

THE NEED FOR LOCAL GOVERNMENT OMBUDSMANSHIP IN TÜRKİYE: WHAT KIND OF STRUCTURE CAN BE MADE IN ACCORDANCE WITH THE PRINCIPLE OF PARTICIPATION?¹

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Abstract

Ombudsman institutions have become a frequently preferred oversight mechanism for solving problems encountered in public administration worldwide. Examples of special ombudsmen include military ombudsman, children's rights ombudsman, university ombudsman, consumer ombudsman, environmental ombudsman, women's rights ombudsman, and local government ombudsman. Local government ombudsmen share similar powers and responsibilities with national ombudsmen. Just like in national ombudsmanship, local ombudsmen address problems arising from the actions and decisions of local government units based on citizens' complaints, and, in case of identified issues, they make recommendations to the relevant administration. The stages of examination and decision-making in local government ombudsmanship, like in national ombudsmanship, are carried out independently of all individuals and institutions. What kind of conditions a possible local government ombudsman participant mechanism to be established in Türkiye should have and what benefits it might have with these conditions have been examined in this study.

Keywords: Ombudsman, Local Government Ombudsman, Participation.

TÜRKİYE İÇİN YEREL YÖNETİMLER OMBUDSMANLIĞI İHTİYACI: KATILIM İLKESİ BAĞLAMINDA NASIL BİR YAPI KURULABİLİR?

Öz

Ombudsmanlık kurumu, neredeyse tüm dünya ülkelerinin ilgisini çekmiş ve kamu yönetiminde karşılaşılan problemlerin çözümü hususunda sıklıkla tercih edilen bir denetim mekanizması haline gelmiştir. Askeri ombudsman, çocuk hakları ombudsmanı, üniversite ombudsmanı, tüketici ombudsmanı, çevre ombudsmanı, kadın hakları ombudsmanı ve yerel yönetim ombudsmanı özel ombudsman türlerinden birkaçıdır. Yerel yönetim ombudsmanları, ulusal ombudsmanlarla benzer yetki ve sorumluluklara sahiptir. Ulusal ombudsmanlıkta olduğu gibi yerel ombudsmanlıkta da ortaya çıkış doğasına uygun olarak, yerel yönetim birimlerinin eylem ve işlemleri sonucu ortaya çıkan problemler bazen vatandaşın şikâyeti neticesinde bazen de kurumun kendi tasarrufu ile incelenmekte ve inceleme sonucu ilgili idareye tavsiye kararı verilmektedir. Yerel yönetim ombudsmanlığında da tıpkı ulusal ombudsmanlıkta olduğu gibi sözü edilen inceleme ve karar verme aşamaları tüm kişi ve kurumlardan bağımsız bir biçimde gerçekleştirilmektedir. Bu çalışmada, Türkiye'de kurulacak olası bir yerel yönetimler ombudsmanlığı mekanizmasının katılımı arttıracak unsurlar açısından ne gibi koşullara sahip olması gerektiği ve bu koşullarla birlikte ne gibi faydalarının olabileceği irdelenmiştir.

Anahtar Kelimeler: Ombudsman, Yerel Yönetimler Ombudsmanı, Katılım.

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INTRODUCTION

The word "ombudsman" is an old term belonging to the Swedish language. It is used as the equivalent of the words "representative," "delegate," and "protector." In Swedish, the word "Ombud" means representative, and "Man" means person or man (Tayşi, 1997: 106). The concept of ombudsman is used in Turkish similarly to the terms "scientist" or "scholar." Due to criticisms claiming that the term ombudsman is gender-biased, some sources use the term "ombudsperson" or simply "ombuds" instead of ombudsman (Ünal, Ö., 2014: 3). It is challenging to provide a universally accepted definition of the ombudsman institution since its meaning varies based on the needs of the country where it is implemented and the purpose of its existence in that country (Şahin, 2020: 20). For example, in Spain, the term "defensor del pueblo" meaning "people's advocate" is used, while in Austria, it is "volksanwalt," meaning "people's attorney." In France, it is "médiateur de la république," meaning "republic mediator," in England, "parliamentary commissioner," in South Korea, "Anti-Corruption and Human Rights Commission," in Portugal, "justice representative," in Poland, "human rights defender," and in Belgium, "federal ombudsman" are the terms used (Arap, 2015: 67).

The ombudsman is an institution or official that investigates complaints from citizens who have been harmed by the actions and procedures of the administration (Ataman, 1993: 218). The ombudsman institution was first established in Sweden in 1713. ombudsmen are appointed by legislative bodies and act independently of all individuals and institutions (Rowat, 1985: 103). Although the institution started in Sweden, it gained attention in other countries only after the end of World War II. After emerging in Sweden, it was initially implemented only in Sweden for almost two centuries and then adopted in Scandinavian countries. Finland was the first country to implement the ombudsman institution in 1919, followed by Denmark in 1955, in 1963 Norway and New Zealand (Büyükcavcı, 2008: 10).

