

# DECISION MAKING PROCESSES and AUDIT, EXAMPLES OF TURKEY AND THE EUROPEAN UNION<sup>1</sup>

## (KARAR ALMA SÜREÇLERİ VE DENETİM, TÜRKİYE ve AVRUPA BİRLİĞİ ÖRNEKLERİ)

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### ABSTRACT

Politicians and managers are anticipated to comply with the decision-making processes for strong decisions and accountability and organization goals. Politicians or decision-makers generally do not feel compelled to give account for their decisions. An audit also focuses on the implementations rather than examining the conclusion, effects or cost of true or false decisions. The auditors have a key role in facilitating decision-makers and politicians accountable. This article tries to show the importance of audits in the decision-making process before the implementation process of the decision. The importance of an effective decision-making process will be emphasized; the attention of audit professionals and decision-makers will be drawn on the importance of supervision of decision-making processes. European Union's (EU) deci-

sion-making process and Turkey's decision-making process are analyzed and compared. First, the definition and introduction of theoretical models of decision-making are clarified. Following this, the EU decision-making process is discussed. Decision-making processes in Turkey are explained and how the decision-making process work is examined. Finally, audit methodology and audit aspects of the decision-making process in the EU and Turkey are overviewed. A comparison is made between the EU decision-making models and Turkey's actual practices.

**Keywords:** Decision Making Processes, Impact Assessment, Audit, European Union

**JEL Classification:** H83, L38

### ÖZ

Politikacılar ve yöneticilerin güçlü kararlar alabilmek için yasalarla belirlenmiş karar alma süreçlerine uymaları, hesap verebilirliği ve kurum hedeflerine ulaşmayı sağlamaları beklenmektedir. Politikacılar veya karar vericiler genellikle kararlarından dolayı kendilerini hesap vermek zorunda hissetmezler. Denetim ise, kararların sonuçları, etkileri ve maliyetlerini inceleyerek kararlarının doğru veya yanlış olup olmadığını değerlendirmek yerine, yalnızca bu kararın uygulanmasına odaklanmaktadır. Karar alma süreci, karar vericilere karar destek danışmanlığı veren ve denetim programlarını karar verme sürecine odaklayan bir denetim ekibi tarafından desteklenmelidir. Bu çalışma, karar alma süreçlerinin uygulama aşamasından önce denetlenmesinin önemini vurgulamayı amaçlamaktadır. Etkili bir karar alma mekanizması uygulamanın rolü vurgulanacak ve denetim profesyonellerinin ve karar vericilerin dikkati karar verme süreçlerinin denetiminin önemine çekil-

meye çalışılacaktır. Avrupa Birliği'nin (AB) karar alma süreci ile Türkiye'nin karar alma süreci incelenmekte ve karşılaştırılmaktadır. Çalışma, teorik karar verme modellerinin tanımlanması ve tanıtılması ile başlar. Bunu takiben, sosyal politikanın uygulanmasına odaklanan AB karar alma süreci tartışılmaktadır. Türkiye'deki karar alma süreçleri ve karar verme sürecinin nasıl işlediği incelenmektedir. Son olarak, AB ve Türkiye'deki karar alma sürecinin denetim metodolojisi ve denetim yaklaşımı açıklanmaktadır. AB karar alma modelleri ile Türkiye'nin fiili uygulamaları arasında bir karşılaştırma yapılmıştır.

**Anahtar Kelimeler:** Karar Alma Süreçleri, Etki Değerlendirmesi, Denetim, Avrupa Birliği

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## 1. INTRODUCTION

Decision-making is a “thinking process of preferring a reasonable choice from the available options.” To make the right decision, the positives and negatives options take into account and all alternatives are considered. The outcome of each option also is estimated and the best solution for that situation is determined.

Decision-making is defined as “a set of mental activities that occur when the decision-maker is trying to generate and choose among different alternatives.” (Galotti, 2002, 9-55). Decision-making processes are used synonymously with the management processes and explain what the manager does and will do (Schraagen Klein & Hoffman, 2008, 3-25). Hence, the strategic decision-making ability of managers designates the success or failure of an organization (Simon, 1987, 57-64).

Although decision making is defined as a sequential or linear process, in practice, decisions are not always the outcome of a series of predefined activities. It is assumed that following a sequential or linear process will lead the manager to make the most appropriate choice to achieve the expected results (Harrison, 1999, p. 58).

The basic elements of decision making are as follows: a) it is a process, sequential or non-sequential. b) It is an action choosing the best within alternatives. c) It serves to achieve goals or objectives through a future-oriented. While it is not always successful, it is attempted to choose the best alternative.

This article aims to show the importance of audits in the decision-making process before the implementation process. The importance of following the decision-making steps defined in theory will be emphasized. The main purpose is to ensure a continuous audit of decision-making processes by drawing the attention of audit professionals. European Union's (EU) decision-making process and Turkey's decision-making process in the field of social policy are examined and compared.

First, the article defines theoretical models of decision-making. Following this, the EU and Turkey decision-making process is overviewed and how it works

is examined. Finally, the audit methodology and audit aspects of the EU and Turkey are explained focusing on the decision-making process. A comparison is made between the EU decision-making models and Turkey's actual practices.

In these article, literature review method was used as the basis. Basic sources about the subject of the research are examined. In addition, the information on the official websites of the institutions subject to the research has been benefited. European Union decision-making process has been compared with Turkey and some improvements have been recommended for Turkey.

## 2. DECISION MAKING STEPS

Decision-making steps have been defined by theorists as 5, 7 and 8 stages. However, each definition includes five basic steps and covers the same issues. (Fülöp, 2005, 1). Decision making will be covered in 5 steps in this article. It should not be forgotten that decision-making should be considered sequentially and the steps should be followed in order. The information obtained at each step creates input for the next step. If information is collected or analyzed incorrectly in step 1, the decision-making process will be negatively affected and the result will be inaccurate or inadequate (Martin & Thomas, 2016, 7-8).

The decision-making steps are as follows:

1. Change-Needing Situational Analysis
2. Challenge Framing and Causal Analysis
3. Generating Solution Ideas
4. Choosing a Solution Set
5. Implementation and Aftermath Planning

In the first step, a list of current situations to be changed is determined and prioritized. Decision-makers often express their dissatisfaction and/or the need for change. The focus should be on the real reasons that reveal the need for change rather than the hopes and aspirations of decision-makers. (Martin & Thomas, 2016, 7-8).

In the second step, the root causes underlying the problems will be investigated. If the root causes that lead to problems are eliminated, the decision maker will use time and resources efficiently and produce effective solutions for the problems. Otherwise, solutions will be applied to symptoms rather than just causes, which will increase the risk of future failure (Dean & Sharfman, 1996, 96-368).

In the third stage, alternative solution proposals are developed to reach the desired situation. (Fülöp, 2005, 2). Any options or ideas are considered to develop potential solutions. Decision-makers prefer to accept and implement existing, reasonable, obvious, rational, and familiar ideas rather than being creative. Options or alternatives must meet sufficiently most of the criteria of newness, reasonableness, feasibility, and practicality (Martin & Thomas, 2016, 7-8).

In the fourth step, the most effective solution is chosen to successfully eliminate the difficulties and causes identified. Solution success criteria list is created first. Solution success criteria are applied to potential solution ideas to make the final choice. Solution success criteria define the requirements to address the challenges and causes in the new situation and to avoid duplication of previous existing challenges (Baker et al., 2002). The other activity of this process step is to create and develop a solution set of options instead of identifying a single solution includes a primary solution and one or two backup solutions. (Martin & Thomas, 2016, 7-8).

In the fifth step, decision makers prepare an implementation plan for the solution they have chosen (Harrison & Frank, 1996, 46-53). The approved implementation plan covers the actions to be performed before and during the implementation phases, control systems for its realization. Expanding monitoring and learning control systems for post-implementation plans is critical. (Negulescu & Helena, 2014, 114-117).

### 3. THE EUROPEAN UNION

#### DECISION-MAKING PROCESS

The European Commission operates a five-step legal decision-making process. These stages are as follows: 1) Initiatives for Proposals, 2) Roadmap and Impact

Assessment, 3) Consultation Interested Parties, 4) Review and Adoption, 5) Implementation of Decision. Under this title, what processes are carried out at each stage and who is responsible for carrying out these operations is explained. It is also evaluated whether these processes correspond to the theory of decision making.

#### 3.1. Initiatives for Proposals

The European Commission plan, prepare and propose new European legislation. This is named the 'right of initiative.' The Commission proposes laws and policies on its initiative or the proposal of Council of Europe (heads or governments of each EU country), Council of the European Union (government ministers from each EU country), European Parliament and Citizens (ec.europa, 25.06.2019).

To be submitted a law proposal by a European Citizen, 1 million signatures must be collected. The Commission firstly decides whether there is a problem or situation in the EU that would require a proposal and seek the alternative best solutions to this problem other than legal legislation (Briefing Note 25/18). This activity matches with the "**The Change-Needing Situational Analysis,**" which is the first step of the decision making process mentioned above.

The preparation of the proposal in the Commission begins with excellent and timely planning. Proposals are prepared under the supervision of a responsible Commissioner or the Director-General of the lead DG. The preparing proposal process requires political approval. This approval only starts the preparation of the proposal to be carried out within the Commission. Otherwise, it does not mean a final decision. To support political validation, the key aspects of any proposed initiative are needed to set out clearly, such as the political significance and the extent of the expected impacts, linked other policy areas and prior knowledge about different or sensitive stakeholder views (European Commission, 2017b, 11).

