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ANALYSIS OF INSTITUTIONAL INDEPENDENCE AND AUTONOMY OF REGULATORY AND SUPERVISORY AGENCIES IN THE CONTEXT OF THE PRESIDENTIAL GOVERNMENT SYSTEM

CUMHURBAŞKANLIĞI HÜKÜMET SİSTEMİ BAĞLAMINDA DÜZENLEYİCİ VE DENETLEYİCİ KURUMLARIN KURUMSAL BAĞIMSIZLIK VE ÖZERKLİK ANALİZİ

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Öz

Bu çalışma, Türkiye'de 2017 anayasa değişiklikleriyle geçilen Cumhurbaşkanlığı Hükümet Sistemi'nin Düzenleyici ve Denetleyici Kurumlar (DDK) üzerindeki etkilerini incelemeyi amaçlamaktadır. Özellikle DDK'ların bağımsızlık ve özerklik düzeylerinde meydana gelen yapısal ve işlevsel değişimler analiz edilmiştir. Çalışmanın temel amacı, yeni yönetim modeli altında bu kurumların siyasal etkilerden bağımsız karar alabilme kapasitelerinin nasıl etkilendiğini ortaya koymaktır.

Araştırma, içerik analizi yöntemiyle on bir farklı DDK'nın yönetsel yapılanması, atama-usulleri, görev güvenceleri, yasama ve yürütme ile ilişkileri, mali kaynakları ve hesap verebilirlik mekanizmaları gibi temel göstergeler üzerinden karşılaştırmalı bir değerlendirme sunmaktadır. Elde edilen bulgular, DDK'ların hukuken bağımsız görünmelerine rağmen fiilen yürütmeye bağlılıklarının arttığını; özellikle atama ve bütçe süreçlerinde merkezileşmenin kurumsal özerkliği zayıflattığını göstermektedir.

Bu yönüyle çalışma, DDK'ların demokratik denetim, kamu yararı ve hukuk devleti ilkeleri açısından taşıdığı kritik rolü yeniden düşünmeye davet etmekte; sistem değişikliğinin yönetim pratiklerine yansıyan sonuçlarını kapsamlı biçimde ortaya koymaktadır. Araştırma hem kamu hukuku hem de kamu yönetimi literatürüne kurumsal bağımsızlık ve yönetişim ekseninde özgün bir katkı sunmaktadır.

Anahtar Kelimeler: Cumhurbaşkanlığı Hükümet Sistemi, Düzenleyici ve Denetleyici Kurumlar, Bağımsızlık, Özerklik, Kamu Yönetimi.

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ABSTRACT

This study examines the impact of the Presidential Government System, adopted in Türkiye through the 2017 constitutional amendments, on the independence and autonomy of regulatory and supervisory agencies (RSAs). The primary objective is to assess how the structural and functional transformation introduced by the new system has affected the ability of these institutions to make decisions free from political influence.

Using content analysis, the research conducts a comparative evaluation of eleven RSAs based on key indicators such as administrative structure, appointment and dismissal procedures, tenure security, relationships with the legislative and executive branches, financial resources, and accountability mechanisms. The findings reveal that although these agencies maintain a legal framework that emphasizes independence, their de facto dependence on the executive has intensified. In particular, centralized practices in appointments and budgetary control have significantly weakened their institutional autonomy. This study contributes to a deeper understanding of how the centralization of executive power under the Presidential System has redefined the role and functioning of RSAs. It highlights the tension between administrative efficiency and democratic oversight, and questions the sustainability of institutional independence in a politically consolidated governance model. By situating RSAs within the broader context of the rule of law and good governance, the research offers an original and critical perspective to the literature on public law and administrative reform.

Keywords: Presidential Government System, Regulatory and Supervisory Agencies, Institutional Independence, Autonomy, Public Administration.

INTRODUCTION

The understanding of public administration in the 21st century necessitates not only the transformation of classical bureaucratic structures but also that of Regulatory and Supervisory Agencies (RSAs), which operate in areas requiring technical expertise. In Türkiye, the constitutional amendments adopted in 2017 and enacted in 2018 introduced the Presidential Government System, leading to a paradigmatic shift in the administrative system. This new governance model has brought about profound transformations in various areas, ranging from the relationship between the legislative and executive branches to administrative organization. Among the structures most directly affected by this systemic transformation are the RSAs, which embody the use of public authority based on technical rationality.

In this context, the question of how the level of independence and autonomy of RSAs has changed under the new system—where executive power is centralized and decision-making processes have been accelerated through Presidential Decrees—gains particular importance. These institutions are designed to function with the capacity to make decisions free from political influence, ensuring both the effective functioning of market mechanisms and the protection of the public interest. However, the centralization of executive authority appears to have introduced new dynamics that may threaten the institutional integrity and impartiality of these bodies.

This study aims to evaluate the effects of this transformation on the principles of institutional independence and autonomy. The main research problem is structured around the following questions:

1. How has the Presidential Government System influenced the independence and autonomy of RSAs in Türkiye?

2. What are the prominent legal and administrative changes observed during this period?

3. How have these changes impacted the effectiveness, impartiality, and democratic accountability mechanisms of these institutions?