In its early years, the primary goals of the ombudsman institution were to ensure transparency in public service activities and the complete fulfilment of managerial responsibilities by administrators. Today, its objectives have evolved to include protecting the interests of the governed and safeguarding fundamental human rights and freedoms (Aldemir, 2020: 308-309). One of the main reasons for the widespread recognition and implementation of the ombudsman institution worldwide is the increase in state intervention in the aftermath of World War II and the policies adopted by countries in the process of post-war recovery, leading to an increase in the number of citizens harmed by the actions of the administration. The growing complaints from citizens who suffered from the actions of the administration led states to seek an easily accessible, fast, and inexpensive method of oversight outside of judicial control (Erkal, 2011: 55). As a result of these developments, the ombudsman institution has become a frequently preferred oversight mechanism for solving problems encountered in public administration worldwide.

The increasing recognition of the ombudsman institution has led to the term "ombudsman" being used for almost all complaint mechanisms outside the judiciary, creating significant conceptual confusion about what the ombudsman is and what it serves (Temizel, 1997: 39). ombudsman institutions can have different characteristics depending on the conditions and needs of the countries where they are implemented. Therefore, it is challenging to claim that there are universally applicable features of the ombudsman institution. However, for a body to be considered an ombudsman, it must meet certain minimum requirements (Erhürman, 2000: 157).

Ombudsman: Description and Features

The ombudsman institution operates independently, free from the influence of the appointing power or any institution within its jurisdiction, regardless of rank and position, without taking instructions from anyone (Ünal, 2014: 81). The independence of ombudsmen from constitutional organs provides them with the freedom to seek the truth without fear of political or administrative sanctions (Avşar, 2012: 132). The ombudsman institution is a functional oversight tool that citizens can easily access, and no fees are charged for filing complaints. Complaints can be submitted in writing or verbally, directly by the citizens without any intermediary (Yıldırım, 2014: 200). One essential feature for the ombudsman to fulfill its duties effectively is the direct acceptance of citizens' complaints. Additionally, the absence of strict formal requirements for complaints sets it apart from other oversight methods (Sağlam, 2012: 46). Another generally accepted feature of the ombudsman institution is that its decisions are advisory rather than binding. While the ombudsman has the authority to investigate, supervise, and conclude citizens' complaints, they do not have the power to annul administrative actions, order their revocation, or rule on the compensation for the citizen's damage caused by the administration. In summary, the decisions of the ombudsman are not legally binding; they are advisory in nature (Erhürman, 2000: 159). However, the lack of legal binding of the ombudsman's decisions does not mean that the institution is not considered or lacks functionality. The ombudsman institution has the authority to publicize the institution responsible for unjust administrative actions it has investigated through citizen complaints or identified independently. This practice ensures that the decisions of the ombudsman are considered by the administration and encourages it to act cautiously before its decisions, presenting them to the public and parliament by turning advisory decisions into reports periodically (Usta, 2014: 61).

Another task of the ombudsman is to prevent mismanagement. Negative situations arising from actions and procedures carried out by the administration, the non-fulfilment of some public services, slow or non-existent public service, and dissatisfaction of citizens with the management are termed as mismanagement (Eken, 1998: 129). In the face of such situations, traditional control methods have proven inadequate to solve problems and find solutions in line with fairness criteria. This situation has made it necessary to search for a new and more functional control mechanism to address citizens' complaints and prevent mismanagement (Şengül, 2005: 128-129). The purpose of establishing the ombudsman institution is not to create an alternative to traditional control mechanisms but, on the contrary, to complement the deficiencies left by existing control mechanisms and establish a new system (Çeliksoy and Bayan, 2020: 92). Thanks to the ombudsman institution, the oversight of actions and procedures carried out by the administration that comply with legal rules but contradict fairness principles can be ensured. It also prevents the inactivity or slow action of the administration in fulfilling public services. The nearly universal adoption of the ombudsman institution is undoubtedly due to its detailed examination of citizens' complaints about mismanagement and its protection of citizens against the administration (Şengül, 2005: 128-129).

Another duty of the ombudsman institution is to ensure fairness. The fact that a country is a rule of law, and the strict application of legal norms does not necessarily mean that the country has a fair administration. Even if the actions of the administrators comply with legal rules, they may sometimes contradict fairness (Ünal, Ö., 2014: 17). Citizens who believe they have suffered a violation of rights bring their complaints to court. However, the judiciary does not have the authority to review compliance with fairness in actions carried out by the

administration, so there is a gap in ensuring fairness. In this regard, the ombudsman institution is highly effective in filling such a gap (Temizel, 1997: 46).

The functions and working areas of ombudsmen differ depending on the countries they operate in (Büyükavcı, 2008: 11). The areas of responsibility of the ombudsman institution vary according to the population growth of the country where it is implemented, the problems arising from this growth, the place of technology in the country, and the creation of new service areas with advancing technology. In short, different types of ombudsman institutions emerge and are implemented based on the level of development of the country and the structure of society (Gökçe and Kulu, 2020: 157-158).

