving less than 50 people/supplying less than 10 cubic meter per day if the water is supplied as part of an economic activity;
- drinking water from tankers;
- drinking water in bottles or containers;
- water used in the food-processing industry, unless the competent national authorities are satisfied that the quality of the water cannot affect the wholesomeness of the foodstuff in its finished form.

The Drinking Water Directive prescribes the **obligation to establish water supply zones and adequate monitoring programs**. The Directive also requires providing regular information to consumers.

3.1.2 Urban Waste-Water Treatment Directive

The Urban Waste-Water Treatment Directive was adopted in 1991; it concerns the collection, treatment and discharge of waste waters. Its objective is to protect the environment from the adverse effects of urban waste-water discharges and discharges from certain industrial sectors.

The Urban Waste-Water Treatment Directive requires:

- the collection and treatment of waste-water in all agglomerations of >2000 population equivalents,
- secondary treatment of all discharges from agglomerations of > 2000 population equivalents,
- more advanced treatment for agglomerations >10 000 population equivalents in designated sensitive areas and their catchments,
- pre-authorisation of all discharges, monitoring of the performance of treatment plants and receiving waters,
- controls of sewage sludge disposal and re-use, and treated waste-water re-use whenever it is appropriate.

The Urban Waste-Water Treatment Directive prescribes the **obligation to designate sensitive areas** (sensitive water bodies) and to identify the relevant hydraulic catchment areas. The Member States shall also **establish a technical and financial program for the construction of sewage collecting systems and wastewater treatment plants**. In addition, they shall guarantee access for the public to relevant information and reports on the status of wastewater collection, treatment, disposal, re-use of sludge.

3.1.3 Water Framework Directive

The Water Framework Directive was adopted in 2000; it concerns general protection of the aquatic ecology, specific conservation of unique and valuable habitats, **protection of drinking water resources**, and protection of bathing water.

The Water Framework Directive establishes the obligation to identify all the river basins lying within their national territory and assign them to individual river basin districts. By December 2003 at the latest, a competent authority had to be designated for each of the river basin districts.

For each river basin, an analysis of the characteristics description and an economic analysis of the water uses must be carried out. Management plans must be produced for each river basin district, including measures seek to:

- prevent deterioration, enhance and restore bodies of surface water, achieve good chemical and ecological status of such water and reduce pollution from discharges and emissions of hazardous substances,
- protect, enhance and restore all bodies of groundwater, prevent the pollution and deterioration of groundwater, and ensure a balance between abstraction and recharge of groundwater,
- preserve protected areas.

The Water Framework Directive prescribes that water pricing policies provide adequate incentives for users to use water resources efficiently and that the various economic sectors contribute to the recovery of the costs of water services including those relating to the environment and resources.

3.2 European Case Study

European countries benefits of a relatively long history of structuration of Water and Sewerage Administrations. As a result of the diagnosis conducted prior to this report, the case studies are gathering both national research and a survey at municipal level. First, we will review the most important legal and institutional aspects of WSA' in selected countries; then, we will focus on certain important functional important legal and institutional aspects in selected EU municipalities.

3.2.1 Differences in National Contexts

3.2.1.1 Italy

Since the 1994, Italy completed its reform of the water sector with a new legal framework for integrated water resources services. The establishment of "Optimal Territorial Units" (OTUs) led to optimization encouraged by compensations for water distribution, sewer system, wastewater treatment and investments. The rationale of this reform was to create integrated management of the entire water cycle, based on entrepreneurial criteria and to reduce fragmentation in the management. Additionally, a new fee system progressively helped achieve full financial coverage of operating, investments and financial costs.

New WSAs were now gathering the public services of drinking water sourcing, adduction and distribution, and the sewage and treatment of wastewater.

The identification of Optimum Territorial Units (OTUs) by regional authorities help identify WSAs capable of guaranteeing the achievement of adequate operational dimensions and overcoming existing operational fragmentation. These more coherent and rationalized water services management zones were designed to provide services at the lowest possible cost while targeting significant economies of scale by generating sufficient revenues to cover operating and investment costs. The management structures must guarantee a clear separation between the corporate structure itself and the decision making public institution that is in charge of planning and control. Rate policies tend to guarantee full coverage of investment and operating costs. Rates are to be equally applied throughout each OTU, and to provide for the costs of water distribution, sewerage and treatment.

As a consequence, direct municipal operation of WSA was reduced while special companies and public/private joint ventures were encouraged. Italy progressively moved from a fragmented system to more concentration at municipal and provincial scale, depending on the size and population serviced. The reform reinforced the position of metropolitan and provincial WSAs and conducted many beneficial transformations of the sector (improvement of service quality, better technical capacities, increased services cost recovery).

Italy created a national regulatory authority for electricity, gas and water in 2011 (*Autorità per l'energia elettrica il gas e il sistema idrico - AEEGSI*). Twelve persons work for this organization, which is in charge of all the water operators in Italy.

3.2.1.2 Germany

Germany is characterized by high number of small water suppliers and sewage disposal companies. There are approximately 6500 water supply and 7000 sewage treatment companies with heterogeneous capacities. Approximately 80% of the companies are organised under public law and approx. Among the 20% of companies under private law, only 1,5% are owned by private funds (more than 51% ownership).

The federal government's responsibility for water is limited to enacting the necessary framework legislation, which is then completed by lander's legislation. EU legislation is transposed into federal and Laender legislation depending on the subject matter. Based on the self-administration principle, the municipalities have the responsibility to organise the water and sewage, according to their lander water legislation. The municipalities are granted the right to self-administration in order to fulfil this obligation independently and autonomously. They act as monopoly in their respective water services area. Following obligation of municipalities for providing basic services, water supply and sewerage collection stand on their shoulders. Consequently, municipalities are also granted the right to organise freedom of competition in this field. It is also up to them to choose whether they organise the water sector in the form of a municipally-owned company or as an outsourced service provided by a private company.

The small-scale structure of operators and their absence from international markets was regarded as the main motivation to consider a restructuring of the water sector in Germany at the end of the 20th Century. Liberalisation of the German water sector met strong opposition by various institutions. With regard to the innovation capacities and performance which cannot be guaranteed any longer by a liberalisation of the water market, the debate progressively shifted towards modernisation including the obligation to invite tenders for municipal-owned operators. As stated by local national experts:

*"Although management of water supply or waste water systems by companies which are 100% in private ownership is allowed, this model is rejected even from most part of the private operators as well as from a wide range of other actors in the water sector. Any participation of private companies in water services management is criticised by trade unions, environmental organisations and consumer association. These interest groups fear that the involvement of private operators is the beginning of a slow movement towards full privatisation of the water sector as it happened in the UK. Furthermore, it is feared that private monopolies will result in reduced municipal control and a loss of democratic participation in decisions with regard to water issues. According to the critics of privatisation, private operators will not be interested in sustainable protection of water resources and the environment, in enhancing drinking water quality and in maintaining the technical infrastructure if this does not fit with their business logic. French and British examples of successful or unsuccessful privatisation play an important role in these arguments."*⁷

Generally speaking, in Germany, WSAs are obliged to work cost-effectively and the idea of subsidising is commonly rejected. It makes sense only in some rare cases such as difficult

⁷ J.-A. Faby, S. Mohajeri, B. Knothe, D.-N. Lamothe. Aqualibrium: European water management between regulation and competition. Brussels, European Commission, 2003.

socio-economic situations. In this case, limited regional subsidies are considered as a possible temporary solution.

3.2.1.3 Spain

In Spain, municipal entities are legally responsible for urban water supply and wastewater treatment (quality, guarantee of supply, standards, etc.), while Autonomous Communities (provinces) may construct wastewater treatment plants and give financial support for their maintenance, since the amount of investment needed for these is usually very high and the importance of this infrastructure is considered to be of supra-municipal interest.

Municipalities which decide to delegate water services operation can organize a competitive public tender to establish the best offer. Operating licenses are delivered by municipalities based on national standards and rules.

State legislation specifies operators' obligations and parameters to be complied with within public services contracts. For instance, the suspension of contractor services is not permitted based on the principle of continuity of services, users information, etc.

In situations where municipalities choose to delegate part of the service, WSA remain responsible to control and regulate the company that was granted the license to supply a service. Additionally, municipalities, being responsible for water services, can establish more accurate and specific clauses and contract specifications and conditions.

Nowadays, in Spain, the shared WSA companies model is recognized as a cost-efficient form allowing some participation of private shareholders to public services. Quality standards and service continuity of urban WSAs have greatly improved in Spain over the last decades.

3.2.1.4 France

3.2.1.4.1 Commercial Public Services

In France WSA are non-profit organisations of general interest or “commercial **public services**” alike public transportation for instance, to be distinguished from “administrative public services” like schools, justice and... storm waters management (see related section below).

The organisation of water public services being under municipalities' responsibility, the role of the National regulatory authority is relatively limited. WSAs can be organised by one single municipality or by a group municipalities to which the responsibility of the service is transferred. The service may be operated directly or by a public operator established by the municipality (or a group of municipalities) or may be delegated to a private company. In such case, delegation covers at least the operation of the service and may also integrate the investments. In practice, there is a wide range of combinations of municipal scales and of management schemes. As a general statement, small and rural WSAs are sometimes facing difficulties to ensure full-time water quality due to the lack of technical skills and their financial capacity.

Notwithstanding their management model, all French WSA must follow certain general accounting rules:

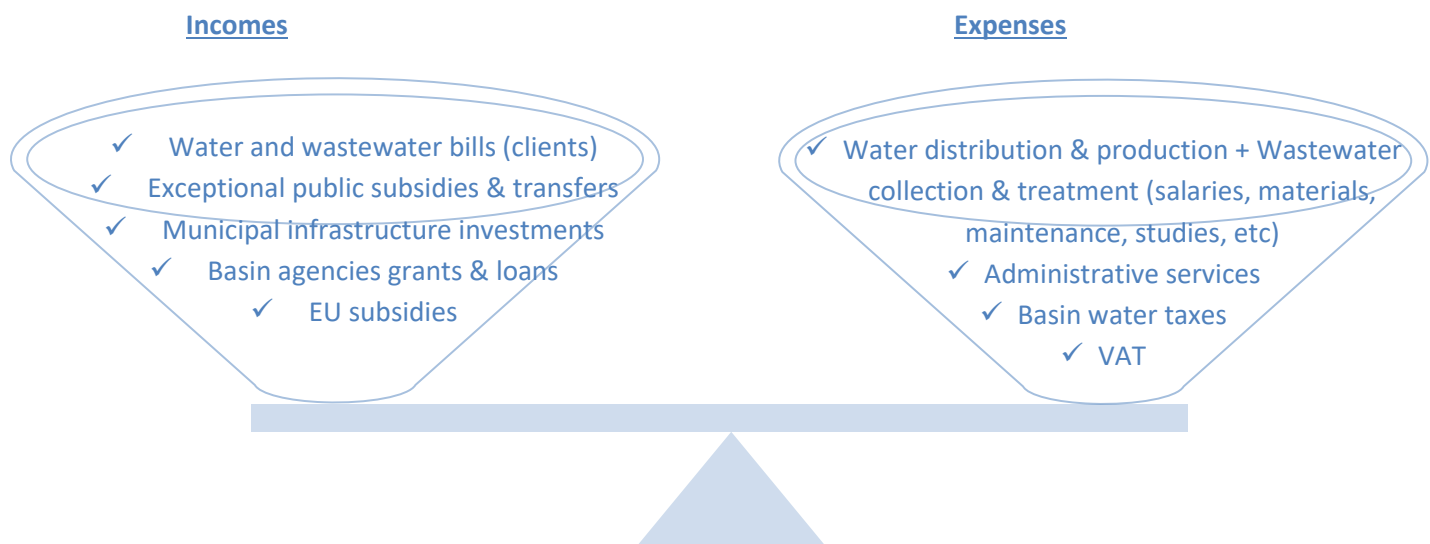
- Budget separated from the general budget of the Municipality, even if the WSA is managed under the direct public management model (“régie directe” or direct control).
- Basic accounting principles such as: equilibrated and balanced budget, expenses must be linked with incomes, depreciation and amortization, apply (although there are some differences between private law and public law accounting rules).

- No transfers are authorized between the Municipality towards the WSA and vice versa although, in practice, costly long-term investments are benefiting from municipal subsidies and other public grants due to the importance of the financial burden they represent for the municipality (i.e. restoring or building treatment plants).
- Based on the principle of reality of costs, the water and sanitation tariffs compensate the price of the services delivered so that WSA are funded by the users. As a consequence, operating budget must be compensated by the tariffs.

French WSA are not allowed to foresee to make benefits in their budget plan. If any, benefits shall be reinvested in the operation of the service. WSA have investment budget to help to provision for future large expenses. In practice, Municipality, Province subsidies, State and basin agencies are paying for large investments such as network extensions, plants

3.2.1.4.2 Budgeting Principles

Fundamental rules apply to all services, whether they are operated by public or private companies. Whatever the management model, WSA always remain under municipality's responsibility and control. WSA's budget is distinct from municipalities. A balanced budget must be established every year, integrating financial costs and depreciation. **Financial resources mostly come from consumers.** Financial cross transfers between the two budgets are prohibited, except for very small municipalities under 3000 inhabitants. Service must be equally ensured to all consumers, depending on their situation (quality, price). Full-time supply must be guaranteed in all circumstances. If not, the operator must inform consumers in advance. WSA budgeting mechanisms in France are complex (see also financing aspects and funding mechanisms presented in detail in paragraphs below), one can find general items of incomes and expenses such as in the illustration below.



In case of a delegation to a private sector operator, specific **competition rules** apply between operators participating to a tender procedure. In case there is a private operator, the procurement and bidding procedure are carefully framed and detailed by Law and the contracting documents are submitted to a legal control from State administration. The content and term of the contract, the price of the service, and calculation method for revaluation of price, are also strictly regulated. Finally, private and public operators must

provide the mayor with an annual report containing technical and financial information. In principle, private operators are accountable to the municipality.

Whatever the model, the issue of the **quality of the service** delivered by the WSA somehow depends very much on the control conducted at municipal level. Therefore, they consider that all operators ought to be equally controlled to this respect. To this regard, large (direct or indirect) public operators often use management to demonstrate that they are genuine challengers to private operators relatively to their economic efficiency (ISO 9000, performance indicators, etc.).

Consumers' interest groups have taken up politically sensitive issue, which are private sector operated services. Since 2002, municipalities exceeding 10,000 inhabitants were obliged to establish a local commission for the information of consumers concerning local public services: transports, water supply, etc. This commission is composed among other groups, of representatives of local consumers' interest groups and has a consultative role. Every year, the mayor of the municipality must publish a report on the price and the quality of the service delivered by the WSA. This report provides brief technical and financial information such as description of the equipment, enforcement of specifications, price of water, trends of evolution, loans outstanding.

No matter the type of management model, municipalities pay more and more attention to consumers' opinion. This general tendency has led to progresses such as monthly payment (instead of biennial in most cases), no more deposit, opening of several local agencies in large cities, hot-line providing information to consumers, e-payment of invoices, e-procedures for registration, etc.

3.2.1.4.3 Tariffication and Invoicing

WSA are following three objectives: economic, social and environmental. The question of water pricing is key to achieve these three objectives that are sometimes difficult to reconcile. The WSA's water and sewerage tariffs are discussed and established by municipalities. They are ratified by a formal deliberations of the Municipal Council for a limited period of time (a few years). Prior to the deliberation, the local consultative commission composed of citizens and stakeholders must be advised by the Municipal Council. The national water regulator has no responsibility to advise nor validate the decision of Municipalities. The national regulator publishing the price of water services on a publicly accessible website.

Drinking water and wastewater are billed to water service subscribers (users or clients), and the money thus collected covers the WSAs' costs. Only certain operational costs are reflected in pricing: those necessary to make water drinkable, to distribute it and then collect and purify sewage before returning to the environment.

Water and sewerage prices varies on the national territory according to local parameters such as for instance:

- Topography, nature and quality of the resource (surface or underground).
- Quality of effluents and sensitivity of waste water receiving environment.
- Density of users, consumption, seasonality of the population.
- Networks and infrastructures renewal costs.
- Costs of new treatments for emerging pollution.
- Other local budgetary constraints.
- Etc.

Based on these parameters, the WSA and the Municipal Council elaborate a price. This price is a local political decision and may not necessarily cover WSA expenses in the same way. **Fixed costs are generally comprised between 80 % up to 95% in the water and sanitation industry.** As a consequence, the price of water and sewerage per m³, which essentially indexed to the volume of water consumption, cannot fully reflect the reality the operating costs of the services. In addition, WSAs are facing with a decrease in water consumptions. Thus, the decoupling between the water tariff structure (nowadays essentially variable) and the cost structure of the service it is supposed to cover, is more and more important. There is no direct link between the cost structure and that of the price itself: while 80% of charges are fixed, the share of the subscription is capped by law at 30% (40% in some exceptions⁸) and the observed average is 14% of the total amount of an invoice.

There is no specific regulatory economic model used to calculate rate of return, although regulation allows WSA the possibility to establish a water price consisting of **a fixed part corresponding to subscription and a variable part directly linked to the subscriber's consumption.** The advantages of a high fixed part are a better predictability of service revenue and a fairer distribution of costs between permanent residents and passengers. The disadvantages of a high fixed portion are due to its social acceptability because efforts to reduce consumption will be less rewarded on the bill. Moreover, this is less incentive for users to reduce their consumption. Invoicing water and sewerage to users is based on volumetric consumption measured a posteriori by the water meter on a regular basis (to be decided by the WSA). Water services users receive their water and sanitation bill each trimester (or sometimes yearly). Users who have use individual sanitation also pay a tariff for the costs of the non-collective sanitation public service which corresponds to an annual control conducted by the WSA to check if the installation is correctly functioning. The tariff can also additionally cover the pumping of sludge. Users who use an alternative or private source of drinking water but are connected to the public sewerage system still pay but only for part of the WSA bill which is corresponding to the sanitation and its related taxes.

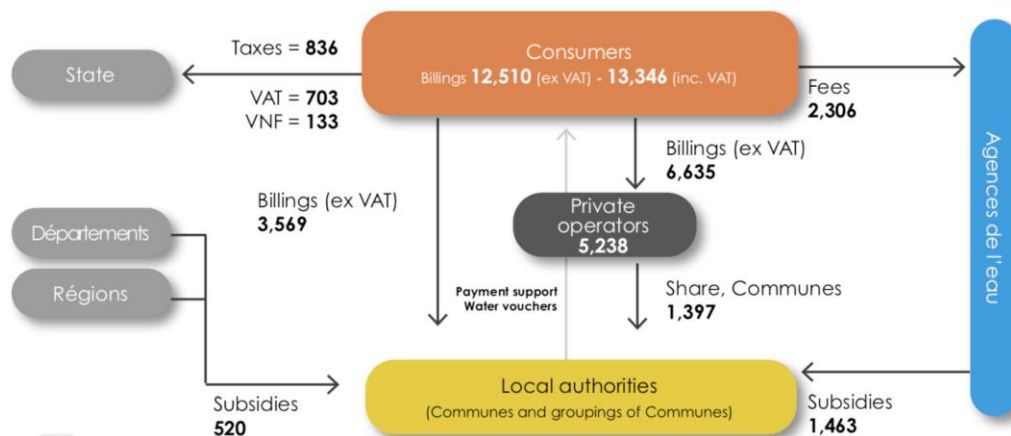
Access to drinking water in economically acceptable conditions is a right recognized by Law for every citizen. In practice, the water and sanitation bill for 2 million people exceed the affordability threshold estimated at 3% of household income. Although there is no regulatory threshold for this affordability, the Government implements subsidy mechanisms to help the modest populations, consequently limiting unpaid water bills and loss of revenue for WSAs. These mechanisms allows for the WSA a modulation of tariffs without price ceiling, based on the composition of the family and the income of the household with, for instance, free consumption for the first cubic meters, water voucher financed by local municipal funds, etc. Proportional pricing where the price per m³ of water does not vary, regardless of the volume of water consumed is the most used model nowadays but progressive tariffication is raising. Progressivity generally offers at least three tariff brackets, the first consumption bracket (known as vital consumption), being subsidized by the higher consumption brackets (more expensive). Those who consume more pay for those who consume less. **Progressive tariffication** is an example of measure that have been implemented by French WSA to encourage saving water resource and to discourage wasting water resource. Progressive tariffication has a positive effect on affordability and it is an incentive towards consumer's

⁸ Rural and tourist areas.

water consumptions. It is also an efficient way to increase incomes of the WSAs that can be justified based on the Water Framework Directive’s recovery of costs principle.⁹ Progressive tariffication is based on different price ranges based on volumetric thresholds such as for instance (less than 10 m³/year), (from 10 m³/year to 150 m³/year), (over 150 m³/year). The tariffication range can have up to five categories of users where the price can be multiplies up to 3 times¹⁰. The cubic meter price increases while larger quantities of water are consumed. Modest families consuming limited quantities of water can benefit from relatively cheap prices while large businesses such as hotel resorts, swimming pools, golf clubs are paying relatively more expensive tariffs per cubic meter. It is recommended to establish a minimal quantity for humanitarian needs where water is relatively cheap (up to 10m³ per year for instance)¹¹.

3.2.1.4.4 Subsidies Mechanisms

In France, there are several financial mechanisms (subsidies) directly or indirectly supporting WSA’s in their investments. Figures of the financial flows for 2016 were collected by the water industry union and presented in their 2019 report¹². Although they are not official, it illustrates the significance of the subsidies mechanisms along with the water billing of WSAs.



"Agences de l'eau" must translated by "River basin agencies"

There is no regulatory obligation for Municipalities to guarantee **costs of maintenance of the network and future investments** for water and sanitation WSAs. Depending on the economic situation of the WSA, only part of these costs might be reflected in water and sanitation tariffs. Regulations do not request WSAs to fully cover fixed charges, certain WSA manage to supply for part of these. This is reflected by the tendency for Municipalities to merge in bigger WSAs

⁹ Water shall not be free, as a consequence of this principle; water and sanitation shall be invoiced to any public or private organization, including other municipal services, public organisations and buildings. The only known exceptions concerns water firefighter and refugee/gipsy/undocumented traveller community camps.