#### 3.2. Roadmap and Impact Assessment

The roadmap is a method used for initiatives that do not require impact assessment and generally identi-

fies what the problem is, sets goals to be achieved as a result of the initiative, and sets out alternative policies. Determine the main features of a consultancy strategy to be applied during the initiatives (European Commission, 2017d, 7). The Commission uses the roadmap to determine the method to be applied in the new initiative. For example, the new initiative may require the creation of a new law or policy, it may involve the evaluation of existing law or policy, or it may be sufficient to check the appropriateness of the relevant existing legislation and/or policy. When the potential impact of a law or policy on the economy, environment, society is too high, an initial impact assessment that is more detailed is applied, rather than a roadmap.

The Commission carries out the impact assessment at the preparatory stage before submitting a new law proposal and identifies the significant economic, social and environmental consequences of a new initiative. Also, the need for regulation at the EU level should be considered first. Possible policy options, advantages and disadvantages are identified and supportive information is provided to the decision-making process. Roadmap and Impact assessment also matches with the “**Challenge Framing and Causal Analysis**” which is **the second phase of the decision-making process**.

The results of the impact assessment process are presented in impact assessment reports. An independent organization evaluates these reports, the Regulatory Scrutiny Board and recommendations are made to improve its quality. Environmental, social and economic impacts, the parties affected by the initiative and the way these impacts emerge, the consultation strategy implemented and the results achieved are clearly stated in the impact assessment report. In addition to identifying the necessity of EU action and identifying a problem, the impact assessment process also analyzes the root causes of the problems. It supports an effective decision-making process by revealing the advantages and disadvantages of solutions to eliminate root causes. It contributes to finding the most optimum solution by taking into consideration the principles of subsidiarity and proportionality which are the basic principles of the European Union.

The first step of a impact assessment, therefore, is to “(i) make sure the existence of a problem and indicate who is affected; (ii) approximate the problem’s size and scale and analyses its bases of causes and consequences; and (iii) state the EU-dimension and evaluate the probability that the problem will persist.” (European Commission, 2017c, 15-16).

The impact assessment compares economic, social and environmental impacts of all possible options. This comparison is based on quantitative data and cost-benefit analysis as much as possible. Considering all alternatives, thinking outside of the classical patterns and consulting with different parties are the essential achievement keys of the impact assessment. The Commission publishes the impact assessment reports together with the proposals or acts and sends them to the legislators, members of Parliament and the Council involved in the decision-making process (ec.europa, 25.06.2019). The impact assessment report is supported by appropriate evidence, such as documentation, data, analytical assessments, scientific evidence, stakeholder views, and is cited in the report. Conclusions and findings of the impact assessment report that cannot be supported by evidence are clearly justified (European Commission, 2017c, 18).

### 3.3. Consultation Interested Parties

The Commission consults the interested parties during the third stage of the decision-making process, the solution phase. It is aimed to produce different solutions, obtain local information about the solution proposals and ensure that the solutions presented to meet the needs of related parties. Besides, consulting interested parties, the Commission prevents bureaucracy. The Commission also consults civil society organizations, local authorities and interested parties, such as representatives of industry and civil society. Expert groups give an opinion on technical matters (<https://europa.eu>, 2019).

Participation and timing are the most critical elements of the consultancy with the parties concerned. To get the most benefit of the consultation, all interested parties are covered and the consultation process

is started as early as possible. Citizens, businesses and organizations participate in the public consultation system on the website for 12 weeks. Public consultation is possible for priority initiatives in the Commission program in all European Union official languages. The overall results of the public consultation are published on the website via a summary report. (European Commission, 2017d, 8-67). In principle, stakeholder engagement can be implemented throughout the proposal preparation period. However, proper political approval is required to start formal stakeholder consultations. Stakeholders can provide feedback on published roadmaps, initial impact assessments and consultation reports for the next 4 weeks (European Commission, 2017e, 70).

### 3.4. Review and Adoption

This stage is the critical point where the final decision is made as a result of all preparations produced by the European Commission and meets the **fourth step of the decision-making process- Choosing a Solution Set**.

The main legislative procedure of the European Union is called the “ordinary legislative procedure” with the entry into force of the Lisbon Treaty. In this procedure, also known as co-decision, the Council and the European Parliament use legislative power together. Both institutions examine the Commission proposals in 3 readings. The European Parliament and the Council review the Commission’s proposals and propose amendments. If the Council and Parliament cannot agree on the amendments, a second reading is done. The Parliament and the Council may propose amendments again in the second reading. Parliament has the authority to veto the Commission proposal if it fails to reach a consensus with the Council (Heisenberg, 2005, 65-90). At the end of each reading, a final decision can be made or a correction or a new proposal can be requested. Commission proposals are sent to the Council, Parliament and the National Governments simultaneously. The National

Governments assess the conformity of the proposals with the principle of subsidiarity within 8 weeks. If national parliaments do not intend to delegate their powers to the EU on the issue to be regulated, they have the right to veto the proposal formally (GAIN Report, 2017, 6). Finally, the European Parliament and the Council may decide or reject the adoption of the proposal. In case of rejection of the proposal, the conciliation committee is engaged and seeks solutions ([europa.eu](http://europa.eu), 25.06.2019).

### 3.5. Implementation of Decision

The European Commission has to ensure and monitor the proper execution of EU laws by the Member States. Member States make the necessary arrangements in their Parliaments to comply with EU laws. If Member States do not harmonize their legislation with EU law or show irregularities in implementation, the Commission initiates an infringement procedure. First of all, an official letter is sent to the member state explaining how the EU laws have been violated and the appropriate time is allowed to respond in detail.<sup>2</sup> If this procedure is not effective in resolving the non-compliance with EU Laws, the Commission transfers the non-compliance to the Court of Justice. The Court of Justice has the power to impose penalties and Member States and EU institutions must comply with its decisions (European Commission, 2012a, 21).

EU laws can only be entirely beneficial if the Member States properly implements them. The Commission needs to support the Member States to ensure the proper implementation of the practices. They can provide this support through implementation plans that are determined when impact assessments are made while drafting laws. Also, the Commission’s conformity assessments and consultancy to be provided by the Commission services during the transposition periods are the means to ensure the proper implementation of EU legislation (European Commission, 2017d, 9).

<sup>2</sup> The policy is contained in: (1) joint political declaration between the Commission and the Member State (OJ 2011/C 369/02); and (2) a joint declaration between the EP, Council and Commission (OJ 2011/C 369/03 and (3) point 44 of the Interinstitutional Agreement on Better Law-Making).

The Commission monitors the EU legislation systematically in two stages. This includes compliance assessments of both transposition and conformity of Directives. In the first stage (**transposition check**-completeness), it is checked whether the EU directive is fully transposed into the legislation of the Member States.<sup>3</sup> In the second stage (**conformity check**), the harmonization of the regulations of the member states with the EU directives is evaluated. In case of a discrepancy in both processes, the infringement procedure is executed. The Member States submit to the Commission the correlation tables or other similar explanatory documents indicating that transposition measures have been implemented. The Commission prepares an implementation report focusing on the implementation measures of the Member States (European Commission, 2017d, 43-50).

#### 4. COMPARISON OF EU DECISION MAKING PROCESS and THEORY

As a result of the comparison of European Union decision-making processes and theory mentioned so far, it can be thought that the European Commission system is complete, covering all phases of the decision making cycle. In 2015, the European Union developed several tools to improve the decision-making process through the initiative "Better Regulation for Better Results". Better regulations guidelines included all stages of the decision-making cycle, from planning to evaluation. The use of tools such as strategic planning, impact assessment, ex-post evaluation and stakeholder consultation has become mandatory for better quality regulations. In addition, the implementation of these instruments was subject to the controls carried out by the independent supervisory body (the Regulatory Scrutiny Board). It was supported by improvement suggestions by external experts, namely REFIT (regulatory fitness and performance programme), composed of stakeholders and member state representatives (European Commission, 2017g, 23).

Independent scrutiny bodies decide whether impact assessments are in line with better regulation guidelines. The controls show that better regulation tools

are increasingly used in the work of the Commission, the European Parliament and the Council working groups. In the European Union's decision-making process, the Commission makes proposals, the Parliament and the Council decide, and the member states implement them. Better regulation informs the Commission and other actors involved in the decision-making process and promote quality regulations. However, decisions can sometimes be political and may not meet the goals set initially. The better regulation tools, through detailed analysis and proof documents, prevent decision-makers from drifting away from their initial objectives and provide control by the member states, providing an opportunity for comparison.

Indeed, it is seen that there are some problems in practice and European Union decision-making processes are criticized in some respects. Better regulatory reforms have notably altered the working practices of the Commissions. The Commission works style has changed from hierarchical to structured policy-making with prominent on content, expert input and transparency. Unfortunately, the impact of these reforms is still under discussion (Golberg, 2018, 3-371).

Table 1 compares the European Union decision-making processes with the decision-making steps summarized in this study. The table shows that the European Union decision-making process covers all steps in the theory and that all but the fourth step are carried out by the Commission. Although it is said to be a political institution, the Commission has made significant progress in increasing decision-making by implementing better regulation policies to reduce political impacts. However, this does not eliminate the fact that politics influence the decision-making processes performed by the European Parliament and the Council (Ambrus, Arts & Ellen, 2014, 66).

Each proposal is carried out under the responsibility of an independent commissioner appointed by the member states. The commissioners do not act in their interest, do not receive instructions from the national countries to which they are attached, and protect the integral interests of the European Union. Some

3 Commission Communication, Implementation of Article 260(3) of the Treaty, OJ C12/02 of 15 Jan. 2011, para. 7.

authors argue that the commissioners do not act independently of their member states, but that they can hold their interests or the interests of the broad domestic coalition in their countries (Wonka, 2008, 1145-1163).