Rather than limiting itself to a normative framework, this research also aims to examine the practical institutional structures in a comparative manner. Accordingly, the study adopts a content analysis method to conduct a comprehensive evaluation of the structural, administrative, and financial characteristics of eleven RSAs currently operating in Türkiye. Based on indicators such as the appointment procedures and dismissal guarantees of agency heads and members, their relationship with the legislative and executive branches, their regulatory powers, and their financial resources, the levels of independence and autonomy are assessed in both legal (de jure) and practical (de facto) terms.

The original contribution of this research lies in its attempt to reconsider the institutional position of RSAs within the logic of governance introduced by the Presidential Government System. By revealing the resilience of these agencies against administrative tutelage, political intervention, and budgetary dependence, the study offers a critical perspective on the future of the regulatory state model[1] in Türkiye in light of democratic governance principles.

Therefore, this research aims to contribute not only to the field of public law but also to the broader academic domains of public administration, political science, and constitutional theory. The independence of RSAs is not merely a technical administrative concern; it is also fundamentally linked to the sustainability of the rule of law and democratic accountability mechanisms.

I. INDEPENDENCE AND AUTONOMY CHARACTERISTICS OF REGULATORY AND SUPERVISORY AGENCIES

Regulatory and supervisory agencies (RSAs) are public authorities operating in technically specialized and strategically significant fields such as the protection of fundamental rights and freedoms, banking sector regulation, competition policies, capital markets, personal data security, energy markets, and public procurement. These institutions, established by law, possess financial and administrative autonomy and legal personality, enabling them to function independently from political decision-making bodies[2]. Each regulatory and supervisory agency has its own distinct public legal entity, which reinforces their institutional independence and accountability framework within the administrative system. They effectively fulfill their mandates of regulation, supervision of implementations, and contribution to policy development processes[3].

Within the administrative and legal framework, RSAs exhibit operational and statutory features distinct from traditional public institutions; however, there is no consensus in the literature regarding their precise conceptual designation. While terminological preferences may be considered merely a matter of terminology, the chosen concepts simultaneously define the institutional identity, functional position, and place of these bodies within public administration[4]. In Türkiye, studies concerning this field employ various terms such as "high council," "regulatory board," "regulatory agency," "independent administrative authority," "autonomous institution," or "regulatory and supervisory agency." The use of diverse denominations complicates achieving conceptual and institutional coherence. To address this issue, a "Draft Law on Regulatory and Supervisory Agencies" was submitted to the TBMM in 2004 but failed to be enacted due to the political and administrative conditions of the period. Consequently, the sole positive legal text that determines which institutions are considered regulatory and supervisory agencies in Türkiye is the (III) numbered annex to Law No. 5018 on Public

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[1] The regulatory state model refers to a form of governance in which the state shifts from being a direct actor in the economy to taking on a role that primarily involves setting rules, monitoring, and regulating. This concept gained prominence particularly after the 1980s, with the rise of neoliberal policies.

[2] Akıncı, Müslüm. Bağımsız İdari Otoriteler ve Ombudsman. İstanbul: Beta Yayınları, 1999, p.100.

[3] Sarısu, Ayhan. "İdari Otoritelerin Ortaya Çıkışı ve Temel Özellikleri." Yaklaşım Dergisi 19, no. 222 (2011a), p.225.

[4] Sever, D. Çiğdem. "Türkiye'de Düzenleyici Kurumların Yapısı, İşlevi ve Dönüşümü." Ankara Üniversitesi Hukuk Fakültesi Dergisi 64, no. 1 (2015), p.197.

Financial Management and Control[5]. Although this list appears to provide significant standardization regarding the nomenclature of these institutions, its establishment within the framework of financial management legislation does not entirely eliminate definitional ambiguity[6]. Indeed, while all autonomous and independent institutions are classified under the heading “regulatory and supervisory agencies” in the (III) numbered annex of Law No. 5018, the constitutional-level regulation of the Radio and Television Supreme Council as a “high council” indicates that terminological differences persist.

Another conceptual ambiguity encountered in the terminology debates concerning regulatory and supervisory bodies arises from the use of the term "board" instead of "agency" in reference to their organizational forms[7]. For instance, the Radio and Television Supreme Council (RTÜK) and the Capital Markets Board (SPK) are explicitly defined as “boards” in their respective founding laws; hence, the term “board” is preferred when referring to these institutions. Conversely, other regulatory and supervisory entities with similar statuses are generally designated as “agencies,” which leads to terminological inconsistencies[8]. Within this framework, it can be argued that the terms used are directly related to the legal foundations and organizational structures of the institutions.

During the initial establishment period of such institutions in Türkiye, the influence of French administrative law was distinctly felt, and these bodies were commonly referred to as “independent administrative authorities” or “high councils”[9]. However, over time, divergent discussions emerged regarding the nomenclature of these institutions. A key issue in this regard concerns the use of the adjective “independent,” which reflects the most salient structural characteristic of these bodies. Although the concept of “independence” shares certain similarities with “autonomy,” the two notions do not fully overlap and carry different implications in terms of institutional structure and functioning. Therefore, emphasizing independence in naming highlights the distinction of these institutions from the classical administrative apparatus, yet requires a careful conceptual analysis.