¹⁰ There are examples in other countries where progression is superior to coefficient 3.

¹¹ Another mechanism exists for exceptional situations where, based on justification of revenues confirmed by income tax administration, water bills can be financed by humanitarian emergency funds.

¹² 2019 FP2E/BIPE Report (7th edition), in particular pages 73 and 74

<https://fp2e.org/flowpaper/bipe-2019-english/>

organisations so that to reach sufficient size. It help collecting water and sanitation bills from a larger populations and also mutualizing certain internal functions. Comparatively, water and sewerage services do not have the same financial equilibrium that's why they can treated differently by Municipalities. For instance, incomes from drinking water service may be used to cover costs for sanitation. This is a strong encouragement for Municipalities to merge water and sanitation services in a single WSA organization.

Investments and in a smaller extent, depreciations and maintenance are mostly financed by taxes disconnected from the water and sanitation bill. Some examples of such taxes are presented in detail below.

3.2.1.4.4.1 River Basin Agencies Taxes

Since 1964 (first French Water law) the large water resource cycle and the small water cycle (drinking water and sanitation) cross themselves in one point, which is the instrument of the river basin agencies taxes. French territory is decomposed in six hydrographic basins corresponding to 6 public autonomous administrations distinct from existing administrative borders. These agencies are dependant from political assemblies of representatives of the State, local administrations and civil society called "basin councils". The agencies have several technical functions but its most important is financial. The river basin agencies are authorized by the Water Law to receive 7 different taxes covering various water-related impacts or activities. These are the following:

- Water pollution
- Modernization of collection networks
- Diffuse pollution
- Water resource abstraction
- Water storage during low flow
- Obstacle on watercourses

In France, every citizen pays these taxes, independently from the price of water itself (industries, farmers, domestic users). Three categories of payers are concerned and they can benefit from different rates based on the decisions of the basin council. The payment of the taxes, which is based on the volumes consumed, can be combined with each other depending on the activity. The payment of the basin tax happens at the same time than the payment of the water and sanitation bill. In practice, WSA are levying the taxes on behalf of the river basin agencies for industries and domestic users and the irrigation cooperative cartels are levying the taxes on behalf of the river basin agencies to the farmers. Independent pumping and any kind of rejection are subject to State licence and are also subjected to the collection of the taxes.

All together between the 6 River basin agencies and for the 6-years period of implementation of the river basin management plan, the collection of the 7 river taxes represent approximately 12 billion € (2019-2024 action program) for all the national French territory.

As an example, the richest of the river basin agencies (Seine-Normandy Agency) benefits of a financial capacity of 4 billion € for the 2019-2024 action program to finance water-related infrastructures or studies. The agencies are proposing loans, grants and technical support to users either directly or indirectly. These funds can be mobilized, upon dossier, by WSA to finance a large variety of costs from individual, private and semi-collective sewerage treatment plants to large waste water treatment plants, etc. Farmers can benefit from

subsidies to acquire certain water-efficient devices under certain conditions. This mechanism based on polluter pays and recovery of costs principles is referred to as “Water pays for water”.

3.2.1.4.4.2 National Fund for the Development of Drinking Water Supply

Another taxation mechanism was created in France since 1954, as special treasury allocation account of the Ministry of Agriculture and Fisheries, to finance reconstruction and rural modernization of the country after the World war II by levying a small amount on horse betting. Since its creation and still today, the National Fund for the Development of Drinking Water Supply is financed by % on the national betting company’s revenues.

Today, the so called “National Fund for the Development of Drinking Water Supply” annual budget represents approximately € 150 Million. Although its title, this fund is mostly used to finance sewerage infrastructures. It provides capital financial assistance to rural communities for their drinking water supply and sanitation works. For instance, it helps controlling pollution of agricultural origin, repairing damages caused by exceptional bad weather to water and sanitation service infrastructure, or setting up interconnections of drinking water networks.

3.2.1.4.4.3 Special Tax for Financing Stormwaters Protection

Unlike drinking water and waste water municipal services, stormwater management is not considered as a “public service of general economic interest to the population” but rather as an “administrative public service”, like schools or justice. It is considered as binding obligation of the mayors towards their population, based on its duty to protect their safety and security. As a consequence, stormwater management is not meant to be directly financed by the revenues of the municipality but rather by collective fiscal instruments following the principle of mutualisation of risks and redistribution of taxes collected.

This legal distinction has huge consequences on the financing of stormwater protection. The first one is that the stormwaters tax for flood prevention is paid at the same time than the annual income tax, to the national fiscal administration. The second consequence is that those who pay this tax are not necessarily those who will benefit from the flood protection infrastructures. Finally, stormwater management and flood protection are out of the scope of the private company accounting rules.

It is only since 2015, after large flooding events damaged some parts the country; that France established this special tax for flood prevention. Indeed it appeared that some rural mayors, although legally responsible for this, were not having sufficient capacities to build and/or maintain costly flood prevention infrastructures such as dikes and dams.

3.2.2 Structuration of Selected Municipal WSAs

Several voluntary EU water and waste water WSAs organizations were contacted during this case study. The result of the online interviews conducted and the structured survey questionnaire is presented in the following paragraphs.

3.2.2.1 Trento (IT)

Trento water and sanitation services are operated by Novareti SpA¹³, a company owned by Dolomiti Energia Holding. This company also operates gas, electricity and photovoltaic

¹³ <https://www.novareti.eu>

infrastructures in the province of dolomites and around the City of Trento. A large majority of the owners composing the group Dolomiti Energia Holding are public sector shareholders. The group is centralizing human resources, budgeting, communication and legal processes.

The company Novareti benefits a relatively large autonomy since its creation in 2016 (except for water tariffs). Novareti SpA is not authorized to make profit and must reach annual financial equilibrium.

Investments are mostly financed by the Province, i.e. large sewerage infrastructures and represent approximately 120 M€ / yr. In 2020, the company itself contributed to investments for 40 M€ / yr. Except above mentioned investments, Novareti incomes are the result of its activity. The company follows a 5-year program of replacement of pipes and installation of new canalizations.

The Province (Council of Trento) approves water tariffs, conducts quality controls and the provincial public health services are in charge of controlling samples for drinking water. An independent laboratory is complementing the internal laboratory controls.

There are 95 Novareti employees, among whom approximately 30% are technicians and 70% are engineers or managers. 90% of the personnel are technician and 10 % administrative. Half of the personnel works for the drinking water service and half one works for sanitation service. The company has a strong policy of internalization of human resources, in particular for higher and qualified profiles. Engineering aspects are not outsourced.

Third party private sector companies can only benefit from outsourcing contracts for simple maintenance operations such as leakage detection and layering pipes.

3.2.2.2 Mioveni (RO)

The company in charge of water services in Mioveni was created in 2010. It is in charge of operating and maintaining water and sanitation infrastructures. The company is also competent for public lightning, streets cleaning. It is allowed to have non-strictly public activities.

The municipality owns 100% of the shares of the company in charge of water services in Mioveni, to which private commercial laws and regulations applies.

It is entitled to hire contractual operators for certain operations. It can delegate by contract to private sector operators certain parts of its network or certain parts of its activities. The company strictly controls operators. There are 360 employees in total among whom 80 persons work to operate water and sanitation services.

The incomes of the company in charge of water services in Mioveni are the result of its activity. It doesn't receive any subsidies from the Government except for investments. The Ministry of public financing of Romania is in charge of controlling financial issues. In 2020, the total budget of the company was 7.5 m€ (all attributions) within which 40% corresponds to water and sanitation. Water and sanitation services tariffs are calculated according to a national table.

The local Council is the highest level of governance authority of the company. The Board of Directors is in charge of the implementation of it decisions. Most decisions shall be adopted with a majority of 51% of the local counsellors, except certain important decisions, which must obtain 2/3 of the votes.

The company in charge of water services in Mioveni is subject to internal and external audits. It is placed under the National Regulatory Authority for Municipal Services (ANRSC), established in 2002. 95 persons work for this organization, which is in charge of all the water

operators in Romania. ANRSC is competent for water and wastewater, transport, district heating, sanitation, public lighting.

3.2.2.3 *Wrocław (PO)*

The Municipal Water and Sewage Company (MPWiK S.A.¹⁴) is owned by a unique shareholder (100% of shares) which is the City of Wrocław. It is in charge of water, sanitation and rainwater. It is the 4th biggest water company in Poland among the 16 main regional companies of the country. The population covered is approximately 600 K hab.

There are 775 employees, among whom 77% are technicians, 17% are administrative staff and 6% managers. Half of the personnel works for the drinking water service and half one works for sanitation service.

A total budget of approximately 100 M€, collected equally from water and waste water revenues is covering expenditures such as salaries (20%), external services (20%) electricity and energy (5%), taxes (24%), amortization (23%) and refurbishments. Investments are covered by EU funding. MPWiK is not implementing any public private partnership or concession contract. Outsourcing is organized by tendering procedures submitted to public procurement rules.

MPWiK's activities are placed under the control of "Polish Waters", the national regulator which is, among other things, in charge of approving water and sanitation services tariffs.

Other institutions are controlling MPWiK's activities, such as, in their respective fields of competence, the Chief Sanitary Inspectorate, the Supreme Audit Office^[1] and the Regional Inspectorate for Environmental Protection.

3.2.2.4 *Gdańsk (PO)*

The company in charge of water services in Gdańsk (GIWK¹⁵) is also competent for infrastructures and waste management. All its activities are non-commercial and it is a limited responsibilities company subject to private commercial laws and regulations (same taxes and controls).

The GIWK has a unique shareholder, which is the Municipality of Gdansk, and is organized as a private sector company. GIWK benefits a great autonomy from the local parliament. The board of director can take decisions having financial engagement of less than 1 m€. Other decisions must be approved by the general assembly. The company follows a 1-year budget planning strategic document. Major investments are financed by donations from EU.

GIWK owns the infrastructure and contracted with the private water company SAUR Gdansk, which is in charge of operation the installations until 2023. The Municipality of Gdansk owns SAUR Gdańsk at 49% and 51% is owned by private sector. After 2023, the Municipality of Gdańsk wishes to commute to a fully public operator for water and waste water services (in house company).

There are 130 employees in GIWK and 530 in SAUR Gdansk. GIWK is facing difficulties to recruit engineers due to the gap in salaries with privately owned companies.

¹⁴ <https://www.mpwik.com.pl>

¹⁵ <https://www.giwk.pl>

GIWK is submitted to accounting controls and municipal controls. GIWK's activities are placed under the control of "Polish Waters", the national regulator that is, among other things, in charge of approving water and sanitation services tariffs.

3.2.2.5 *Rennes (FR)*

The company in charge of drinking water in Rennes was created in 2015 under the name of SPL EBR in order to merge multiple existing entities. It is a private law company which stakeholders are only public local entities.

There are 150 employees in SPL EBR¹⁶. 75% are engineers and technicians and 25 % are administrative. SPL EBR is in charge of 12 abstraction sources and 7 production plants for the production and distribution of water in 20 municipalities around the metropolitan area of Rennes. Its budget is 43 M€ and it reports to the National Observatory of Public Water and Sanitation Services (SISPEA)¹⁷.

3.3 Good Practices and Lessons Learnt

EU directives related to water and sanitation are prescribing quality standards, planning measures, regulating, monitoring, information and reporting measures, but main aspects of governance of water and waste-water services are the result of each Member States' history, culture and national and legal framework. Based on literature and illustrated by the case studies, a typology of models can be distinguished. In some case, these models can be observed in combined forms.

3.3.1 Models of Governance

Following generally admitted results of academic researches (see bibliography in annex 4), combined with the above case studies and desk review, it is possible to describe three main models as following.

3.3.1.1 *The Public Operator Model (Direct or Indirect)*

In the public operator model, the public sector is responsible for the management of the services and owns the assets. The water and waste water operational management can be transferred to independent public water operators while the regulatory functions are carried out directly by different administrative levels (central, regional, municipal). Two forms of the public operator model can be found: the direct public operator model and the indirect public operator model.

The **direct public operator model** prevails in decentralized or federal countries such, Flanders (Belgium), Italy, Germany and the Netherlands, where private sector is almost absent (sub-contracting only) but it exists in many other countries such as Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Luxembourg, Poland, Portugal, Romania, Slovenia, Spain and Sweden. In this model, the infrastructure is owned by the municipality and operated by a staff composed of civil servants. This is the case for the French Municipalities of Montpellier or Perpignan for instance¹⁸.

¹⁶ Metropolitan Municipality of Rennes <https://www.eauebassinrennais-collectivite.fr>

¹⁷ <https://www.services.eaufrance.fr>

¹⁸ Régie des Eaux de Montpellier Méditerranée Métropole
<https://regiedeseaux.montpellier3m.fr/regie-eaux.php>
Perpignan Méditerranée Métropole
<https://regiedeseaux.perpignan-mediterranee.org/>

Nowadays, the **indirect public operator model** is a dominant form in EU and it is widely adopted in large size municipalities, metropolitan areas and provinces. In all cases of the study, the municipalities or provinces chose the indirect public operator model where the competent administrative authority has transferred the operation of infrastructures to an independent company, relevant of commercial law but entirely owned by the municipality or the province (100% public shareholders). The indirect public operator model seems to be more appropriate for medium-sized, large municipalities or metropolitan areas. Trento, Mioveni, Wrocław and Gdansk are good examples of these models although Gdansk has delegated the operation of infrastructure to a private company, and as a consequence, also belongs to the following category.

These two models of direct or indirect public operator are considered as cost-efficient but require strong public technical and managerial capacities to be cost efficient. The indirect public operator model offers the advantage of relatively flexible legislation applicable to private sector companies. In this case, depending on each situation, some of the rules related to recruitment and human resource, which are applicable to civil servants, may not be applicable.

3.3.1.2 The Delegated Operator Model

In the delegated operator model, public authorities are responsible for water and waste water regulation but the provision of water services can be delegated to one or several private operators through contract agreements (concessions) following public tenders. The infrastructure remains within the public domain. Originated in France in the nineteenth century, this organizational model expanded in countries where municipalities are responsible for water and waste water.

Although less frequent, this model was and remains largely used in EU and abroad and it provides several advantages such as access to high level human resources capacities and up-to-date technology, corporate R&D support and long-term experience of multinational companies. This model can be profitably used when the municipality or the province has limited available financing possibilities (i.e. public private partnerships) and/or little technical capacities available. Following 2004 OECD Policy roundtables on economic competition and regulation in the water sector: "This also facilitates the use of new financing models which put more and in some cases the entire cost burden on consumers. Opening concession contracts to competitive bidding has had significant benefits. Government may be best suited as a regulator and not a service provider, as under government control, water tends to be under priced and infrastructure tends to receive underinvestment."

On the other hand, this model is often criticized for being costly and poorly efficient in the long-term due to lack of maintenance and investment. For the public authority in charge, this model requires a strict monitoring of the clauses of the concession contract along its lifetime, which is not always simple when contracts last 10, 20 or even 30 years.

Gdańsk is the only case of the panel, which is implementing the delegated operator model, at least until 2023, when the 30 years old contract with SUEZ Gdańsk will terminate.

3.3.1.3 The Direct Private Management Model

In the direct private management model, water and waste water operators are private companies belonging to private funds. A strong national regulatory legal framework of the water and waste water sector is enforced by strong dedicated agencies, which supervise and regulate the water sector independently from the private operators, the government and the

consumers. The regulatory functions being separated from the line Ministers, it is potentially limiting conflicts of interests between policy formulation and enforcement. Except in the United-Kingdom, where it originated, this organizational model remains relatively uncommon. None of the cases of the panel corresponds to this model.

3.3.2 Role of Regulatory Authorities

3.3.2.1 Different Regulatory Functions

Since 1990, dedicated national regulatory authorities for water and waste water services progressively developed. Regulatory bodies may have a diversity of roles such as:

- *“Monitoring of drinking water quality*
- *Supervision of market entries*
- *Consultative role*
- *Economic regulation (e.g. price caps, specification of investment budgets)*
- *Contact for customer complaints”¹⁹*

In the case study, all the selected countries (Italy, Poland and Romania) established such entity with diverse results. Having such institution can have several advantages such as regulating prices, promoting the use of tap water, promoting domestic good practices toward waste water, informing customers or receiving complains. These can be beneficial policies and mutually profitable for water and waste water services. In order to be fully accepted, regulatory authorities shall be composed of qualified professional and must be independent. Experience shows that it takes time for such institutions to create a meaningful environment between relevant ministries, users, municipalities and operators.

The following remarks are extracted from the OECD Best Practice Principles for the Governance of Regulators and shall be regarded as the best practices thereto.

- ✓ *“an effective regulator must have clear objectives, with clear and linked functions and the mechanisms to coordinate with other relevant bodies to achieve the desired regulator outcomes.”*
- ✓ *“establishing the regulator with a degree of independence (both from those it regulates and from government) can provide greater confidence and trust that regulatory decisions are made with integrity”.*
- ✓ *“enshrining a regulator’s independence in legislation does not guarantee that the regulator’s behaviour and decisions will be independent. A culture of independence, strong leadership and an appropriate working relationship with government and other stakeholders are essential to independent regulatory behaviour”.*

3.3.2.2 Focus on Economic Regulation

As already mentioned above, we can observe very different types of regulation functions in the water and sanitation sector from water quality to customers complaint ²⁰. These functions incumb to water regulators by law, regulation or status and regulators are practically implementing them also in very diverse manners²¹. In such heterogeneous context, it is impossible to make a description of the situation in each country but rather underline the

¹⁹ Contemporary market structure and regulatory framework, 2012, Prof. Dr. Andreas Hoffjan (TU Dortmund) Dipl.-Wirt.-Math. Nicole Annett Müller (IWW).

²⁰ Ibid.

²¹ WAREG European Water Regulators 2021 report on Water Regulatory Governance across Europe.

importance and the mechanisms of economic regulation in general. The mandate of the regulators may be different, certain issues shall be considered as necessary cornerstones for efficient regulation: status of the regulator, type of economic regulation and market intervention.

From a **statutory point of view**, the mandate of regulators differ very much from one to the others. A comprehensive questionnaire based international survey was conducted by OECD in 2014 helps classifying the water regulators in 5 models:

- Ministerial regulator (*where France could have been added*).
- Independent advisory regulator.
- Independent rule-making regulator including market adjudication.
- Independent regulator with both advisory and rule-making (*dominant*).
- Competition authority.

The geographic repartition clearly shows that at the time of the study, there was a dominant model of water regulator independent from administration and vested with advisory and binding powers. The spectrum goes from regulators empowered to prescribe regulatory rules and principles to regulators which responsibility is mainly carried out in an advisory role. Unfortunately, the 2014 OECD study isn't addressing continental European cases specificities and lacks of updated information to better describe European situation in present days²².

Although it would need an update, the 2014 OECD was well describing the different roles of water regulatory institution, which aspect is still valid today. This study concluded that « *the core functions and powers of the majority of water regulators can be structured around 4 areas:*

1. *Economic regulation (tariff setting and review of utilities' investment plans);*
2. *Data collection and performance monitoring related to water services;*
3. *Enforcement of regulations and standards; and*
4. *Customer engagement and protection. »*

Economic regulation may be defined as governmental rulemaking to prevent situations where markets do not efficiently organize production or allocate goods and services to consumers. In the field of water services in particular, economic regulation shall then be defined as any sales pricing rules, specification of investment budgets or market intervention.

The decision on prices for water services must be taken by local institutions in charge (municipal, metropolitan or provincial), in line with governmental legal arrangements in place at national or regional level. Water regulators mission is to ensure that drinking water supply and sewerage service providers are delivering **the highest possible quality of service at a reasonable price** and the financial sustainability of the WSA's budget. Availability of information is critical to support appropriate tariff setting. In case where regulators have the power to audit utilities, applicable methodology and criteria of economic regulation shall be defined by law. In certain cases, audits may even consist in analysis WSA's investments or business plan²³.

²² Applying better regulation in the water service sector, The governance of water regulators, OECD, 2014

²³ You may find interesting country examples in the WAREG European Water Regulators 2019 case study report on Tariff regulatory frameworks in WAREG member countries.

Water regulators are generally competent to consider WSA's tariffs but their scope of intervention is framed differently depending on national legal criteria. Price variations result may result from local parameters which are external to WSAs. Such external parameters may be environmental (topography, quality of the resource, receiving environment) or demographic (density, seasonality of the population)²⁴. Water regulator approve water sale prices and tariffs (wholesale and retail) and tariffs for wastewater collection and treatment considering these parameters. They may approve methodology for calculating connection fees, schedules, and conditions for the service offered.

Regulatory market intervention by national water regulators are extremely limited²⁵. Only in rare cases, water regulators have the responsibility to guarantee competition between operators. This is the case in Flanders (Belgium), Estonia and mostly in United Kingdom.

In case a municipality (a province or a metropole) chooses to delegate entirely or partly the organisation of water and/or sanitation services, it must adopt an official decision taken by the highest level of decision-making of the municipal or metropolitan council for such delegated management model. This decision may lead to the organization of an adjudication to a private or semi-private water operator. Such solution falls under general laws of competition, public procurement and anti-corruption.

Tendering procedures for water services shall be strictly foreseen by laws and regulations. Competition rules for public tendering must be guaranteed by legal framework and regulatory dispositions on public procurement. Administrative judges and courts are competent tribunals in case tenderers or citizens wish to question the result of public adjudication procedure.

National water regulator's role is to guarantee population's access (and affordability) to quality water and sanitation services, it isn't necessarily meant to facilitate freedom of market. This role may rather be allocated to judiciary power.

3.3.3 Multi-Sectorial or Stand-Alone Approach

Several water and waste water services are in fact encompassed in a wider **multi-sectorial** organization competent for other network infrastructure operation (gas, electricity, transport...) or waste management. This is the case for Mioveni and Gdansk.