In the first step, the European Union Commission has identified the need for change and cooperated with various sub-commissions and institutions. The Commission particularly receives opinions from experts and the public to specify the importance, effects and causes of the problem. But some scholars state the link between experts' input (impact assessment reports, the conclusion of consultation activities, etc.) and policy output was weak because of the political negotiations performed by the Parliament and the Council (Schout & Sleifer, 2014, 368).

In the second step, the Commission makes a technical assessment of the causes, effects and possible solutions to the problem and uses the roadmap and impact analysis methods. These evaluations are carried out by qualified experts. However, it is not known how much the information obtained by the experts as a result of impact assessments has been used in decision-making processes. The draft laws prepared by the Commission in a wide range of fields require a multidisciplinary approach to work with experts in different areas. In addition, experts must take into account the basic principles of the European Union, such as subsidies, proportionality, providing empirical evidence for policies, sustainability and reducing administrative burdens (Schout & Sleifer, 2014, 366). In its report examining impact assessment processes, the Court of Auditors states that the need for experts in several different areas makes impact assessments carried out by the Commission units difficult (Ambrus, Arts & Ellen, 2014, 66).

In the third step, the Commission generate alternatives and solutions by consulting stakeholders. Even though this process seems to work properly, trialogue meetings often used in the EU decision-making process at a recent time decrease the impact of Consultation Interested Parties. The legislative proposals submitted by the European Commission are negotiated in closed trilogue meetings by the European Parliament, the Council and the Commission. In these meetings,

a common point is tried to be reached between these three EU institutions. The trilogue meetings have become a standard procedure of the legislative process and its use is gradually increasing. The trilogue meetings do not have a legal basis under the European Union legislation. Nevertheless, there are provisions in the EU legislation to ensure the transparency of the legislative process. The increasing use of the trilogue meetings has raised concerns about transparency and accountability. According to the Lisbon Treaty, all EU institutions are required to conduct their business transparently and to publicize the documents they produce (Dionigi & Koop, 2017, 6).

In the fourth step, the Council took the opinion of the European Parliament and made the final decision. Ministers must formally adopt all Council decisions. Given the short time they have been granted, the Ministers have to rely on bureaucrats working for them. It is claimed that bureaucrats work for their own interests rather than independent policy interests (Frank & Daniel, 2013, 953-971).

The past decades have seen continuous efforts by the Commission to complement political decision-making with independent, accessible and scientifically sound assessments of policies throughout the policy cycle. In 2015, the European Commission brought together all mandatory regulatory policy instruments such as impact assessment, consultation and assessment under a single framework with the Better Regulation Program. Thus, economic, environmental and social impacts of the Commission proposals are determined and a more systematic method was applied. Furthermore, it is guaranteed to reduce costs and avoid unnecessary bureaucracy. Under the Better Regulation program, quality control, feedback from stakeholders and political oversight have been further strengthened. The European Parliament and the Council of Europe pledged to support the Better Regulation efforts and agreed to do post-overview the impact of the amendments on the Commission's proposals (Golberg, 2019, 20). While it cannot be overlooked that the Commission has created a better regulation system worldwide, it is also one of the most critical criticisms that the European Parliament, and especially, the Council has been slow to apply the Better Regulation methodologies (Wiener, 2006, 65).

Table 1. Comparison of EU Decision Making Process and Decision Making Theory

| Decision Making Steps |  |  | EU Decision Making Process      |  |   |
|-----------------------|--|--|---------------------------------|--|---|
| N                     | STEPS  | REQUIREMENTS   | STEPS                           | ACTION PERFORMED BY EU INSTITUTIONS  | RESPONSIBLE INSTITUTIONS                |
| 1                     | <b>Change-Needing Situational Analysis</b>   | Identify, clarify, and prioritize current state situational conditions; the decision-makers (or someone else) want to be changed.  | Initiatives for Proposals       | Planning, preparing and proposing new European legislation. Set out clearly, such as the political importance and sensitivity, the magnitude of the expected impacts, relevant links with other policy areas and prior knowledge about divergent or sensitive stakeholder views. | European Commission                     |
| 2                     | <b>Challenge Framing and Causal Analysis</b> | Underlying causes of the challenges in both situational states   | Roadmap and Impact Assessment   | Verifies the existence of a problem, identifies its underlying causes, assesses whether EU action is needed, and analyses the advantages and disadvantages of available solutions.   | European Commission                     |
| 3                     | <b>Generating Solution Ideas</b>             | Options or alternatives to develop potential solutions   | Consultation Interested Parties | Generates solution ideas by using the consultation method.   | European Commission                     |
| 4                     | <b>Choosing a Solution Set</b>               | Select the final solution set that is assumed to successfully handle the previously identified challenges of the future state situation and their causes. A list of solution success criteria. | Review and Adoption             | Review proposals and propose amendments. Not include the solution set. One solution submits by the Commission.   | The European Parliament and the Council |
| 5                     | <b>Implementation and Aftermath Planning</b> | Formulate an implementation plan<br>Monitoring and learning control systems  | Implementation of Decision      | Prepare 'implementation plans.'<br>Systematic monitoring of the implementation of legislation by conducting compliance assessments.  | European Commission                     |

Resource: Olgun Özen, Şerif, (2020), *EU Decision Making Process, Connection and Relation Between The Decision-Making Process And Audit in The Field of Social Policy, Research Report, Jean Monnet Scholarship Program 2019-2020, p.42.*

Concerning the fifth step, implementation and aftermath planning, the Commission perform systematic monitoring on the implementation of legislation by the way compliance assessments. The Commission faces by some criticisms, for instance lack of sufficient resources to carry out monitoring activities, reliability of information provided by countries, complainants and national authorities during investigations. One of the criticisms is also that the infringement procedures initiated by the Commission are not transparent and slow to operate (Mellar, 2009, 3).

The monitoring is considered to be the least important part of the draft preparatory work. Commission units conducting preparatory work do not want to devote time to monitoring activities since the proposals of the law are different from those adopted and the implementation preferences of member states may be

different. In addition, data collection on monitoring is perceived by the member states as an administrative burden and cost and the lack of data adversely affects the effectiveness of the monitoring (Golberg, 2018, 56).

Overall, it is possible to say that the policy process, including impact assessments and monitoring, has a positive impact on decision-making and provides inputs to improve the quality of the legislative process. This view is supported by the audit results of independent audit institutions. Although the Regulatory Scrutiny Board, Court of Auditors and Internal Audit Service have indicated that some aspects of the system are open to improvement, they have recognized the existence of a systematic, robust and contributing structure.



## 5. DECISION-MAKING PROCESS IN TURKEY

In parallel with “Better Regulation Studies,” launched in 2000 at all member countries of the European Union in the context of the Lisbon Strategy, some studies have been initiated to ensure the improvement of the legal decision-making process in Turkey. Improving the decision-making process has first entered the agenda of Turkey with the Regulatory Reform Program carried out by OECD in 2001. In 2004, the “Better Regulation Working Group” was established within the Prime Ministry on February 16, 2005, to improve the regulatory framework, to direct regulatory impact analysis studies, to perform quality control of regulatory impact analyses to be conducted by ministries and other public institutions and organizations and to carry out activities to improve the capacity of public administration in this field (Önder, 2017, 771-812). “The Procedures and Principles of Legislation Preparation” entered into force in 2006. According to Article 24 of this Regulation, except for the issues concerning national security and the drafts of the budget and final account law, the law, which is estimated that their effects exceed 30.000.000 YTL is required regulatory impact analysis. Besides, in April 2007, “the Prime Ministry Circular (No. 2007/6) on Regulatory Impact Analysis” and “Regulatory Impact Analysis Guide” was made available to practitioners (Mehter Aykın, 2010, 237). Within this framework, the responsibilities of public institutions and organizations was brought out to establish a unit to improve administrative capacity related to regulatory impact analyses to be carried out within their body and to ensure coordination with the Better Regulation Group within the Prime Ministry and to act under the Regulatory Impact Assessment Guide while performing their duties (Önder, 2017, 771-812).

With these activities and regulations, a framework for legal decision-making processes has been established and started to be implemented. However, this arrangement has gained a new dimension with Turkey’s transition to a presidential system in June 2018. There is a need for the revision of the regulations and to rebuild the decision-making process.

Therefore under this title, the decision-making process will be discussed in the context of the preparation and adoption process of legislation.

In Turkey, decisions concern all Turkish Citizens are taken through legislation, as in other countries, and are binding on implementation. Different actors are situated at various stages in the decision-making process in Turkey. But the primary institution which discusses and decides laws interested all Turkish Citizens is the Parliament called Turkey Grand National Assembly (TGNA).<sup>4</sup> Amendments at 16.4.2017 to the Constitution with Law No. 6771 have also affected the legal decision-making processes in Turkey. Turkey has made the transition from a parliamentary system to a presidential system with these constitutional amendments. Under this title, the influences of essential changes in the Turkey decision-making process are taken into account. The situation before and after the presidential system is reflected.

Generally, the legislative decision-making process in Turkey can be classified forth-phases as follows; 1) preparation of proposals, 2) negotiation and acceptance, 3) approval/publication, 4) Implementation. (Işık, 2003, 11-71).

### 5.1. Preparation of proposals

Before the presidential system in Turkey, there were two types of law submission methods. The first was submitted by Council of Ministers called “draft law” and the member of the parliament submitted the second, also called “proposals.” A members of the parliament are alone authorized to submit a proposal. The President of the TGNA transfers the draft laws and proposals directly to the relevant commissions. (TBMM, 2018, 43-53). Turkey does not have a mechanism that allows citizens or NGO’s (non-governmental organizations) to submit proposals on laws (Yasama Derneği, 2010, 62).