One of the distinguishing fundamental features of regulatory and supervisory agencies (RSAs) is that they operate outside the guardianship oversight of the central administration and are structured with legal and institutional safeguards that allow their decision-making bodies to act independently. Morrison[10] defines these institutions by emphasizing their independence and autonomy, noting that members can only be dismissed under circumstances explicitly prescribed by law. Another significant institutional characteristic differentiating these bodies is the adoption of a “board-type” organizational model in their decision-making processes.

[5] Law No 5018. “Kamu Mali Yönetim ve Kontrol Kanunu.” Accessed January 20, 2025. https://www.mevzuat.gov.tr/mevzuatmetin/1.5.5018.pdf.
[6] Sever, D. Çiğdem. “Türkiye’de Düzenleyici Kurumların Yapısı, İşlevi ve Dönüşümü.” Ankara Üniversitesi Hukuk Fakültesi Dergisi 64, no. 1 (2015), p.197.
[7] Sezen, Seriye. Türk Kamu Yönetiminde Kurullar. Ankara: TODAİE Yayınları, 2003, p.109.
[8] Sever, D. Çiğdem. “Türkiye’de Düzenleyici Kurumların Yapısı, İşlevi ve Dönüşümü.” Ankara Üniversitesi Hukuk Fakültesi Dergisi 64, no. 1 (2015), p.198.
[9] Günday, Metin. İdare Hukuku. Ankara: İmaj Yayınevi, 2011, p.568.
[10] Morrison, Alan B. “How Independent Are Independent Regulatory Agencies.” Duke Law Journal 2, no. 3 (1988), p.252.

This multi-member structure aims to enhance institutional resilience against external interventions and is designed as a mechanism to ensure that decisions are made in accordance with criteria such as legality, pluralism, responsiveness to market needs, legitimacy, and fairness[11]. Among the core attributes of RSAs is their ability to operate independently from the central public administration and other relevant stakeholders, while also possessing administrative and financial autonomy.

The common features of such institutions can be broadly summarized as follows[12][13][14]: First, their institutional structure and functioning are regulated by a specific founding law. Although they are part of the central government structure, they are exempt from hierarchical and guardianship supervision by the central public administration. Nevertheless, these institutions remain subject to general administrative and financial audits of the state. Thanks to their independence and autonomy, they have the authority to enact regulations in certain domains. Their decision-making processes function independently from the daily policies and interest calculations of governments and other political actors. Within the legal framework, they operate solely as independent bodies that establish regulations within their jurisdiction, set rules, and supervise compliance with these rules. These institutions, operating in strategically important areas of public life, demonstrate their societal and state roles while fulfilling regulatory and supervisory duties. Additionally, their actions and decisions are subject to judicial review. They enjoy greater freedom of action in their administrative procedures compared to other institutions, including matters related to the collection and expenditure of revenues.

An important issue discussed in the context of regulatory and supervisory agencies (RSAs) concerns the scope of powers and duties granted to these institutions. In the literature, many scholars argue that these bodies are endowed with strong and extensive powers that challenge the boundaries of traditional administrative organization. Accordingly, the privileged and powerful position of these institutions within the administrative system has been described with metaphors such as “a small state within the state”[15], “juvenile Leviathan”[16], or “islands within the administrative structure”[17]. Criticisms that these institutions not only operate within the executive branch but also sometimes exercise certain powers traditionally associated with the legislative and judicial branches underscore their exceptional status within the state mechanism established on the classical separation of powers principle. It is widely accepted that these agencies, especially those operating in strategic and critical sectors, make highly

[11] Verkuil, Paul R. “Purposes And Limits of Independent Agencies.” Duke Law Journal 2, no. 3 (1988), p.260.
[12] Akıncı, Müslüm. Bağımsız İdari Otoriteler ve Ombudsman. İstanbul: Beta Yayınları, 1999, p.118.
[13] Erkut, Celal. “Bağımsız İdari Makamlar Müessesesi Açısından Sermaye Piyasası Kurulu’nun Kısa Bir Değerlendirmesi.” Bağımsız İdari Otoriteler, Editör: İbrahim Özden Kaboğlu, 35–52. İstanbul, 1998, p.129-130.
[14] Öztekin, Hülya. “Neo-liberal Toplumlarda Düzenleyici Devlet Anlayışı ve Görsel-İşitsel İletişim Alanında Bağımsız Düzenleyici Üst Kurullar: RTÜK Örneği.” Selçuk İletişim 5, no. 1 (2007), p.57.
[15] Ulusoy, Ali. “Bağımsız İdari Kurumlar.” Danıştay Dergisi 29, no. 100 (1999), p.3.
[16] Talat-Arslan, Nagehan. “Yönetimin Yeni Yapı Taşları Bağımsız İdari Otoriteler: ‘Yavru Leviathanlara Doğru’.” Sosyal Siyaset Konferansları Dergisi 2, no. 59 (2010), p.25.
[17] Sobacı, Zahid M. “Türk İdari Teşkilatındaki ‘Adalar’: Bağımsız İdari Otoriteler.” Ankara Üniversitesi Hukuk Fakültesi Dergisi 55, no. 2 (2006), p.158.

effective decisions during their regulatory and supervisory activities[18]. According to Atiyas[19], the functions of these institutions can be grouped under five main categories: regulation, supervision, enforcement, advisory roles, and dispute resolution.