The advantage of such organization is to mutualize support departments such as invoicing/accounting, customer relations, communication, human resource, legal etc. This option can be beneficial for relatively small municipalities but may show limitations, as all these sectors require important technical capacities that may appear difficult to group in a single organization.

Wrocław, widest municipality of the panel is the only case of **stand-alone** of water and waste water service company while Trento has a separate company dedicated to water and waste water (stand-alone) which is fully owned by a multi-sectorial provincial holding (combined approach).

The stand-alone option seems to be beneficial for large metropolitan municipal or provincial areas. Such strategic choice shall be decided based on the legal context, the density and the geographic repartition of the population serviced. In case of multi-sectorial organization, it is

²⁴ Also refer to above paragraph relatively to France "Tariffication and Invoicing".

²⁵ See examples in WAREG European Water Regulators 2021 report on Water Regulatory Governance across Europe.

recommended to conduct only public non-commercial and essential activities based on costly infrastructure and network such as water, energy, transport, communication, etc.

3.3.4 Water and Sanitation Public Services Guiding Principles

Since 30 years, governance principles of water and waste water services have greatly evolved in European Union. Historically, in the 80's and 90's, many small municipal water services were grouped into larger metropolitan or provincial structures to reach sufficient size. As a result of this modernization process, today's situation shows a certain unity in the governance forms, at least for large metropolitan areas. The following state of the art common governance guiding principles describe these characteristics:

- **Independence:** because water and sanitation are highly technical and long-term infrastructures, and in order to avoid corruption, water and sanitation services shall have their own legal personality, separated from the Municipality or the Province but placed under a strong political control.
- **Autonomy:** water and sanitation services shall have sufficient financial and technical decision-making capacities to fulfil their duties. Due to their strategic and humanitarian aspect, water and sanitation services, including all their infrastructures, shall remain under full ownership of a public institution (Municipality or Province).
- **Efficiency:** accounting rules shall apply to water and sanitation services. Their budgets must be balanced and their management processes shall be sufficiently flexible. Nevertheless, because water and sanitation infrastructures last for decades and are cost intensive, large investments shall stay outside the economical equilibrium and remain on the shoulders of a public entities (State, Province, Municipality). As any service provider, water tariffs shall tend to approximate reality of costs.
- **Affordability:** water and sanitation organizations are providing services of general interest to the population. Their objective cannot be commercial that's why they shall not generate any profit from their activity. As a basic human need, water pricing shall take consideration of diverse social and humanitarian situations.²⁶
- **Accountability:** due to their sensitive activity, water and sanitation services shall be submitted to several public verifications: drinking-water quality, environmental control of waste water and sludge, market regulation, transparency for users.
- **Transparency:** Water users shall be registered as "client" of the WSA and shall receive and sign a regulatory contract based on a National contract model where rights and obligations of each parties are duly mentioned. Amendments to these contracts, changes in prices, shall be duly notified to the clients. For instance, it is a regulatory obligation for the WSAs to send the results of quality health water analysis with every water and sanitation invoice or on a regular basis. The contract also foresees conditions of service interruptions, organoleptic characteristics variations, client's relations, users' commissions, etc. Finally a national information system of WSA performances can be a beneficial to reinforce trust among the clients by publishing online certain key performance indicators and criteria related to the service²⁷.

²⁶ For complementary information and example, you may also refer to WAREG European Water Regulators 2017 report on affordability in European water systems.

²⁷ SISPEA: the Observatory of data on public water and sanitation services

Comparative Analysis Report

4 Comparative Assessment

4.1 Methodology

Different functions covering all aspects including legal, institutional, financial and human resources of Water and Sewerage Administrations were distinguished during the situation analyses. These **functions** listed below are meant to describe EU countries as well as Turkish WSAs. They also provide for a certain scope for the comparative assessment.

Legal and institutional framework

- Sufficient size (multi-municipal)
- Services of economic public interest (non profit)
- Public operator management models
- MM control
- Public ownership of infrastructures
- Legal autonomy (contracting, justice...)
- Multi-sectorial activity

Financing and accounting

- State / Province / basin / municipal support
- Separated budgeting and accounting rules
- Efficiency and reality of costs
- WS tariff determination
- Regulatory authority / pricing
- Affordability and incentives

Responsibilities and governance

- Drinking water
- Sewerage water
- Planning and zoning
- Stormwaters
- Creeks restoration/rehabilitation
- Water resource management

Internal organization, human resources and communication

- Internal administration
- Internal technical capacities, training centre, water academy
- Accountability / clients
- Regulatory authority / complains
- Communication, tap water promotion and social media

In order to properly rank of selected EU countries and Turkish WSAs, the following compilation of **performance indicators** were aggregated in six groups, which are attributed the same value (+ 1 mark).

| | | |
|--|--|--|
| <p>Independence (+ 1 mark)</p> <ul style="list-style-type: none"> • Public infrastructures. • Separated legal personality • Political control • Corruption prevention | <p>Efficiency (+ 1 mark)</p> <ul style="list-style-type: none"> • Balanced budgets • Accounting rules • Flexible management • Large public investments • Reality of costs in tariffs | <p>Accountability (+ 1 mark)</p> <ul style="list-style-type: none"> • Drinking-water quality • Environmental controls • Market regulation • Users information |
| <p>Autonomy (+ 1 mark)</p> <ul style="list-style-type: none"> • Sufficient financial and technical decision-making capacities • Strategic and humanitarian aspect • Infrastructures, shall remain under full ownership of a public institution (Municipality or Province). | <p>Affordability (+ 1 mark)</p> <ul style="list-style-type: none"> • No commercial objective • Consideration of social situations • Consideration of humanitarian situations | <p>Transparency (+ 1 mark)</p> <ul style="list-style-type: none"> • Users registered as “client” • Regulatory contract signed • Amendments to the contract • Regular information (quality health analysis, service interruptions, organoleptic characteristics...) • National information system |

4.2 Results

The following tables were established to give a critical view on existing WSA models in Turkey and in various EU Countries. The score obtained for the four functions analysed are presented in Table 6, using an evaluation scale from 1 to 6 (1: minimal ; 2 : poor ; 3 : moderate ; 4 : good ; 5 : very good ; 6: excellent). The score obtained for the six performance indicators analysed are presented in Table 7, using an evaluation scale from 1 to 4 (1 : moderate ; 2 : good ; 3 : very good ; 4: excellent). Maximum score is 24.

Table 6 Functional Evaluation

| | Trento | Mioveni | Wrocław | Gdańsk | Rennes | WSA ²⁸ |
|--|-----------|-----------|-----------|-----------|-----------|-------------------|
| Legal and institutional framework | ***** | ***** | ***** | ***** | ***** | ***** |
| Responsibilities and governance | ***** | ***** | ***** | **** | **** | **** |
| Financing and accounting | ***** | **** | **** | **** | ***** | ***** |
| Internal organization, HR and com | ***** | ***** | ***** | ***** | ***** | ***** |
| TOTAL / 24 | 23 | 20 | 21 | 19 | 21 | 20 |

²⁸ The WSA column refers to Turkish WSAs in general

Table 7 Evaluation of Performance Indicators

| | Trento | Mioveni | Wrocław | Gdańsk | Rennes | WSA ²⁹ |
|-----------------------|-----------|-----------|-----------|-----------|-----------|-------------------|
| Independence | **** | *** | *** | *** | **** | **** |
| Autonomy | **** | *** | **** | *** | **** | *** |
| Affordability | **** | **** | **** | **** | *** | **** |
| Accountability | **** | **** | **** | *** | **** | **** |
| Efficiency | **** | **** | **** | **** | *** | *** |
| Transparency | *** | ** | ** | ** | *** | ** |
| TOTAL / 24 | 23 | 20 | 21 | 19 | 21 | 20 |

²⁹ The WSA column refers to Turkish WSAs in general

Table 8 Trento (IT)

| Trento | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-----------------------|--|--|---------------------------------|--|
| Independence | x | x | x | x |
| Autonomy | x | x | x | x |
| Affordability | x | x | x | x |
| Accountability | x | x | x | x |
| Efficiency | x | x | x | x |
| Transparency | x | x | x | |

Table 9 Mioveni (RO)

| Mioveni | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-----------------------|--|--|---------------------------------|--|
| Independence | x | x | | x |
| Autonomy | x | x | | x |
| Affordability | x | x | x | x |
| Accountability | x | x | x | x |
| Efficiency | x | x | x | x |
| Transparency | x | | x | |

Table 10 Wrocław (PO)

| Wrocław | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-----------------------|--|--|---------------------------------|--|
| Independence | x | x | | x |
| Autonomy | x | x | x | x |
| Affordability | x | x | x | x |
| Accountability | x | x | x | x |
| Efficiency | x | x | x | x |
| Transparency | x | x | | |

Table 11 Gdańsk (PO)

| Gdańsk | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-----------------------|--|--|---------------------------------|--|
| Independence | x | x | | x |
| Autonomy | x | x | | x |
| Affordability | x | x | x | x |
| Accountability | x | | x | x |
| Efficiency | x | x | x | x |
| Transparency | x | | x | |

Table 12 Rennes (FR)

| Rennes | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-----------------------|--|--|---------------------------------|--|
| Independence | x | x | x | x |
| Autonomy | x | x | x | x |
| Affordability | x | | x | x |
| Accountability | x | x | x | x |
| Efficiency | x | | x | x |
| Transparency | x | x | x | |

Table 13 Turkey WSAs

| WSA³⁰ | Legal and institutional framework | Responsibilities and governance | Financing and accounting | Internal organization, HR and com |
|-------------------------|--|--|---------------------------------|--|
| Independence | x | x | x | x |
| Autonomy | x | x | | x |
| Affordability | x | x | x | x |
| Accountability | x | x | x | x |
| Efficiency | x | | x | x |
| Transparency | x | | x | |

³⁰ The WSA column refers to Turkish WSAs in general

5 Recommendations

The following recommendations have been developed as a result of the current situation analysis.

Law on Water and Sewer Administrations

- The priority expectation in the sector is to ensure the ISKI Law No. 2560 issued for ISKI in 1981 as a main law which describes the roles and powers of Water and Sewer Administrations has a title which is inclusive of all administrations.
- In the short term, it is necessary to revise Administrations' responsibilities, roles and powers with regard to service provision in a way to reflect the current situation in both the current practice and legal procedures.
- It is recommended to clearly draw the framework of the powers and responsibilities of administrations in performing services with other organizations and institutions and determine how roles and responsibilities are distributed among metropolitan and district municipalities with the framework law to be prepared.
- It is recommended to ensure that the law especially defines the services offered by WSAs as public services for the general interest of the people.

Roles and Powers of Water and Sewer Administrations

- The present law details the definitions of services both currently provided and recommended to be offered by WSAs in national strategies, including but not limited to:
 - Wastewater treatment, recycling and reuse,
 - Wastewater sludge treatment and reuse,
 - Rainwater harvest and rainwater use,
 - Grey water use,
 - Energy recovery from services for water and wastewater,
 - Integrated urban water management etc.
- One of the most urgent needs in the sector is to fill the gap in the legislation with regard to treated wastewater, grey water and rainwater use planned to be implemented with national strategies in the short and medium term within the framework of fighting climate change. Therefore, it is recommended to include chapters to refer to these topics considering the necessity of making the law a framework law.
- It is necessary to remove definitions for the roles, powers and responsibilities of WSAs in the Municipality Laws and eliminate the discrepancy among the laws by referring to the definitions to be made in the WSA Law to be prepared.
- Transition to the basin based management system in Turkey also in line with the Water Frame Directive and basins not overlapping with provincial boundaries further increased the fragmentation in the powers and responsibilities among institutions in terms of service delivery. The issue of fragmentation can be gradually solved when the basin based water management comprising of natural boundaries and the provincial water management comprising of political boundaries are activated. For this reason, the authority to prepare an integrated urban water management plan for the transition to the phase of combining the roles and responsibilities in the provincial

water management components under a single institution should be given to WSAs with the new law and WSAs should be given a regulatory power in the integrated urban water management plan. A mechanism should be developed to ensure that coordination with all organizations is established by WSAs with integrated urban water management plans to be prepared with this authority. The law should provide for considering the water source basins which supply/are planned to supply water for the city as a whole and define related powers. In this regard, the powers and responsibilities of WSAs which use the same water source in water sources management should be defined in the law. The plan of each city should be approved by the MM Council.

- Renewable energy generation compliant with the National Adaptation Strategies and Action Plan is a priority topic. For this purpose, it is recommended to grant WSAs the right and authority to establish or partner with autoproducer electric power companies to establish energy recovery plants (waste to energy) and renewable energy plants related to water/wastewater under the new law to serve this purpose.
- It is recommended to make investments considering the sustainability of water sources management, sanitation services management, recovery, drainage and flood management constituting the integrated urban water management plan, and thus, create national and international funding for projects, and make revisions in other legislation in parallel to the definitions to be added to the law.
- It is recommended to create a regulation to organize strong coordination between the related Ministries, MMs, DMs and WSAs in WSAs' investment programme planning and implementation land development planning and implementation which is of key importance for protecting the city's water cycle, and add it to the WSA Law to be developed.
- Provisions on the transition to a green infrastructure approach for allowing rainwater to feed ground waters rather than using pipe system rainwater collection for urban drainage considering global developments and the climate change factor should be added to Article 25 on removal of rainwater in the Law No. 2560. As described above, in majority of practices in Europe, mainly France, water and wastewater municipal services are considered "public services for the general economic interest of the public". However, rainwater management service is considered an "administrative public service" such as schools or justice, and a binding responsibility of mayors towards the people in connection with their duty of providing safety and security of the residents in the city. This service which cannot be funded in Turkey in the current situation should start to be managed with the same approach. There are serious interruptions in the service due to the contradictions between the Municipal Laws and the Law No. 2560 in practice. Especially conditions of disaster with expected changes in the severity and periods of rainfall due to climate change should be resolved under the responsibility of the disasters centre or basin administrations.
- The duty of preparing a capital investment plan to plan and efficiently manage the investment projects according to priorities, present asset stock and funding sources should be among the duties of WSAs.
- Granting WSAs the authority to perform or cause to perform activities related to establishing institutes, research, development and technology production,

conference, seminar, panel, symposium, training etc. in their areas of duty will both ensure stakeholder participation in the water management sector and accelerate WSAs' integration with new developments.

Roles and Responsibilities of Management Bodies

- There is a need for revising the related articles in the law on creating management bodies of administrations which operate on a dynamic basis throughout the year and their modes of operation. It is recommended to consider the following basic needs while making these arrangements.
- Administrations which take office after local elections determine the targets for services to be offered and explain their strategies to reach these targets. Therefore, the 5 year Strategic Plan that should be prepared by the General Director in 6 months following the conclusion of the elections should be reviewed by the Administrative Board and submitted to the approval of the General Assembly.
- Due to the Ministry approvals taking so long and problems with the service in duties performed by proxy, the provisions in the Law on the recommendation and appointment process of the Members of the Administrative Board and WSA General Director should be revised as *“to be recommended by the MM Mayor and appointed by the General Assembly”*.
- It should be considered in the new law to allow the General Assembly to decide on WSAs establishing new enterprises or partnering with present enterprises under the Commercial Code considering the fact that the successful examples in Europe improve the efficiency of service processes.
- The fact that decisions cannot be taken until the General Assembly causes challenges for administrations. Therefore, the Law should be added a statement *“The Metropolitan Municipal Council can discuss and decide on the topics recommended by the Administration under the title of the General Assembly in monthly periods as required”*.
- There is a need for management by technically experienced experts in areas of service of WSAs. Therefore, service efficiency would be improved by adding requirements for appointments to the Administrative Board to have a bachelor's degree in technical works as well as management or business administration and at least ten years of experience in their field of expertise and meet the general conditions for appointments of civil servants in the related article of the law.

Organization and Personnel

- Administrations should be given the right and authority to create their organizational structure within wide boundaries to eliminate the problem which occurred when the Permanent Staff Regulation issued after the establishment of WSAs eliminated the flexibility of the General Directorate in creating a necessary number of department, directorates and associated sub-units.
- There has been rapid changes in the legislation in Turkey in the last ten years. There is a need for change in the service periods of WSA structures to adapt to these changes in the legislation in parallel to international covenants and EU requirements and meet the service requirements which have been recently put in effect in water management around the world. Considering such need, a regulation should be made in the law to allow the General Director to establish the positions of Assistant General

Directors and Department Heads and appoint personnel with the approval of the Administrative Board, and establish Branches and Offices and appoint personnel upon the decision of the General Director.

Budget and Financial Management

- Considering the structures and practices of WSAs, in Spain, the model of WSA companies is a cost efficient structure which allows private stakeholders to participate in public services. Therefore, the quality standards and continuity of services of WSAs have significantly improved in the last ten years in Spain. With regard to the practices in Germany, WSAs are required to operate cost efficiently and the idea of subsidies is generally ignored. Subsidies are only available on rare occasions such as challenging socio-economic conditions, and on these occasions, limited regional subsidies are considered possible temporary solutions. Based on the principle of reality of costs, water and sanitation tariffs compensate the fee of services offered to fund WSAs by users. Based on these examples, it should be ensured that the operating budget is compensated by tariffs in our country.
- It is necessary to establish an integrated financial management and funding tracking system to systematically monitor developments in budget revenues, expenditures and funding.
- It is necessary to review the activities and identify works without priority (considering the fact that service production costs are relatively high), keep current expenditures under control according to the increase in revenues and plan service procurements according to the operational balance.
- It is recommended to prepare a funding programme compatible with the budget and debt management and integrate it with the cash programme within the year.
- A capital investment programme should be prepared to plan and manage investment projects according to priorities, the current asset stock and funding sources.
- Considering the fact that infrastructure investments take 2-3 years in average, 4-5 year capital investment programmes should be prepared. It is recommended to prepare multi-year funding programmes to support investment plans and establish a connection with the budget.
- Procedures for preparing and approving five year strategic plans which are of critical importance for WSAs should be separately defined in the law.
- A model which prioritizes energy efficiency should be preferred to control high energy costs and investments should be programmes according to this priority.
- A human resources management model should be developed for the personnel employed through service procurement.
- Standards should be developed to ensure cost efficiency in this type of employment which directly increases service production costs and would lead to additional fee increases in the next period.
- Due to the fact that tariffs which cannot even meet the costs of WSAs are accepted and implemented by the Municipal Council for political reasons in the current situation, the concerned tariffs fail to cover operation, maintenance and repair costs, and WSAs are already unable to fund big investments with their current revenues. However, it was observed not only in this study but also in the interviews made with

various WSAs in Europe that this kind of big investments are not realized WSAs' revenues such as tariffs etc. In interviewed European WSAs, tariffs are set to compensate the operating and maintenance and repair costs to the extent possible in enterprises they operate themselves or contracted to private enterprises, and in non-profit WSAs, balances after expenditures such as operational expenses etc. are again transferred to the operation of the service and small scale infrastructure investments. Big infrastructure projects are funded by Municipalities, Provincial Subsidies, grants and loans of the State and Basin organizations and/or taxes especially collected by Basin Management Organizations specifically for infrastructure investments and EU subsidies.

- A tax system can also be established in our country to help WSAs overcome the bottleneck they are in and create funding for infrastructure projects as implemented in Europe. To do this, funding sources should be created especially such as the Basin protection Taxes, National Fund for Improvement of Potable Water Supply and Special Tax for Funding Rainwater Protection etc. in France. In the current situation, to form a basis for this, activities are ongoing to transform the Basin Protection Action Plans in Turkey into River Basin Management Plans in line with the EU Water Frame Directive and for national capacity building in this process. It is recommended to establish a mechanism of “water pays for water” based on the principles of polluter pays and recover of costs with the taxes etc. to be created under these activities.

Revenues

- As described in the foregoing chapters, in most of the European practices, potable water and wastewater municipal services are considered “public services for the general economic interest of the population”. It is recommended to separate the WSA budgets from the MM budget to provide this service, clearly state that all revenues of WSAs can be used to meet the operating, maintenance, investment and funding costs and thus, prevent transfer of excess budget, ensure excess budget remains in WSAs provided that it is used for investments as a practice which would be solution to the financial problems of WSAs.
- Transfer of “contributions to the construction of water distribution, wastewater and rainwater collection networks” to the Administration which realizes the investment is another financial aspect recommended to be stated in the law.
- Service cost is directly related to the region’s geographical and demographic structure. Therefore, it should be considered in apportionments from the central government as in successfully implemented in some of the examples in Europe. It is recommended to implement the apportionment reserved from the general budget tax revenues for municipalities by Ilbank through diversification with parameters such as the surface area, land structure, number of settlements etc.
- There are challenges with collecting the Contributions under Articles 87 and 88 of the Law No. 2464 on Municipal Revenues and Article 13 “Revenues” of the ISKI Law according to the principles of the “Regulation on the Implementation of Provisions on Contributions of the Law No. 2464 on Municipal Revenues” issued based on the Law No. 2464. Regulations should be made under the law to simplify the implementation and collection of contributions.

- Article 23 of the Land Development Law, Articles 87 and 88 of the Law on Municipal Revenues and Articles 13 and 23 of the ISKI Law cause duplication in accruals and collections. Therefore, regulations should be made in the law to prevent these different practices and these regulations should be taken into account by making mutual references in the respective laws.

Principles of Tariff Setting

- As seen in the examples in Europe, in principle, the legislation should provide a tariff system and transition conditions in a way to allow funding of WSAs' services by service users except for big infrastructure investments that can be funded by subsidies and transfers.
- A definition should be made in the article on tariffs in accordance with Article 13 of the "Regulation on the Principles and Procedures of Tariff Setting for Wastewater and Domestic Solid Waste Disposal Facilities" prepared based on Article 11 of the Environmental Law No. 2872.

Under Article 17 of the Regulation, "The principles of complete cost and polluter pays are taken as basis in charging wastewater services. The principles and procedures which include details on the implementation of these principles and can be useful in setting tariffs on complete cost basis are published under the title Guide for Wastewater Tariff Setting by the Ministry on the Ministry's web page".

