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The Ombudsman Institution In Turkey Within The Framework Of Good Governance Principles: Literature Review¹

İyi Yönetişim İlkeleri Çerçevesinde Türkiye'de Kamu Denetçiliği Kurumu: Literatür İncelemesi

ABSTRACT

In this article, the applicability of the principles of good governance in the Ombudsman Institution in Turkey is analysed. In the article, the historical processes, definitions and good governance principles of the concepts of management /governance are given in detail. In the following sections of the article, the historical background of the Ombudsman Institution, its first emergence and its implementation in various countries, especially Sweden, where the institution was first implemented, are given. The establishment process of the Ombudsman Institution in Turkey under the name of the Ombudsman Institution and the legalisation process of the institution in the post-Republican period are examined. In this framework, the six generally accepted principles of good governance; transparency, participation, effectiveness, accountability, consistency, and rule of law are evaluated in terms of relevant explanations and activities. In addition to the relevant literature, examples related to the principles of good governance have been tried to be shown in these sources. As the method of the study, a comprehensive literature review was conducted in order to reach the data and an answer was sought to the question to what extent the principles of good governance are applied in the Ombudsman's Office. The definitions of the principles of good governance formed the boundaries of the study and the findings obtained were evaluated according to the definitions. In the light of the evaluations made, in the light of the evaluations made, as a result of this study; within the framework of the principles of good governance, the Ombudsman's Office in Turkey was evaluated as "improvable" in terms of the principles of accountability and transparency, and "strong" for the principles of participation, efficiency, consistency and rule of law.

Keywords: Management, Governance, Good Governance, Ombudsman Institution, Ombudsman Institution.

ÖZET

Bu makalede iyi yönetim ilkelerinin Türkiye'deki Kamu Denetçiliği Kurumunda uygulanabilirliği incelenmiştir. Makalede yönetim/ yönetişim kavramlarının tarihsel süreçlerine, tanımlarına ve iyi yönetim ilkelerine ayrıntılı bir şekilde yer verilmiştir. Makalenin ilerleyen bölümlerinde Ombudsmanlık Kurumunun tarihi geçmişi, ilk ortaya çıkışı ve kurumun ilk olarak uygulandığı İsveç başta olmak üzere çeşitli ülkelerdeki uygulanma şekline yer verilmiştir. Ombudsmanlık Kurumunun Türkiye'de Kamu Denetçiliği Kurumu adıyla kurulma süreci ve Cumhuriyet sonrası dönemde kurumun yasalasma süreci incelenmiştir. Bu çerçevede iyi yönetişimin genel kabul gören altı ilkesi olan; şeffaflık, katılımcılık, etkinlik, hesap verilebilirlik, tutarlılık, hukukun üstünlüğü ilgili açıklamalar ve faaliyetler açısından değerlendirilmiştir. İlgili literatüre ilave olarak söz konusu kaynaklarda iyi yönetişimin ilkeleri ile alakalı örnekler gösterilmeye çalışılmıştır. Çalışmanın yöntemi olarak verilere ulaşmak için kapsamlı literatür taraması yapılmış ve Kamu Denetçiliği Kurumunda iyi yönetişim ilkeleri ne ölçüde uygulanıyor? sorusuna cevap aranmıştır. İyi yönetişim ilkelerinin tanımları çalışmanın sınırlarını oluşturmuştur ve elde edilen bulgular tanımlara göre değerlendirilmiştir. Yapılan değerlendirmeler ışığında bu çalışmada sonuç olarak; iyi yönetişim ilkeleri çerçevesinde Türkiye'deki Kamu Denetçiliği Kurumu için hesap verilebilirlik ve şeffaflık ilkeleri açısından "geliştirilebilir" değerlendirmesi; katılımcılık, etkinlik, tutarlılık, hukukun üstünlüğü ilkeleri için "güçlü" değerlendirmesi yapılmıştır..