The independence of RSAs refers to their ability to operate free from direct influence by political actors, dominant economic stakeholders in the sector, consumers, or their representative organizations during decision-making processes[20]. In contrast, autonomy, distinct from independence, defines the institutions' capacity to make their own administrative and financial decisions, i.e., their organizational freedom[21]. From another perspective, independence entails legal and status-based protections for individuals in decision-making positions and a safeguard mechanism that prevents units subordinate to the executive branch from intervening in and legally binding the operations of these institutions[22].

In the context of RSAs, independence implies the ability to carry out their duties—including regulation, supervision, opinion formation, advisory services, investigations, and inquiries—without external interference. Accordingly, it is expected that the personnel and decision-making bodies of these institutions remain insulated from political pressure and external guidance[23]. However, this independence is not absolute. Ultimately, the legal regulations defining their jurisdictions and the budgeting authority granted to them are shaped by democratically legitimate bodies such as the Parliament and, to some extent, the executive branch. Therefore, RSAs are expected to operate objectively, impartially, and independently in line with the general policy goals of governments. To prevent arbitrariness within this structure, oversight mechanisms such as accountability and transparency have been developed, ensuring these institutions' responsibility to the public.

The independence of RSAs entails not only autonomy from the executive branch and elected political decision-makers but also independence from economic actors operating in the regulated sectors. When evaluated within a broader framework, these institutions are expected to exercise their independence prioritizing national interests and shaping their implementation outcomes accordingly.

In the related literature, independence is generally discussed under four main headings: institutional independence, personnel independence, financial independence, and functional independence[24]. Functional independence, in particular, is associated with RSAs' capacity and

[18] Sobacı, Zahid M. "Türk İdari Teşkilatındaki 'Adalar': Bağımsız İdari Otoriteler." Ankara Üniversitesi Hukuk Fakültesi Dergisi 55, no. 2 (2006), p.168.
[19] Atiyas, İzak. "Ne İçin ve Nasıl Regülasyon." Devletin Düzenleyici Rolü, Editör: İzak Atiyas, 24–25. İstanbul: TESEV Yayınları, 2000, p.22.
[20] Smith, Warrick. "Utility Regulators – The Independence Debate." Note No. 127. Washington, DC: World Bank, 1997, p.4.
[21] Akıncı, Müslüm. Bağımsız İdari Otoriteler ve Ombudsman. İstanbul: Beta Yayınları, 1999, p.135.
[22] Ulusoy, Ali. "Bağımsız İdari Kurumlar." Danıştay Dergisi 29, no. 100 (1999), p.3.
[23] Sarısu, Ayhan. "Özerk Kurullar, İdarenin Birliği ve 649 Sayılı Kanun Hükmünde Kararname." Yaklaşım Dergisi 19, no. 226 (2011b), p.265.
[24] Groenleer, Martijn. The Autonomy of European Union Agencies: A Comparative Study of Institutional Development. Delft: Eburon Academic Publishers, 2009, p.32.

responsibility to develop and implement their own policy frameworks[25]. Within this framework, policy-making independence refers to the ability of institutions to operate decision-making mechanisms free from political actors' influence and to conduct sectoral regulations in accordance with their own priorities[26].

Although the concept of "independence" is sometimes used interchangeably with "autonomy" in the literature, these two terms carry distinct meanings. Independence represents a more advanced form of autonomy, denoting a stronger institutional condition free from intervention[27].

Thatcher[28] identified five fundamental factors directly affecting the independence status of RSAs. These factors can also be regarded as instruments through which governments influence these institutions[29]. They include: the extent of political considerations in appointing members; premature removal or forced resignation of members; the length of term (e.g., five to seven years) and its positive impact on members' capacity for independent decision-making; whether institutions have their own financial resources and can independently determine personnel policies; and whether institutional decisions are subject to approval by the executive branch or affiliated ministries. Each of these factors plays a crucial role in determining the actual level of independence exercised by RSAs and functions as a governmental tool to increase or limit influence over these bodies.

The independence of RSAs can broadly be categorized into two main types: administrative and financial independence. These forms of independence represent the structural and functional safeguards necessary for these institutions to perform their duties independently from political and administrative authorities.

The concept of independence regarding regulatory and supervisory agencies (RSAs) can be examined under two main headings: administrative independence and financial independence. One of the most distinguishing features of these institutions is their possession of an administratively independent status. This means that political authorities and administrative bodies lack direct supervisory authority over the institutions' organs, functioning, and budgets[30]. In this context, administrative independence can be defined as the inability to issue external orders or instructions to the institutions and the existence of institutional autonomy vis-à-vis the executive branch[31].