As prescribed under Article 2 of the "Guide for Wastewater Tariff Setting" published by the Ministry, the steps to be followed in tariff setting are as follows:

- 1- Define the scope of the service
- 2- Calculate the complete cost to provide the defined service.³¹
- 3- Calculate return on equity
- 4- Calculate the average cost
- 5- Distribute the total system cost too different subscriber groups
- 6- Select a tariff structure and type for invoicing

A system should be defined accordingly in water tariff setting and included in the legislation.

- Gradual tariff setting has a positive impact on affordability and encourages water consumption. At the same time, it is an effective way of increasing revenues of WSAs that can be justified based on the principle of recovery of costs in the Water Frame Directive. In the current situation with high probability of water scarcity, this issue which can directly affect consumption should be determined by the considered law as a framework law and new regulations to be issued under the law.
- It is recommended to consider creating different tariffs by subscriber types, especially social tariffs for certain categories in the new law to be prepared and regulations to be issued in connection therewith.

³¹ Regulation Article 13: The total system cost includes the complete cost comprising of the investment's financial cost, system operation and maintenance, depreciation costs of fixed assets, management and monitoring expenses, taxes, expropriation and return on equity which would provide financial sustainability of the system. The total system cost does not include costs which are not in connection with the operation and sustainability of the wastewater or domestic solid waste system.

- With regard to the principles of tariff setting; it is recommended to make the Law No. 2560 the main law and revise the related laws in a way to refer to this law. The new law should clearly determine the conditions for and requirements of tariff setting on complete cost basis. The “principles of tariff setting” in the new law should be compatible with related laws. Determining a limit in the law for the approval of these tariffs on complete cost basis to be prepared on these conditions by the Municipal Council will prevent deviating from complete cost calculations in the tariff to be implemented.

Collections

- There should be a final provision in the law to allow for cutting off water supply to past-due subscribers subject to humanitarian limitations considering disaster conditions and state aids provided to the subscriber etc.
- The Administrative Board should be authorized to delete receivables of WSAs which cannot be collected (from subscribers who are dead, cannot be located, residing in demolished buildings etc.) after a certain period of time (e.g. 5 years).

Utility Water Use

- As in examples in Europe, use of utility water as potable water should be encouraged with transparency by sending subscribers utility water analyses for 1 year. After that, use of utility water as potable water should be made sustainable by continuing publishing utility water analysis results in real time.

Personnel Rights

- Supplementary Article 3 should be revised to grant a certain degree of assurance to civil servants in their transactions and procedures, and not only the WSA General Director and Board Members, but also all WSA officials should be considered at the Civil Servant status and investigations should be subject to the permission of the General Director.
- It must be ensured that the General Director, Board Members and personnel at all levels in Administration services in WSAs are considered public officials in terms of the implementation of the Turkish Criminal Code No. 5237 of 26/9/2004 in crimes they commit out of their official duties and they are subject to the provisions of the Law No. 4483 of 2/12/1999 on Trial of Civil Servants and Other Public Officials.

Rights and Exemptions

- A clear provision on exemption from litigation charges should be included in the related article on exemptions of the Law No. 492 on Charges and ISKI Law No. 2560 to make WSAs exempt from litigation charges.
- It must be ensured that WSAs are able to benefit from the tax and social security premium discounts and incentives which are offered to companies which regularly pay their taxes and premiums.
- A new regulation should be made with regard to the Ministry of Energy/EMRA to consider all service buildings and other subscriptions of WSAs in the industrial group and determine a discounted tariff for the power used for potable water supply and wastewater disposal.

- Articles should be added to related laws to prevent seizure of revenues and assets of WSAs considering the fact that the respective service is public service and with regard to “continuity of service”.

Other

- Local administrations’ institutional and technical capacities should be developed with regard to the legislation and plans on water.

ANNEX 1 Laws Concerning Local Administrations

Laws concerning local administrations are as follows:³²

- Law No. 37 on Municipality Opera Houses and Theatres Places for Artists, Experts and Interns
- Law No. 167 on Ground Waters
- Law No. 193 on Personal Income Tax
- Law No. 213 on Tax Procedures
- Law No. 237 on Vehicles
- Law No. 486 on Criminal Procedures for Municipal Affairs
- Law No. 488 on Stamp Duty
- Law No. 492 on Charges
- Decree-Law No. 504 on Establishment of Metropolitan Municipalities in Seven Provinces
- Decree-Law No. 593 on Establishment of Metropolitan Municipalities in Sakarya Province
- Law No. 634 on Divided Co-Property
- Law No. 657 on Civil Servants
- Law No. 775 on Squatter Houses
- Law No. 831 on Waters
- Law No. 1053 on Supply of Potable, Utility and Industrial Water in Settlements With Municipal Organization
- Law No. 1319 on Property Tax
- Labour Law No. 1475
- Law No. 1593 on Public Health
- Counterpart Law No. 1608 for Certain Provisions of the Law No. 486 of 16 April 1340 on Criminal Procedures for Municipal Affairs
- Law No. 2004 on Execution and Bankruptcy
- Law No. 2464 on Municipal Revenues
- Law No. 2489 on Sureties
- Law No. 2559 on Police Duties and Powers
- Law No. 2560 on Organization and Functions of General Directorate of Water and Sewer Administration of Istanbul
- Turkish Constitution No. 2709
- Law No. 2863 on Conservation of Cultural and Natural Assets
- Environmental Law No. 2872
- Law No. 2886 on State Procurement
- Law No. 2918 on Road Traffic
- Law No. 2942 on Expropriation
- Law No. 2960 on Bosphorus

³² <https://yerelyonetimler.csb.gov.tr/kanunlar-i-90281>

- Law No. 2972 on Election of Local Governments, Neighbourhood Masters and Neighbourhood Executive Committees
- Law No. 2981 on Certain Actions Applicable to Buildings Violating the Legislation on Land Development Planning and Squatter Houses and Law No. 6785 on Amending an Article of Law on Land Development Planning and Control
- Law No. 2985 on Housing Development
- Law No. 3065 on Value Added Tax
- Law No. 3071 on Use of the Right to Petition
- Law No. 3194 on Land Development Planning and Control
- Law No. 3284 on Prohibition of Extraction and Procurement of Certain Scrap Metals
- Law No. 3305 on Amending Certain Articles of and Adding Two Supplementary Articles and a Provisional Article to the Law No. 2560 of 20.11.1981 on Organization and Functions of the Water and Sewer Administration of Istanbul
- Law No. 3402 on Cadastre
- Law No. 3516 on Measurements and Configurations
- Law No. 3533 on Resolution by Arbitration of Conflicts Between Departments and Municipalities Administered with Public and Private Budgets and Departments and Enterprises with an Entire Capital Belonging to the State or Municipality of Private Administrations
- Law No. 3572 on Amending and Adopting the Decree-Law on Business Licences
- Law No. 3621 on Coastal Protection
- Law No. 3628 on Asset Declaration and Fight Against Bribery and Corruption
- Law No. 3645 on Transfer of the Organization and Installation of Istanbul Electric, Tramway and Tunnel Administrations to the Istanbul Municipality
- Law No. 3998 on Preserving Cemeteries
- Law No. 4081 on Farmer Assets
- Law No. 4123 on Performance of Services Relating to Damages and Destruction Caused by Natural Disasters
- Law No. 4342 on Meadows
- Law No. 4369 on Amending the Tax Procedural Law, Law on Procedures of Collecting Public Claims, Law on Personal Income Tax, Law on Corporate Tax, Law on Value Added Tax, Law on Expense Taxes, Law on Property Tax, Law on Inheritance and Transfer Tax, Law on Motor Vehicles, Law on Stamp Duty, Law on Charges, Law No. 3505, Law on the Requirement for the Use of Payment Recording Devices of Value Added Taxpayers, Law on Municipal Revenues, Laws No. 1318 and 4208 and Decree-Law No. 178 on Organizations and Functions of the Ministry of Finance and Decree-Law No. 190 on General Job Positions and Procedures
- Law No. 4483 on Trial of Civil Servants and Other Public Officials
- Law No. 4562 on Organized Industrial Districts
- Law No. 4646 on the Natural Gas Market
- Law No. 4706 on Valuation of Immovable Assets of the Treasury and Amending the Law on Value Added Tax
- Law No. 4708 on Building Inspections
- Law No. 4734 on Public Procurement

- Law No. 4735 on Public Procurement Contracts
- Law No. 4736 on Tariffs for Good and Services Produced by Public Organizations and Institutions and Amending Certain Laws
- Labour Law No. 4857
- Law No. 4925 on Road Transport
- Law No. 4982 on Right to Information
- Law No. 5018 on Public Fiscal Administration and Control
- Law No. 5070 on Electronic Signature
- Law No. 5104 on the Northern Ankara Entrance Urban Regeneration Project
- Law No. 5176 on Establishment of Ethics Board for Public Servants and Amending Certain Laws
- Law No. 5199 on Animal Protection
- Law No. 5216 on Metropolitan Municipalities
- Turkish Criminal Code No. 5237
- Law No. 5302 on Special Provincial Administrations
- Law No. 5326 on Misdemeanours
- Law No. 5355 on Unions of Local Governments
- Law No. 5366 on Renovating, Conserving and Actively Using Dilapidated Historical and Cultural Immovable Assets
- Law No. 5378 on Persons with Impairments
- Law No. 5393 on Municipalities
- Law No. 5403 on Soil Conservation and Land Use
- Law No. 5434 on the Pension Fund of the Republic of Turkey
- Law No. 5442 on Provincial Administration
- Law No. 5449 on the Services of Development Agencies
- Law No. 5490 on Population Services
- Law No. 5510 on Social Insurance and Universal Health Insurance
- Law No. 5543 on Settlement
- Law No. 5747 on Establishing Districts in the Borders of Metropolitan Municipalities and Making Amendments in Some Laws
- Law No. 5779 on Apportionments from General Budget Tax Revenues to Special Provincial Administrations and Municipalities
- Law No. 5809 on Electronic Communications
- Law No. 5902 on Certain Regulations About the Department of Disaster and Emergency Management
- Law No. 5957 on Regulation of Trade of Produce and Other Goods with Sufficient Supply and Demand Depth
- Law No. 6085 on the Court of Accounts
- Turkish Code of Obligations No. 6098
- Law No. 6107 on Ilbank
- Law No. 6183 on the Procedures of Collecting Public Claims
- Law No. 6245 on Travel Allowances

- Law No. 6292 on Promoting the Development of Forest Villages and Using Places Removed From Forest Status on Behalf of Treasury and Selling of Treasury Owned Agricultural Land
- Law No. 6306 on Transformation of Spaces Under Disaster Risk
- Law No. 6331 on Occupational Safety and Health
- Law No. 6356 on Trade Unions and Collective Labour Agreements
- Law No. 6360 on Establishment of Metropolitan Municipalities and Twenty Seven Districts in Fourteen Provinces and Amending Certain Laws and Decree-Laws
- Law No. 6446 on Electricity Market
- Law No. 6502 on Consumer Protection
- Law No. 6585 on Regulating Retail Trade
- Law No. 6698 on Protection of Personal Data
- Law No. 6831 on Forests
- Law No. 7201 on Notices
- Law No. 7261 on Establishment of the Turkish Environment Agency and Amending Certain Laws

ANNEX 2 Question form for Water and Sewer Administrations

| QUESTIONS | |
|-----------|--|
| 1 | <p>In which areas do you think the ISKI Law falls insufficient in practice in delivering your Water and Sewer services? Explain with reasons (one paragraph for each). What are other laws applicable to offer services other than the ISKI Law? Which roles and powers do you think should be amended/added/removed with regard to the roles and powers of WSAs in the legislation?</p> |
| 2 | <p>In which areas do you face the following institutions in delivering your Water and Sewer services and what do you think should be corrected in the legislation for their elimination? Explain briefly on institution basis.</p> <ul style="list-style-type: none"> <i>a. DSI (State Hydraulic Works) (Water allocations and monitoring terms, ground water management, riverbed rehabilitation etc.).</i> <i>b. Ministry of Environment and Urbanization/Ilbank</i> <i>c. Ministry of Health (water inspection analysis fees etc.),</i> <i>d. Ministry of Agriculture and Forestry (forest land allocations, weed fees on meadows etc.),</i> <i>e. Ministry of Energy/EMRA (WSA electricity subscriptions, tariffs etc. according to the regulation on the electricity market tariffs),</i> <i>f. Ministry of Transport and Infrastructure/General Directorate of Highways (transition permits, horizontal drilling etc.)</i> <i>g. Additional institutions/your opinions</i> <p>Is there any role/service for which you have to bear the costs in the foregoing institutions and service areas? If so, what is your estimate investment budget?</p> |
| 3 | <p>What are your opinions and recommendations on critical aspects on the following financial management topics in your Water and Sewer Administration?</p> <ul style="list-style-type: none"> <i>a. While pricing the produced services and determining costs in service delivery (determining and collecting costs when a service is provided such as intervention with rainwater and floods which are not undertaken by WSAs in the legislation etc.),</i> <i>b. Main problems with borrowing, use of loans, and fund transfers mainly with the MM in terms of financial management (borrow from or lend to the MM, collection of debts etc.),</i> <i>c. What do you recommend with regard to diversifying revenues?</i> <i>d. Challenges in the subscription process,</i> <i>e. Problems with the sales of immovable assets,</i> <i>f. Incentives (incentives based on reducing theft-loss, reflecting energy saving from energy efficiency on the electricity buying price, using EMRA supports in renewable energy generation etc.),</i> <i>g. With regard to service and vehicle insurance,</i> <i>h. Additional aspects/your opinions</i> |
| 4 | <p>What are the problems with the following management topics in your Water and Sewer Administrations and what are your opinions and recommendations?</p> <ul style="list-style-type: none"> <i>a. WSA management bodies (General Assembly, Administrative Board, Auditors, General Directorate, Departments)</i> <i>b. Modes of operation (principles of assembly and frequency of the General Assembly etc.)</i> <i>c. Additional aspects/your opinions</i> |

| QUESTIONS | |
|------------------|---|
| 5 | <p>What are the problems with human resources management in your Water and Sewer Administration? What are the problems with the ISKI Law and other governing laws? What are your opinions and recommendations for their improvement/correction?</p> <p><i>a. Problems with personnel rights arising from the legislation (differences in rights granted to civil servants-workers on permanent staff-contracted personnel, wage, bonus, 3600 supplementary index etc.)</i></p> <p><i>b. Problems with the legislation applicable to the personnel (litigation, investigation of WSA personnel etc.)</i></p> <p><i>c. Additional aspects/your opinions</i></p> |
| 6 | <p>What are the problems with the following service aspects in your Water and Sewer Administration? What are your opinions and recommendations for their elimination?</p> <p><i>a. Contracting processes of investments for water production facilities, treatment facilities etc.,</i></p> <p><i>b. With district municipalities,</i></p> <p><i>c. In land development with the MM,</i></p> <p><i>d. Additional aspects/your opinions</i></p> |
| 7 | <p>For how many years are your investment programmes prepared in your institution? Is there a financial programme prepared for the investment plans of your institution?</p> |
| 8 | <p>Do you have regulations or guides put to effect by your Water and Sewer Administration such as Regulation on Discharge into Sewer, Regulation on Protection of Potable Water Basins etc.? What are the problems with authorized institutions at the national scale and legislation in the implementation of the provisions of these regulations or other arrangements?</p> |
| 9 | <p>Do you have any coordination mechanisms with other institutions and organizations (central government, central government provincial institutions and local administrations) in areas in your remit while performing your services? If so, how do you think these coordination mechanisms are useful? (Also discuss good practices if possible).</p> |
| 10 | <p>What are the critical problems arising from the legislation (ISKI Legislation included) your Water and Sewer Administration experiences while performing its duties, other than those listed above, and which institutions do you face in these problems?</p> <p><i>a. Strategy Development</i></p> <p><i>b. Planning</i></p> <p><i>c. Financial Management and Budget</i></p> <p><i>d. Revenue Sources</i></p> <p><i>e. Investment</i></p> <p><i>f. Construction</i></p> <p><i>g. Operation and Maintenance-Repair</i></p> <p><i>h. Human Resources</i></p> <p><i>i. Real Estate and Expropriation Works</i></p> <p><i>j. Other (Please specify)</i></p> |

ANSWERS

Institution: Water and Sewer Administration of Istanbul

ANSWER 1.

The following changes, additions and exclusions can be considered for the ISKI Law No. 2560:

- 1) Article 1 (Establishment): The ISKI's service responsibilities should cover not only "water and sewer services" but also "water, wastewater, rainwater, riverbed rehabilitation, urban integrated water sources management and ground water management" services.
- 2) Article 2 (Roles and Powers): The roles and powers of the ISKI should be diversified to cover treatment, recovery and reuse of wastewater; treatment and reuse of wastewater sludge, collection and reuse of rainwater; riverbed rehabilitation, energy recovery from services for water and wastewater; urban integrated water sources management and licensing, monitoring and controlling wells (to be taken over from the DSI).
- 3) Article 6 (Roles and Responsibilities of the General Assembly): The 5 year Strategic Plan that should be prepared in 6 months from the conclusion of local elections should be reviewed and approved by the General Assembly. The Board Members and ISKI General Director recommended by the Istanbul MM Mayor should be appointed by the General Assembly. The General Assembly should decide on the ISKI establishing a new company or partnering with a company already established.
- 4) Article 7 (Members of the Administrative Board): Other than the direct members of the Board (Istanbul MM Mayor, General Director and the Assistant General Director with the longest term in office), the remaining 3 members to be in office until the next local elections (currently for 3 years) should be recommended by the IMM Mayor and approved by the General Assembly (the approval of the Ministry of Environment and Urbanization should not be sought as in the current situation to give weight to local administrations and local decision making processes).
- 5) Article 9 (Roles and Responsibilities of the Administrative Board): The 5 year Strategic Plan that should be prepared in 6 months by the General Director from the conclusion of local elections should be reviewed by the Administrative Board and submitted to the approval of the General Assembly.
- 6) Article 11 (Roles and Responsibilities of the General Director): The General Director should be recommended by the IMM Mayor and appointed by the General Assembly (not by the Ministry of Environment and Urbanization as in the current situation). As it is regulated in the Regulation on Permanent Staff, the number of Assistant General Directors should not be determined in the law (still maximum 4 in the law). The roles and responsibilities of the General Director should include preparing the 5 year Strategic Plan in 6 months from the conclusion of local elections and submitting to the Administrative Board.
- 7) Article 12 (Organization and Personnel): The present law states that the General Directorate establishes departments, directors and affiliated sub-units in numbers required by the service. However, this flexibility of the ISKI was removed by the Regulation on Permanent Staff issued after the establishment of the ISKI. The Administration should have the right and authority to create the organizational structure in wide limits. Positions of Assistant General Directors and Department Heads should be created and personnel should be appointed by the General Director with the approval of the Administrative

Board. Branches and Offices should be established and personnel should be appointed with the decision of the General Director.

8) Article 13 (Revenues):

- Contributions should be collected for the ISKI investments for building water distribution, wastewater and rainwater collection networks and capacity building and they should be used to fund these investments (not to be collected to the name of municipalities).
- Resources transferred from the government to the DSI for riverbed rehabilitation should be directed to the ISKI (operating and maintenance costs for riverbed rehabilitation should not be borne by the DSI, but entirely by the ISKI).
- This article should be added a new revenue item under the title “Training, consultancy, operation, maintenance and other services fees to be collected from domestic and international water organizations/administrations/stakeholders”.
- This article should be added a new revenue item as the rainwater service fee. As subscribers’ consumption is calculated on volumetric basis on water counters, the rainwater investments and operating and maintenance costs should not be reflected on their invoices based on m³ tariffs, because there is not direct relation between water consumption and rainwater services. Therefore, a new method should be identified under this article to calculate and invoice rainwater service fees. (For example; a fixed fee per building based on the region) (A separate study is recommended for this purpose).

9) Article 23 (Principles of Tariff Setting):

- It should be clearly stated that water/wastewater tariffs should be determined based on the principles of “user pays”, “polluter pays” and “complete cost”.
- It should be clearly stated that all revenues of the ISKI will be exclusively used to meet operating and maintenance, investment and funding costs (therefore, in this condition, the excess budget cannot be transferred to the IMM permanently or a current debt to be repaid for any reason).

10) Article 25 (Rainwater removal): This article can be abolished because all roles and responsibilities for rainwater should be transferred to the ISKI and rainwater fees should be regulated under Article 13.

11) Article Annex-3: This article should be revised to provide a certain degree of assurance to civil servants in their transactions and operations and not only the ISKI General Manager and Board Members, but also all of the ISKI officials should be considered at the Civil Servant status and the permission of the General Director should be sought for investigations.

12) New/Supplementary Article 1: The ISKI should have the right and authority to make contracts in all kinds of public-private collaborations (PPC) models under which metropolitan municipalities and municipalities can legally conclude contracts (service, management, build-operate-transfer, build-operate-continue, design-build-operate, sell-buy back, lease, transfer of operating rights, concessions etc.).

13) New/Supplementary Article 3: The ISKI should have the right and authority to identify financial incentives to award personnel (for example, social equilibrium compensation).

- 14) New/Supplementary Article 4: The ISKI should have the right and authority to establish or partner with autoproducer electric power companies to establish energy recovery plants (waste to energy) and renewable energy plans related to water/wastewater.
- 15) New/Supplementary Article 5: The Administrative Board should be authorized to delete receivables of the ISKI which cannot be collected (from subscribers who are dead, cannot be located, residing in demolished buildings etc.) after a certain period of time (for example, 5 years).
- 16) New/Supplementary Article 6: The ISKI should have the authority to make investments for protection of water sources in basins outside Istanbul where it currently supplies water from.

ANSWER 2.