Although the draft laws and proposals submitted by a member of the parliament and the Council of Ministers were subject to the same negotiation method in the Turkey Grand National Assembly, it went through

4 The Constitution of the Republic of Turkey, Article 7: Legislative authority.

different stages in terms of preparation. The Procedures and Principles of Legislation have envisaged some obligations on the preparation of drafts to be submitted by the Council of Ministers. While drafting the law, the opinion of a large number of ministries, institutions and NGOs must be sought and submitted to the approval of all other ministries, related public institutions and organizations. Furthermore, regulatory impact analysis was also required. However, the proposals of the member of the parliament can be submitted to the parliament with a single signature without stakeholder consultation and regulatory impact assessment (Türkiye Barolar Birliği, 2015, 30).

The draft law was prepared by the ministries and submitted to the Turkey Grand National Assembly after being signed by all ministers. Before the drafts came to the agenda of the Council of Ministers, necessary technical and legal studies were carried out on the draft in the related ministries. While preparing the drafts by the relevant ministry, the suggestions and opinions of the universities, high judicial bodies, professional organizations and other relevant institutions and organizations were taken, evaluated and the design was corrected in accordance with the draft deemed appropriate. The draft law was reviewed by the Council of Ministers and finalized; the signature of all ministers was received and submitted to the Presidency of the Turkey Grand National Assembly with justification. Before the drafts are forwarded to the Prime Ministry on issues of public interest, the public shall be informed by the related ministry via the internet, the press or the publication. In this way, the opinions collected on the draft were taken into consideration in the preparatory work.<sup>5</sup>

Law proposals prepared by members of the Parliament are submitted to the Grand National Assembly of Turkey. The Presidency of the Assembly sends the proposals directly to the relevant parliamentary committee (Karaosmanoğlu, 2006, 107-110).

Before the transition to the presidential system, draft laws prepared by Parliamentarians with one or more signatures are sent directly to the commissions and also the Prime Ministry by the Presidency of the As-

sembly. The Prime Ministry transfers the draft law to the relevant ministry or the relevant institution and organization for the formation of the opinion of the government. Subsequently, the draft law is submitted to the Presidency of the Parliament together with the opinion of the government. This opinion does not bind parliamentary Commissions and the General Assembly (Yancı Özalp, 2006, 285).

Deputies can act spontaneously to make proposals for the law, as well as convert the proposal demands forwarded to them. Legislative experts working in the Inspection and Research Office within the Directorate of Laws and Decisions of the TGNA prepare law proposals to the deputies on the subject they demand. It is sufficient for the deputy to express the regulation requested in terms of scope, content and purpose. The requested proposal shall be prepared and submitted within the framework specified in accordance with the law technique. The reasons for developing a proposal, as well as its expected benefits and projected targets are explained within the general justification (TBMM, 2011:30-88). As mentioned in the above sections, decision-making processes have five basic stages, from defining the problem to implementation plans. Impact assessment analyzes allow a decision-making process to cover these five main stages. Therefore, the completion of the impact assessment in Turkey indicates the presence of a well-functioning decision-making process that meets the theory.

The regulatory impact analysis (RIA) was first entered into force on the Turkish legal system in 2006 with “the Regulation on Procedures and Principles of Legislation Preparation.” The regulatory impact analysis was mandatory for drafts that were expected to exceed 30 million TL within the framework of the Regulation. However, if deemed necessary, the RIA may be prepared for other regulatory procedures regardless of the amount of effect and the laws whose impact is less than TL 30 million TL. RIA was not prepared for national security issues and budget and final account law drafts. The obligation to make RIA existed in the ministry or public institution and organization that propose legislation (Güngör & Evren 2009, 37-70).

<sup>5</sup> Mevzuat Hazırlama Usul Ve Esasları Hakkında Yönetmelik, Resmi Gazete, 17/2/2006 No: 26083.

The following issues were included in the RIA.

- 1- What were the reasons for the preparation of the regulation, whether the type of regulation was selected correctly?
- 2- What were the possible benefits and costs of regulation, whether the benefits justify the costs?
- 3- Whether the regulation imposed an additional financial burden on the budget, if so, what was the approximate cost.
- 4- Whether the regulation foresaw the establishment of a new organization or the employment of staff and whether these were necessary.
- 5- What would be the effects of regulation on social, economic and commercial life, environment and related sectors?
- 6- Whether there were aspects of regulation that increase stationery and bureaucratic formalities.
- 7- Whether the parties had the opportunity to express their opinions while making the arrangements.
- 8- Whether the regulation was applicable, how to ensure compliance with the regulation, and how to monitor the implementation (Güngör & Evren 2009, 37-38).

Within the scope of regulatory impact analysis, the preparatory work should identify and explain existing government policy (concept, strategy, national program). It should also be explained whether current regulation and policy envisages an arrangement for the solution of the problem and, despite this, the possible causes of the problem.

The RIA report was submitted to the Better Regulation Unit in the Prime Ministry. The said department shall inform the relevant ministry or institution of the results of the evaluation of the RIA Report. Subsequently, the relevant ministry or institution shall initiate the regulatory works to be carried out according to the results of the RIA Report (Güngör & Evren 2009, 51).

Drafts were examined at the General Directorate of Law and Legislation in terms of compliance with the Constitution, laws, general legal rules, development plans, programs and the Government Program.<sup>6</sup> In addition, drafts were examined in terms of law technique, form and language. The final drafts were submitted to the Council of Ministers. Drafts could be reviewed by the members of the Council of Ministers in detail if necessary. The draft approved by the Council of Ministers was sent to the TGNA as a “Draft Law” (Güngör & Evren 2009, 9).

After the transition to the presidential system on June 28th, 2018, only members of parliament were authorized to initiate proposals. The constitutional amendment abolished the Prime Ministry and Council of Ministers in 2017. Responsibilities and tasks were transferred to the President as head of the executive. Consequently, all of the regulatory provisions and practices described above, which must be followed in the drafts submitted by the council of ministers, have been repealed. Under the new regulations, only deputies propose laws. These proposals are exempted from many form requirements in accordance with “the Regulation on Procedures and Principles of Legislation Preparation” and don’t include the critical stages of decision-making processes such as consultation with the stakeholders and regulatory impact analysis. Besides, these proposals are not subject to the reviews performed by the General Directorate of Law and Legislation in terms of compliance with the Constitution, laws, general legal rules, development plans and programs and the Government Program.

In accordance with the Law amended to the Constitution (No: 6771, provisional Article 21/ F), the decrees in force, bylaws, regulations issued by the Prime Ministry and the Council of Ministers and other regulatory procedures will continue to be valid unless canceled. Therefore, except for the provisions covering the draft laws submitted by the council of Ministers, the articles of “Regulation on Procedures and Principles of Legislation Preparation” that determine the technique of making the law are still in force. According to the regulation, as mentioned above, proposals

6 1 Nolu Cumhurbaşkanlığı Teşkilatı Hakkında Cumhurbaşkanlığı Kararnamesi, 10 Temmuz 2018, 30474 Nolu Resmi Gazete.

can be prepared by the technical departments of the relevant ministries or the legal consultancy departments as before the presidential system. The opinions of the Legal Counselors are sought on the drafts prepared by the technical units.

When the legislative proposals are examined, it is seen that after the Presidential System, the proposals are usually submitted to the Parliament with the signature of many deputies, the proposals do not have RIAs, and they are submitted with general preamble and article preamble. It can be seen in the minutes of the Commission of the Parliament that according to the subject of the proposal, the relevant public institutions, non-governmental organizations, academicians and experts are consulted at the commission's negotiations stages. However, information is not available on issues such as the preparation of law proposals and obtaining opinions from stakeholders. Also, it was stated in the dissenting opinions that the law proposals were prepared in a hurry and sloppy; the proposals also included provisions that would cause problems, opinions of the relevant institutions and organizations were not taken during the preparation of the proposal (tbmm.gov.tr, 28.11.2019).

## 5.2. Negotiation and Acceptance

It is divided into two groups as the negotiation in the Commission and the negotiation in the General Assembly. The proposals are first discussed in the relevant Commission and as a result, the Commission prepares a report on the draft law or proposal. Under Article 20 of the Rules of Procedure, the Commissions may accept or reject the proposals submitted to them in full or by amendments. The primary purpose of the Commission's work is to examine the proposals submitted to the General Assembly at a more technical level and to make them compatible with the law-making technique (Yancı Özalp, 2006, 278).

The Commissions are the kitchen of the law-making process. Draft laws are made ready for negotiation at the General Assembly after the necessary examinations and investigations have been carried out and discussed in detail in the Commissions. The Commis-

sions related to the law-making are divided into two primary and secondary. The main Commissions are the ones that make the final decision and the secondary Commissions are the ones that only give opinions to the main Commission. The proposals and draft laws submitted to the Commission must be finalized within 45 days by the main Commissions. There is also a 10-day negotiation period in secondary Commissions. Commission heads, commission members, relevant ministries or authorized government representatives, other relevant commission heads and deputies who first sign the law proposal, experts in the subject may participate in the Commission meetings. The Chairmen of the Commissions may invite relevant NGOs to the Commission's meetings. The Commissions use the same method as the Parliamentary General Assembly in the discussion of draft laws and proposals. Drafts and proposals discussed in the Commissions are attached to a report and sent to the General Assembly (Yasama Derneği, 2010, 749).

Negotiations in the General Assembly take place in two stages. In the first stage, discussions are made about the entire draft law. Then the question or answer process is done on the whole proposal. After the question and answer process is finished, it is voted to switch to the articles of the proposal. If the transition to the articles is not accepted, the draft law and proposal shall be deemed rejected. In the second stage, the articles of the draft law are discussed one by one. However, the proposal/draft Law is voted as a whole (Işık, 2003, 53).