Anahtar Kelimeler: Yönetim, Yönetişim, İyi Yönetişim, Ombudsmanlık Kurumu, Kamu Denetçiliği Kurumu

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1. INTRODUCTION

In addition to states, organisations operating independently from the government and international structures also want to be involved in decision-making processes. Some of the decisions taken are, in general terms, the issues that the organisations focus on in common, the protection of individual rights and the strengthening of the individual's stance against the state, and the restriction of the state's sole power (Reif, 2004). At this point, states are restricted to being only a power mechanism against their citizens by implementing a transparent, accountable, participation-supporting, law-abiding, rule-of-law-orientated governance approach. Thus, the understanding of good governance that gathers all of these principles under one roof has emerged (Khawaja, 2011).

Academic researchers and political structures have discussed the concept of governance in detail, but there is no consensus on a common definition (Akkaya & Alpulu, 2023).

The concept of good governance encompasses not only the appropriate utilisation of governmental authority in a transparent and participatory manner but also the exercise of power in a manner that is both good and faithful. In essence, good governance concerns the fulfillment of three elementary tasks of government: to guarantee the security of persons and society; to manage an effective and accountable framework for the public sector; and to promote the economic and social aims of the country in accordance with the wishes of the population. Two distinct approaches to achieving good governance are distinguished: an institutional approach and a functional approach (Addink, 2019).

This study aims to determine the applicability of the theoretical studies on the concept of good governance, which is increasingly influential in the world, to the Ombudsman Institution, as it is known in Turkey. Firstly, the concepts of management, governance, ombudsman and the Ombudsman's Office in Turkey are discussed conceptually in the study. Then the principles of good governance are explained under a single heading. Following the sharing of detailed information on the concept of good governance, the effectiveness and applicability of good governance principles in the Ombudsman Institution, which is an internal audit mechanism operating in Turkey, are presented in detail in the following parts of the study. In line with these explanations, since 2013, when the Ombudsman Institution (Ombudsman), which entered the organisational structure of the Ombudsman Institution with the Constitutional amendment in 2010, started its activities, the practices put forward by the institution regarding good governance have been emphasised.

2. CONCEPTUAL FRAMEWORK

2.1. Management

The academic examination of the concept of public administration was initiated by Woodrow Wilson, who served as the president of the USA between 1913 and 1921, with his article titled "The Study of Administration" (Hergüner, 2017). With this article, the foundations of the traditional public administration approach were laid and Henry Fayol, Marx Weber and Frederick Taylor, who had a great influence on the literature, contributed to this understanding. The traditional public administration approach, which started to develop towards the end of the 19th century, gained its officiality between 1900-1920 and continued its existence in most Western countries until the last quarter of the 20th century without undergoing a major change (Demirci, 2007).

According to Bulut and Arslan (2018), management is "the realisation of directing, planning, organising and supervising processes by bringing together existing resources effectively and efficiently in line with predetermined goals". Öztekin (2002), on the other hand, defines management as "the science and art of bringing people together in line with the common interests of the society and combining their powers, including the process of management and administration".

Management is the high-level intellectual endeavor of people working with each other in order to make things simpler, more effective and cheaper by using the available time, people, money, materials and space in the most effective way without wasting (Taşkesen, 2008). In the definitions made, it is seen that management is evaluated from the traditional point of view and the understanding of management is also changing in the world that is changing day by day. As societies undergo change as a requirement of the age, citizens' perspectives on governance change and they rename their relations with the government. Citizens' access to public information and documents has shifted from "favour" to "demand" and has finally become a legal right (Devlet Planlama Teşkilatı, 2007). Therefore, a new dimension of the concept

of management has emerged and the concept of "governance" has been born. In summary, it has been possible to define management as the process of directing and managing employees and directing the efforts of employees towards a common goal.

2.2. Governance

The concept of governance was first used in a report published by the World Bank in 1989. Later, the concept became clearer in OECD reports, the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992, the Cairo Conference on Population and Development in 1994, the Copenhagen Conference on Social Development in 1995, the UN Second Conference on Human Settlements HABITAT II held in Istanbul in 1996, the New York Millennium Summit in 2000 and the Johannesburg World Summit on Sustainable Development (Rio+10) in 2002 (Devlet Planlama Teşkilatı, 2007). Kooiman (2003) on the difference between "management" and "governance";

Governance can be considered as the sum of the interactions of institutions. In order to solve problems, public and private actors participate in the solution process, institutions connected to each other through managerial interaction create a normative value, while governance is an understanding of management that covers all of these theoretical concepts as a whole.