It is possible to classify ombudsmen into two groups according to their working areas: general-purpose ombudsmen and special-purpose ombudsmen. General-purpose ombudsmen are also known as classical ombudsmen. These ombudsmen do not have a specific working area. They accept and investigate any complaints related to the administration received from citizens. General-purpose ombudsmen can be assigned to the entire country or to a specific region or local government unit (Çeliksoy and Bayan, 2020: 96). For example, ombudsmen in countries like the United States, India, Canada, and Italy are assigned at the regional/local level. In Germany, there is a national ombudsman and a military ombudsman. In the democratically governed United Kingdom, there are ombudsmen assigned both at the national and local levels (Ünal, F., 2014: 88). General-purpose ombudsmen, with no limitation in their working area, are more preferred and applied as an oversight mechanism due to their ability to investigate all kinds of applications. Among the types of ombudsmen, general-purpose ombudsmen have the most comprehensive working area. They have the authority to examine and solve all complaints related to the administration, regardless of the subject matter. Special-purpose ombudsmen, as the name implies, focus only on a specific subject and deal with problems related to that subject. Unlike classical ombudsmen, they are not assigned to work on all issues but are only assigned and work on specialized areas based on their expertise (Çeliksoy and Bayan, 2020: 96). Examples of special ombudsmen include military ombudsman, children's rights ombudsman, university ombudsman, consumer ombudsman, environmental ombudsman, women's rights ombudsman, and local government ombudsman.

Ombudsman in Local Governments

Factors such as the diversification of the responsibilities of local government units and their shift towards providing specialized services have resulted in an increased workload for both national and local ombudsmen. Local Government ombudsmen are appointed with the purpose of easing the workload of national ombudsmen (Temizel, 1997: 65), resolving issues arising from negative actions of local administrations, preventing violations of citizens' rights, and assisting local governments in providing higher quality services (Kocaoğlu and Akman, 2015: 438).

Local Government ombudsmen closely resemble national ombudsmen in many aspects but differ in that they operate not nationwide but only in specific regions or cities. They are elected by the respective local councils. The primary task of the institution is to promptly investigate complaints related to local administrations and resolve the issues efficiently (Kutlu, Örselli, and Kahraman, 2018: 21).

Established in 1974 in the United Kingdom, the concept of local government ombudsman was implemented through the 23rd article of the "Local Government Act" in the UK. The commission designated as the local government ombudsman examines complaints

from the local public about actions of local administrations (Avşar, 2012: 154). Local government ombudsmen are special-purpose ombudsman types that have a crucial feature in supervising the activities of local governments and providing good service to the citizens. (Karasoy, 2015: 49). Local Government ombudsmen are an important type of ombudsman, distinct from national ombudsmen, focusing solely on locally assigned responsibilities as it is clear in its name. It is an independent control mechanism that mediate and resolve conflicts between local government units and the local population, conduct investigations either spontaneously or upon complaints, and issue recommendations in case of the identification of unjust actions or decisions by the administration (Önen and Küçük, 2021: 88).

In countries adopting the concept of local government ombudsman, the need for a separate ombudsman solely to oversee local government activities has always been a subject of debate (Şahin, 2020: 36). While some countries involve the national ombudsman in overseeing issues resulting from administrative actions in local governments, others appoint a separate local government ombudsman for such matters (Temizel, 1997: 64).

Local government ombudsmen share similar powers and responsibilities with national ombudsmen. Just like in national ombudsmanship, local ombudsmen address problems arising from the actions and decisions of local government units based on citizens' complaints, and, in case of identified issues, they make recommendations to the relevant administration. The stages of examination and decision-making in local government ombudsmanship, like in national ombudsmanship, are carried out independently of all individuals and institutions.

The areas of service and nomenclature of local government ombudsmen may vary from country to country, depending on the internal conditions and needs. While local government ombudsmen are generally assigned to similar topics, their areas of responsibility may differ from country to country. These local government ombudsmen are appointed based on the needs of the region and expectations of the citizens they serve. Each country, region or city appoints a local ombudsman according to its current internal conditions and needs (Bengli, 2013: 37). Therefore, the service areas and naming of local government ombudsmen may vary from country to country. For example, in Scandinavian countries such as Sweden, Norway, and Denmark, the ombudsman is tasked with protecting individual rights and freedoms against the administration, with broad powers of investigation, research, and supervision. In the UK, the national ombudsman and the local government ombudsman are tasked with protecting the public against maladministration, while in France, the role of the ombudsman is to ensure fairness between those governed and those governing (Ünal, F., 2014: 94).

When a local government fails to fulfil or delays an action under its responsibility or when a citizen suffers harm due to any action taken by local governments, the citizen initially reports the issue to the relevant local government unit. If the individual is not satisfied with the resolution of the problem and after exhausting all local complaint procedures, the complaint can be submitted to the local government ombudsman by the citizen himself (Demiral and Demiral, 2010: 929; Avşar, 2012: 154).

For a local government ombudsman to truly be considered impartial and independent from all individuals and institutions, the institution must have a dedicated budget, financial independence, and personnel independence (Ünal, F., 2008: 134). Additionally, the independence of local government ombudsmen should be secured by laws and enshrined in the constitution (Yılmaz, 2019: 33). An ombudsman institution with these qualities can ensure its independence and provide services in line with its founding purpose.

Like the national ombudsman, local government ombudsmen must possess specific qualities to be accepted as a control mechanism. Although the intervention areas of local government ombudsmen are limited compared to national ombudsmen, the special qualities required for both ombudsman institutions are quite similar. While most of the activities in local governments are implemented based on decisions from local councils, if a citizen has a complaint due to actions and decisions taken by local governments, they can directly apply to the local government ombudsman. The responsibility of local government ombudsmen is not to oppose the decisions made by local councils but to ensure that the administrative activities of local governments are carried out in the best possible way and to improve the quality of decisions made by local councils (Temizel, 1997: 65-66).