Organizations which supply potable and utility water under the legislation of the Republic of Turkey are Municipalities (potable, utility and industrial water), Metropolitan Municipalities (potable, utility and industrial water), the DSI (potable, utility and industrial water) and SPAs (potable and utility water). Under the legislation, organizations which allocate water are the DSI (allocate water and register in the water registry according to Basin Water Allocation Plans) and the Ministry of Agriculture and Forestry, General Directorate of Water Management (allocate water on sector basis and create a water database according to River Basin Management Plans). The order of priority in water allocations under the national legislation is outlined in Figure 1.

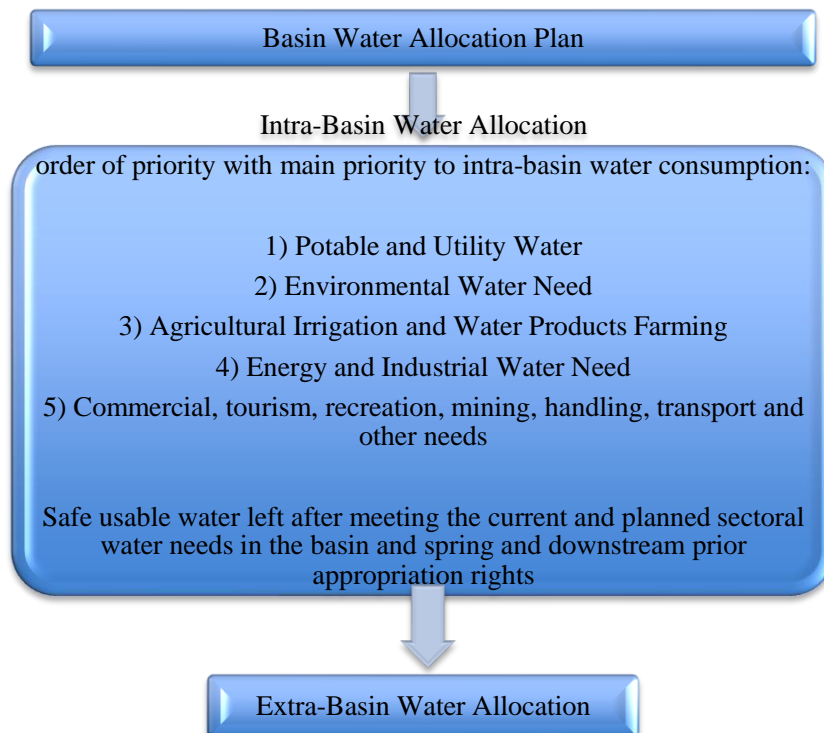


Figure 2 Water Allocation Diagram

Below is the route to be followed in water allocations by Municipalities and Metropolitan Municipalities.

- For surface waters; the DSI organization where the basin is located should be applied with the form in Annex 1 to the “Regulation on Water Allocations”,
- For ground waters; the DSI organization where the basin located for applications to be made according to the Law No. 167 and the charter. Applications are only valid if documents such as the “Ground Waters Exploration Certificate Application Form” (form 2.7.1), the “Ground Waters Use Certificate Application Form” (form 2.7.2) and the “Rehabilitation and Amendment Certificate Application Form” (form 2.7.3) are submitted in necessary order and the order of priority on the basin is deemed appropriate and these certificates are approved of (form 2.7.4, 2.7.5, 2.7.6).

There is an authority conflict which prevents participation in management in basins and problems with coordination in practice despite the stakeholder oriented management approach introduced by the EU Water Frame Directive.

Turkey’s water sector has a fragmented institutional framework. There are multiple institutions in the sector. Institutions can be broadly grouped in the following categories:

- Ministries (Ministry of Environment, Urbanization and Climate Change, Ministry of Agriculture and Forestry, Ministry of Health, Ministry of Interior, Ministry of Labour and Social Security, Ministry of Culture and Tourism, Ministry of Energy and Natural Resources, Ministry of Transport and Infrastructure) which define the legal framework which forms the basis of the activities of WSAs.
- Municipalities (MMs, DMs) which prepare the land development plans of WSAs which need to be compatible with water and wastewater projects and practices.
- Stakeholders engaged in activities for the protection of water basins.
- Institutions which need to coordinate rainwater management together (IMM, DMs, DSI)
- Institutions which need to coordinate ground water management together (DSI, ISKI, IMM, Provincial Health Committees, Investment Monitoring and Coordination Department).
- The DSI in charge of development of water sources (e.g. Melen for Istanbul) and riverbed rehabilitation (to be coordinated with the IMM).
- WSA subscribers.
- Contractors and service providers which assist WSAs in performing services.
- Universities and professional associations engaged in research and development in the water sector.
- Technical and administrative inspection institutions (the Court of Accounts, Ministry of Interior, Ministry of Finance Internal Audit Coordination Board, Public Procurement Authority).

Inter-institutional coordination is yet to reach the desired level in the current situation. Efforts are still put to establish coordination through senior management during a limited number of meetings. Lower levels of management are not authorized with regard to connection and coordination with other institutions although they partake in daily administrative operations. There is no rule or procedure to be followed by the lower level management with regard to coordination to reach desired outcomes. The main problem is that most institutions have a highly centralized organization.

This situation can also be observed among different public administrations in provinces. The Governor, the highest rank civil servant representing the central government in the province,

can organize a meeting anytime they want based on a pre-defined agenda about issues related to general management which requires the participation of the representatives of these administrations. However, these compulsory meetings organized under the law and the legislation or summoned by the Governor can only be attended by senior level civil servants. Therefore, it is hard to establish coordination in activities among the lower level managers who do the real work in the field.

Another important aspect which requires strong coordination is the land development plans that should be prepared and implemented by MMs and DMs. Land development planning is of key importance for the planning and implementation of WSAs' investment programmes and protection of water basins. Although WSAs submit their opinions about the said plans to make municipalities' land develop plans compatible with their investment programmes and operating activities, their opinions are not always taken into account by political decision makers and consequently, disruptions are likely in the service level and quality. Therefore, there is a need for strong coordination among municipalities, district municipalities and WSAs in land development planning and implementation. Otherwise it is impossible to assure subscriber satisfaction.

In the current situation, it is not known if the opinions submitted by the ISKI to municipalities are accurately reflected on land development plans and mostly they can be completely ignored or altered without paying due diligence to land development plans. Moreover, the Ministry of Environment and Urbanization can also make revisions in the environmental plans and land development plans disregarding the opinions and recommendations of the ISKI. Similarly, the Ministry of Industry and Technology can solely decide on the establishment of free zones and industrial plans especially in basin protection areas. As a result, the ISKI's burden of infrastructure development activities and financial burden increase and demands and needs for infrastructure cannot be met.

The ISKI's infrastructure activities can be interrupted due to problems with the permission processes with the General Directorate of Highways.

Problems with obtaining necessary permissions from the Ministry of Culture and Tourism for renovations to be performed in areas of a historical nature can lead to interruptions in operations.

Strengths and Weaknesses of Current Regulations

Strengths:

- Policy makers in the central government have better awareness about the importance of establishing inter-institutional coordination as reflected on the recently enacted laws and the draft Water Law on effective Integrated Water Sources Management.
- Administrators in key positions in institutions are aware of the bottleneck caused by administrative limitations and current regulation and willing to improve the institutional framework due to their requirement of better performance.
- Harmonization with the EU legislation has largely been established.

Weaknesses:

- Efficient mechanisms and procedures for establishing cooperation and coordination among internal and external stakeholders are lacking.
- A decision mechanism from bottom to top is lacking which lowers the motivation of lower level directors.

- There are conflicting responsibilities for rainwater drainage and riverbed rehabilitation.
- Coordination is lacking among the IMM, DMs and the ISKI with regard to land development planning (the ISKI still presents its non-binding opinions about the land development plans prepared by DMs and these plans are later approved by the IMM; however, the ISKI's opinions may not be taken into account in revisions of plans and its technical expertise in infrastructure planning can be overlooked by municipal councils).
- District municipalities do not efficiently implement sanctions for correcting illegally performed land development practices on the contrary to the approved land development plans.
- Necessary cooperation and efforts are lacking to impose sanctions for harmful structures and activities in water basins (identification and demolition of illegal buildings, identification, prevention and cleaning of illegal concreting etc.).
- District municipalities do not have necessary financial sources and human resources to implement rainwater drainage projects.

ANSWER 3.a

ISKI's Tariff Setting Process

The Law No. 2560 on Organization and Functions of ISKI states the water and sewer tariffs to be offered by the ISKI Administrative Board are to be reviewed and approved by the General Assembly. As there is no independent "economic regulatory institution" which approves the tariff levels and structures of Water and Sewer Administrations (WSAs) in Turkey, it is necessary to obtain approval from the ISKI General Assembly to implement the tariff offered by the ISKI.

Water and Sewer Administrations are responsible for identifying and implementing tariffs on complete cost basis according to the principles of "user pays" and "polluter pays".

ISKI's Tariff Structure

The two stage (<15 m³ / month and > 15 m³ / month) tariff structure in Istanbul is only applicable to residential subscribers. Non-gradual / linear tariffs are applicable in all other subscriber groups.

In the current tariff system, workplace tariffs are basically higher than residential tariffs. Wastewater services tariff is dependent on the amount of consumed water and it is included in the water tariff to constitute approximately 35% of the total tariff in practice.

Furthermore, following the new tariff policy initiated after May 2019, water is provided to all residential subscribers free of charge in an amount of 0.5 m³/month for every 2.5 m³/month of consumption, and medium-high income groups also benefit from the same discounts with low income groups. Additionally, there are also free of charge, discounted and special group tariffs available. The free of charge tariff is applicable to sanctuaries and public water distributors, cemeteries and public fountains and fire hydrants of the fire brigade. The discounted tariff is applicable to right owner families of martyrs or civil martyrs, war veterans or their right owner families who are their widows and orphans, and persons with at least 40% disabilities certified by a report. In addition to that, water use of certain organizations and institutions such as health institutions and educational institutions are invoiced exempt from grading.

Political Factors in Tariff Setting

As all of the members of the ISKI General Assembly are the Istanbul MM (IMM) Municipal Councillors elected in the municipal elections, local politics plays an important role in tariff setting. Therefore, in the municipal elections of 2019, it was observed that more than 40% discount was made in water tariffs with political rather than technical approaches, therefore, the ISKI's revenues significantly decreased, which led to an inevitable drop especially in investment spending. In conclusion, reduced revenues negatively impacted the financial sustainability of the ISKI.

Minimizing Political Influence in Tariff Setting

There are mainly three options to minimize political influence in tariff setting (lobbying activities should be conducted to make an amendment in the legislation in order to realize these options):

- Regulate the decision making authority of the ISKI General Assembly in tariff setting to be based on technical and financial criteria rather than political ones (for example, the General Assembly decides on the annual budget and tariffs within upper and lower thresholds, or re-prepare and approve the annual budget if tariffs are changed).
- Develop a cost/tariff model which determines the complete cost of services and authorize the ISKI General Assembly to decide on a reasonable rate of profit to be added only on top of the complete cost of water and wastewater services by subscriber groups (the ISKI General Assembly determines the reasonable rate of profit to be added on top of the complete cost at different levels for water and wastewater services, and residential subscribers and non-residential subscribers).
- Establish a central and autonomous Economic Regulatory Institution for the water industry in Turkey to review and approve the tariffs recommended by WSAs only based on technical and financial criteria.

Water and wastewater tariffs should be determined separately considering the complete service costs based on amount of consumption and pollution load. Changes can be made preferring one of the three different approaches below as provided in the Law No. 2560 in order to eliminate political influence while the ISKI General Assembly determines the tariffs:

- As the annual budget offered by the Administrative Board directly depends on the tariff structure and level, when the General Assembly makes a change in the tariffs, the budget is also revised by the ISKI and submitted to the approval of the General Assembly,
- Upper and lower thresholds are determined for the annual budget and tariffs offered by the Administrative Board and the General Assembly decides within these limits,
- The decisions to be made by the General Assembly on tariff levels are only to be related to the reasonable rate of profit to be added on top of the complete service costs of water and wastewater calculated by the ISKI Administrative Board (the ISKI General Assembly determines the reasonable rate of profit to be added on top of the complete cost at different levels for water and wastewater services, and residential subscribers and non-residential subscribers).

ANSWER 3.b

Municipalities borrow due to revenue—expense imbalance, in other words, budget and funding deficit. Although the legislation allows municipalities to borrow, there are certain

limitations to prevent future difficulties in payments following excessive use of these options and thus, interruptions in the activities of municipalities. The principles and procedures of borrowing of municipalities are regulated under Article 68 “Borrowing” of the Law No. 5393 on Municipalities. According to this article, there are two limits to the borrowing of municipalities:

- 1) Limit to the authority to approve the borrowing decision
- 2) Limit to the total debt stock

While there is no problem with obtaining the authority of borrowing in municipalities where the Mayor the majority of the Municipal Council are from the same political party, there are problems with obtaining the authority of borrowing on other occasions. Failing to comply with the borrowing limit is subject to judicial and financial sanctions.

Articles of the Law:

68d) The internal and external debt stock, interest included, of municipalities and their affiliated entities and companies where they hold more than fifty percent of the capital cannot exceed the latest final budget revenues total increased by the revaluation rate to be determined under the Law No. 213 on Tax Procedures. This amount is applicable one and a half times for MMs.

68-e) Municipalities and affiliated entities and companies where they held more than fifty percent of the capital can make internal borrowing which does not exceed ten percent of their most recent final budget revenues increased by the rate to revaluation to be determined under the Law No. 213 on Tax Procedures during the related year with the decision of the municipal council and which exceeds ten percent of the same with the decision of the absolute majority of the full members of the council and approval of the Ministry of Environment, Urbanization and Climate Change.

Article “Budget Revenues” of the Law No. 5216 on Metropolitan Municipalities lists among the revenues of MMs the sums to be transferred as a result of the excess between the revenues and expenses in the final accounts of affiliated entities. The transfers by WSAs to municipalities as required by this article make it hard to fund future investments.

ANSWER 3.c

The following changes, additions and exclusions can be considered for the ISKI Law No. 2560: Article 13 (Revenues):

- Contributions should be collected for the ISKI investments for building water distribution, wastewater and rainwater collection networks and capacity building and they should be used to fund these investments (not to be collected to the name of municipalities).
- Resources transferred from the government to the DSI for riverbed rehabilitation should be directed to the ISKI (operating and maintenance costs for riverbed rehabilitation should not be borne by the DSI, but entirely by the ISKI).
- This article should be added a new revenue item under the title “Training, consultancy, operation, maintenance and other services fees to be collected from domestic and international water organizations/administrations/stakeholders”.
- This article should be added a new revenue item as the rainwater service fee. As subscribers’ consumption is calculated on volumetric basis on water counters, the rainwater investments and operating and maintenance costs should not be reflected

on their invoices based on m³ tariffs, because there is not direct relation between water consumption and rainwater services. Therefore, a new method should be identified under this article to calculate and invoice rainwater service fees. (For example; a fixed fee per building based on the region) (A separate study is recommended for this purpose).

Article 23 (Principles of Tariff Setting):

It should be clearly stated that all revenues of the ISKI will be exclusively used to meet operating and maintenance, investment and funding costs (therefore, in this condition, the excess budget cannot be transferred to the IMM permanently or a current debt to be repaid for any reason). Article "Budget Revenues" of the Law No. 5216 on Metropolitan Municipalities lists among the revenues of MMs the sums to be transferred as a result of the excess between the revenues and expenses in the final accounts of affiliated entities. The transfers by WSAs to municipalities as required by this article make it hard to fund future investments.

ANSWER 3.d

Missing documents in subscription applications (other than online applications) leave the application incomplete. This causes delays, queues and citizens' reactions during subscription processes. Moreover, the fact that guarantees deposited at application are returned at the rate issued in the certificate of inheritance following the death of the subscriber, in other words, the guarantee is not refunded in full, causes reactions in citizens.

ANSWER 3.e

The sales of the immovable assets of the ISKI requires the approval of the IMM General Assembly. This can cause the procedures to take too long and get interrupted.

ANSWER 3.f

Our institution uses the latest technology in services it offers to the people of Istanbul for the public benefit. It is a pioneer in projects conducted with innovative, environmental friendly and energy efficient operations.

ANSWER 4.a

The following changes, additions and exclusions can be considered for the ISKI Law No. 2560:

- Article 6 (Roles and Responsibilities of the General Assembly): The 5 year Strategic Plan that should be prepared in 6 months from the conclusion of local elections should be reviewed and approved by the General Assembly. The Board Members and ISKI General Director recommended by the Istanbul MM Mayor should be appointed by the General Assembly. The General Assembly should decide on the ISKI establishing a new company or partnering with a company already established.
- Article 7 (Members of the Administrative Board): Other than the direct members of the Board (Istanbul MM Mayor, General Director and the Assistant General Director with the longest term in office), the remaining 3 members to be in office until the next local elections (currently for 3 years) should be recommended by the IMM Mayor and approved by the General Assembly (the approval of the Ministry of Environment and Urbanization should not be sought as in the current situation to give weight to local administrations and local decision making processes).
- Article 9 (Roles and Responsibilities of the Administrative Board): The 5 year Strategic Plan that should be prepared in 6 months by the General Director from the conclusion

of local elections should be reviewed by the Administrative Board and submitted to the approval of the General Assembly.

- Article 11 (Roles and Responsibilities of the General Director): The General Director should be recommended by the IMM Mayor and appointed by the General Assembly (not by the Ministry of Environment and Urbanization as in the current situation). As it is regulated in the Regulation on Permanent Staff, the number of Assistant General Directors should not be determined in the law (still maximum 4 in the law). The roles and responsibilities of the General Director should include preparing the 5 year Strategic Plan in 6 months from the conclusion of local elections and submitting to the Administrative Board.
- Article 12 (Organization and Personnel): The present law states that the General Directorate establishes departments, directors and affiliated sub-units in numbers required by the service. However, this flexibility of the ISKI was removed by the Regulation on Permanent Staff issued after the establishment of the ISKI. The Administration should have the right and authority to create the organizational structure in wide limits. Positions of Assistant General Directors and Department Heads should be created and personnel should be appointed by the General Director with the approval of the Administrative Board. Branches and Offices should be established and personnel should be appointed with the decision of the General Director.

ANSWER 4.b

The General Assembly should meet more frequently for rapid decision making and uninterrupted service.

ANSWER 5.a

The following changes, additions and exclusions can be considered for the ISKI Law No. 2560: Article 12 (Organization and Personnel): The present law states that the General Directorate establishes departments, directors and affiliated sub-units in numbers required by the service. However, this flexibility of the ISKI was removed by the Regulation on Permanent Staff issued after the establishment of the ISKI. The Administration should have the right and authority to create the organizational structure in wide limits. Positions of Assistant General Directors and Department Heads should be created and personnel should be appointed by the General Director with the approval of the Administrative Board. Branches and Offices should be established and personnel should be appointed with the decision of the General Director. New/Supplementary Article 3: The ISKI should have the right and authority to identify financial incentives to award personnel (for example, social equilibrium compensation).

ANSWER 5.b

The following changes, additions and exclusions can be considered for the ISKI Law No. 2560: Article Annex-3: This article should be revised to provide a certain degree of assurance to civil servants in their transactions and operations and not only the ISKI General Manager and Board Members, but also all of the ISKI officials should be considered at the Civil Servant status and the permission of the General Director should be sought for investigations.

ANSWER 6.a

When the parcel selected for the investment is not under the property of the ISKI, challenges are experienced in land allocations. In urgent investments, project preparation processes can

take very long due to adaptation to the technology of the work and the technical specifications prepared under 21E, slowing down the bidding process.

ANSWER 6.b and 6.c

Municipalities in Istanbul (IMM, DMs) prepare land development plans that should be compatible with the water and wastewater projects and practices of the ISKI. Land development plans that should be prepared and implemented by the IMM and DMs are of key importance for the ISKI's investment programme planning and implementation and protection of water basins. Even though the ISKI submits its opinions on the concerned plans to make municipalities' land development plans compatible with the investment programmes and operations, they are not always taken into account by political decision makers, leading to impaired service level and quality. Therefore, there is a need for strong coordination among the IMM, district municipalities and the ISKI in land development planning and implementation. Otherwise it is impossible to assure subscriber satisfaction. In the current situation, it is not known if the opinions submitted by the ISKI to municipalities are accurately reflected on land development plans, and mostly the ISKI's opinions can be completely disregarded or altered without paying due diligence to the land development plans.

ANSWER 7.

Under the provisions of paragraphs (d) of Article 9 and (c) of Article 11 of the Law No. 2560, it is prepared every year to meet the objectives, targets and performance indicators in the strategic plan and performance programme according to the principles in the Investment Programme Preparation Guide annually published by the Ministry of Development. The prepared Investment Programme takes effect after the approval of the ISKI General Assembly held in the Istanbul Metropolitan Municipal Council in November.

ANSWER 8.

The regulations put to effect by our Administration are as follows;

- General Directorate of Water and Sewer Administration of Istanbul, Regulation on Wastewater Discharge in Sewers (2013)
- General Directorate of Water and Sewer Administration of Istanbul, Regulation on Potable Water Basins (2011)
 - Kazandere and Papuçdere Dam Lake Basins Special Provisions
 - Büyükçekmece Dam Lake Basin Protection Plan
 - Elmalı 1-2 Dam Basin Protection Plan
 - Melen Dam Lake Special Provisions
- ISKI Regulation the Principles and Procedures of Inspection of Rental of Spring Waters and Sales, Handling and Consumption of Ground Waters (2014)
- ISKI Regulation on Subscriber Services Tariffs and Implementation (2018)

In the current situation, there is a conflict of roles and powers between certain institutions because of diversification of authority in water management. The institutional and technical capacities of local administrations should be improved with regard to the legislation and plans on water.

ANSWER 9.

The ISKI is in continuous communications with the related Ministries and all infrastructure institutions in Istanbul, mainly with the Istanbul MM, and water and Sewer Administrations in other provinces, universities, municipalities and the private sector. In its operations, it is in

close contact with universities, technocities, research and development centres and manufacturing industry. Our institution cooperates with related persons and institutions in all its activities and projects within its areas of duty and authority.