Governance is a concept used to express a multifaceted system that includes public administration, private sector and non-governmental organisations and the mutual relations among these actors. The most important point here is that in addition to central and local governments, non-profit organisations and non-governmental organisations are also given a voice in governance. The concept of governance implies that the current responsibility of the state in terms of directing and managing society is gradually shifting towards non-governmental organisations (Eryılmaz, 2009).

Governance, which etymologically means directing something, was first used figuratively as human management by Plato. While it means "establishing authority" in French, the first use of it in English is "The Governance of England: Otherwise called the Difference Between an Absolute and a Limited Monarchy" (The Governance of England: Otherwise called the Difference Between an Absolute and a Limited Monarchy), which was made by Charles Plumber in 1885 from Sir John Fortescue's "De Laudibus Legum Angliae" (Praise to the Law of England) written in the 15th century: In other words, the Difference Between an Absolute Monarchy and a Limited Monarchy) (Budak, 2019).

Rhodes (1996), in his book "Understanding Governance", discussed governance as the conceptual equivalent of the phenomena revealed by real life. Rhodes attributes the concept of governance to problems such as increasing the effectiveness of international organisations, ensuring cohesion and communication in multi-actor environments, and coordination arising from the privatisation and transfer of public services to the private sector.

The concept of governance has been used extensively in global politics and academia after the 1990s. The concept of governance has received support from different disciplines, movements and theories beyond the new public management approach that marked the 1980s. Apart from the traditional concept of bureaucratic management, governance offers a model based on synergy, participation and co-operation between actors in the determination of public policies by having a historical and cultural integrity with postmodernism. With these features, governance is a discourse based on neoliberalism in which new public administration policies are followed under the leadership of postmodern public administration (Doğan, 2017).

Kaufmann, Kraay and Mastruzzi (2003) defined governance as the traditions and institutions in which authority is exercised in a country and stated that governance has three different dimensions:

- The process by which governments are elected, controlled and changed
- The capacity of the government to formulate and implement sound policies effectively
- Respect for the institutions that regulate the economic and social relations of citizens and the state and manage them economical.

Although the concept of governance is widely discussed among policy makers and academics, there is not yet a strong consensus around a single definition of governance or institutional quality. "The way in which all kinds of economic and social resources for the development of a country are applied in the management of power" covers almost all definitions. Proposed in 1992 by the WB, it focuses more narrowly on public sector management issues, including the definition of "how power is exercised in the management of a

country's economic and social resources for development" (Kaufmaan, Kraay and Mastruzzi, 2010). According to the World Bank, there are 6 basic indicators of governance. These are stated as follows (Kaufman, Kraay and Mastruzzi, 2010):

- Freedom of Expression and Accountability: It refers to the extent to which citizens in a country participate in elections, their freedom, the independence of the media, and the independence of associations.
- Political Stability, Absence of Crime and Violence: Refers to the destruction of the effectiveness of the government through unconstitutional violent means and destabilisation through violent means.
- Government Effectiveness: whether the public service is independent of political pressures, the quality of policy formulation and implementation, and the degree of government commitment to those policies.
- Regulatory Quality: Refers to the government's ability to formulate strong policies and implement sound regulations that favour private sector development.
- Rule of Law: The extent to which decision-makers and society attach importance to and abide by the rule of law, in particular the enforcement of contracts, the quality of property rights, and public confidence in the police and justice, i.e. the courts, against the possibility of criminal offenses.
- Prevention of Corruption: Refers to the prevention of the use of public power for personal gain and the perceived "capture" of state power by elites and special interest groups, including both petty and grand forms of corruption.