[25] Thatcher, Mark. "The Third Force? Independent Regulatory Agencies And Elected Politicians in Europe." Governance 18, no. 3 (2005), p.369.
[26] Groenleer, Martijn. The Autonomy of European Union Agencies: A Comparative Study of Institutional Development. Delft: Eburon Academic Publishers, 2009, p.33.
[27] Sancakdar, Oğuz. "İdare Hukuku Yönüyle Bankacılık Düzenleme ve Denetleme Kurumu'nun Kısa Bir Değerlendirmesi." Amme İdaresi Dergisi 34, no. 4 (2001), p.97.
[28] Thatcher, Mark. "Delegation to İndependent Regulatory Agencies: Pressures, Functions And Contextual Mediation." West European Politics 25, no. 1 (2002a), p.125–147.
[29] Thatcher, Mark. "Regulation After Delegation: İndependent Regulatory Agencies in Europe." Journal of European Public Policy 9, no. 6 (2002b), p.954–972.
[30] Dönmez, Eftal. "Türkiye'de Bağımsız İdari Otoriteler." Ankara Barosu Dergisi 2, no. 3 (2003), p.60.
[31] Sobacı, Zahid M. "Türk İdari Teşkilatındaki 'Adalar': Bağımsız İdari Otoriteler." Ankara Üniversitesi Hukuk Fakültesi Dergisi 55, no. 2 (2006), p.164.

The fact that these institutions operate free from external influence while exercising various functions—such as decision-making, issuing judicial-type rulings, providing consultancy, supplying information, and conducting investigations—reflects their administrative independence[32]. Within this framework, RSAs' positioning outside hierarchical administrative chains and the absence of administrative tutelage over them constitute the institutional guarantees of their independence[33]. To ensure impartial decision-making, decision-making bodies are structured with certain safeguards and are expected to operate free from political influence[34]. Administrative independence has two subtypes: functional (operational) independence and organic independence. Functional (operational) independence means the absence of political interference in the activities of RSAs[35]. Since these institutions are not part of the central administrative hierarchy, they are considered functionally independent. In this respect, they occupy a different status compared to local administrations, which are established on the principle of decentralization. However, this does not undermine the principle of administrative unity in public administration, as the acts and decisions of RSAs are subject to judicial review and fall under legal responsibility[36]. Organic independence refers to the safeguards provided regarding the appointment procedures, terms of office, and conditions for dismissal of members serving on RSAs' decision-making bodies[37]. Having sufficiently long fixed terms, limiting or completely prohibiting reappointments, and imposing strict restrictions on removal before term expiration is critically important for the implementation of the independence principle[38]. In the Turkish context, although members' terms tend to be long, the possibility of reappointment has sometimes cast doubts on the full realization of independence in practice[39].

The second significant aspect of RSAs' independence is financial independence, which relates to their ability to prepare their own budgets and make expenditure decisions free from political intervention. These institutions use the revenues they generate to cover their own expenses and bear any liabilities arising from their actions from their own budgets. According to Law No. 5018 on Public Financial Management and Control, the budgets of these

[32] Azimli-Çilingir, Gülcan. "Türkiye'deki Düzenleyici ve Denetleyici Kuruluşların İdari Yapı İçerisindeki Rolü." Osmaniye Korkut Ata Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi 2, no. 1 (2018), p.4.

[33] Ergün, Çağdaş Evrim. "Türkiye ve Avrupa Birliği'nde Enerji Alanındaki Bağımsız İdari Otoriteler." Türkiye Barolar Birliği Dergisi no. 50 (2004), p.46.

[34] Çırakoğlu, Melikşah. "Düzenleyici ve Denetleyici Kurulların Denetlenme Şekillerinin İdari Vesayet Bakımından Değerlendirilmesi." Yıldırım Beyazıt Hukuk Dergisi no. 2 (2016), p.93-94.

[35] Sarısoy, Sinan. "Düzenleyici Devlet ve Regülasyon Uygulamalarının Etkinliği Üzerine Tartışmalar." Maliye Dergisi 159, no. 2 (2010), p.289.

[36] Akyılmaz, Bahtiyar ve Murat Sezginer ve Cemil Kaya. Türk İdare Hukuku. Ankara: Seçkin Yayıncılık, 2024, p.310.

[37] Örs, Cengiz Ozan. "Bağımsız İdari Otoritelerin Doğuşu, Gelişimi ve Türkiye Örneği." İzmir Barosu Dergisi 80, no. 3 (2015), p.32.

[38] Dönmez, Eftal. "Türkiye'de Bağımsız İdari Otoriteler." Ankara Barosu Dergisi 2, no. 3 (2003), p.60.

[39] Tan, Turgut. "Bağımsız İdari Otoriteler veya Düzenleyici Kurullar." Amme İdaresi Dergisi 35, no. 2 (2002), p.25.

institutions are categorized separately as "regulatory and supervisory agency budgets"[40]. This situation enables the institutions to operate financially independent from the executive branch[41].