ANSWER 10.

Real Estate and Expropriation Works: Changes in the plans are delayed for locations required for the ISKI's investments as stipulated in the Law No. 3194 on Land Development and locations which have their plans changed are not implemented as required under Article 18 of the Law No. 3194 on Land Development.

Title of Institution: Eskişehir Water and Sewer Administration

ANSWER 1.

It will improve service quality if the part of the cleaning of rainwater grills at settlements within the area of service which remains in the area of service of sub-municipalities is performed within the framework of the cleaning services of district municipalities (recommended because the related municipalities' cleaning services are continuous on streets and avenues). It will provide great convenience if water tariffs are determined by the "Administrative Board".

Governing Laws are as follows:

- Law No. 5393 on Municipalities
- Law No. 2464 on Municipal Revenues
- Law No. 831 on Waters
- Law No. 167 on Ground Waters
- Law No. 6200 on the Organization and Duties of the General Directorate of State Hydraulic Works
- Environmental Law No. 2872
- Law No. 5018 on Public Fiscal Administration and Control
- Law No. 3516 on Measurements and Configurations
- Law No. 657 on Civil Servants
- Law No. 4734 on Public Procurement
- Law No. 4735 on Public Procurement Contracts
- Law No. 2863 on Conservation of Cultural and Natural Assets
- Law No. 3194 on Land Development Planning and Control
- Labour Law No. 4857
- Law No. 488 on Stamp Duty
- Law No. 1593 on Public Health
- Law No. 7201 on Notices
- Turkish Code of Obligations No. 6098
- Law No. 4982 on Right to Information
- Law No. 5510 on Social Insurance and Universal Health Insurance
- Turkish Criminal Code No. 5237
- Law No. 2886 on State Procurement
- Law No. 2004 on Execution and Bankruptcy
- Law No. 237 on Vehicles
- Law No. 193 on Personal Income Tax
- Law No. 3065 on Value Added Tax
- Law No. 6245 on Travel Allowances
- Decree-Law No. 1153 on the Organization and Duties of the Ministry of Environment and Urbanization
- Related provisions of the Law No. 5436
- Law No. 6360 on Establishment of Metropolitan Municipalities and Twenty Seven Districts in Fourteen Provinces and Amending Certain Laws and Decree-Laws

A clear provision on exemption from litigation charges should be added to related article on exemptions in the Law No. 492 on Charges and the Law No. 2560 and it should be ensured that Water Administrations are exempt from litigation charges.

It would be suitable to make a new arrangement under the ISKI Law to combine the implementation and collection of Contributions and evaluate Article 23 of the Land Development Law, Articles 87 and 88 of the Law on Municipal Revenues and Articles 13 and 23 of the ISKI Law together to prevent duplication in Accruals and Collections because it is hard to calculate the Contributions collected under Articles 87 and 88 of the Law No. 2464 on Municipal Revenues and Article 13 “Revenues” of the ISKI Law according to the principles set forth in the “Regulation on the Implementation of Provisions on Contributions of the Law No. 2464 on Municipal Revenues”.

ANSWER 2.a

As prohibition of Rainwater Discharge in canals and rivers under the administrations of the DSI leads to legal and technical problems in practice, it would be suitable to add a provision on Rainwater Discharge in the legislation and ensure canals and other structures planned by the DSI are built also by considering Rainwater Discharge.

It should be ensured that water sources planned to be used for different purpose by the DSI are allocated again with the purpose of using as 1st degree priority potable water when necessary even if used for other purposes, according to the order of priority provided in the “Regulation on water allocations”.

There are challenges with data sharing. (For example, not sharing well licenses to track wastewater subscriptions is a problem).

ANSWER 2.b

The related directorates collect a Revolving Capital Charge from our Administration during the procedures of Land Register and Cadastre although Article 21-a Exemptions of the Law N. 2560 states that “The immovable assets, facilities, processes and activities of ISKI used for its operations are exempt from all kinds of taxes, duties and charges”. It would be suitable to add the Revolving Capital Charge in exemptions.

ANSWER 2.c

The analyses performed by the public health laboratories of the Ministry of Health have very high costs for our administration. It is important for reducing the expenses of the institution to ensure that the results of analyses performed by the accredited laboratories within the body of the administration are accepted.

ANSWER 2.d

It would be suitable to operate processes directly for allocation when unregistered sites are requested for potable water and sewer facilities because on some occasions when areas outside registration are requested to be registered and allocated, the Meadows Commission consider these areas as meadow areas and collects a Weed Fee and accordingly, changing the classification of meadows lengthens the time of allocation.

It would be suitable to issue the Forestry Permission File if drilling provides positive results on the Forest Land and it is recommended to finalize requests for drilling with an upper level letter because the Administration is subject to additional burden in terms of costs and loss of time in drilling operations which yield negative results as the Directorates of Forestry require

preparing a 2 year Preliminary Permission File or a Permission File and making a Forestry Permission Application for wells to be drilled on Forest Lands.

ANSWER 2.e

The service buildings of our administration are registered as subscribers from different groups by their type within the subscriber groups on the electricity market regulated by the Ministry of Energy/EMRA. It is important for reducing the expenses of administrations to consider all service buildings and other subscriptions of WSAs in the industrial group during the preparations for the amendment to the law.

There are challenges with data sharing. For example, problems are experienced with sharing 5 to 10 years of energy consumptions retrospectively to compare consumptions in some subscribers.

25% of our budget is spent on the foregoing services.

ANSWER 3.a

The potable and utility water provided by the administration is used for purposes such as irrigation etc. because of the limitation on the tariff at places which were converted into neighbourhoods under the Decree-Law No. 6360 especially in rural areas during the processes of pricing of services in service delivery and determining costs (when rainwater, intervention with floods and similar services which are not assigned to the WSA by the legislation are provided, pricing and collection of costs etc.). This regulation should not be extended to ensure already insufficient potable and utility water sources are used to meet the fundamental needs of rural people.

Clause 4 of Article 17 of the Regulation on the principles and procedures of tariff setting for wastewater infrastructure and domestic solid waste disposal facilities published in the Official Gazette of 27.10.2010 issue 27742 states that the wastewater tariff cannot exceed 50% of the cubic meter water fee, which contradicts the principle of tariff setting on complete cost basis. In calculations on complete cost basis, wastewater collection and treatment costs exceed 50% of the cubic meter water fee and the actual cost is not reflected on the tariff. It should be taken into consideration. Wastewater treatment facilities have high operating costs and it is a service for environmental protection.

ANSWER 3.c

The fact that the Sanitation Tax and Domestic Solid Waste Fees are collected through water bills causes additional burden, loss of time and labour for WSAs. Therefore, the sanitation tax, domestic solid waste and disposal fees collected through water bills although WSAs do not earn income from this should be eliminated for the purposes of the institution's prestige and payments or a share should be apportioned to administrations from these revenues.

ANSWER 3.d

Standardization of subscriber groups in all WSAs will be facilitating in practice.

ANSWER 3.e

As the Law No. 2560 does not include a clear provision on the Sales and Transfer of Immovable Assets, there are hesitations in practice, it would be suitable to add a provision for clarification.

ANSWER 4.a.

There is a limitation under the Law No. 2560 that among the Administration Board members, the Assistant General Director with the longest term in office is an ordinary member of the Board. It is suggested to leave this preference to the discretion of the General Director.

ANSWER 5.a.

Water and Sewer Services are generally classified as very hazardous and hazardous works. It would be suitable to make depreciation payments to the personnel in these institutions and make improvements in personnel rights.

ANSWER 5.c.

Every province in our country has different potable and utility water sources at varying quality. Transport of water from sources which supply potable and utility water to provinces, treatment and servicing as well as the number of necessary facilities vary between provinces. Furthermore, administrations make investments and establish facilities to allow the public to reach spring water at a lower cost (such as the Eskişehir ESKI General Directorate Kalabak spring water bottling factory). Therefore, it is suggested to be taken into account for facilities operated by the permanent staff of administrations.

ANSWER 6.

People in neighbourhoods cause problems because of their former village boundaries and old habits in explorations of springs to meet potable and utility water needs from different areas in villages which were converted to neighbourhoods under the Decree-Law No. 6360. It should be clarified in the legislation that it is necessary to plan ground water sources, wherever they are, to meet all needs within the boundaries of the province. (It should be stated in the legislation that all ground potable and utility water sources within the boundaries of the province can be used for any area needed within the boundaries of the province wherever they are located).

ANSWER 7.

Our administration makes investment programmes in annual and five year terms. A financial programme is prepared for these investment plans.

ANSWER 8.

Our administration prepares regulations on related topics. There are challenges in the implementation of the regulation with regard to sanctions. Problems occur in practice as sanctions and other penal provisions are provided under the legislation of other institutions.

ANSWER 9.

There are mechanisms of the Infrastructure Coordination Centre (AYKOME) and the Transport Coordination Centre (UKOME). These coordination centres allow all infrastructure organizations operate jointly in infrastructure services. Necessary measures are taken before starting infrastructure works.

ANSWER 10.

While the Law No. 5018 on Public Fiscal Administration and Control provides easy payment for organizations with a central budget, it does not provide the same easy payment for organizations the structure of which is only completed in one province. The fact that the departments of administrations within the boundaries of a single province separately create service units for fiscal administration leads to loss of personnel and time. A new legislation should be worked on for local administrations.

Under the Decree-Law No. 6360, the related works and procedures were transferred to our administration together with their debts. No resource was transferred for these expenses through Ilbank.

The fact that Ilbank makes deductions from apportionments from contributions that should be transferred to WSAs without a standard stating “their revenues decreased” causes non-standard deviations in the institution’s revenues.

Title of Institution: Manisa Water and Sewer Administration

ANSWER 1.

Law on the Organization and Functions of the General Directorate of Water and Sewer Administration of Istanbul

Law No. 5216 on Municipalities

Law No. 5018 on Public Fiscal Administration and Control

Law No. 4734 on Public Procurement

Regulation on Wastewater Collection and Removal Systems

Ilbank "Regulation on Planning and Preparation of Projects for Sewer Works"

Regulation on Water Pollution Control

Regulation on Rainwater Collection, Storage and Drainage Systems

Regulation MASKI Wastewater Discharge Into The Sewer Network

Regulation on Urban Wastewater Treatment

Regulation on Environmental Impact Assessment

Regulation on Pits to be Built at Places Where Sewer System Construction Is Not Applicable

Prime Ministry Circular No. 2010/5 on River and Riverbed Rehabilitation

Prime Ministry Circular No. 2006/27 on Riverbeds and Floods

Regulation on Flood and Sediment Control

Ministry of Public Works and Settlement Circular of 19.08.2008 No. 10337 on Plan Base Geologic-Geotechnical and Micro Zoning Survey Repealed by the Ministry of Environment and Urbanization General Directorate of Spatial Planning Circular No. 102732

Ministry of Environment and Urbanization Principles of Implementation and Report Format for Soil and Foundation Survey of 09.03.2019 No. 30709

Ilbank Technical Specifications for Soil Investigation (2013)

Ilbank "Technical Specifications for the Preparation of Survey, Feasibility and Projects of Potable Water Facilities"

Regulation on the Preservation of Potable-Utility Water Basins

Regulation on Potable and Utility Water Supply and Distribution Systems

Regulation on Protection of Ground Waters From Pollution and Degradation

Regulation on the Quality of Surface Waters Used or Planed for Potable Water

Regulation on the Control of Water Loss in Potable Water Supply and Distribution Systems

Regulation on Waters for Human Consumption

Regulation on the Preparation, Implementation and Monitoring of Basin Management Plans

Regulation on the Generation of Large Scale Maps and Map Information

Law No. 3194 on Land Development Planning and Control

Regulation No. 30113 on Land Development of Planned Areas are used as guides.

ANSWER 2.a

Problems with land use; other public institutions and organizations not allowing for land use/long processes in infrastructure projects of public interest. Recommendation; attention should be paid to these investments and the decision making process should be managed

accordingly considering the requirement for infrastructure investments in areas of settlement.

The DSI should control the licenses of drilling wells used in production by enterprises which terminate their wastewater with treatment facilities through the sewer, drilling should be blocked for enterprises which do not have licenses for their drilling wells and excessive wastewater flow rate to wastewater treatment facilities should be prevented.

ANSWER 2.b

With regard to the Ministry of Environment and Urbanization; it was stated that no energy incentive was going to be paid to the respective administrations for the considered facilities if wastewater treatment facilities with a CWMS had their data entries below 80 percent.

Although regular maintenance is performed on the equipment in CWMS cabinets, in case of a breakdown, it takes time for the authorized service to intervene with the equipment and perform maintenance, repair and mounting, leading to data loss in the CWMS. However, the facility is kept in operation in the meantime. When the energy incentive is interrupted although the facility continues with operations, it will interrupt the budget and revisions on the facility/facilities.

It would be suitable eliminate the requirement for percentage of data or lower it to a more feasible range (e.g. 60%).

With regard to the Regulation on Regular Storage of Wastes; while determining the regular storage class in the final disposal of the treatment sludge generated in Wastewater Treatment Facilities, when the TOC and DOC parameters are high in the sludge analysis results (due to illegal industrial discharge into facilities), the treatment sludge is considered hazardous. Although it is extended until 01.01.2025 under the Regulation on Regular Storage of Wastes, it will repeat again after that date. Therefore, it will be necessary to store treatment sludge which can be stored in the second class in the hazardous class and it will create serious costs for the administration. The threshold values for Total Organic Carbon (TOC) and Dissolved Organic Carbon (DOC) in the regulation should be evaluated again according to the conditions in our country (characterization of wastewater coming to facilities).

ANSWER 2.d

When the facilities identified for the project are located on forest lands or meadow lands, land use is not permitted/the process is prolonged.

ANSWER 2.f

When the line routes identified for the project are located within the boundaries of compulsory highway expropriation or cross highways, necessary permission is not granted/the permission process is prolonged.

ANSWER 2.g

In the process of service delivery, late responses to allocation, permission and pass procedure for institutions such as the DSI, Ministry of Agriculture and Forestry, Ministry of Transport and Infrastructure / General Directorate of Highways and TCDD lead to challenges.

Under the provision "...riverbed rehabilitation..." under clause (r) of Article 7 Roles, Powers and Responsibilities of the Metropolitan Municipality of the Law No. 5216 on Metropolitan Municipalities, maintenance, repair and operation of riverbeds are among the roles, powers and responsibilities of our General Directorate. Similarly, under the Law No. 6200 on the Organization and Functions of the General Directorate of State Hydraulic Works, Law No. 4373

on Protection from Floods and Overflows, Regulation on Floods and Sediments, Circular No. 2006/27 on Riverbeds and Floods and Circular No. 2010/5 on River and Riverbed Rehabilitation, maintenance, repair and operation of riverbeds are also among the roles, powers and responsibilities of the General Directorate of DSI. The fact that both our General Directorate and the DSI are responsible for maintenance, repair and operation riverbeds without any distinction both causes conflict of authority between institutions and leads to interruptions and loss of time in the processes. This conflict of authority needs to be ended. Because the specifications for wastewater treatment facilities for which project and construction contracts are awarded by Ilbank do not stipulate necessary works and procedures under the legislation (waste management plan, environmental management service etc.), expenses arising from the transfer of facilities to respective administrations are borne from the administrations' budgets. These works and procedures stipulated in the environmental legislation should be added to respective specifications and administrations should be prevented from these expenses.

ANSWER 3.d

As e-subscription processes are not active yet, there is significant intensity, and it is also requested by citizens. Citizens heavily react to the requirement of up to date DASK insurance (earthquake insurance) for subscriptions. There is intensity in mutual dialogue on the foregoing items.

ANSWER 4.b.

The General Assembly gathers with a special agenda in May and November every year to discuss and decide on the powers and roles stipulated in the Law No. 2560 as required under Article 5 of the Law No. 2560. Furthermore, the General Assembly can gather with an extraordinary agenda maximum 3 times a year.

Our MASKI General Assembly has gathered twice a year in average, other than ordinary meetings, since the establishment of our General Directorate. While extraordinary meetings are completed in 1 session, ordinary meetings are completed in 2 or 3 sessions.

However, attention was paid to completing our ordinary meetings in 1 session too due to the pandemic from March 2020.

ANSWER 5.a.

Wage difference between workers with the same roles and responsibilities should be eliminated.

As Water and Sewer Administrations are grouped in the very high risk class in terms of working conditions, it should be taken into account while adjusting remunerations.

ANSWER 6.a.

Measures required under the environmental legislation should be planned and included in the specifications for wastewater treatment facilities.

ANSWER 7.

Our investment programmes are organized for two years. Financial programme preparations for our investment plans are made by the Department of Strategy and Development.

ANSWER 8.

MASKI Regulation on Wastewater Discharge into the Sewer Network

There is the MASKI Regulation on Wastewater Discharge into the Sewer Network applicable within the body of our General Directorate and preparations are ongoing for the Regulation

on Protection of Potable Water Basins. There is no problem/challenge with regard to other authorized institutions and legislation requirements in the implementation of the provisions of the regulation.

ANSWER 9.

Manisa MM Infrastructure Coordination Centre Branch (AYKOME) which inspects necessary works for all facilities which are generally located underground such as potable water and canal projects, electricity, gas, phone, energy supply projects, central heating channels etc. within the boundaries of the province is applied by institutions for all underground works.

Therefore, the operations of all institutions and municipalities willing to work in the same area are organized by AYKOME. Thus, it is aimed to ensure operations are conducted and both infrastructure and superstructure works are completed at once. Public interest is protected by preventing institutions willing to operate in the same area from repeatedly demolishing the area and causing damage to flooring.

15 District Offices were established under the District Services Branch within the body of our Department to work in cooperation with the related Departments to efficiently fulfil their duties and responsibilities within the area of their authority according to the requests submitted to the General Directorate. A District Office was established for each of the 15 districts in Manisa other than the central district. Other than direct contact with the Departments of the General Directorate, District Municipalities, District Governorates and other institutions are contacted and coordinated through these Offices with regard to water and sewer services.

As the services our institution offer continue on 24/7 basis, monthly regular meetings are held with our District Offices which operate as the provincial organization and it proves to be useful in the completion of all our works and procedures on a hierarchical basis. Therefore, we believe these District Offices operating under our Department are of use for our institution as a coordination mechanism.

Title of Institution: Ordu Water and Sewer Administration

ANSWER 1.

- It would be suitable to correct the title of the Law as the “Law on Water and Sewer Administrations”,
- Remove rainwater from the text and restate the article on rainwater,
- Assign the construction of rainwater canals to WSAs and their operation to district and metropolitan municipalities,
- Consider the work of rainwater and riverbed rehabilitation together with land development plans on a basin basis,
- Resolve the conflict of authority in rainwater and riverbed rehabilitation,
- Offset the respective fees from the municipality llbank apportionment or reflect them on invoices,
- Correct the term “rainwater” in the article as “rainwater transfer lines” and add it to definitions,
- Revise the Law No. 2560 together with its title as it has become inapt to answer emerging needs.

ANSWER 2.a

- Problems should be solved in the protocols to be made with the Highways and DSI such as challenges with permissions for horizontal or parallel passes, very high fees etc.
- Issues should be solved with regard to rights on water sources, obtaining permission from the DSI, resource allocation certificates etc.
- Rainwater: These services can be performed by WSAs with the rainwater fees to be collected from subscribers.
- Riverbed rehabilitation: Rivers in the city, for example those narrower than 5 meters, can be conducted by the MM or WSA. Wider rivers should be conducted by the Ministry.
- It is stated that riverbed rehabilitation is listed among the duties of the DSI, moreover, the duty of river rehabilitation is also assigned to MMs under the Law No. 5216, the Law No. 2560 does not assign the duty of riverbed rehabilitation to the administrations, but WSAs can be held responsible in claims caused by river overflows; although it is not the administrations’ main duty to build and operate rainwater canals, they can also be held responsible in claims caused by external floods due to rainwater. A new regulation is needed in this regard.
- WSAs should have the entire authority on all potable water in the province. For example, issues such as consulting to the opinion of the Ministry of surface waters above 1.000 l/s can be discussed. The authority over well waters should also be vested to WSAs and WSAs should collect the respective fees.
- Potable water and wastewater treatment facilities should be built by the Ministry. For the integrity of the project, dam, pond, regulator, water intake structure, treatment, transfer lines to urban depots, for example, potable water tanks of 5.000 m³ and above, large lift stations, and related expropriation and easement should be included. If the WSA prepares the project, performs related permission, allocation,

expropriation procedures and reaches the contract phase, the Ministry should pay progress payments. If all of these works are completely left to the Ministry, the Ministry cannot build these facilities or advanced initiatives in provinces such as Ankara can have these services performed, thereby leading to discrimination.

ANSWER 2.b

- The authority of the Ministry of Environment for open sea discharge
- Issues regarding the citizens' complaints in their petitions that the wastewater of their neighbours arrive at their own gardens are referred to the authority of the Water Administration.
- The problem of institution's guarantee should be resolved with termination in wastewater treatment facilities.
- It would be suitable to drop the controlling fees and interest rates in loans provided by İlbank as well as the rates of loan interest and controlling service rates to reasonable levels.
- The authority of the Ministry of Environment should not be sought in wastewater analyses (open sea discharge – canal discharge), and the Administration's laboratory authorized by TURKAK should be sufficient.

ANSWER 2.c

- It should be sufficient when the control and inspection monitoring analyses of the Ministry of Health are conducted in the laboratories of WSAs authorized by TURKAK rather than the laboratories of the Ministry of Health, or water analyses performed by the Ministry of Health should be free of charge.
- The powers of control monitoring and inspection monitoring analysis on potable-utility waters under the Regulation on the Operating Principles and Procedures of Public Health Laboratories and Authorized Laboratories of the Ministry of Health were abolished on 1/3/2016, this authority should be conferred again to the WSA laboratories.
- Samples are taken for settlements with a population of 50 and above from a source listed in the "Regulation on Waters for Human Consumption" issued by the Ministry of Health. As the province of Ordu and the Black Sea region have a very dispersed network structure, samples are taken from multiple points and they are invoiced by the Ministry of Health; for example, WSAs of Trabzon and Ordu have low income but they pay the same amount with the İSKİ to the Ministry of Health, instead of this, the Ministry of Health should charge water analysis fees depending on the revenues of WSAs.