2.3. Good Governance

Good governance can be realised at 4 levels in social life. Firstly, at the level of Public Administration, that is, it starts with the fairness of the approach of state organs and public service organisations to governance and results in the effectiveness of principles such as transparency and accountability in the implementation of decisions. Secondly, at the private sector level, good governance is realised through two channels. On the one hand, they implement their own corporate governance and on the other hand, they allocate resources to social projects and encourage managers to spend time on CSOs' activities. Thirdly, the CSOs themselves are based on the principles of good governance and the application of the principles of "Total Quality Management", the appointment of distinguished managers, and the understanding of selecting competent people rather than the work of the heart. Fourth and lastly, good governance is realised at the individual level. Each individual is a citizen, a consumer and an individual at the personal level. Each individual who fulfils all his/her responsibilities and upholds the principles of good governance will have a significant impact on increasing social welfare and developing institutions (Toksöz, 2008).

Good governance refers to a process of change in policy and management in which public issues and policies are discussed and in which different actors in society participate (Grindle, 2004).

Good governance is a definition generally used for Third World countries. It is defined in different areas. In the systematic dimension, good governance can be defined as the organisation of "internal and external political power distribution". In the political dimension, it is defined as "a state with both legitimacy and competence". Finally, in the administrative dimension, it can be defined as "an efficient, open and accountable system" (Ayman Güler, 2010).

Compliance with the law, which is one of the principles of good governance, requires the administration to act in accordance with the law in its actions and transactions. This principle is also called the rule of law principle. The concept of rule of law contains a number of principles within itself. These can be expressed as securing fundamental rights and freedoms, independence of the judiciary, and judicial control of the legislature and the executive (Sancı, 2012).

When the studies on governance are analysed, it is seen that the principles of governance are handled differently in each study. For example, in the White Paper (2001), the principles of good governance are listed as "Openness, Participation, Accountability, Efficiency, Consistency", while in Governance Matters VIII, the principles of governance are listed as "Accountability, Political Stability and Non-Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption" (Kaufman, Kraay and Mastruzzi, 2003).

UNDP "Governance and Sustainable Human Development 1997" enunciates a set of principles of good governance. These pronounced principles have also been recognised in most of the literature. The five principles adopted by the United Nations 21 are based on international law with a human rights orientation.

Nevertheless, it is difficult and controversial to determine the principles on which the concept of 'good governance' is based. Many of these principles overlap with each other and support each other at some points (Graham, Amos and Plumptre , 2003).

2.4. Ombudsmanship

In Gerald Caiden's "International Handbook Of The Ombudsman" published in 1983 and accepted as a reference source in the scientific world, Caiden and his colleagues who contributed to the book made the definition of ombudsman in general as follows (Caiden, Macdermot and Sandler, 1983: 13 cited in Karçı, 2016):

The Ombudsman is an independent and impartial official, officer or committee that oversees public administration, usually regulated by the constitution. It deals with specific complaints from the public about administrative injustice and mismanagement. It has the power to investigate, report and make recommendations on cases and administrative procedures. It is not a judge or administrative dispute resolution body and has no power to issue orders or change administrative procedures. It endeavours to find solutions to problems through investigation and conciliation processes. Its authority and influence derive from the fact that it is appointed by one of the principal organs of the state, usually the parliament or the head of the executive, and submits its reports to it. In this way he or she gains the trust of the complainant and the respect of the public administration. Public officials may initially be hostile and suspicious of the ombudsman, but over time they realise that he or she also provides them with an important defence mechanism against unjustified, unfounded and malicious attacks.

The wording of the Ombudsman Institution, which is applied in many different countries, has also varied from country to country. The National Ombudsman (Nationale Ombudsman) in the Netherlands, Mediator (Médiateur) in France, Citizen Protector (Protecteur du Citoyen) in Canada, Public Defender (Defensor del Pueblo) in Spain, People's Advocate (Volksanwaltschaft) in Austria and Public Advocate (Avocatul Poporului) in Romania, The terms Justice Representative (Provedor de Justiça) in Portugal, Parliamentary Commissioner for Administration in the UK, Défenseur des Droits Civiques (Défenseur des Droits Civiques) in Poland, Civil Defender (Difensore Civico) in Italy, Human Rights Commissioner in Russia are used as the equivalent of the word Ombudsman. In Turkey, the term "Ombudsman" is preferred in Law No. 6328 (Tortop, 1998).