Local government ombudsman has become a preferred auditing method in almost all countries because it meets the need for control with many positive aspects. The common functions of the local ombudsman include improving administration, supervision function, and protecting citizens against poor governance practices. The role of local government ombudsmen in improving administration is realized in two ways: prevention and deterrence. The existence of the ombudsman requires administrators to act carefully and comply with the laws in their actions, which is defined as a preventive function. If an administrator intends to perform an illegal action or procedure, the fact that the ombudsman is present deters them from doing so, it is defined as a deterrent function (Erhürman, 1998: 100). Local government ombudsmanship is considered more successful than national ombudsmanship in ensuring good governance. Locally elected government officials, who will remain in office if they have the support of the citizens, are more willing to implement the recommendations made by the ombudsman compared to central administrations (Ünal, Ö., 2014: 109-110).

Another function of local government ombudsmen is the protection function, which serves the purpose of ensuring that the actions and decisions of the administration are carried out in accordance with legal rules and fairness criteria. In countries where local ombudsman systems are applied, a significant part aims to protect the rights and freedoms of citizens. Negative actions taken by the administration during the provision of a service can cause harm to the citizen. With the established local ombudsman system, all actions and decisions made by the administration are controlled in terms of compliance with legal rules and fairness, and in case of any contrary situation, the institution makes a recommendation to the relevant management.

Another function of the institution and the main reason for its existence is the supervising function. While local government ombudsmen perform the supervising function quickly, inexpensively, and easily, they meet the control needs of local governments, which require continuous supervision, and make a significant contribution to the audit of local governments (Ünal, F., 2008: 141-142). The fundamental factor in the emergence of local government ombudsmanship is to obtain a quality auditing mechanism to get the highest efficiency from the developing activities of local governments. Effective control means getting the highest efficiency from the actions and decisions of management.

Local government ombudsmen examine complaints from citizens regarding poor administration but cannot examine and act on decisions made by the administration with discretionary authority. Local ombudsmen investigate complaints received from citizens and create a report if it is determined that the citizen has been victimized. This report, along with efforts to prevent the victimization of citizens, is communicated to the relevant institution. After this stage, there are two steps that local governments can take. Ensuring the victimization of citizens is prevented and taking measures to prevent the same victimization from recurring

(Temizel, 1997: 67). The decisions of local government ombudsmen are not binding on local government units, but they are advisory in nature.

The application procedure for local government ombudsman, the working method of the institution, and the nature of the decisions taken can vary depending on the conditions of the country where it is applied. In the UK, the first example of the institution, citizens with complaints about poor administration must apply to the relevant local government units before applying to the local ombudsman. If the citizens believe that their problems are not resolved through these applications, they can apply to the local government ombudsman through a committee. If the committee rejects the application, citizens have the right to submit their applications directly without the need for an intermediary (Avşar, 2012: 154). There are exceptional cases regarding the application to local government units before applying to the local ombudsman. If the urgency of the situation is high, the local government ombudsman can directly receive the complaint without waiting for the citizen to apply to the local government units. If the situation is not urgent and the citizen has applied directly to the ombudsman, in this case, the ombudsman contacts the local governments to ensure that the complaint is initiated in a proper manner (Demiral and Demiral, 2010: 929).

In the UK, decisions made by local government ombudsmen are generally accepted and followed by local governments. The most important reason for this is that the local government ombudsman has the support of public opinion. Authorities generally accept and act in accordance with the advisory decisions made by the ombudsman, who has the power of public opinion behind them, and they also take precautions to prevent the same mistake from being repeated (Ünal, F., 2008: 147). Local government ombudsmanhood does not charge any fees for applications submitted in response to citizen complaints. Citizens can make applications directly themselves or through a proxy they authorize. Applications can be made in person or by email, and the complaint letter should be kept as short as possible. The contact information of the person must be included in the application so that the owner of the complaint can be reached when necessary. If necessary, the presentation of evidence, if any, is crucial for a favorable outcome for the citizen (lgo.org.uk: Access: 22.06.2021). Therefore, based on the UK practice, it is possible to interpret that the decisions of local government ombudsmen are important for improving the activities of local governments, although they are advisory in nature.

Recommendations Regarding the Increase of Participation in Local Government Ombudsman in Türkiye

In Türkiye, the supervision of local governments is carried out in six ways: administrative supervision, political supervision, judicial supervision, public supervision, financial supervision, and supervision by the institution of public ombudsmanship (Kara and Karakılçık, 2016: 730). Although these existing supervision mechanisms have functioned quite effectively until today, it is a fact that they have disadvantages and shortcomings. For example, judicial supervision cannot initiate action on its own and can only review complaints in terms of legality. The inability of judicial supervision to independently review an action taken by the administration means that nothing can be done about that action unless it is brought before the judiciary, even if it is legally questionable. Furthermore, in cases where actions are in accordance with legal norms but cause harm to citizens, there is no sanction through judicial supervision (Ünal, 2016: 122). Therefore, there is a need in Türkiye for a supervision method that can simultaneously assess compliance with legal rules and fairness criteria, examine and resolve complaints from aggrieved citizens, be easily accessible to all segments of society, be cost-free, fast, and easy to apply.