## 5.3. Approval/publication

To enter into force, the draft law adopted by Turkey Grand National Assembly must be issued by the President. According to Article 89 of the Constitution, the President of the Republic sends the laws, which he deems not appropriate to be published, back to the Turkey Grand National Assembly within fifteen days together with the justification for this issue (Işık, 2003, 59). If the Turkey Grand National Assembly accepts the returned law as it is, the law shall be published by the President. If the Assembly changes the repatriated law, the President may return the amended law

back to the Assembly. The regulation published by the President in the Official Gazette becomes binding for the citizens (Yasama Derneği, 2010, 124).

#### 5.4. Implementation

Who will be responsible for the implementation of each law is stated in the articles of concerned regulations entitled as enforcement (tbmm.gov.tr, 2019) and The President is generally responsible for the implementation of the legislation as he is the head of the executive. In particular, each Ministry is obliged to follow implementation of Laws in its field of activity and to carry out audits. This responsibility is given to the Ministries by defining their duties and responsibilities in the establishment laws. For example, with Presidential Decree No. 1, the Ministry of Family, Labor and Social Services is held responsible for the implementation of legislation on working life. Furthermore, it has been given responsibility for the implementation and follow-up of legislation on needs of youth to the Ministry of Youth and Sports, on the issues related to environment and structuring to the Ministry of Environment and Urbanization, on implementation of fiscal and economic policies to the Ministry of Finance and Economy.<sup>7</sup> These ministries were assigned with the presidential decree to ensure the implementation of policies, strategies and laws in the field they serve and to monitor the practices. Ministries carry out many activities to determine the application of laws in areas such as social policy and working life, youth, transportation and infrastructure. They also carry out audits to monitor the implementation of the laws. Each Ministry has its own inspection unit. These supervisory units control the implementation of the laws by citizens, private and public institutions through regular audits (Yasama Derneği, 2010, 32-97-242).

## 6. COMPARISON OF TURKEY DECISION MAKING PROCESS and THEORY

Improvements in the decision-making process in Turkey, which begins with encouragement and support of the EU's and OECD (Organisation for Economic

Co-operation and Development), has made gains in terms of completion basic legislation, increasing the awareness and knowledge, the settlement of institutional infrastructure. However, after the transition to the presidential system in 2018, it has experienced significant changes in the decision-making process. Before the presidential system, law proposals were submitted to the Parliament by the Council of Ministers or deputies. The draft laws submitted by the Council of Ministers were bound to more rules than proposals submitted by deputies. While the draft laws proposed by the Council of Ministers had to be prepared in detail, subject to impact assessments, stakeholder opinions and implementation plans, it was sufficient to present the substance justifications and general reasons for the proposals submitted by the MP's. After the presidential system, submission of the draft law by the Council of Ministers ended. Requirements of five-stage decision-making processes described above in the theory section were defined in "The Regulation on the Procedures and Principles of Legislation" for the drafts submitted by the Council of Ministers. Therefore, the primary stages of decision-making processes were removed from the system. It will be suitable to compare the decision-making process with the general theory in the aspect of before and after the presidential system in Turkey separately.

Before the presidential system the decision-making processes were designed in the legislation to cover all stages of decision-making theory mentioned in our study, from defining the problem to preparing the implementation plans. But after the presidential system, a process that does not comply with the theory has started to operate. Moreover, although before the Presidential system, a decision-making process was designed under the theory in the legislation, it should be noted that it has a limited effect on the practice.

Table 2 compare decision-making processes in Turkey and in theory. It is seen that Turkey is not adapting to the theory of decision-making processes and requires significant improvement. In particular, all the steps of the theoretical decision-making processes mentioned in our study are in the draft laws that apply regulatory

<sup>7</sup> Cumhurbaşkanlığı Teşkilatı Hakkında Cumhurbaşkanlığı Kararnamesi, No:1.

impact analysis before the Presidential System, and no approach meets the decision-making processes in the drafting of other laws. After the Presidential System, the decision-making processes that we have outlined in theory have been abandoned for law proposals prepared by the Council of Ministers.

The first step of decision-making is to establish, clarify and prioritize a list of existing situations that are intended to be modified. In the second step, it is necessary to investigate the analysis of the underlying causes of the challenges in both situational states. First of all, in the first step of Turkey's decision-making process, current laws, regulations, policies, etc. on the subject of the draft law are determined. The causes for preparing a new regulation are stated in the form of the general justification and the substance justification. As we explained above, general justification and substance justification are not based on detailed research and analysis but include general statements or repetition of article texts.<sup>8</sup> Therefore, the decision-making process in Turkey can't meet the requirements to be fulfilled in the first step according to the theory of decision-making process such as identify, clarify and prioritize a list of existing situations. Implementation of regulatory impact assessments in the decision-making process is an essential step for Turkey. It has been a useful tool in reflecting all the stages of decision-making processes into practice.

A general criticism directed towards Turkish Public Administration from inside and outside is that; for a new application that brings changes in the institutional structure to come into force, the necessary legislation is enacted first. The personnel, technology, physical infrastructures indispensable for implementation and which are to be envisaged at the planning stage are tried to be completed later. Legislation infrastructure has also been completed in decision-making processes, definitions related to the process have been made, but these regulations have not been adequately reflected in the implementation. Although RIA, an essential component of decision-making processes, came in to force in 2007, it is not possible to say that it is entirely in practice, except for pilot applications. Several problems are concerned with the implementation of RIA in

Turkey, such as lack of personnel and administrative capacity, legislation (Tank, 2011, 6-21).

European Union accession process requires Turkey transfer large *acquis* to their domestic law. Under the EU *Acquis* Harmonization Program, it became necessary to make 188 primary, 576 secondary legislation between 2007-2013 years in Turkey. To fulfill this obligation, the Turkey Grand National Assembly had to pass many laws in a very short time. For this reason, the Assembly has been criticized for the quality of regulations and the technique of law-making (Mehter, 2010, 238).

Although the legislative infrastructure has been completed, it is said that better regulation efforts are not reflected in practice sufficiently and RIAs are few and of low quality (Önder, 2017, 771-812; Erimez & Kalaycıoğlu, 2016, 13; TBMM, 2011, 40). In practice, detailed RIA reports are not included in the draft laws submitted to Parliament. Although the Government has provided various information and documents within the framework of RIA to the Commission members during the Commission stages of the draft laws, it can be stated that these information and documents are not in the scope and depth of RIA in general. Besides, RIA leads to an increase in workload. The analysis takes time, training needs of the people who will work on these issues emerge and they bring additional costs to the administration. Considering a large number of legal regulations adopted in the Grand National Assembly of Turkey, it seems quite challenging to conduct RIA studies on a large number of draft regulations in a short time (Önder, 2017, 796).

The culture of creating, storing and using data in Turkey is not settled. The lack of data or the fact that the data is not up to date interferes with the analysis process. These problems make public institutions reluctant to prepare RIA. It is not possible to say that the result of the RIA in the past years was successful. It is concluded that the Ministry or other institutions that produce the legislation are unable to prepare the required impact analyzes in accordance with the provisions of the regulation or that the analyses prepared are not sufficient (Önder, 2017, 796).

8 Başbakanlık Genelgesi, 2007/6, Düzenleyici Etki Analizi Çalışmaları, Resmî Gazete, Sayı: 26482

Table 2. Comparison of Turkey Decision Making Process and Decision Making Theory

| Decision Making Steps |  |   | Turkey Decision Making Process                          |   |   |
|-----------------------|--|---|---|---|---|
| N                     | STEPS  | REQUIREMENTS  | STEPS   | ACTION PERFORMED BY TURKEY INSTITUTIONS   | RESPONSIBLE INSTITUTIONS  |
| 1                     | <b>Change-Needing Situational Analysis</b>   | <b>Identify, clarify, and prioritize current state situational conditions; the decision-makers (or someone else) want to be changed.</b>  | Preparation of proposals                                | Draft law texts are prepared and checked for compliance with the law-making technique,<br><b>Before the presidential system:</b> The reasons for the preparation of the regulation are explained. Detailed problem descriptions and situational analyses were applied in limited availability to the draft laws under which regulatory impact analysis was conducted.<br><b>After the presidential system:</b> The reasons for proposal preparation are explained and no detailed problem definition is made.   | Related Ministries and Member of Parliament.                      |
| 2                     | <b>Challenge Framing and Causal Analysis</b> | <b>Underlying causes of the challenges in both situational states</b>   | Preparation of proposals                                | Identifies the importance and magnitude of the problem, the possibility of new problems emerging in the continuation of the current situation and their consequences, whether the probable problem is a one-of or a recurring problem.<br><b>Prior to the presidential system:</b> it is available to drafts where regulatory impact analysis is applied.<br><b>After the presidential system:</b> No detailed problem definition and underlying causes of the challenges are made.   | Related Ministries and Member of Parliament.                      |
| 3                     | <b>Generating Solution Ideas</b>             | <b>Options or alternatives to develop potential solutions</b>   | Preparation of proposals/<br>Negotiation and Acceptance | Determination of all alternative solution options consulting with stakeholders.<br><b>Prior to the presidential system:</b> it is in force to drafts where regulatory impact analysis is applied.<br><b>After the presidential system:</b> Options or alternatives to develop potential solutions are not evaluated and examined.   | Related Ministries<br>The Commissions of Parliament<br>Parliament |
| 4                     | <b>Choosing a Solution Set</b>               | <b>Select the final solution set that is assumed to successfully handle the previously identified challenges of the future state situation and their causes.<br/>A list of solution success criteria.</b> | Preparation of proposals/<br>Negotiation and Acceptance | Examine the proposals submitted to the General Assembly at a more technical level and to make them compatible with the law-making technique. Review proposals and propose amendments. Not include the solution set. One solution submits by the Deputies.<br><b>Prior to the presidential system:</b> In cases where regulatory impact analysis is applied, different alternatives are identified, but a single solution is discussed in Parliament and Commissions. The reflection on the application is very limited.<br><b>After the presidential system:</b> Different alternatives are not evaluated and solution sets are not included. | Related Ministries<br>The Commissions of Parliament<br>Parliament |

|   |  |   |                |   |                    |
|---|--|---|----------------|---|--------------------|
| 5 | <b>Implementation and Aftermath Planning</b> | <b>Formulate an implementation plan<br/>Monitoring and learning control systems</b> | Implementation | Reviews should be carried out to determine whether the identified targets have been achieved.<br><b>Before the Presidential System:</b><br>It was compulsory for the drafts in which regulatory impact analysis was applied. It was not performed effectively in practice. Monitoring and learning control systems are not available.<br><b>After the the Presidential System:</b><br>There is no implementation plan, monitoring and learning control systems for its implementation after the adoption of the laws. | Related Ministries |
|---|--|---|----------------|---|--------------------|