With the emergence of the Ombudsman Institution in Sweden for the first time, it is obvious that every state in the world needs such an institution 'depending on the weight of the issues related to the complaint'. Today, there are Ombudsman Institutions in more than 100 states and in some countries, Ombudsman Institutions have been established separately under different topics. Özden(2010), in his work titled "Ombudsman (Ombudsman) and Discussions in Turkey", devoted a section to the types of Ombudsman.

"Respectability" comes first among the characteristics that an ombudsman should have (Özden and Gündoğan, 2000). In addition to this, the essence of the ombudsman is independence (Altuğ, 2002) and its basic value is efficiency (Pickl, 1986). While making decisions and making suggestions, the ombudsman should not be under the influence of anyone and should act with common sense and carry out his/her activities without showing off. As mentioned by Pickl (1986), the ombudsman should not represent this approach, since the "glamourisation approach" will prevent the presentation and understanding of a deep solution to the problem and will cast a shadow on scientificity. This is because the ombudsman is an honest, mature person who is not concerned about his/her career and has a good command of the law (Altuğ, 2002).

According to Özden (2010), there are eight types of Ombudsman: Parliamentary Ombudsman, Human Rights Ombudsman, Child Rights Ombudsman, Armed Forces Ombudsman (Military Ombudsman), Student and Education Ombudsman, Consumer Ombudsman and Local Government Ombudsman.

2.5. Examples of Ombudsman Institution in the World

In Sweden, the ombudsman and his/her deputy are appointed by a special committee of forty-eight members of the Parliament for a term of four years. The elected persons may be re-elected for the same office. The ombudsman may resign or be dismissed by the parliament at any time during his/her term of office. In this case, the resigned or dismissed ombudsman continues to serve until the parliament elects a new ombudsman. When the ombudsman is elected, he/she surrenders the office (Jagerskiold, 2016).

The Swedish Parliament (Riksdag) supervises judges, bureaucrats and military officers through the ombudsman on whether they comply with the laws. From 1908, the first year of the establishment of the Ombudsman Institution in Sweden, until 1915, 1 ombudsman, between 1915-1968 2 ombudsmen, between 1972-1976 3 ombudsmen served. The increase in the number of ombudsmen over the years is due to the increase in irregularities in Sweden, the lack of protection of rights, and the emergence of problems such as bribery. Currently, in Sweden, in addition to the Parliamentary Ombudsman, there are Consumer Ombudsman, Equal Opportunities Ombudsman, Ombudsman against Ethnic Discrimination, Ombudsman for Children, Ombudsman for Freedoms and Press Ombudsman sponsored by the media (Babüroğlu and Hatipoğlu, 1997).

Finland adopted the ombudsman system with a constitutional amendment in 1919. Article 46 of the Finnish constitution envisages a two-pronged structure, one being the "Chancellor of Justice", which is a branch of the government, and the other being the "Ombudsman" acting on behalf of the Parliament, in order to protect the rights of citizens against all public authorities. Among these ombudsmen, the Finnish ombudsman has the broadest powers. The Ombudsman is fully independent in the execution of his/her duties. No institution, including the parliament, can give orders to the Ombudsman (Baylan, 1978).

The Finnish Ombudsman has very wide powers. All public administration falls within its field of activity. He can attend all courts of law, sessions and meetings of the Council of Ministers. Municipalities, churches, administrative institutions, courts of law, ministers of state, the armed forces, the central bank, the national pension organisation, etc. are within the field of supervision. The President of the Republic, the Chancellor of Justice and the Parliament are not within the area of supervision since they are not public authorities (Babüroğlu and Hatipoğlu, 1997).

The duty of the Norwegian Ombudsman is to "endeavour to ensure justice". The most fundamental duty of the ombudsman is to ensure that no injustice is done to the citizens and to protect human rights by auditing the public administration and everyone working in it. The ombudsman's authority to investigate extends to every institution within the public administration, including legal entities of private law. Persons deprived of their personal liberty may apply to the ombudsman in a sealed envelope. In principle, complaints must be made in writing. The ombudsman has the right to decide whether or not to investigate the complaint. Applications to the ombudsman are free of charge and the right to confidentiality is fundamental (Stern, 2008).