Regarding political supervision, a functional oversight mechanism, Gözler and Kaplan (2015), comments that it lacks functionality. Even if actions and transactions performed by the administration are illegal, the action is annulled, but compensation for the material damage suffered by the victimized citizen is very rarely encountered (Gözler and Kaplan, 2015: 329). Another effective supervision method, administrative supervision, can result in executive decisions, but the likelihood of obtaining a satisfactory result for the citizen in case of a dispute between the administration and the citizen is quite low (Gözler and Kaplan, 2015: 334).

The occasional inadequacy of existing supervision mechanisms prompts the search for a new supervision mechanism that will positively impact the activities of local governments. A new institution empowered to oversee local governments would not only facilitate the implementation of actions and transactions by the administration in line with new public management principles but also contribute to reducing the workload of existing supervision methods (Arklan, 2006: 96). Through the establishment of a local government ombudsman, public services can be provided more fairly, quickly, effectively, and transparently, allowing citizens to play a participatory role in local government.

Although there is a national ombudsman institution in Türkiye, the Ombudsman Institution, the first step in ombudsman activities in the context of local governments has been the establishment of a local government ombudsman. In 1982, faculty members of Ankara University's Faculty of Political Sciences and Faculty of Law conducted a study on the constitutional draft, proposing the establishment of an ombudsman institution for provinces and regions (Demirkol, 2011: 49). In 1994, MÜSİAD prepared a research report titled "Local Governments in the 2000s." In this report, possible problems that local governments may face in the coming years and solutions to these problems were discussed. MÜSİAD's report recommended the establishment of a unique local government ombudsman for solving the problems identified. The proposed ombudsman was seen as important for local governments with increasing responsibilities and powers, and it was described as the "judge of the people" and the "prosecutor of the people" (MÜSİAD, 1994: 55).

The first concrete step taken in Türkiye for local government ombudsman is the directive prepared by the Bayburt Governorship. In 1996, based on Article 11/A of Law No. 5442 on Provincial Administration, the Bayburt Governorship prepared a directive titled "Implementation of the ombudsman Institution at the Provincial Level." In this directive, the institution planned to be established in Türkiye was proposed to be named the "Public Consultation Board" (Tayşi, 1997: 96). According to this directive, the task of the planned Consultation Board was to examine complaints from citizens regarding administrative institutions within the province, and in case of any action or transaction that could constitute a crime because of the examinations, to refer the matter to the relevant authorities. This board aimed to ensure an honest, transparent, fair, independent, and impartial public service process. Another important goal of the board was to compensate the damage suffered by citizens because of the negative actions and transactions of the administration and to serve as a bridge between the administration and the governed (Muradova, 2013: 172). Efforts were made to implement the Public Consultation Board, but due to the change of duty location of the then governor the efforts could not be put into practice (Çakmak, 2008: 104). The planned Public Consultation Board closely resembled an ombudsman institution with features such as not charging any fees from citizens, not imposing strict formal conditions for applications, being open to the applications of all citizens victimized by the actions and transactions of the administration and preparing a report at the end of the year for the work carried out throughout the year. In 2004, with Law No. 5227 on the "Basic Principles of Public Administration and Restructuring," an institution like the ombudsman was mentioned for the first time in Turkish legislation. The

name of the institution envisaged to be established by this law was determined as the "Local Government Public Inspector" (Yılmaz, 2019: 106-107). The Local Government Public Inspector was designed as a local oversight mechanism rather than a national one and was included in the law as such. Therefore, for the first time, a local government ombudsman-like organization was mentioned with a single article in this Law (Ünal, F., 2014: 168). The draft law was approved by the Turkish Grand National Assembly, but President Ahmet Necdet Sezer returned the draft to the Assembly for reconsideration, citing that it did not comply with the general principles of law, constitutional rules, and public interest (Muradova, 2013: 174).

Existing classical local government supervision mechanisms have facilitated the resolution of many problems until today. However, the increasing importance given to the principles of accountability, transparency, impartiality and openness in local government institutions in Türkiye has become insufficient in solving some problems encountered. As a result of the need for an ombudsman institution in Türkiye, the Ombudsman Institution was established, leading to many gains. Currently, a similar situation is being discussed for local government ombudsman. As mentioned above, although various steps have been taken towards the establishment of local government ombudsman in Türkiye, these steps have remained inconclusive. However, even if these steps cannot be realized, they strengthen the opinions in the country that there is a need for local government supervision. When the applications made to the Ombudsman Institution on an administrative basis in the last five years are examined, it is seen that a significant part of the applications made to the institution consists of complaints related to local governments.

Table 1: Complaint applications made to the Ombudsman Institution regarding local governments:

	2021	2020	2019	2018	2017
Number	4457	2013	2278	1851	1424
Percentage	13,04	2,23	10,86	10,53	15,56

Source: Ombudsman Institution annual activity reports.

When the table above is examined, it is noteworthy that a significant portion of the applications made to the Public Supervision Institution consists of problems in local governments. As can be understood from the table, the institution spends a considerable amount of time on the problems of local governments. When the annual activity reports published by the institution are examined, it is observed that some of the applications are carried over to the next year. One of the most important reasons for this situation is undoubtedly the excessive workload of the institution. The high workload of the ombudsman results in the citizen's application not being promptly evaluated. Citizens who cannot achieve the desired outcome with their applications seek remedies through other supervision mechanisms. This, in turn, increases the workload of other supervision mechanisms.