The concept of autonomy is primarily used to describe the administrative structuring among institutions and organizations within the executive branch, rather than the relationships between constitutional powers. According to administrative law, autonomy means the authority granted by law to an organization, institution, or agency to self-govern; in other words, granting public institutions the power to perform their duties and make the necessary arrangements required by these duties[42].

The degree of an institution's autonomy largely depends on its internal organizational structure and its capacity to operate free from external intervention in decision-making processes. RSAs, established by law and possessing public legal personality, have their fields of activity explicitly defined by legislation. These institutions are authorized to act within the legal framework with discretion in decision-making, regulation, implementation of regulations, organizational structuring, personnel selection, budget preparation, and resource utilization, free from orders and instructions[43]. In this regard, these institutions possess administrative autonomy.

Although some scholars regard these institutions as a sort of "fourth branch of government" alongside the legislative, executive, and judicial branches, from a constitutional perspective they are essentially administrative structures affiliated with the executive branch[44]. However, it would be inaccurate to describe autonomous institutions as "above politics." While these institutions are expected to work in cooperation and coordination with governments, it is inevitable that they sometimes make decisions and implement practices that do not align with government policies. In such cases, the primary responsibility of RSAs is to fulfill their legally mandated duties fully and impartially within the framework of applicable legislation. In other words, these institutions should not make erroneous decisions to conform to the government but must act in the public interest rather than according to the expectations of the executive. From this perspective, the presence of RSAs is most needed in situations where executive pressure is intense.

[40] Akdeniz, Demet. "Türkiye'de Hukuki ve İdari Açıdan Düzenleyici ve Denetleyici Kurumların Bağımsızlığına İlişkin Değerlendirme." Dumlupınar Üniversitesi Sosyal Bilimler Dergisi no. 57 (2018), p.12.

[41] Ergün, Çağdaş Evrim. "Türkiye ve Avrupa Birliği'nde Enerji Alanındaki Bağımsız İdari Otoriteler." Türkiye Barolar Birliği Dergisi no. 50 (2004), p.51.

[42] Öztürk, Sevim. "Üniversite Özerkliği Göstergeleri Üzerine Bir Değerlendirme." Eğitim Bilim Toplum 4, no. 16 (2006), p.115.

[43] Sayıştay. "Özerk Kurumlar Hakkında Sayıştay Raporu." Sayıştay Dergisi no. 49 (2003), p.147–149.

[44] Karacan, Ali İhsan. Özerk Kurumlar Üzerine Denemeler. İstanbul: Creative Yayıncılık, 2002, p.15.

II. COMPARISON OF THE INDEPENDENCE AND AUTONOMY LEVELS OF REGULATORY AND SUPERVISORY AGENCIES

This study aims to analyze the levels of independence and autonomy of Regulatory and Supervisory Agencies (RSAs) in Türkiye within the framework of their current institutional structures and practices. Accordingly, a content analysis method is employed to examine in detail the structural and functional characteristics of eleven different RSAs. Within the scope of the analysis, administrative features such as the appointment, dismissal, and term of office of the chairpersons and board members; their relationships with legislative and executive bodies; the scope and limits of their regulatory powers; and their degree of financial autonomy are evaluated. The content analysis is conducted based on themes determined under four main categories derived from the legislation governing each institution. These categories are: 1) the independence level of the institution's chairperson, 2) the independence level of the institution's members, 3) the relationship between the institutions and the legislative, executive, and judicial branches, and 4) their financial autonomy. Various sub-themes are identified within each category to facilitate comparative analysis among the institutions. These categories and themes are discussed in detail below under the four main headings and presented in tables.

Through these variables, the de facto and legal independence levels of the institutions are comparatively revealed. Thus, the study assesses the independence and autonomy qualities of RSAs not only within a normative framework but also in terms of their visibility in practice. Institutional comparisons concretely demonstrate the differences in levels of independence and autonomy, leading to inferences regarding the causes and consequences of these disparities. Based on the findings, recommendations are developed concerning the necessary legal and institutional regulations to enhance the independence and/or autonomy levels of the relevant institutions, should such an improvement be desired.

A. Evaluation Regarding the Chairpersons of the Institutions

In determining the independence and autonomy levels of RSAs, the conditions for the appointment and retention of the chairpersons are among the critical factors. In this regard, the appointing authority of the chairpersons is not only a formal element but also a crucial variable affecting the de facto level of institutional autonomy. Although there is no formal (de jure) dependency on the appointing authority, the appointment process may lead to indirect dependency or orientation in the chairpersons' relationships with political powers. Therefore, identifying the appointing authorities of the chairpersons is an important indicator for understanding the institution's positioning vis-à-vis the executive and legislative branches and whether it can truly act independently.

Examining the current situation in Türkiye, the chairpersons of the Radio and Television Supreme Council (RTÜK) and the Personal Data Protection Authority (KVKK) are elected from among the institution members. In contrast, the chairpersons of the other nine RSAs are appointed directly by the President. This difference reflects a significant variation in institutional independence vis-à-vis the executive. In particular, following the change in the governmental system, the possibility that new institutions may be established by Presidential

Decrees (PDs) and that existing ones[45] may likewise be abolished through such decrees increases structural and administrative fragility and undermines the principle of institutional continuity[46].