The decisions of the Danish ombudsman belong to a supervisory field. It can initiate an investigation in any civil or military field if a plaintiff or its own chief complains. He can investigate any public service and ask a state employee to provide him with the information and documents he wants. The Danish ombudsman may also appoint a person to file important documents for the conduct of the investigation in accordance with the rules laid down by the courts. If the ombudsman wishes to initiate an investigation against a civil servant who has breached discipline, he can ask the administrative director to initiate a disciplinary investigation (Hurwitz, 1956).

In the UK, ombudsman activities were carried out under the name of Parliamentary Commissioner. It is possible to say that the institution serves the purpose for which it was established, but this institution does not have as wide powers as the Swedish ombudsman, and although the institution has independence, the supremacy of the parliament is felt more.

In the German system, the Parliamentary Commissioner is appointed by the President of the Bundestag on the recommendation of the Parliamentary Groups and the Defence Committee. He/she is authorised for longer than the legislative term. He/she may resign at his/her own will. The terms of reference fall within public law. The Ombudsman does not have the status of a civil servant, his status is similar to that of a minister and he performs his duties under the supervision of the Bundestag. However, there is no hierarchical relationship between the President of the Bundestag and the Ombudsman. The ombudsman has three main duties. These duties are listed in (Tortop, 1974) as follows:

- To ensure the protection of the rights of military officers and soldiers,
- To be present in the Bundestag during the inspection of the army forces,
- To ensure that officers apply principles of consistency and good faith in directing and managing people.

3. OMBUDSMAN INSTITUTION IN TURKEY

A group of faculty members from Ankara University prepared a "Proposal for a Constitution with Justification" during the preparation of the 1982 Constitution. Article 114/a of the proposal states that a justification should be mandatory for all administrative actions and the remedies against these administrative actions should be specified. Unless otherwise stated, it states that information and documents of the administration should be made available to the public and should not be confidential in a way that restricts the freedom to seek rights. Article 114/b of the proposal envisaged the establishment of a Board of Ombudsmen to listen to the requests and complaints of citizens and to observe fundamental rights and freedoms, and the appointment of one of the members of this board from among the two candidates nominated separately by the TBMM, Court of Accounts, Council of State, HSYK, and TBB by the president for a 5-year term of office (Siyasal Bilgiler Fakültesi, 1982: 136- 139). In the KAYA Report prepared by TODAİE in 1991, it was suggested that DDK should work like an ombudsman (TODAİE, 1991).

The need for an Ombudsman Institution for a long time and the concerns regarding the adaptation of the institution to the system in Turkey made it possible to establish the institution in 2006, which had been under discussion since 1999. In Turkey, the Ombudsman Institution Law No. 5548 was published in the Official Gazette No. 26318 dated 13/10/2006 and entered into force (Büyükcavı, 2008).

In 2006, the Ombudsman Law No. 5521 was vetoed by the then President of the Republic of Turkey and then its enforcement was suspended by the Constitutional Court, and in 2008 the whole law was unanimously cancelled (Birdişi, 2011). After the cancellation of the law, the Ombudsman did not come to the agenda until the referendum held on 12 September 2010. As a result of the referendum, the Constitution was amended and the draft law was adopted by the Constitutional Commission of the Grand National Assembly of Turkey on 26 January 2011 (Odyakmaz, 2011). Yedinci Beş Yıllık Kalkınma Planı (1995), the rationale for the establishment of the Ombudsman Institution is explained as follows:

"In order to resolve the disputes encountered in the relations between the administration and the individual in an effective and rapid manner; in the face of the fact that the judiciary is bound by strict rules of functioning and its time-consuming operation, an Ombudsman system, which has emerged as a result of the need for an audit system that supervises the administration outside the judiciary but is not dependent on the administration, and which is also found in the European Union and in most of the member countries, and which deals with the complaints of the public, will be established in Turkey."