Due to the COVID-19 pandemic that started in 2019 and affected Türkiye as well as the whole world, there has been a 330.22% increase in applications to the Public Supervision Institution compared to 2019. There are two main reasons for this increase. First, the tighter relationship between citizens and the administration during the pandemic, leading individuals to expect a better management process from the authorities. Second, the increased visibility of the Public Supervision Institution (PSI) (PSI Report, 2020). Evaluating this information, the existence of a national ombudsman institution in Türkiye is undoubtedly a positive situation. However, through the establishment of a local government ombudsman, the workload of the national ombudsman can be reduced, and the examination of complaints at both national and local levels can be more efficiently conducted due to division of labour.

In countries where local government ombudsman is implemented, the institution not only serves as a bridge between management and citizens but also contributes to strengthening democracy and ensuring the most accurate delivery of public services. The institution is highly effective in the supervision of local governments (Kutlu, Örselli and Kahraman, 2018: 24). If local government ombudsman is implemented in Türkiye, it could strengthen the bonds between citizens and administration, and the newly established supervising method could address gaps in local government supervision.

As mentioned above, the increased responsibilities of local governments necessitate the inspection of these units by an expert supervising method that can adapt to the conditions of the period. With the introduction of a local government ombudsman into the Turkish supervising system, citizens who suffer harm due to the administration's wrongful actions will be able to directly apply to the local government ombudsman rather than the Human Rights Examination Commission of the Turkish Grand National Assembly, the Petition Commission of the Turkish Grand National Assembly, or the Public Supervision Institution. This would reduce the workload of these commissions (Ünal, F., 2014: 174). The adaptation of local ombudsman to Türkiye would contribute to strengthening local democracy. The local ombudsman would enable services to be provided more transparently, accountable, free from favouritism, and impartial (Tekeli, 2003: 14).

Through the establishment of a local government ombudsman, citizens will be able to quickly and personally submit their complaints about issues they are dissatisfied with regarding the actions of local governments, without the need for intensive efforts or lengthy bureaucratic processes. Complaints given firsthand by citizens can be examined by local government ombudsmen and shared with the public in accordance with the principle of transparency after reaching a conclusion. This would not only encourage local government employees to perform their duties more diligently but also serve as an example for citizens in finding solutions to their own problems through the complaints and results shared by local government ombudsmen.

Sometimes, citizens may suffer due to the actions of the administration, but they may not be sure how to remedy their grievances or where and how to apply. Some citizens may report their grievances but fail to obtain a result due to mistakes in the procedure or the complexity of the application process, leading to a loss of trust in the administration. The establishment of a local ombudsman would provide citizens with a means to submit their complaints with only a written petition, allowing them to do so without hesitation or difficulty. The local government ombudsman is a free application method, which is crucial for citizens who, due to their financial situation, may not consider complaining about the harm they have suffered.

When examining countries where local government ombudsman institutions are implemented, it is noticed that countries create ombudsmen tailored to their own local government systems and needs. Therefore, it would be beneficial to create a local ombudsman in Türkiye that is compatible with the Turkish local government system and also addresses the issues left unresolved by existing supervision models. The consideration of the Turkish local government system is crucial for the establishment of a local ombudsman, just as the examination of countries currently implementing local ombudsman supervising is equally important.

When applications to the Ombudsman Institution are evaluated by regions, it is observed that in all years between 2017 and 2021, the first place belongs to the Marmara Region, and the second place belongs to the Central Anatolia Region (PSI Report). Based on this information,

considering that establishing an ombudsman institution in all provinces in Türkiye would be challenging initially, it is thought that creating the institution first regionally, and then locally, according to the level of need, could be a more feasible and realistic approach in the country's conditions. Transitioning from a pilot local government ombudsman system in regions with high applications to the national ombudsman system, after which this system becomes operational nationwide, could provide advantages for both citizens and the administration.

For the local government ombudsman to be established in Türkiye to serve the purposes of preventing mismanagement of the administration, preventing grievances that may occur as a result of bad actions and transactions, and establishing a real bridge between citizens and the administration, it is very important that those authorized in the institution should be composed of qualified individuals. The quality of the institution to be established is directly proportional to how qualified the managers of the institution are. Having legal and administrative knowledge of the ombudsman assigned to the local ombudsman will be an important feature for the functionality of the institution (Ünal, F., 2014: 181). So much so that in countries such as Sweden, Norway, Denmark and Finland, where the ombudsman institution is successfully implemented, the ombudsman is chosen among people who has had law education (Yıldırım, 2016: 168). The fact that the person appointed as ombudsman is well-equipped in the field of law and management will add value to the solution of problems arising between the administration and the citizens.

One of the important elements for the ombudsman to gain the trust of the citizens and become a reference centre because of administrative disruptions is that the ombudsman is impartial. The ombudsman should be distant from all individuals, institutions and political entities. The impartiality of the ombudsman is very important in terms of the nature of the decisions to be made because of examining the disputes. An ombudsman, who has complete impartiality towards individuals and institutions, will be independent in the decisions s/he makes. It will be easier for citizens to apply to the institution, where their impartiality and independence are assured, when necessary, and therefore the institution will serve the reason for its establishment.