The dismissal procedures of chairpersons are another important element to consider in measuring independence. Among the eleven institutions examined, the legislations of the Insurance and Private Pension Regulation and Supervision Authority (SEDDK)[47] and the Nuclear Regulatory Authority (NDK)[48] do not contain explicit and restrictive provisions regarding the conditions for dismissing chairpersons. In the other nine institutions, the legislation guarantees that chairpersons and members cannot be dismissed before the end of their term. Such guarantees increase the capacity of administrators to make decisions based on objective criteria, free from political pressure, thus contributing to institutional autonomy. Conversely, in institutions lacking job security provisions, there is a risk that chairpersons may become vulnerable to external interventions, undermining their ability to make independent decisions[49].

Another dimension related to institutional independence concerns the term lengths of chairpersons. Except for RTÜK, the terms of office for RSA chairpersons are generally set at four years[50]. The term of the RTÜK chairperson is two years, regulated under Article 35 of Law No. 6112[51]. A shorter term may make it difficult for the chairperson to act independently of political influences in long-term policy and regulatory decisions. In this context, having terms of office for chairpersons that are longer than or independent of the terms of political decision-makers may ensure that institutional decision-making processes focus on the public interest. Notably, under the provisions of Schedule III of Presidential Decree No. 3, the terms of the chairpersons are not directly linked to the term of the President. This can be interpreted as a positive sign of the institutional structure's separation from political power in a corporate sense.

Another aspect related to institutional independence is whether chairpersons are allowed to hold other public positions concurrently. Serving simultaneously in executive or legislative branches may turn chairpersons into direct political actors, threatening institutional

[45] Regulatory and supervisory institutions established by law constitute an exception to this rule. Institutions established by law may also be abolished only by law.

[46] Yasin, Melikşah. "Cumhurbaşkanlığı Kararnamelerinin Türk İdari Teşkilat Hukukuna Etkileri." Anayasa Yargısı 36, no. 1 (2019), p.316.

[47] Presidential Decree No 47. "Sigortacılık ve Özel Emeklilik Düzenleme ve Denetleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi." Accessed April 6, 2025. https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=47&MevzuatTur=19&MevzuatTertip=5

[48] Presidential Decree No 95. "Nükleer Düzenleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi." Accessed January 5, 2025. https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=95&MevzuatTur=19&MevzuatTertip=5.

[49] Akdeniz, Demet. "Türkiye'de Hukuki ve İdari Açıdan Düzenleyici ve Denetleyici Kurumların Bağımsızlığına İlişkin Değerlendirme." Dumlupınar Üniversitesi Sosyal Bilimler Dergisi no. 57 (2018)p, p.13.

[50] Presidential Decree No 3. "Üst Kademe Kamu Yöneticileri ile Kamu Kurum ve Kuruluşlarında Atama Usullerine Dair Cumhurbaşkanlığı Kararnamesi." Accessed January 12, 2025. https://www.mevzuat.gov.tr/MevzuatMetin/19.5.3.pdf.

[51] Law No 6112. "Radyo ve Televizyonların Kuruluş ve Yayın Hizmetleri Hakkında Kanun." Accessed January 10, 2025. https://www.mevzuat.gov.tr/mevzuatmetin/1.5.6112.pdf.

impartiality[52][53]. However, the legal review shows that all institutions include explicit provisions prohibiting chairpersons from holding other public offices. This restriction reinforces the principle of independence at the institutional level by enabling chairpersons to focus exclusively on their institution's mandate.

Table 1. Indicators of Independence for RSA Chairpersons

RSAs	Appointment Authority	Job Security (Protection from Dismissal)	Term Length	Reappointment Possibility	Prohibition of Other Public Duties
RTÜK	Elected by the board from among members chosen by the Parliament (TBMM)	Yes	2 years	Yes	Yes
KVKK	Elected by the board from among members	Yes	4 years	Yes	Yes
BDDK	President	Yes	4 years	Yes	Yes
SPK	President	Yes	4 years	Yes	Yes
EPDK	President	Yes	4 years	Yes	Yes
RK	President	Yes	4 years	Yes	Yes
BTK	President	Yes	4 years	Yes	Yes
KİK	President	Yes	4 years	Yes	Yes
KGK	President	Yes	4 years	Yes	Yes
NDK	President	No	4 years	Yes	Yes
SEDDK	President	No	4 years	Yes	Yes

Finally, the possibility of reappointment or reelection of chairpersons must also be evaluated. In all the institutions examined, chairpersons may be reappointed or reelected at the end of their terms. This situation carries the risk that chairpersons, approaching the end of their terms, may shape their decisions in a manner inconsistent with the independence principle due to expectations of reappointment. The desire for reappointment is considered a factor that may weaken chairpersons' independent stance toward the appointing or electing authorities[54][55]. Based on the evaluations concerning chairpersons, a comparison regarding appointment authority, job security, term length, reappointment possibilities, and other position prohibitions can be summarized as shown in Table 1.