Law No. 5548 on the Ombudsman Institution, which includes most of the provisions of Law No. 5548, was drafted and submitted to the Parliament on 5 January 2011. The draft law, which was discussed by the Parliament, was enacted on 14.06.2012 as "Law No. 6328 on the Ombudsman Institution" and entered into force after being published in the Official Gazette dated 29.06.2012 and numbered 28338

4. LITERATURE

Ateş and Buyruk (2018), focused on the function of participation, which is one of the principles of good governance, in Turkish Public Administration.

Şahin (2018), examined the practices of the Ombudsman Institution (Ombudsman), which entered our administrative system with the 2010 Constitutional amendment in terms of the realisation of good governance in his study.

Küçük (2023), in his study, questioned the concept of governance put into practice by the World Bank in order to maintain the healthy development of the global free market economy, its importance, its effects and social risk management, one of the short-term solutions proposed by the Bank to governments as a means of preventing poverty.

Zeren, Tekin and Özdek (2020), examined the activities of the Ombudsman Institution for the last five years based on the New Public Management approach in their study. As a result of the study, it was seen that the problem solving skills of the Ombudsman Institution were quite high. It was stated that the independence of the institution should be ensured. It was concluded that the examinations and research that the institution will carry out without compromising its independence based on the powers and duties given to it at the legal level and legally provided and the principle of the rule of law will be more beneficial to our country.

Karakul (2015), in his study, focused on the historical development of good governance principles, major good governance principles and the development and applicability of good governance principles in Turkey. At the end of the study, he concluded that the Draft Law on the Basic Principles and Restructuring of Public Administration should include these principles more concretely by taking into account the developments in good governance principles and this process should be continued with the enactment.

Şehitoğlu and Çarkçı (2022), gave a detailed explanation of how to establish processes such as cooperation and governance at the local level in their study and concluded that governance practices are becoming more and more involved in local politics and decision-making mechanisms of local governments.

In his study, Koç (2015) sought an answer to the question of why the Ombudsman Institution was established in Turkey, especially with the data obtained from archives. As a result of his study, he revealed that this institution started its activities in Turkey under the influence of the work of supranational actors, changing theoretical logic in public administration, political promises and promises, and internal and external factors.

Sevinç and Akyıldız (2020), in their study, mentioned the activities of the Ombudsman Institution over the years and how it has developed these fields of activity. At the end of the study, it was concluded that more effective and efficient supervision targeted with the principles of good governance will make the Turkish public administration system more democratic and respectful to human rights.

5. CONCLUSION AND RECOMMENDATIONS-DISCUSSION

The concept of good governance envisages investments in education, health and social issues and states that unnecessary public expenditures should be reduced. It advocates the aim that public administration should be managed in the best, most profitable and most accurate way. There are 6 generally accepted principles of good governance. These are Openness (Transparency), Participation, Accountability, Efficiency, Consistency and Rule of Law.

The main duty of the state is to provide administration and management with a fair management approach. This task is possible by sharing the power concentrated in the central administration with the local administration and establishing a service network that reaches every segment of the society. The phenomenon of the state has not remained as it was when it first emerged, but has gained the characteristics of a modern state by making progress on the legal ground until today.

In this study, similar to (Acker and Bouckaert, 2018; Köseoğlu, 2010), the rate of compliance of advisory decisions by administrations will be taken as the effectiveness scale of the Ombudsman Institution. In addition, through interviews with the auditors and experts of the institution, it was examined whether the institution is effective from their point of view, what are the factors that enable and hinder effectiveness, and what are the triggering factors for increasing effectiveness.

In this framework, it is possible to list the findings of the study as follows;

- Within the framework of the principle of transparency (openness), it is seen that the decisions taken at the meetings attended by the management of the Ombudsman's Office and the Chief Ombudsman and the reports issued are easily accessible. The Ombudsman Bulletin Journal published by the institution includes examples of recommendation decisions and the annual report submitted by the institution to the Parliamentary Commission is made accessible by being published in the official gazette. Pabuçcu and Kırçoğlu (2018)

- Considering the definition of the concept of governance within the framework of the Participation Principle, the Ombudsman Institution and the Chief Ombudsman have statements supporting participation both at home and abroad. It is very important for the institution to frequently meet with the local administration and to exchange ideas with the smallest local administrations in order to be closer to the citizens. In addition, the importance of auditing the administration and involving citizens in the process has been underlined frequently, and giving importance to joint decision-making with citizens and non-governmental organisations will contribute to the realisation of participatory management by the institution.