Resource: *Olgun Özen, Şerif, (2020), EU Decision Making Process, Connection and Relation Between The Decision-Making Process And Audit in The Field of Social Policy, Research Report, Jean Monnet Scholarship Program 2019-2020, p.62-64.*

Other important criticism issues in the legal decision-making processes in which the drafts of the law include symptoms rather than the real causes of problems. Alternative solutions are not discussed adequately, and impact analyzes cannot be carried out satisfactorily due to lack of data. On the grounds of the article “the Regulation on Procedures and Principles of Legislation Preparation,” the reasons for the regulation of each article should be explained and the reasons for the removal, modification or addition must be clearly stated. Furthermore, it is regulated that the reasons for the substance cannot be prepared in the form of repetition of the article text. However, it is observed that the reasons for content are in the form of repetition or summary of the draft article (TBMM, 2011, 49).

In the third and fourth step of the decision-making, all kinds of options or alternative ideas are taken in to account to develop potential solutions. In this step, stakeholders’ consultation is an effective tool to compose different types of views. The solution, successfully handle the previously identified challenges of the future situation and their causes, is finally chosen. Unfortunately, a decision-making process to meet the third and fourth steps of the theory in question is not available in Turkey. At this stage, draft laws are discussed in detail in the Commissions of Parliament and the opinions of relevant institutions, NGOs and experts can be utilized. Commissions can be transformed into a platform where political debates prevail rather than where expert assessments are made on the possible consequences of proposals, where govern-

mental deputies consider the duty to defend government proposals and where the opposition challenges the government (TBMM, 2011, 172).

One of the essential pillars for participation in legislative decision-making processes is attendance in Commission meetings. However, attendance at Commission meetings is subject to the approval of the President of the Commission. Therefore, no civil society organization or a citizen can participate in the legal decision-making process on their initiative. It is also another fact to consider those non-governmental organizations are not willing to send opinions to the draft laws. Laws in Turkey are enacted very quickly. Therefore, it is not possible to prepare for the necessity of participation and the chance of healthy intervention (TBMM, 2011, 170).

One of the most important problems of the legislative decision making process at the General Assembly stage is that the proposals are not prepared in a comprehensive and participatory manner before the General Assembly and are not technically mature enough. This may lead to a large number of proposals by the ruling and opposition parties to amend the text of the Commission at the General Assembly, and sometimes the content of the text has changed considerably. Laws concerning the broad public sector can be made public via the internet, the press or the publication by the ministries which prepare the proposal. According to the related regulation, the proposal should be finalized after the opinions collected on the draft are evaluated. However, there is no feedback on how these opinions have been evaluated (TÜMİKOM, 2009).



Fifth Step of the theory, as mentioned earlier, is that Implementation and Aftermath Planning. Turkey does not have any post-implementation planning and follow-up mechanisms for the legal decision-making process. The process ends with the adoption of laws in Parliament and its publication by the President. Therefore, the requirements of fifth step in Turkey are not yet available.

## 7. AUDIT OF DECISION-MAKING PROCESS

The first step of all activities of the administrations consists of decision-making processes. It is crucial that decision-making processes are subject to audit. Because it is useless to supervise the implementation of the wrong decision, even if an activity is implemented very well. The audit will not provide added value to the organization if it is based on a wrong decision that does not contribute to the organization or even damages in the aspects of results. This topic will examine which structures supervise the decision-making process in Turkey and the EU.

### 7.1. Audit in EU Decision Making Process

As explained in the above sections, the Commission perform a significant part of the decision-making processes. Except the selection of the final solution, all the other stages of the decision-making processes are realized during the impact analyses applied on the Commission proposals. Therefore, in this section, it would be a correct approach to take into account the audit institutions that conduct examinations in the impact analysis directly or indirectly.

The Impact Assessment Board (IAB) and Regulatory Scrutiny Board (RSB) is the special body responsible for direct oversight of decision-making processes in the European Commission. The Regulatory Scrutiny Board investigates the Commission's analytical work before the adoption of the Commission proposal. Internal Audit service or Court of Auditors scrutinize not only the decision-making process or impact assessment but also all the EU activities and processes. 'RegWatch Europe' is the other regulatory scrutiny

body composed by Germany, UK, Netherlands, Czech Republic, Sweden. They issue their views on the quality of Commission impact assessment. The European Ombudsman also examine complaints other method of reviewing the Commission's conformity with its procedural requirements. In addition, The European Parliament and the Council assume an administrative duty, overseeing the process of the Commission proposals. (European Ombudsman, 2015, 6-24).

In this title, independent scrutiny and audit bodies that are directly authorized to oversee the European Union decision-making processes and impact assessments are addressed and the controls carried out by the EU institutions within their administrative duties are excluded.

#### 7.1.1. Impact Assessment Board and the Regulatory Scrutiny Board

The Impact Assessment Board was responsible for ensuring the quality of impact assessment analyzes. The Board was tasked with overwriting the impact assessments in line with guidelines. The Impact Assessment Board perform independent quality control for impact assessments draft reports. IAB's members were an analytical expertise in economic, environmental and social issues. They worked independently from Commission services, members of the College and from lobby groups. The IAB was affiliated to the General Secretariat of the Commission (European Commission, 2012b, 5).

All Commission staff had the authority to access the Board's recommendations. The Board proposed case-by-case practical solutions and concrete advice and made sure further improvements in the impact assessment culture and working style of the Commission services (Commission of The European Communities, 2008, 2-4).

The Regulatory Scrutiny Board took place of the Impact Assessment Board, with a new set of broader responsibilities in 2015. The Board operations cover all the Commission's draft impact assessments, significant evaluations and fitness checks of existing legislation. They examine and issue opinions and rec-

ommendations independently from the Commission and the policy-making departments (European Commission, 2018, 6). The Board gives a positive or negative opinion and all opinions of the board are public. (Schagen, 2018, 597-625).

Regulatory Scrutiny Board consists of three high-level Commission officials and three independent experts from outside and reports to directly President of the Commission. Since some members are selected from within the Commission and the chairman of the Commission managed (European Commission, 2015), the Board takes on an internal control function and acts as the commission's self-audit tool. It is supported by a unit (of about 12 officials) in the 'Better Regulation' Directorate of the Secretariat-General (Golberg, 2018, 39).

### **7.1.2. The Auditors – the European Court of Auditors and the Commission's Internal Audit Services**

The mission of the Internal Audit Service (The IAS) is defined as to provide the Commission independent, objective assurance and consulting services. The IAS aims to add value and improve the operations of the Commission and helps to achieve its objectives by bringing a systematic, disciplined approach. They make recommendations for improving the effectiveness of risk management, control and governance processes. The objectives of The IAS are: "promoting appropriate ethics and values within the organization, ensuring effective organizational performance management and accountability and effectively communicating risk and control information to appropriate areas of the organization" (European Commission, 2017a, 3).

The IAS prepare a 3-year risk-based audit plan updated annually and submit the audit program to the Court of Auditors every year. Commission management determines risks that form the basis of audit plans (ec.europa, 04.09.2019). The internal audit service of the Commission is responsible for overseeing all processes and transactions. The IAS insert Decision-making processes and impact analyzes in audit program according to the risk levels (European Commission, 2017f, 4-5).

The IAS perform an audit of the 'Better Regulation' system in 2016. Their goal was to indicate progress had been made and suggest some improvement/corrective action. The audit set that the Better Regulation tools have been incorporated into the policy-making processes and generally accepted. The auditors criticized the lack of a monitoring framework and low participation in stakeholder consultancy (European Commission, 2017h, 11).

The European Court of Auditors (ECA) serves as an external Audit Institution that acts independently from other EU organizations and governance structures. ECA mainly audits financial matters and supports the accountability of EU institutions. It checks compliance of the EU funds to the relevant legislation. "The ECA warns of risks, provides an assurance and offers guidance to EU policymakers on how to improve the management of public finances and ensure that Europe's citizens know how their money is being spent." (eca.europa, 30.09.2019).

European Commission, the Parliament, the Council and the Member States used the audit results of the ECA to control the management of the EU budget and make improvements as necessary. The ECA uses substantial criteria and robust evidence as base and produce high-quality audit reports include annual reports, special annual reports, special reports, opinions and position documents (Brenninkmeijer, 2015, 11-16).

With the Amsterdam Treaty in 1999, the ECA had extended audit powers on more policy areas (Uczkiewicz, 2013, 31-34). It published the special report, 'Impact Assessments in EU institutions: does it support decision-making?' on 28 September 2010. According to the Court's overall conclusion on the functioning EU impact assessment, the Commission has established a most effective and "complementary" comprehensive impact assessment system. However, the Court has suggested two main areas for improvement and "made some recommendations that the European Parliament and the Commission may consider when reviewing inter-institutional agreements on 'better legislation' (Meuwese, 2011, 104-108).