The person appointed as an ombudsman should meet the qualifications specified in Article 48, paragraph a of Law No. 657 on Civil Servants. Additionally, as an ombudsman, the person should be experienced in public administration, have crisis management and problem-solving abilities, be familiar with regulations, be over 40 years old, and must have served for ten years in public institutions.

The examination of countries where local government ombudsman supervision is applied reveals that ombudsmen are generally appointed by local government units or local councils (Önen ve Küçük, 2021: 104). However, for an ombudsman institution to function seamlessly and be a flawless system for supervising, it needs to be free from all political influences. The fact that a local ombudsman can only be determined by the votes of the local council may cast a shadow on this necessity of the ombudsman. Even though the ombudsman elected in such a system has never been involved in political activities throughout his life, there is a risk of not having full independence in the mind of the citizen. An ombudsman institution in which citizens do not believe that it is fully independent will not be able to achieve the intended functionality. According to the suggestion of Önen and Küçük (2021), local ombudsman candidates should be initially selected by local councils. Among these selected local ombudsman candidates, one person should be elected by the Grand National Assembly of Türkiye (TBMM). The selection process for ombudsman candidates by local councils can be carried out in two different ways. In metropolitan municipalities, candidates can be selected by

the municipal council, while in the selection of ombudsman candidates for other municipalities, the municipal council and the provincial general assembly may be involved. The number of ombudsman appointments for the ombudsman institution could be 5 or 7, as mentioned in the proposal from the Bayburt Governorship (Önen ve Küçük, 2021: 104).

For the true independence of the ombudsman to be discussed, during the appointment, the fulfilment of the duty, and the termination of the duty, s/he must be careful to remain free from any political influence (Avşar, 2012: 253). For the local government ombudsman to be appointed, there is no single flawless method. The idea of involving the Grand National Assembly of Türkiye in the process, rather than leaving the selection of ombudsman candidates solely to local councils, is a suitable method for removing pressure, aiming at an ombudsman. When determining the local government ombudsman, it would be an appropriate method to determine the person to be appointed as the ombudsman by the legislature, just like in the election of the ombudsman Institution (Ünal, 2008: 261-262). For the elected ombudsman to fulfil his duty properly, s/he must be free from all pressures. While the duties of ombudsmen, who were not even considered to be appointed by political figures, are dismissed, the absence of intervention from any politician will be an important factor in ensuring that the ombudsman's work works as intended. The ombudsman should not be held responsible for the work he carries out in accordance with the law. If a situation that may hinder the election of the ombudsman is encountered after being elected, s/he must be dismissed duly in line with the principle of procedural parallelism.

The term of office of the local government ombudsman should be four years, as in the Ombudsman Institution implemented at the national level in Türkiye (Law No. 6328). If the ombudsman position becomes vacant before the end of his term of office, the term of office of the new ombudsman must be four years.

In addition, for the local government ombudsman to be established to function successfully, the institution must be known by citizens and the visibility of the institution must be ensured. The institution to be established should be created in a way that citizens can easily access and solve their problems quickly (Şahin, 2020: 51). For this, if necessary, public spots should be created to promote the institution, broadcasts should be made, and advertisements should be given to promote the institution on social media platforms and television channels that citizens use extensively. Citizens should be informed about their rights and ways to assert their rights.

The local government ombudsman to be established in Türkiye should have jurisdiction and authority over local governments, unions and enterprises established by local governments, and organizations affiliated with local governments. The local government ombudsman should have full authority to investigate, inquire, and examine actions and transactions carried out by the competent units. Without receiving any complaints, the local government ombudsman should be able to inspect and report on the institutions it is authorized to oversee, with the aim of preventing poor governance and improving administrative processes (Ünal, F., 2014: 183). It is essential to determine not only the areas of authority but also the areas excluded from its jurisdiction. Issues taken to court should fall outside the jurisdiction of the local government ombudsman.

The Law No. 6328 on the Public Ombudsman Institution assigns the duty to the national ombudsman, the Public Supervision Institution, to act upon complaints from citizens regarding the functioning of the administration. The law grants the institution the authority to investigate and examine the legality and fairness aspects of any action or transaction carried out by the

administration and to make recommendations to the relevant administrative body based on the results of the investigation (Law No. 6328, Art. 5). Therefore, a local government ombudsman in Türkiye, when activated based on complaints, should be able to examine public institutions and their actions and transactions to address citizens' concerns. In necessary cases, the ombudsman should also be able to inspect public institutions without complaints, create a report after the inspection, and share it with local councils and the public.

Local government ombudsmen should be tasked with preventing the victimization of citizens, minimizing potential grievances, and, in this regard, should be authorized. However, the role of the local ombudsman should not be limited to rectifying grievances; it should also conduct necessary activities to address deficiencies in the administration's operations to prevent the recurrence of problems (Şahin, 2020: 31). If, during inspections resulting from complaints, the local government ombudsman finds the local governments faulty, it should have the authority to make recommendations for the material and moral resolution of grievances and take measures to prevent a recurrence of the situation that led to the grievance.

The local government ombudsman in Türkiye should be accessible to all citizens in the locality or individuals who have experienced grievances related to the local government institutions. The institution should be open to applications from Turkish citizens and foreigners alike. According to the Law No. 6328, the Public Ombudsman Institution takes action based on complaints received. This leads to confusion regarding the institution's ability to conduct spontaneous research and investigation. Therefore, the local government ombudsman should have the authority to initiate actions based on complaints as well as spontaneously, and this should be explicitly stated in the relevant legislation.