- Within the framework of the Accountability Principle, it is observed that the decisions of the KDK regarding its investigations are submitted to the Parliamentary Commission and discussed in the Parliament. The statements made by the Chief Ombudsman on the basis of the institution, especially the investigations initiated upon complaints, the meetings, symposiums and provincial and district visits in

which he emphasised justice are in line with the principle of accountability. The Chief Ombudsman is elected by secret ballot and by a 2/3 majority of the total number of members of the Grand National Assembly of Turkey. In case a quorum is not reached, the second, third, fourth and fourth votes are held. Since the majority of the TBMM is constituted by the ruling party, the other parties do not have much influence in the election of the Chief Ombudsman. In order for the Chief Ombudsman to fulfil his duty independently, it is important whether the proposals presented in the parliament are taken into consideration or not.

- Within the framework of the Activity Principle, it is observed that the institution is promoted, competitions and meetings are organised to reach children and young people, ombudsman offices are established in universities, brochures and posters are printed, and activities are organised for children and young people on special days where they can have fun and be informed. It is seen that the institution is active, travelling from province to province and meeting with citizens. The fact that the decisions taken by the Ombudsman Institution are advisory and act upon complaints limits its field of activity. Giving the authority to take ex officio action and being able to supervise the administration more comprehensively will increase the effectiveness of the Ombudsman Institution. The Ombudsman Institution close relationship with the media is important in terms of increasing its recognition. In order to raise the awareness of seeking rights among young children and youth, more emphasis should be placed on activities targeting children and youth.

- Within the framework of the principle of consistency, the Institution performs its services as a part of the modern state system. There is a parallelism between the examples of recommendation decisions given by the institution and the policies of the institution defended by the institution. It continues to function as a fair audit mechanism based on human rights, and the principle of consistency is emphasised as an institution in its verbal and written statements. What we can additionally evaluate within the framework of the principle of consistency is the commitment to EU membership targets. In the first years of its formalisation, the institution has been working towards EU membership targets. When we look at the activities of the Institution since 2012, even if the advisory decisions on issues such as children's rights are taken into consideration and implemented in accordance with European and UN standards, it should be more effective in areas that will make a significant contribution to the EU membership process.

- Within the framework of the Rule of Law Principle, the Chief Ombudsman's emphasis on the rule of law in his statements in accordance with the current legislation is noteworthy. Considering that the legal equivalent of the current identity of the Institution is impartial, fair and right-protecting, it is seen that the rule of law is taken into consideration when exemplary decisions are examined in practice. Article 125 of the Constitution emphasises that all acts of the administration shall be audited for compliance with the law. While the article draws attention to the fact that the audit should be carried out only for legal purposes, in the audit carried out by the Ombudsman Institution, it was not limited to the audit in terms of compliance with the law, but also made it possible to examine in terms of equity. In conclusion, it is possible to summarise the findings of the study in Table 3.1 as follow

The findings obtained in this study are the product of comprehensive research. The factor that makes it necessary to analyse the Ombudsman Institution within the framework of good governance principles is the desire to complement the unsatisfactory returns of the traditional management approach with good governance principles. As a result of the literature review, a common view was reached that the Ombudsman Institution operating in Turkey should give more importance to the principles of good governance. In order for the institution to act in accordance with the principle of transparency in the evaluation phase of the complaints, it should continue its activities fully independent from the political authorities. The fact that the institution has its own publications has made it easier to understand the institution's view of the principles of good governance and in a sense has been a guide;

*There should be a management that is not affected by politics,

*In order for the institution to act fully independently and to increase the rate of implementation of its decisions regarding the complaint, it should be able to give confidence and take an impartial stance,

*The president of the Ombudsman Institution is elected for 4 years by secret ballot. The president is always nominated by the party with more deputies in the parliament.

In order to shed light on future studies, investigating the extent to which these principles are applied not only in a single institution but also in other institutions operating in Turkey will strengthen the foundation of the modern state structure.

SOURCE

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