### 7.1.3. The Regulatory Fitness and Performance Program (REFIT)

The Commission aims to make sure that EU legislation is fit for purpose, delivering its objectives efficiently, without imposing unnecessary regulatory costs on citizens, businesses and public authorities. The Commission realizes these objectives through REFIT activities (ec.europa, 29.10.2019). The demonstration of the effectiveness of European Union laws through REFIT activities is an indirect indication that the decision-making processes operate effectively and that the preparation process of initiatives is carried out efficiently.

The Regulatory Fitness and Performance Program is the Commission's program and evaluates the effectiveness of all legislation by following indicators set out in impact assessments (Verbrugghe, 2014, 1-2). REFIT was launched firstly in 2012. Initially, REFIT was used for particular purposes or specific initiatives by the Commission based on their expected potential for burden reduction or simplification. In 2017, the Commission expanded the scope of REFIT's activities to include all legislation that was assessed and revised. The center of REFIT is that: i) tackling unnecessary costs and eliminating regulatory burdens without compromising policy objectives and ii) making legislation simpler to improve implementation and enforcement by reducing its volume and complexity. The REFIT evaluation and assessments are presented each year in the Commission's work programme. All REFIT initiatives are monitored by the electronic scoreboard from the proposal to the implementation stage (eur-lex.europa.eu, 12.09.2019).

REFIT Platform is composed of an expert group of Member State representatives, the Economic and Social Committee, the Committee of the Regions and stakeholders (GAIN Report, 2017, 10). The members of the REFIT make recommendations to the Commission to increase the effectiveness of existing EU laws or to reduce costs. These recommendations are published in the REFIT scoreboards (ec.europa.eu, 29.10.2019).

### 7.1.4. European Ombudsman

Article 228 of the Treaty on the Functioning of the European Union authorizes the European Ombudsman to inquire about European citizens' complaints on the maladministration of European institutions. In this context, the European Ombudsman plays an active role in the supervision of decision-making processes. Every EU citizen has the right to complain, even if it is not directly affected by maladministration. It aims to draw attention to issues of public interest and issues affecting EU institutions and democratic decision-making (ombudsman.europa.eu, 30.10.2019).

With the ratification of the European Code of Good Administrative Behavior in 2001, the European Parliament authorized the European Ombudsman to implement the Code, examining the existence of maladministration. Accordingly, the Ombudsman refers to the rules set out in the Code during his investigations and also in promoting good governance. The Code is binding for all EU institutions. This Code covers some principles, like proportionality or objectivity that officials need to take care of when they decide (European Ombudsman, 2015, 6-24).

The Ombudsman seeks to ensure transparency and accountability of EU institutions' decision-making processes. It is responsible for ensuring that citizens are informed of the reasons for the decisions taken clearly and correctly, that citizens are traded in their own language and that they have access to the work and procedures of EU institutions. It guarantees the citizens' right to participate in the decision-making process and the proper functioning of public consultations and the European Citizens Initiative (ombudsman.europa.eu, 30.10.2019).

### 7.1.5. RegWatchEurope

RegWatchEurope (RWE) is an informal network of several independent scrutiny bodies that have come together to improve the quality of the European legislative process and the national legislative process. It was created in 2015 by the combination of independent oversight bodies of seven different European countries, (OECD, 2018, 11-32) the Netherlands,

Finland, Germany, Norway, Sweden, The Czech Republic and the United Kingdom (regwatcheurope.eu, 02.11.2019).

RegWatchEurope has come together to create a single voice to enable independent organizations to influence the improvement of the EU legislative process. By transferring the expertise to each other and sharing best practices, the independent scrutiny institutions that are members of REW contribute to the development of the legislative processes of the member countries. It is also in coordination and cooperation with the Regulatory Scrutiny Board (OECD/Korea Development Institute, 2017, 182-183). It challenges and advises the governments concerned about the various aspects of better regulation and the overall regulatory burden of law. RWE inform other European countries on the added value of an external and independent review of impact assessments through bilateral contact; advise governments on the quality of the EU impact assessments through national platforms or international organizations (regwatcheurope.eu, 02.11.2019). By providing feedback to the Commission on the impact assessments and the effects of the currently applied EU legislation, RWE contributes to the development and supervision of EU decision-making processes.

## 7.2. Audit Methodology and Approach in Turkey Decision Making Process

There isn't a particular audit institution responsible for only the supervision of the decision-making mechanisms in Turkey. In 2007, as a result of the works carried out within the scope of the OECD Regulatory Reform Program and EU harmonization studies, Better Regulation Working Group was established in Prime Ministry, regulations and guidelines were published. The Better Regulation Working Group was in charge of controlling the draft laws to be submitted by the Council of Ministers for compliance with these regulations and guidelines. However, this process was more of administrative controls than systematic and disciplined audit activities. With the transition to the Presidential system in June 2018 and abolition

of the Prime Ministry, the unit was closed and their activities were finalized. Moreover, the Research and Investigation Bureau of the Parliamentary Laws and Decisions evaluate draft law proposals at the request of the deputies in terms of the law-making technique (TBMM, 2018, 48).

Under this title, systematic and disciplined audits conducted by the independent audit institutions in the decision-making process in Turkey are discussed and routine activities carried out under the administrative controls are excluded. The audit of the executive bodies is carried out by the Presidential State Supervisory Board, the Inspection Boards of Ministries and the Internal Audit Units of Ministries. These organizations have the authority to conduct regular and disciplined audits in their decision-making processes.

### 7.2.1. The State Supervisory Board

The State Supervisory Board (SSB) acts upon the request of the President and assists the President in exercising his powers (Soybay, 1994, 109). The SSB is responsible for conducting all kinds of administrative investigations, inspections, inquiries and examinations in all public institutions and organizations to ensure the lawfulness, regularity and efficiency of the administration. Furthermore, to conduct studies in the areas of transparency, effectiveness, efficiency and good governance in the provision of public administration and public services are among the tasks of SSB.<sup>9</sup>

Some of the research and audit reports made by the SSB are published. When we review the published Board Reports, it is understood that in general, investigations are conducted on certain specific issues or the activities of various institutions are audited. The State Supervisory Board has the authority to supervise the decision-making processes. However, to date, we have no information about whether a specific audit or review of the effectiveness or compliance of decision-making processes has been performed or not. In the meantime, the SSB indirectly evaluates the results of decision-making processes by auditing the

9 Presidential Decree No. 5, Devlet Denetleme Kurulu Hakkında Cumhurbaşkanlığı Kararnamesi.

activities of various organizations or by conducting investigations on specific issues. In this context, institutions such as Undersecretariat for Defense Industries, Turkish Red Crescent, Development Agencies, the Turkish Patent Institute's three years of activities were evaluated. Besides, events that aroused great interest and sensitivity in the society were examined. For example, to investigate the form, purpose, results and effects of the "Madımak Incident", to examine the legality and adequacy of the administrative proceedings carried out before and after the murder of Agos Newspaper editor-in-chief Hrant Dink, the investigation of the helicopter accident that caused to be killed the leader of the Great Union Party Muhsin Yazıcıoğlu and the people accompanying him are among them (abdullahgul.gen.tr, 24.12.2019).

### 7.2.2. Ombudsman

Ombudsman was established in accordance with Article 74 of the Constitution. The Institution is responsible for all actions and operations of the administration, conducts investigations and researches in terms of compliance with law/equity based on human rights and makes recommendations to the administration. The Ombudsman aims to improve the service quality of the administration, to establish the principles of good governance, to ensure the rule of law and to contribute to the spread of the rights-seeking culture (ombudsman.gov.tr, 30.12.2019).

The Ombudsman accepts complaints of the public about the actions and procedures of the administration and concludes by investigating them. One of the essential features of this institution is its independence. Everyone has the right to apply to the Ombudsman (Özer, 2015, 12).

Although the Ombudsman does not directly supervise the decision-making process, it indirectly supervises implementation processes and results of decisions taken by the administration, by the way making investigation on the issues such as compliance with the law, non-abuse of powers, justification of the decisions, decision making in a reasonable time, notification of the remedies against the decision, notification

of the decisions without delay, protection of personal data. In 2018, the Ombudsman Institution examined the highest number of complaints regarding the public personnel regime, labor and social security, education and training, youth and sports (Kamu Denetçiliği Kurumu, 2018, 1).

### 7.2.3. Inspection Boards of Ministries

Inspection Boards of Ministries have been assigned to carry out inspections, examinations and investigations related to all kinds of activities and transactions. In this process, they investigate and check the appropriateness of methods, transactions and actions, whether they ensure efficiency, effectiveness and economy and service quality. Inspection boards are directly linked to the highest hierarchical executives and consisting of the chairman and inspectors (Özer, 2015: 21). In terms of duty type, inspection boards often conduct investigations. In addition to this, sectoral supervisions such as customs, food, labor life and health are another area of inspection. Sector audits, examinations and investigations are conducted according to annual programs approved by the top manager. Inspections are carried out on the orders of the top manager (Akbulut and al.others, 2012, 55).

Inspection Boards carry out audits to measure whether public resources are used effectively and in place, to test whether public procurement is competitive or to assess whether the administrations can realistically collect their revenues. In this way, the Ministry's decision-making mechanisms have been provided with the opportunity to ensure digitized information. In addition, the inspectors point out the problems that arise during the implementation of the Ministry's regulatory decisions in the provinces (in practice), and they develop a solution (icisleri.gov.tr, 30.12.2019).

It can be said that the Inspection Boards perform audits on the primary services of the Ministries in which they operate in general (ms.hmb.gov.tr, 30.12.2019). They do not carry out special audits regarding the decision-making processes that are subject to our study. However, they contribute to the process by evaluating the results of the decision-making processes.