The local government ombudsman in Türkiye should receive first-hand applications without formal requirements and without the need for intermediaries. The subject of the applications should be clear and straightforward, not taken to court, not conclusively resolved by the judiciary, not previously examined and concluded by the institution, and the relevant local government control stages should be completed (Law No. 6328, Art. 17). Applications to the institution should be accepted in a way that everyone can easily apply and should be free of charge.

A person who has suffered from the actions or transactions of a local government unit should be able to file a complaint with the local government ombudsman within six months. The local government ombudsman should have discretionary power to decide whether to take action on matters not complained about within the specified period, depending on the importance and sensitivity of the issue (Ünal, Ö., 2014: 136). Applications made during the process of filing a lawsuit should suspend the lawsuit (Law No. 6328, Art. 17).

Once the local government ombudsman decides to examine a received complaint, they should inform both the complainant and the subject of the complaint. Within ten working days, the ombudsman should be able to request a report from the relevant local government unit regarding the subject and, if deemed necessary, initiate an investigation and exploration within this period. The local government ombudsman should have the right to access the documents and information related to the subject. Exceptions can be made for documents classified as state secrets or commercially sensitive, with the condition that the reasons are provided. These documents can only be open to on-site inspection by the chief inspector (Law No. 6328, Art. 18).

To achieve the goals of the local government ombudsman acting quickly as expected, not having a cumbersome structure and contributing to participatory democracy, complaints to the local ombudsman must be concluded in less than six months, unlike the ombudsman Institution. The decisions of the local government ombudsman should also be advisory in nature, like the public ombudsman Institution. However, to enhance its effectiveness, the institution's visibility should be increased through proper promotion and education initiatives conducted by the institution itself.

CONCLUSION

In Türkiye, the institution responsible for overseeing problems related to local governments is the Ombudsman Institution, which is the national ombudsman. The Public Ombudsman Institution has carried out numerous works related to local governments and played a highly effective role in solving problems. However, factors such as the expansion of the responsibilities of local governments and an increase in the workload of the Ombudsman Institution have brought about various challenges. In the studies carried out on the establishment of an ombudsman institution in Türkiye, reasons such as the establishment of a local government ombudsman rather than a national ombudsman and the fact that the Ombudsman Institution receives a lot of applications regarding local governments, recall the questions of what kind of effects a local government ombudsman to be implemented in Türkiye will have.

Having a local government ombudsman in Türkiye would initially alleviate the workload of the Ombudsman Institution, allowing the institution to operate more effectively and efficiently. An established local ombudsman would enable better scrutiny of the expanded local government units and contribute to their more careful, meticulous, efficient, and less error-prone operation. The establishment of a local ombudsman would also lighten the load of existing local supervising methods.

Since there is currently no local government ombudsman institution in the country, initially establishing a local ombudsman in each province may not lead to the desired result or may take a long time to achieve. The Turkish ombudsman institution called Ombudsman Institution has the authority to open offices in any region if deemed necessary. Proceeding from this authority, initially establishing regional ombudsman offices and determining the goals, objectives, and operational procedures of the planned local ombudsman in coordination with the established regional offices would be advantageous in ensuring the steps taken towards establishing a local ombudsman are more robust. In order for an ombudsman, who was first established regionally and then enabled to operate in all provinces, to find solutions to the citizens' problems, to improve the actions and procedures of the administration, to protect the rights of citizens who have been wronged as a result of the bad actions of the administration, in short, for the local ombudsman to be established to become functional, the citizen must be informed about the institution, and the institution must inform him/her about it and also training should be organised.

Despite these considerations, it should not be assumed that the local government ombudsman is a miraculous supervision method. A local ombudsman, while having the potential to serve many purposes as a supervision mechanism, is not a cure-all for all problems. In some countries where it is implemented, the local government ombudsman has faced criticism and new supervision methods have been established to oversee the local government ombudsman. Currently, the non-binding nature of decisions made by the Ombudsman Institution in Türkiye, similar to the national ombudsman, is occasionally criticized. When the annual reports of the Ombudsman Institution are examined, it is observed that there is a high

compliance rate with the recommendation decisions given by the institution. However, there are also unanswered or unfulfilled recommendation decisions. Nevertheless, for existing problems related to local governments in Türkiye, the local ombudsman system is considered the best additional supervision method. The fact that the local government ombudsman system has been included in studies on the audit of local governments for many years and that this system has attracted the attention of Turkish academicians and bureaucrats has an impact on this inference.

Certainly, for the best results with this system in Türkiye, the country's conditions should be considered, deficiencies in the oversight of local governments should be identified, and existing needs should be carefully analysed. Only in this way can the activities of both the institution and local governments be improved, functional solutions be found between the administration and citizens, and an effective solution be achieved. To achieve the intended goals of the institution, it is crucial for the institution to be recognized by the public. Therefore, ensuring that the institution is recognized by the public is the responsibility of the administration. Furthermore, for the institution to be effective, it is important for public officials to embrace it, and citizens should be guided by the institution. One of the important factors in obtaining the expected results from the local government ombudsman is that the local ombudsman to be established is managed by a chief supervisor who is appreciated, trusted and whose decisions are respected by the society, just like the national ombudsman.

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