ANSWER 2.f

- It would be suitable to rearrange the bureaucratic legislation governing the building permits to be obtained from the Highways, Departments of Forestry and other public institutions during the project design and construction of infrastructure and superstructure facilities, and minimize delays in construction times and drop passing costs to reasonable levels.
- To prevent delays in the protocols of the Highways, representatives should be present from the General Directorate of Highways in operations on main ring roads, roads which connect provinces and international roads, and from the Regional Directorate

of Highways in operations on roads which connect district. If main roads pass through provincial centres, the authority over these roads should belong to the Regional Directorate.

ANSWER 2.g

- WSAs should be consulted for their opinion and recommendations in the survey, feasibility and project stages of potable and wastewater treatment facilities constructed by related ministries.
- WSA technical and administrative personnel should have a place and necessary powers as end user in the control committees of wastewater treatment and potable water treatment etc. infrastructure facilities for which construction and control are undertaken by the related ministries in the areas of authority of WSAs.
- The law should have a final provision for cutting off water of past-due subscribers.
- The law should have a provision to ensure that if no one is located in the subscription address of the subscriber, all kinds of notifications and notices left at the subscription address of the subscriber are considered duly served to the subscriber.
- It should be required to ask for a certificate of clearance of debt to be issued by WSAs in works and procedures of past-due subscribers in other related public institutions (tax administration, SSI, land register and cadastre, municipality).
- According to the system currently implemented by the tax administrations and SSI, for companies which have tax and SSI premium debts, their debts are deducted from progress payments. This practice should also be applicable to companies which have water debts.
- WSAs should be able to benefit from discounts and incentives with regard to tax and SSI premiums applicable to companies which regularly pay their taxes and social security premiums.

ANSWER 3.c

- Administrations should be given at least 5% of the Sanitation Tax and Solid Waste Fees to be collected over water invoices in the new legal regulation.
- The share of 10% apportioned by Ilbank under the Law No. 2380 should be specifically determined for every administration considering the location, investment needs and risk factors of WSAs.

ANSWER 3.d

- It should be possible to obtain documents to be submitted by subscribers in subscription contract process from related institutions through a joint database especially to prevent violation of the Circular of the Presidency.
- The requirement of the DASK certificate in subscription procedures should be abolished.
- Temporary subscription should be possible in locations used with a forest status provided that a permission of land use is submitted.

ANSWER 3.e

- WSAs should also have powers to buy and sell immovable assets in addition to their already present land expropriation powers.

ANSWER 4.a.

- All of the assistant general directors should be Administrative Board members.
- All Board members including the president should be given attendance allowance per session they attend as it is provided to the members of the council.
- Members of the Board to be appointed externally or from the general assembly should be elected for 1 year.
- Board members should be appointed by the president as with members of the council, no letter should be sent to the Ministry. There is no need for a civil servant status. Anyone can be appointed externally or from the members of the general assembly as with members of the council.

ANSWER 4.b.

The General Assembly can be held 4 times a year.

ANSWER 5.a.

- The place of General Director in protocol: The place of WSA administrators in protocol should be regulated in the law considering the regulation issued in 2012. Otherwise, it is left at the discretion of governors. They do not pay attention. There are problems in openings or meetings.
- The supplemental index is 3000 for WSA Department Heads and 3600 for Metropolitan Department Heads, they should be equal.
- The supplemental index for Assistant General Directors should be increased.
- While the Law No. 5216 introduced improvements in the personnel rights of department heads and 1st degree legal counsellors, administrations operating under MMs were not included under this regulation, therefore it would be suitable to put an effort to ensure department heads and legal counsellors from WSAs benefit from the same improvement. Moreover, it would also be suitable to engage in efforts to improve the personnel rights of assistant general directors.

ANSWER 5.b.

It should be ensured that WSA personnel are able to benefit from the Law on Prosecution of Civil Servants.

ANSWER 6.c

When riverbed rehabilitation and rainwaters are located on planned areas within the boundaries of the MM, they should be performed and operated by the respective administration. WSAs should be subsidized from the related Ministry or MM for these operations.

ANSWER 7.

Investment programmes are prepared for 5 years in our institution. A financial programme is prepared for our investment plans.

ANSWER 10.c

- There is a regulation for Risky Areas in the Law No. 6306 on Transformation of Spaces under Disaster Risk (collecting contributions in case of change of use or from the increased part in case of increase in units). There is no regulation when to collect contributions for structures at risk outside the Risky Areas (a regulation to be made by the Ministry of Environment and Urbanization).

- Grants should be transferred from the related administrations by determining the summer population and provinces of migration destination in settlements with a population below 1,000,000 under WSAs (For example, if 300 thousand people come from Istanbul to Ordu during summer, grant transfer from ISKI to OSKI under the title of service fee).

ANSWER 10.e

- For efficient use of all water sources, WSAs should prepare their potable water master plans (for 50 – 100 years), water allocations should be made and water use for 50 – 100 years should be planned with other related institutions and organizations (Ministry of Agriculture and Forestry, Ministry of Energy and Natural Resources, DSI, General Directorate of Water Management etc.), the activities of all related institutions and organizations should be coordinated under this planning, necessary law provisions should be applicable to make revisions when needed.
- The Geographical Information System used at WSAs should be joint, database and tools should be uniform and it should be compulsory.
- Joint Unit Price should be determined on a regional basis depending on the region and geography targeted by the WSA (as the ISKI did in the past).
- Large facilities such as dams, ponds, regulators, water intake structures, transfer lines to urban depots, for example potable water depots of 5,000 m³ and above, big lift stations should be built and operated by WSAs. Grants for these investments should be provided by the Ministry to the Administration on a project basis.

ANSWER 10.j

- Authorization should be requested from Mol for making the NVI system available to see the residential address of past-due subscribers outside the province and the country based on their ID Number.
- The Prime Ministry Circular of 2001 on selling of scrap materials to the Machinery Chemistry Industry should be cancelled.

Title of Institution: Erzurum Water and Sewer Administration

ANSWER 1.

The title of the ISKI Law should be replaced with the “WSA” Law. Powers should be expanded. Despite the priority of potable water, we get stuck in the legislation of other institutions such as the DSI, Forestry, Agriculture etc. It should be sufficient to only inform verbally or in writing to pass through the sites of related institutions. Everybody should fulfil their duties in joint areas. For example, if a Water or Sewer line is to be protected from floods, it should be realized by the DSI in the first place.

WSAs should be granted the authority to allocate excess potable water of provincial neighbourhoods to adjacent neighbourhoods and pass it through their routes under a legal amendment. Rainwater lines should be constructed and operated by related municipalities, if it is to be realized by WSAs, it should be under a protocol to be signed with municipalities.

ANSWER 2.a

Potable water for humans has priority in water allocations. However, citizens do not share water with adjacent neighbourhoods to use it for irrigation. WSAs should be authorized in this respect. Other institutions should consult to the opinion of WSAs for water allocations. The DSI should give priority to flood protection lines on rivers where water and sewer lines should pass through. We have projects still pending in these areas.

ANSWER 2.b

The Ministry of Environment and Urbanization writes letters to prevent environmental pollution and gives deadlines. However, institutions should be provided with grants to realize these projects. Similarly, İbank should reduce requirements and extend its scope to include projects in the scope of SUKAP. Moreover, it should offer long term interest free loans.

ANSWER 2.c

Water analysis fees are very high. We do the same analysis in our institution, the related costs and kits are the same but fees are extremely high. There is a package fee too. Analyses are repeated although it is sufficient to perform once for every group of water. Those with varying results can be repeated but it is not necessary to repeat those with fixed results.

Moreover, the Ministry of Health should have a place in the analyses. Not everything should be assigned to WSAs. Analyses should be free of charge or in return for materials.

ANSWER 2.d

The weed fee is not very high, but it is charged even for areas which are weed free. Allocations take long. Potable water is supplied to people of the same area. These fees should be eliminated. Grass can be sown if the areas where the lines passes through is a dense meadow.

ANSWER 2.e

Discounted tariffs should be applied for energy used for potable water supply and wastewater disposal.

ANSWER 2.f

The Highways does not lean towards the off-on system as they are concerned of disrupting the road comfort. However, horizontal drilling is not suitable for every location, leading to

interruptions in the process. Problems are solved through personal relations with personnel of the Highways.

ANSWER 3.a

Floods occur when rainwater lines fall insufficient. These damages are recurred to us by experts although we do not have anything to do with them. Our institution gets punished by courts based on Expert Reports. We intervene with floods and solve citizens' problems but we are punished for not having taken flood measures. It should be clearly stated that municipalities have authority and responsibility in this regard. Moreover, when rainwater connects with sewer lines, rainwater-sewer overflows in basements of these houses and related damages are again recurred to our institution by the same experts.

ANSWER 3.b

Our institution has problems with funding. As the MM is the guarantor, collections are automatically deducted from grants. The institution makes payment to the related MM.

ANSWER 3.c

A certain payment should be made to WSAs based on the amount of water use from those who use surface and ground water sources for potable and utility water in any form.

ANSWER 3.d

Especially residents in neighbourhoods in provincial districts seriously resist obtaining water subscription. They say the only thing they have for free is water, they have to leave their taps running to prevent water from freezing in winter, and now they will have to pay for it, they provide water themselves and it is located on their own land, and for similar reason, they avoid becoming a subscriber. They are made subscribers in some locations under the supervision of the Gendarmerie.

ANSWER 3.f

The loss-theft rate in provinces is around 40%. The urban networks needs to be renewed. It has been renewed by 30% so far. Renewals are delayed because funding is insufficient and 85% of investments are made in the rural.

ANSWER 3.g

Traffic insurance is provided but a motor vehicle insurance should be created for public vehicles.

ANSWER 3.h

Many public institutions are exempt from court litigation fees, it should also be applicable to WSAs.

ANSWER 5.a.

With regard to personnel rights, the supplemental index for Department Heads should be 3600 as in MMs. Incentive bonuses can be provided for workers and civil servants who are beneficial to the institution. Moreover, interest free loans can be granted in the amount of one month gross salary for personnel who need it.

ANSWER 6.a

The Ministry of Environment and Urbanization and Ilbank should provide project and funding support. Funding should be long term and low interest. Exemplary projects in Turkey should be identified and extended across the country.

ANSWER 6.b

It should be possible to transfer water and sewer enterprises to provincial districts with a population under a certain level together with their neighbourhoods (geographical location, status of request) under a protocol. (Some municipalities are willing to take over). A legal arrangement is necessary for this.

ANSWER 6.c

Housing should not be allowed in locations zoned for construction unless road infrastructure is complete. Water sewer line routes should be brought to pre-asphalt condition in the first place. When the asphalt is to be renewed in a region, we are asked if the infrastructure needs to be replaced. If replacement is necessary, infrastructure water-sewer and subscription connections are made immediately in the first place.

ANSWER 7.

Strategic plans are prepared for 5 years. However, investments can be for 1-3 years depending on the size of the work and financial conditions.

ANSWER 8.

Actions are taken under the discharge regulation according to the regulations in effect. Our institution prepared a Regulation on Potable Water Basins.

ANSWER 9.

Coordination meetings are held with the MM and DMs in the realization of services. For example, a central district municipality zoned a certain area for construction and identified the roads. Necessary filling was completed and we provided the infrastructure, it was a good practice. Necessary coordination is provided in areas where activities of the Highways and DSI overlap.

ANNEX 3 Study Papers for Desktop Studies with WSAs

A.1.1.10 – GROUP STUDY PAPER FOR FACT-FINDING

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|----------------|--|--|---|
| Group 1 | | | |
| 1.1 | Problems Arising From The Legislation <i>Service Provision</i> | <p>There is a need for drafting a new WSA Law in place of the ISKI Law No. 2560 to organize the responsibilities, roles and powers of WSAs with regard to service provision to include the services currently being provided.</p> <p>Legal processes for water supply and water sources management, rainwater collection and flood as well as water management and land development, lack of coordination between institutions, no budget being allocated despite the powers transferred, other institutions being vested with the control and monitoring authority, lack of tariffs for rainwater collection and flood, being involved in lawsuits against WSAs in rainwater overflow and flood cases despite not being assigned any role with regard to riverbed rehabilitation, being held responsible for damages caused by rainwater collection canals and overflows, WSAs' opinions being taken while preparing land development plans but not implemented in practice, and delays in changes in land development plans cause problems with WSAs' service provision and delays in investments.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|---|--|
| 1.2 | Problems Arising From The Legislation <i>Revenues</i> | Making deductions from the apportionments that should be transferred by Ilbank to WSAs on population basis without a certain standard, challenges with calculating the contributions to be collected to the name of the municipality from those who use water and sewer facilities according to the principles in the “Regulation on the Implementation of Provisions on Contributions to Expenses of the Law No. 2464 on Municipal Revenues”, challenges with accrual and collection, the expansion of the area of service of WSAs under the Law No. 6360 leading to a need for additional budget to deliver service to new neighbourhoods, although debts of districts for works and processes transferred to administrations were also transferred to WSAs, lack of transfer of funding through Ilbank for these expenses can cause non-standard deviations in the revenues of WSAs. | |
| 1.3 | Problems Arising From The Legislation <i>Investment and Construction</i> | Challenges with land allocations when the parcel selected for investment is not under WSA property, project preparation for urgent investments, adaption to the technology used for the work and technical specifications under 21E cause the bidding process to slow down and prevent timely completion of investments and construction. WSAs should have the right and authority to conclude contracts in all kinds of public-private collaboration model (PPC) (service, management, build-operate-transfer, build-operate-continue, design-build-operate, sell-buy back, lease, transfer of operational rights, concessions etc.) for which public administrations, MMs and municipalities can legally conclude contracts. | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|--|--|--|
| | | | |
| 1.4 | Problems Arising From The Legislation <i>Service Provision</i> | There is a need for authorization from MoI to reach the residential addresses of past-due subscribers to collect due sums by tracking down by the T.R. Identity Number at home and abroad. | |
| 2.1 | Organizational Framework <i>Roles and Powers</i> | <p>WSAs do not have the right and authority to conclude contracts in the public-private collaboration model (PPC) (service, management, build-operate-transfer, build-operate-continue, design-build-operate, sell-buy back, lease, transfer of operational rights, concessions etc.).</p> <p>There are challenges with roles and powers with regard to rainwater and rainwater fees.</p> <p>They do not have right and authority to establish or partner with autoproducer electric power companies to create energy recovery facilities (waste to energy) and renewable energy facilities related to water/wastewater.</p> <p>There is no regulation for the insurance of tools and equipment used for delivery of services.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|--|--|--|
| | | 3 members other than the direct members of the Board being recommended by the MM Mayor and approved of by the Ministry of Environment and Urbanization, requiring the Assistant General Director with the longest term in office among the Board Members to be a natural member have a negative impact on local administrations and decision making processes. | |
| 4.2 | Management of the Institution <i>Modes of Operation (Principles of Meeting and Frequency of General Assembly)</i> | Holding general assemblies twice a year does not serve the purpose of fast decision making. Other problem areas with modes of operation. | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|--|--|--|
| | | There is a need for a legal regulation for certain municipalities to take over current water and sewer enterprises for provincial districts which have a population below a certain threshold (geographical conditions, request status) together with neighbourhoods). | |
| 2.2 | Institutional Framework <i>Service Provision and Other Institutions</i> | Turkey's water sector has a fragmented institutional framework and there are multiple institutions in the sector. In the current situation, coordination is not at the desired level between the DSI (State Hydraulic Works), Ministry of Environment and Urbanization/Ilbank, Ministry of Health, Ministry of Agriculture and Forestry, Ministry of Energy/EMRA, Ministry of Transport and Infrastructure/General Directorate of Highways, Ministry of Culture and Tourism and other institutions. | |
| 4.1 | Management of the Institution <i>WSA Governing Bodies (General Assembly, Administrative Board, Auditors, General Directorate, Departments)</i> | In the current situation, the fact that the Board Members of WSAs are not appointed by the President, and Assistant General Directors and Department Heads do not have a place in the Administrative Board, and the presence of up to 4 Assistant General Directors poses an obstacle to improvements in the operations of WSAs. The Regulation on Permanent Staff does not grant WSAs the right and authority to create their organization structure within wide limits. The fact that auditor reports do not have sanction power in the current situation renders this position dysfunctional. | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|----------------|--|--|--|
| Group 2 | | | |
| 1.1 | Problems Arising From The Legislation <i>Service Provision</i> | <p>There is a need for drafting a new WSA Law in place of the ISKI Law No. 2560 to organize the responsibilities, roles and powers of WSAs with regard to service provision to include the services currently being provided.</p> <p>Legal processes for water supply and water sources management, rainwater collection and flood as well as water management and land development, lack of coordination between institutions, no budget being allocated despite the powers transferred, other institutions being vested with the control and monitoring authority, lack of tariffs for rainwater collection and flood, being involved in lawsuits against WSAs in rainwater overflow and flood cases despite not being assigned any role with regard to riverbed rehabilitation, being held responsible for damages caused by rainwater collection canals and overflows, WSAs' opinions being taken while preparing land development plans but not implemented in practice, and delays in changes in land development plans cause problems with WSAs' service provision and delays in investments.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|--|--|
| 3.1 | Financial Management <i>Pricing of Services and Determination of Costs</i> | <p>Tariffs:</p> <p>The fact that the principles of “user pays” and “polluter pays” required by the Water Frame Directive and associated directives are yet to be implemented in tariff setting, a lack of a central and autonomous economic regulatory institution for the water industry in Turkey, which is responsible for reviewing and approving pricing according to objective criteria in the tariffs recommended by WSAs, the decision making authority being considered based on political criteria despite having prepared a tariff in a balance with the budget although not based on the complete cost basis, mostly lead to the approval of tariffs which do not meet the budget.</p> <p>As a result of the tariff discount incentive in the rural, using potable water even for agricultural and garden irrigation by subscribers in the rural leads to excessive use of potable water which is produced at high costs. A lack of a tariff including rainwater and riverbed rehabilitation investment and services and failure in pricing and collecting the fees for these services disrupt the financial structures of WSAs.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|--|--|--|
| 3.3 | Financial Management <i>Diversification of Revenues</i> | <p>The fact that contributions to investment expenses to fund investments to build water distribution, wastewater and rainwater collection networks and capacity building and related investments are collected not to the name of WSAs but to the name of municipalities, when riverbed rehabilitation service is offered, the source reserved by the government for riverbed rehabilitation is transferred to the DSI, revenues from services for training, consultancy, operation, maintenance and other services offered to domestic and international water organizations/administrations/stakeholders not being included among the revenues of WSAs in the legislation, although rainwater service is provided, a lack of an income item as rainwater service fee in the current situation, transferring the budget excess to be used for operation and maintenance, investment and funding costs by WSAs to the MM and not leaving at WSAs have a negative impact on revenue diversification.</p> <p>The revenues of MMs, MDMs and special purpose metropolitan organizations should be reregulated to duly offer services to SPAs and villages the legal personality of which was terminated under the Law No. 6360.</p> <p>The fact that the Sanitation Tax and Domestic Solid Waste Fees charged over water bills are collected over water bills causes additional burden, loss of time and labour for WSAs.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|--|--|--|
| 3.2 | Financial Management <i>Borrowing, Use of Loans and Fund Transfer</i> | <p>The institutional structure for debt management falls insufficient with the increase in the assets and liabilities of Administration. Investment units fall insufficient in preparing and evaluating feasibility studies for financial and economic analyses of projects in addition to developing the institutional structure for financial management.</p> <p>There are problems with the implementation of the borrowing threshold and evaluating long term debts the same as short term debts. While the municipalities where the Mayor and the majority of the Municipal Council are from the same political party do not have problems with the authority of borrowing, there are problems with the authority of borrowing on other occasions.</p> <p>Under the article "Budget Revenues" of the Law No. 5216 on Metropolitan Municipalities, the sums to be transferred due to the difference between revenues and expenses in the final accounts of affiliated entities are considered among the revenues of MMs and therefore, WSAs make transfers to municipalities, which negatively affect the funding of future investments.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|---|--|
| | | No payment is made to WSAs depending on the amount of water use by those who use surface and ground water sources for potable water and utility water. | |
| 3.4 | Financial Management <i>Subscription Process</i> | <p>Missing documents in subscription applications (other than online applications) leave the application incomplete and delay subscription process and citizens react to the fact that guarantees deposited at application are returned at the rate issued in the certificate of inheritance following the death of the subscriber and the guarantee is not refunded in full.</p> <p>The fact that subscriber groups are not standard in all WSAs, uncollectable receivables (dues from subscribers who died, cannot be located, registered to settle in demolished buildings etc.) cannot be deleted, and inability to cut off water supply of past-due subscribers lead to problems in practice.</p> <p>Subscribers with past-due water bills are not subject to any sanctions in their transactions with other public organizations (tax administration, SSI, land records and cadastre, municipality etc.).</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|--|--|
| 3.5 | Financial Management <i>Sales of Immovable Assets</i> | The Law No. 2560 does not include a clear provision on the sales and transfer of immovable assets and the sales of immovable assets in some WSAs requires the approval of the MM General Assembly, leading to long and interrupted processes. | |
| 3.6 | Financial Management <i>Incentives</i> | The lack of incentive to prevent delays in renewals of portable water supply networks in provincial centres with a high theft-loss rate due to insufficient funding and because 85% of the investments are made in rural areas, required investments cannot be made due to the lack of incentive mechanisms to lower the theft-loss. | |
| 3.7 | Financial Management <i>Service and Vehicle Insurance</i> | Inability to provide insurance for the services and tools and equipment used for the performance of services, and inability to provide motor insurance for vehicles with government plates cause problems. | |
| 3.8 | Financial Management <i>Other</i> | WSAs are not exempt from litigation fees, while many other institutions are. | |
| 6.1 | Investment Programmes | An annual and/or five year investment programme is prepared to meet the objectives, targets and performance indicators in the | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|--|-----------------------------------|--|--|
| | Strategy Development and Planning | <p>strategic plan and performance programme according to the principles of the Investment Programme Preparation Guide issued every year by the Strategy and Budget Office of the Presidency. The Investment Programme and Plan takes effect upon being approved by the WSA General Assembly held in the Municipal Council. Preparations for the budget for investment plans and the financial programme are made by the Strategy Development Departments.</p> <p>In the current situation, strategic plans are prepared in WSAs and it is not included among the roles of WSAs. There is a gap in the legislation with regard to the preparation and approval process of strategic plans. The performance indicators provided by WSAs in the strategic plans are not standard and traceable.</p> <p>A multi-year capital investment plan is not implemented. Capital investment plans and projects are not associated with equity and external financing and financial programmes are not prepared to the desired level.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|----------------|--|--|--|
| Group 3 | | | |
| 1.1 | Problems Arising From The Legislation <i>Service Provision</i> | <p>There is a need for drafting a new WSA Law in place of the ISKI Law No. 2560 to organize the responsibilities, roles and powers of WSAs with regard to service provision to include the services currently being provided.</p> <p>Legal processes for water supply and water sources management, rainwater collection and flood as well as water management and land development, lack of coordination between institutions, no budget being allocated despite the powers transferred, other institutions being vested with the control and monitoring authority, lack of tariffs for rainwater collection and flood, being involved in lawsuits against WSAs in rainwater overflow and flood cases despite not being assigned any role with regard to riverbed rehabilitation, being held responsible for damages caused by rainwater collection canals and overflows, WSAs' opinions being taken while preparing land development plans but not implemented in practice, and delays in changes in land development plans cause problems with WSAs' service provision and delays in investments.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|---|--|
| 4.1 | Management of the Institution <i>WSA Governing Bodies (General Assembly, Administrative Board, Auditors, General Directorate, Departments)</i> | <p>In the current situation, the fact that the Board Members of WSAs are not appointed by the President, and Assistant General Directors and Department Heads do not have a place in the Administrative Board, and the presence of up to 4 Assistant General Directors poses an obstacle to improvements in the operations of WSAs.</p> <p>The Regulation on Permanent Staff does not grant WSAs the right and authority to create their organization structure within wide limits.</p> <p>The fact that auditor reports do not have sanction power in the current situation renders this position dysfunctional.</p> <p>3 members other than the direct members of the Board being recommended by the MM Mayor and approved of by the Ministry of Environment and Urbanization, requiring the Assistant General Director with the longest term in office among the Board Members to be a natural member have a negative impact on local administrations and decision making processes.</p> | |
| 4.2 | Management of the Institution <i>Modes of Operation (Principles of Meeting and Frequency of General Assembly)</i> | <p>Holding general assemblies twice a year does not serve the purpose of fast decision making.</p> <p>Other problem areas with modes of operation.</p> | |