#### 7.2.4. Internal Audit Units

The internal audit activity has been entered into the Turkey agenda in the 2000s within the framework of the European Union harmonization programs. Strategic planning, performance-based budgeting, managerial accountability, internal planning control, internal audit, transparency and reporting, control applications are included in the system. As a result of these efforts, the internal audit chairmanships have started to operate in all Ministries, Universities, Social Security Institutions and Local Administrations directly under the top manager (İDKK, 2011).

Internal Audit Units conduct their audits on a risk-based. They establish an audit universe covering all transactions and processes of the Institution in which they operate and subject this audit universe to risk assessment.<sup>10</sup> They audit high-risk areas at regular intervals. Decision-making is a process that should be included in the audit universe and subject to risk assessment. However, it is a general tendency that decision-making processes are not included in the audit universes and are not considered as a separate audit area. Besides, it should be noted that the municipal internal auditors have audited the decision-making processes of the municipal council in recent years. For example in 2016 (ms.hmb.gov.tr, 02.01.2020) and 2017, the Municipal Council of İzmir, Hatay and Denizli Metropolitan Municipalities audited the Decision-Making Process (ms.hmb.gov.tr, 01.01.2020).

Internal audit units need to take a more significant role in the audit of decision-making processes. Because in terms of responsibility areas, relations with the top manager and the audit approach, the only institution is the internal audit that has the opportunity to contribute to the institution's objectives by making audits in decision-making processes and presenting the information needed to the managers. To assume this vital role, internal audit units must incorporate the decision-making process into the audit universe and regularly audit it. As Peter F. Drucker stated, "There is nothing so useless as doing efficiently that which should not be done at all" (Drucker, 2006). In-

ternal auditors do this only by evaluating the effectiveness of decision-making processes.

## 8. CONCLUSIONS and SUGGESTIONS

States and decision-makers are implementing many decisions or laws concerning the whole society, economy, social life, trade and even human health, environment and international relations. Most of the decisions and regulations can lead to significant changes in the lives of societies and the future of generations. Usually, after experiencing the results of the decisions and laws, efforts to correct or compensate are started. However, it can be very costly to compensate for bad decisions and the consequences of poorly prepared acts. For this reason, since the beginning of the 2000s, efforts have been intensified over the world for improvement of decision-making processes led by the OECD and the European Union. In particular, the OECD emphasized evidence-based policy-making in legislative processes to improve the quality of legal regulations, conducting pre-implementation baseline analyzes of the regulations, assessing their potential impacts and monitoring post-implementation effects. Also, it was emphasized that regulatory impact analyzes should be a part of the preparatory phase and that independent organizations should regularly audit the decision-making processes to improve the quality of the decision. It is stated that legal regulations should be reviewed in specific periods. It is the other important issue that emerged by the OECD. Those regulations should be evaluated, simplified, updated and the performance of the regulation should be shared with the public. Turkey has been evaluated as lower than the OECD average in terms of the regulatory impact assessment and ex-post evaluation (Erimez, 2016, 11-14).

In the European Union and member countries, better regulation studies have been initiated. Although there is a well-functioning decision-making process in the European Union, it is subject to criticism in some respects. We can say that it has a decision-making process that covers the five-stage of the theory aforemen-

10 İç Denetçilerin Çalışma Usul Ve Esasları Hakkında Yönetmelik, Madde 36:Denetimin risk odaklı yapılması. Yayımlandığı R.Gazetenin Tarihi : 12/7/2006 No : 26226.

tioned in this study. However, these better regulation practices are not fully reflected in the member states.

Nevertheless, the decision-making processes carried out by the European Union have been criticized for being influenced by policy. In addition, although a systematic and well-functioning decision-making process is carried out, it is stated that the final decisions of the European Parliament are political. The reflection of experts and stakeholder's opinions on final decisions is limited and the commissioners are influenced by their countries and domestic coalition when drafting of laws. But, over the years, better regulation efforts have had an impact on the EU's working practices. EU decision-making processes have evolved from a hierarchical to structured. It cannot be denied that the political effects in decision-making processes are reduced and expert opinions are taken into consideration more. In addition, even if the final decisions are political, decision-makers have to base their decisions on valid grounds.

The European Union has a systematic and well-functioning, structured decision-making system. In particular, detailed guidelines facilitate the implementation of decision-making processes. Furthermore, consultation with the stakeholder and benefitting from expert opinions operate properly. That EU citizens have the right to initiate the legislative process is the most substantial part of the decision-making system. It is an important feature of the system that it has independent and impartial Audit Boards that scrutinize decision-making processes systematically only. The post-implementation monitoring system is the other strongest part. This powerful system applied in the European Union represents an excellent example for Turkey.

In parallel with the Better Regulation Studies initiated in all member countries within the scope of the Lisbon Strategy of the European Union since 2000 and the Regulatory Reform Program carried out by OECD in 2001, a series of activities were carried out in Turkey to improve the regulatory framework.

Although a systematic and structured decision-making process has not yet been established, it is seen that technical law preparatory work continues in related

Ministries. Expert opinions are included in preliminary work, evaluations and meetings in parliamentary committees and parliamentary general assembly continue.

It is an essential criticism of the legislative decision-making system exposed that the law adopted by the Grand National Assembly of Turkey is of low quality. It is stated that too many regulations have to be passed by Parliament in the process of harmonization with the European Union, the inability to apply RIA to all important bills in a limited time, lack of human resources and cost is the basis for producing low-quality laws. Other important critical issues in legal decision-making processes where drafts include symptoms rather than actual causes of problems, alternative solutions are not adequately discussed and impact analyses cannot be conducted satisfactorily due to lack of data.

The first step of all activities of the administrations is decision-making processes. Decision-making processes must be subject to audit because supervising the implementation of the wrong decision provides minimal benefits. Even if an activity is implemented very well, the audit will not provide added value to the organization if it is based on a wrong decision that does not contribute to the organization or even damages in the aspects of results.

There are organizations in the European Union whose task is to oversee the decision-making process. The Impact Assessment Board (IAB) and Regulatory Scrutiny Board focus mainly on the quality of Regulatory Impact Analyzes. The Regulatory Scrutiny Board examines the Commission's analytical work before the adoption of the Commission proposal. Internal Audit service or Court of Auditors, scrutinizes all the EU fields and activities include the decision-making process, impact assessment. 'RegWatch Europe' is composed of some of the Member States. The European Ombudsman also examines complaints.

A specific scrutiny institution, such as the RSB, responsible for overseeing the decision-making process, does not have established in Turkey. Audit boards operating in public administration are composed of State Supervisory Board, Inspection Boards and

Internal Audit Units. In addition, the Ombudsman examines citizens' complaints regarding the maladministration of public agencies. The State Supervisory Board, Inspection Boards and Internal Audit Units are authorized to supervise the decision-making processes directly. However, except for a few audits carried out by internal auditors in Municipal councils' decision-making processes, to date, no examination has been carried out by these auditing bodies on decision-making processes. These organizations contribute to the decision-making processes by conducting audits in the main processes of the administrations in which they operate.

There is no systematic decision-making process that works well in Turkey. Especially after the transition to the Presidential System, there is uncertainty in decision-making processes. Comprehensive system reorganization is needed. During redesigning the decision-making system, it will be useful to take the OECD better regulation proposals and EU decision-making processes as an example.

First, the decision-making process in Turkey must be defined in detail and documented. In this process, it will be useful to make separate process definitions for administrative decision-making processes and legal decision-making processes. To be binding, these definitions will need to be supplemented by a legal act. Making and documenting administrative decisions that exceed a specific budget in accordance with the processes to be defined in the law should be obligatory.

During the identification process, the decision-making, which is applied in the European Union and examined in this study, can be utilized. The strengths of the European Union decision-making processes are the right of EU citizens and NGOs to initiate the legislative process with the Parliament, the Council and the Commission. The new decision-making process should be designed in Turkey, giving the citizens the right to initiate the legislative process. Strength of the EU decision-making process is that it is defined to cover all the stages in theory and is supported by detailed implementation guidelines. These guidelines will show how to implement the new decision-making process by experts or bureaucrats in Turkey.

Turkey's decision making process should include 1) Change-Needing Situational Analysis 2) Challenge Framing and Causal Analysis 3) Generating Solution Ideas 4) Choosing a Solution Set 5) Aftermath Planning and Implementation phases. Stakeholders' opinions are taken during the preparatory work in practice or they are invited to the relevant draft Commissions. However, this process is inadequate in terms of obtaining opinions of all parts and reflecting them to the draft laws. Ensuring an effective system is necessary for which stakeholders can present their views both during the preparatory phase and the discussions in Committees and Parliament. In addition, the level at which opinions are transferred to the draft law should be shared with the public. One of the most critical issues is the transparency of decision-making processes. Thus, citizens' control over the process will be facilitated.

Regulatory impact analysis implementations should be continued. Knowledge and experience gained in this field should be utilized. The regulatory impact analysis guide in force before the presidential system can be developed and used. Working groups and control mechanisms operating within the Prime Ministry can be revised and reactivated in accordance with the presidential system. As the legislative authority, the Assembly can control the implementation of the principles of good regulation in new and amended regulations.

For the system to function effectively, it must be systematically inspected by independent scrutiny bodies. The European Union effectively supervises the decision-making processes with the RSB and carries out the necessary improvements. The audit mechanism is also supported by the Ombudsman, Internal Audit and RegWatch. An independent audit institution like RSB, which their tasks are only scrutinizing the decision-making process, should be created in Turkey. This institution may operate under the Presidency or Parliament. Besides, the internal audit departments make significant contributions to the audit of administrative and legal decision-making processes. Internal audit presidencies need to add decision-making processes to the audit universes and systematically audit them.



Turkey devotes more effort to the preparation of the regulations but show limited efforts towards the implementation and impact. It focuses on the use of tools such as regulatory impact assessment but is less concerned with issues such as supervision, implementation and compliance.

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