| | Fact-Finding | Explanation | Group Assessment (Review the current structure in Turkey and make a group assessment, no recommendation is expected at this point) |
|-----|---|---|--|
| 5.1 | Human Resources Management <i>Personnel Rights</i> | Employment focuses on non-permanent staff in addition to the need for improving the permanent staff system. Wage differences between personnel with the same roles and responsibilities, not paying depreciation to the personnel, WSA Department Heads and MM Department Heads having different supplemental indexes, the place of WSA managers and the General Manager in the protocol being at the discretion of governors, a lack of improvement in personnel rights in administrations under MMs under the Law No. 5216 lead to problems. | |
| 5.2 | Human Resources Management <i>Legislation</i> | In the current situation, although the WSA General Manager and Board members have a Civil Servant status, other WSA officials do not have the same status, and prosecution can be started without the permission of the General Director. WSA personnel cannot benefit from the “Law on Prosecution of Civil Servants”. | |

A.I.1.10 – GROUP STUDY PAPER FOR LEGAL RECOMMENDATIONS

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|----------------|--|--|---|
| GROUP 1 | | | |
| 1.1 | Law on Water and Sewer Administrations | <p>Draft a new WSA Law in place of the ISKI Law No. 2560 to regulate the responsibilities, roles and powers of WSAs with regard to service provision including services offered in the current situation.</p> <p>With the framework law, draw a good framework for the roles and responsibilities for the provision of services of administrations together with other institutions and organizations, determine distribution of roles and responsibilities between MMs and DMs.</p> <p>Define WSA as public service for the general interest of the people.</p> | |
| 1.2 | Water and Sewer Administrations Roles and Responsibilities | <p>Detail the roles and responsibilities of WSAs to cover treatment, recycling and reuse of wastewater, treatment and reuse of wastewater sludge, rainwater harvest and use of rainwater, use of grey water and energy recovery from services for water and wastewater, and integrated urban water management.</p> <p>Grant WSAs the right and authority to establish and partner with already established autoproducer electric power companies to</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|--|----------------------|---|---|
| | | <p>build water/wastewater related energy recovery facilities (waste to energy) and renewable energy plants.</p> <p>Develop a mechanism to ensure WSAs coordinate all institutions by making an integrated urban water management plan.</p> <p>Create an integrated urban water management plan to be prepared by the WSA and adopted by the MM council. Grant a regulatory power to the integrated urban water management plan. Consider as a whole all water source basins planned to supply the city with water.</p> <p>Urban planning is necessary for the sustainability of water sources management, sanitation services management, recovery, drainage and flood management and to provide national and international funding for investment planning and projects.</p> <p>Prepare a capital investment plan.</p> <p>Add a regulation to organize strong coordination between the related Ministries, MMs, DMS and WSAs in planning and implementing the WSA investment programme land development planning and implementation which are of key importance for and preserving the urban water cycle.</p> <p>Fill the gap in the legislation with regard to use of treated wastewater, grey water and harvesting and use of rainwater.</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|-----|---|---|---|
| | | <p>Revise Article 25 on rainwater removal.</p> <p>Switch to the green infrastructure approach for feeding ground waters with rainwater in place of rainwater collection by pipelines considering the developments in the world and the climate change factor. Grant WSAs the authority to perform or cause to perform establishment of institutes, study, development and technology development studies, conference, seminar, panel, symposium, training and similar activities in their area of service.</p> | |
| 1.3 | <i>Governing Bodies</i> Roles and Responsibilities | <p>Prepare the 5 year Strategic Plan in 6 months from the conclusion of local elections, to be reviewed and approved by the General Assembly.</p> <p>The Board Members and WSA General Director recommended by the MM Mayor to be appointed by the General Assembly.</p> <p>The General Assembly to decide on the WSA establishing a new company or partnering with a company already established.</p> <p>As the fact that the General Assembly only gathers in May and November causes challenges for Administrations which operate dynamically throughout the year, add the statement “MM Council can discuss and decide on the subjects recommended by the Administration under the title of General Assembly in monthly meeting periods” to the Law.</p> <p>Review the 5 year Strategic Plan that should be prepared by the General Director in 6 months from the conclusion of local elections by the Administrative Board and submit to the approval of the General Assembly.</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|-----|-----------------------------------|--|---|
| | | <p>3 members other than the direct members of the Board (MM Mayor, General Director and Assistant General Director with the longest term in the office) to take office until the next local elections to be recommended by the MM Mayor and approved by the General Assembly. As it is regulated in the Regulation on Permanent Staff, the number of Assistant General Directors not to be stated in the law.</p> <p>For those to be appointed to the Administrative Board, to have a bachelor's degree in technical works as well as management or business administration and at least ten years of experience in their field of expertise and meet the general conditions for appointments of civil servants in the related article of the law.</p> | |
| 1.4 | <i>Organization and Personnel</i> | <p>Ensure the Administration has the right and discretion to create its organizational structure within wide limits to prevent the problems caused by the elimination of the flexibility of the General Directorate in establishing departments, directorates and associated sub-units in a number as required by the service.</p> <p>Ensure the General Director establishes the positions of Assistant General Director and Departments and appoint personnel upon the approval of the Administrative Board and Branches and Offices are established and personnel are appointed upon the decision of the General Director.</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|-----|--|---|---|
| 1.5 | <i>Budget and Financial Management</i> | <p>Budget and financial management especially became an important issue in the last 3 years at WSAs, operational expenses started to rise up at a faster rate than operational revenues at these administrations, the operational balance started to be disrupted (especially because current revenues increased at a slower rate than service production costs, energy and personnel costs), and there is a need for improve the capacity of administrations to prepare funding programmes. In this respect:</p> <ul style="list-style-type: none"> ■ Establish an integrated financial management and funding tracking system to systematically monitor developments in the budget revenues, expenses and funding ■ (Considering the fact that service production costs are rather high) Review the activities and identify those without priority, keep current expenses under control based on the increase in revenues, and plan service procurements according to the operational balance ■ Prepare a funding programme compatible with the budget and debt management and integrate with the cash programme within the year. ■ Prepare a capital investment plan to cover at least 3 years to plan and manage the investment projects according to | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|--|----------------------|--|---|
| | | <ul style="list-style-type: none"> ■ priorities, available asset stock and funding sources ■ Switch to a model which gives priority to energy efficiency to control high energy cost and programme investments with this priority. ■ Develop a human resources model for personnel employed through service procurement. Develop standards to ensure cost efficiency in this type of employment which directly increases service production costs and might include additional price increases in the following period. | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
|----------------|--|---|---|
| GROUP 2 | | | |
| 1.2 | Water and Sewer Administrations Roles and Powers | <p>Detail the roles and responsibilities of WSAs to cover treatment, recycling and reuse of wastewater, treatment and reuse of wastewater sludge, rainwater harvest and use of rainwater, use of grey water and energy recovery from services for water and wastewater, and integrated urban water management.</p> <p>Grant WSAs the right and authority to establish and partner with already established autoproducer electric power companies to build water/wastewater related energy recovery facilities (waste to energy) and renewable energy plants.</p> <p>Develop a mechanism to ensure WSAs coordinate all institutions by making an integrated urban water management plan.</p> <p>Create an integrated urban water management plan to be prepared by the WSA and adopted by the MM council. Grant a regulatory power to the integrated urban water management plan. Consider as a whole all water source basins planned to supply the city with water.</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
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| | | <p>Urban planning is necessary for the sustainability of water sources management, sanitation services management, recovery, drainage and flood management and to provide national and international funding for investment planning and projects, and the legislation applicable to the plans should be revised.</p> <p>Prepare a capital investment plan.</p> <p>Add a regulation to organize strong coordination between the related Ministries, MMs, DMS and WSAs in planning and implementing the WSA investment programme land development planning and implementation which are of key importance for and preserving the urban water cycle.</p> <p>Fill the gap in the legislation with regard to use of treated wastewater, grey water and harvesting and use of rainwater.</p> <p>Revise Article 25 on rainwater removal. Switch to the green infrastructure approach for feeding ground waters with rainwater in place of rainwater collection by pipelines considering the developments in the world and the climate change factor.</p> <p>Grant WSAs the authority to perform or cause to perform establishment of institutes, study, development and technology development studies, conference, seminar, panel, symposium, training and similar activities in their area of service.</p> | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
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| 1.5 | <i>Budget and Financial Management</i> | <p>Budget and financial management especially became an important issue in the last 3 years at WSAs, operational expenses started to rise up at a faster rate than operational revenues at these administrations, the operational balance started to be disrupted (especially because current revenues increased at a slower rate than service production costs, energy and personnel costs), and there is a need for improve the capacity of administrations to prepare funding programmes. In this respect:</p> <ul style="list-style-type: none"> ■ Establish an integrated financial management and funding tracking system to systematically monitor developments in the budget revenues, expenses and funding ■ (Considering the fact that service production costs are rather high) Review the activities and identify those without priority, keep current expenses under control based on the increase in revenues, and plan service procurements according to the operational balance ■ Prepare a funding programme compatible with the budget and debt management and integrate with the cash programme within the year. | |

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| | | <ul style="list-style-type: none"> ■ Prepare a capital investment plan to cover at least 3 years to plan and manage the investment projects according to priorities, available asset stock and funding sources ■ Switch to a model which gives priority to energy efficiency to control high energy cost and programme investments with this priority. ■ Develop a human resources model for personnel employed through service procurement. Develop standards to ensure cost efficiency in this type of employment which directly increases service production costs and might include additional price increases in the following period | |
| 1.11 | Strategic Plan and Investment Plan | Separately state in the law the conditions for planning and approving a five year strategic plan which is of critical importance for administrations. Add guiding provisions for the Strategy and Budget Office to issue a guide in this respect. | |

| | Legal Recommendation | Explanation | Group Assessment (Review and evaluate the suitability of the legal recommendation and the current structure in Turkey) |
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| | | Considering the fact that infrastructure investments take 2-3 years in average, 4-5 year capital investment plans to be prepared by administrations. A multi-year funding programme to be prepared to support investment plans and associate with the budget. | |
| 1.6 | <i>Revenues</i> | <p>Add a new revenue item under the title “costs of training, consultancy, operation, maintenance and other services to be received from domestic and international water organizations/administrations/stakeholders”.</p> <p>Diversify the apportionment transferred by Ilbank over the apportionment transferred to districts over general budget tax revenues by municipalities by various parameters such as surface area, land structure, number of settlements, and increase it from 10% to 15% to be the lower threshold and 20% to be the upper threshold and diversify by districts.</p> <p>Due to challenges with collecting the Contributions under Articles 87 and 88 of the Law No. 2464 on Municipal Revenues and Article 13 “Revenues” of the ISKI Law according to the principles of the “Regulation on the Implementation of Provisions on Contributions of the Law No. 2464 on Municipal Revenues” issued based on the Law No. 2464, make a new amendment to the ISKI Law, and</p> | |

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| | | <p>make arrangements to combine the implementation and collection of Contributions.</p> <p>Evaluate Article 23 of the Law on Land Development, Articles 87 and 88 of the Law on Municipal Revenues and Articles 13 and 23 of the ISKI Law together to prevent duplications in accruals and collections.</p> <p>Explicitly separate the WSA budget from the MM budget, clearly state that all revenues of WSAs are to be only used to meet the costs operation and maintenance, investment and funding, and thus prevent transfer of excess budget, leave the excess budget at WSAs provided that it is used for investments.</p> <p>Transfer contributions for establishment of water distribution, wastewater and rainwater collection networks collected by municipalities to the Administration which realizes the investment.</p> | |
| 1.7 | <i>Principles of Tariff Setting</i> | <p>As a principle, fund WSAs by collection of user tax based on the principle of authenticity of costs other than big infrastructure investments that can be funded by subsidies and transfers.</p> <p>Make a definition in the tariff article that is compatible with Article 13 of the “Regulation on the Principles and Procedures for Tariff Setting for Wastewater and Domestic Solid Waste Disposal Facilities”</p> | |

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| | | <p>prepared based on Article 11 of the Environmental Law No. 2872.</p> <p>Create gradual tariffs in which the price per cubic meter increases for large amounts of water consumption.</p> <p>Design special social tariffs for certain categories (under certain revenue conditions and for revenue based reasons, for example, to be approved by the income tax administration).</p> <p>Related Article of the Regulation;</p> <p><i>"ARTICLE 13 -(1) The total system cost includes the complete cost comprising of the investment's financial cost, system operation and maintenance, depreciation costs of fixed assets, management and monitoring expenses, taxes, expropriation and return on equity which would provide financial sustainability of the system. The total system cost does not include costs which are not in connection with the operation and sustainability of the wastewater or domestic solid waste system.</i></p> <p><i>(2) The fee is determined by deducting the sanitation tax to be collected under Article 44-bis of the Law No. 2464, contributions to sewer expenses to be collected under Article 87 of the same Law, and fees for removal of used water to be collected under Article 13 of the Law No. 2560 from the total system cost."</i></p> | |

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| | | <p>Prepare tariffs based on the “polluter pays” principle according to the Environmental Law No. 2872 and the foregoing regulation in compatibility with the Strategic Environmental Assessment.</p> <p><i>"Pricing of wastewater services</i></p> <p><i>ARTICLE 17 - (1) The principles of complete cost and polluter pays are used while pricing wastewater services. The principles and procedures of tariff setting on complete cost basis including details on the implementation of these principles are issued by the Ministry in the Guide for Tariff Setting for Wastewater to be published on the web site of the Ministry."</i></p> <p>Ensure the principles of tariff setting are compatible with related laws and determine the calculation method according to the regulations to be prepared under Article 23 of the current Law.</p> <p>Provide upper and lower threshold to the Council for the approval of tariffs prepared on complete cost basis.</p> | |
| 1.8 | Collections | Add a final provision to the law to cut off water supply to past-due subscribers subject to humanitarian limitations (current legal, disasters, state aids for the subscriber etc.). | |

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| | | <p>Add a statement to the law that if no one can be located at the address of the subscriber, all notices and notifications left at the address are to be considered duly served.</p> <p>Ask for debt clearance documents from WSAs in transactions and procedures of past-due subscribers in other public institutions (tax office, SSI, land register and cadastre, municipality).</p> <p>Authorize the Administrative Board to delete WSAs' receivables which cannot be collected after a certain period of time (for example, 5 years) (debts of subscribers who are dead, cannot be located and residing in demolished buildings).</p> | |

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| GROUP 3 | | | |
| 1.2 | Water and Sewer Administrations Roles and Powers | <p>Detail the roles and responsibilities of WSAs to cover treatment, recycling and reuse of wastewater, treatment and reuse of wastewater sludge, rainwater harvest and use of rainwater, use of grey water and energy recovery from services for water and wastewater, and integrated urban water management.</p> <p>Grant WSAs the right and authority to establish and partner with already established autoproducer electric power companies to build water/wastewater related energy recovery facilities (waste to energy) and renewable energy plants.</p> <p>Develop a mechanism to ensure WSAs coordinate all institutions by making an integrated urban water management plan.</p> <p>Create an integrated urban water management plan to be prepared by the WSA and adopted by the MM council. Grant a regulatory power to the integrated urban water management plan. Consider as a whole all water source basins planned to supply the city with water.</p> | |

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| | | <p>Urban planning is necessary for the sustainability of water sources management, sanitation services management, recovery, drainage and flood management and to provide national and international funding for investment planning and projects and the applicable legislation for the plans should be revised.</p> <p>Prepare a capital investment plan.</p> <p>Add a regulation to organize strong coordination between the related Ministries, MMs, DMS and WSAs in planning and implementing the WSA investment programme land development planning and implementation which are of key importance for and preserving the urban water cycle.</p> <p>Fill the gap in the legislation with regard to use of treated wastewater, grey water and harvesting and use of rainwater.</p> <p>Revise Article 25 on rainwater removal. Switch to the green infrastructure approach for feeding ground waters with rainwater in place of rainwater collection by pipelines considering the developments in the world and the climate change factor.</p> <p>Grant WSAs the authority to perform or cause to perform establishment of institutes, study, development and technology development studies, conference, seminar, panel, symposium, training and similar activities in their area of service.</p> | |

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| 1.4 | <i>Organization and Personnel</i> | Ensure the Administration has the right and discretion to create its organizational structure within wide limits to prevent the problems caused by the elimination of the flexibility of the General Directorate in establishing departments, directorates and associated sub-units in a number as required by the service. Ensure the General Director establishes the positions of Assistant General Director and Departments and appoint personnel upon the approval of the Administrative Board and Branches and Offices are established and personnel are appointed upon the decision of the General Director. | |
| 1.9 | Tap Water Use | Encourage using tap water as potable water by ensuring transparency by sending tap water analysis results to subscribers for 1 year, and then publish tap water analysis results in real time. | |
| 1.10 | Personnel Rights | This article should be revised to provide assurance to a certain degree to civil servants in their transactions and procedures, not only the WSA General Director and Board Members but also all WSA officials should be considered at the Civil Servant status and permission should be obtained from the General Director for prosecutions. | |

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| 1.11 | Strategic Plan and Investment Plan | <p>Separately state in the law the conditions for planning and approving a five year strategic plan which is of critical importance for administrations. Add guiding provisions for the Strategy and Budget Office to issue a guide in this respect.</p> <p>Considering the fact that infrastructure investments take 2-3 years in average, 4-5 year capital investment plans to be prepared by administrations. A multi-year funding programme to be prepared to support investment plans and associate with the budget.</p> | |
| 1.12 | Rights and Exemptions | <p>Add a clear provision on exemptions from litigation charges to the provisions on exemptions in the Law No. 492 on Charges and the ISKI Law No. 2560 and exempt WSAs from litigation charges.</p> <p>Ensure WSAs can also benefit from the tax and SSI premium discounts and incentives which are applicable to companies which regularly pay their tax and SSI premiums.</p> <p>With regard to the Ministry of Energy/EMRA, make a new regulation to consider all service buildings and other subscriptions of WSAs in the industrial group and make a discounted tariff for electricity used for potable water supply and wastewater disposal.</p> | |

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| | | Prevent seizure of WSAs' revenues obtained through borrowing in return for project, conditional donations and commodities actively used in public services, and water and wastewater revenues. | |
| 1.13 | Prosecution of WSA Authorities | Ensure that the General Director, Board Members and personnel at all levels in Administration services in WSAs are considered public officials in terms of the implementation of the Turkish Criminal Code No. 5237 of 26/9/2004 in crimes they commit out of their official duties and they are subject to the provisions of the Law No. 4483 of 2/12/1999 on Trial of Civil Servants and Other Public Officials. | |

Disclaimer: Local Administration Reform Phase III (LAR Phase II) is funded by the European Union under Pre-Accession Financial Assistance. The beneficiary of the Project is the Republic of Turkey Ministry of Interior and Ministry of Environment and Urbanization. The Central Finance and Contracts Unit is the contracting authority of the Project. Technical assistance for the implementation of the Project is provided by the United Nations Development Programme. The content of this report does not reflect the official opinion of the European Union and UNDP. Responsibility for the information and views expressed in the report lies entirely with the authors.