B. Evaluation Concerning Agencies Members

In determining the level of institutional independence of regulatory and supervisory agencies (RSAs), not only the appointment procedures of the chairpersons but also the structural features of the board members—such as their appointment procedures, job security, and term lengths—are of significant importance. This is because board members play influential roles in the decision-making processes of these institutions alongside their chairpersons; hence,

[52] Sarı, Ömür Kadri. "Türk Hukukunda Düzenleyici ve Denetleyici Kurumların Temel İlkeleri." Danıştay Dergisi no. 152 (2020), p.277–298.

[53] Yaşar, Hasan Nuri ve S. Sena Cabıoğlu-Güler. "Düzenleyici ve Denetleyici Kurumların Yetkileri Kapsamında Kamu Gücü İlişkisi." Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi 20, no. 4 (2016), p.63–80.

[54] Akdeniz, Demet. "Türkiye'de Hukuki ve İdari Açıdan Düzenleyici ve Denetleyici Kurumların Bağımsızlığına İlişkin Değerlendirme." Dumlupınar Üniversitesi Sosyal Bilimler Dergisi no. 57 (2018), p.1–19.

[55] Korkmaz, Mehmet Fürkan. "Türkiye'de Düzenleyici ve Denetleyici Kurumların Formel Bağımsızlıkları." International Journal of Social Inquiry 16, no. 1 (2023), p.131–153.

the degree of autonomy enjoyed by the members directly affects institutional impartiality and independence. In this context, a systematic evaluation must be conducted based on the procedures for appointment and dismissal, term durations, possibilities of reappointment, and the potential for holding other positions concurrently.

Firstly, regarding the appointing authorities of board members, with the exceptions of RTÜK and KVKK, all examined institutions have their members appointed by the President. This indicates that these institutions are shaped under the direct influence of the executive branch and that members may develop a de facto loyalty to the appointing authority. While the members of RTÜK are entirely elected by the TBMM[56], five of the KVKK members are appointed by the TBMM and four by the President[57]. This appointment structure reveals that RTÜK and KVKK hold relatively more balanced and autonomous positions compared to the other institutions. Particularly, the fact that KVKK members are appointed jointly by both the legislative and executive branches suggests that the institution may assume a more neutral and balancing role in its decision-making processes.

Secondly, in terms of dismissal safeguards, the same findings applicable to chairpersons also apply here. It is observed that in all institutions—except for SEDDK and NDK—there are legal guarantees protecting board members from dismissal before the end of their term. Members of SEDDK and NDK, who do not enjoy this safeguard, face a risk of premature dismissal, thereby weakening their capacity to make independent decisions under indirect pressure from the executive.

Thirdly, when examining the term lengths of board members, it is seen that members serve four-year terms in all institutions except RTÜK, where members are appointed for six years[58]. This longer term enables RTÜK members to take a more long-term perspective in their decision-making and suggests that the institution is less susceptible to political cycles. A six-year term may also reduce concerns over reappointment, thereby contributing to more impartial conduct.

Fourthly, all institutions allow for the reappointment or re-election of members after the completion of their terms. However, this provision also carries the risk that members might develop loyalty toward the appointing authority during their term in hopes of being reappointed. Such tendencies may undermine the balance between personal interests and institutional autonomy, thus casting doubt on the independence of the institution.

Lastly, the question of whether board members may hold positions in other public or private institutions during their term is addressed. In all the institutions' legal frameworks, it is stipulated that members may only hold such additional positions if expressly permitted by law. This restriction ensures that members focus exclusively on their institutional duties and are insulated from external influences during the decision-making process. In this regard, the prohibition serves as an important legal safeguard that reinforces institutional autonomy.

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[56] Law No 6112. "Radyo ve Televizyonların Kuruluş ve Yayın Hizmetleri Hakkında Kanun.", Art.35.
[57] Law No 6698. "Kişisel Verilerin Korunması Kanunu.", Art.21.
[58] Law No 6112. "Radyo ve Televizyonların Kuruluş ve Yayın Hizmetleri Hakkında Kanun.", Art.35.

These evaluations reveal that the structural and functional characteristics of RSA board members have a determining influence on institutional independence and autonomy. Particularly, the procedures for appointment and safeguards against dismissal directly shape how freely members can act in their decision-making roles. If the aim is to enhance the structural independence of institutions, various legal and institutional reforms are necessary—most notably, diversifying appointment processes and strengthening job security provisions. The indicators reflecting these evaluations are presented comparatively in Table 2.

Table 2. Indicators of Independence for RSA Members

RSAs	Appointing Authority	Job Security (Protection from Dismissal)	Term Length	Reappointment Possible	Prohibition of Other Public Duties
RTÜK	TBMM	Yes	6 years	Yes	Yes
KVKK	5 TBMM, 4 President	Yes	4 years	Yes	Yes
BDDK	President	Yes	4 years	Yes	Yes
SPK	President	Yes	4 years	Yes	Yes
EPDK	President	Yes	4 years	Yes	Yes
RK	President	Yes	4 years	Yes	Yes
BTK	President	Yes	4 years	Yes	Yes
KİK	President	Yes	4 years	Yes	Yes
KGK	President	Yes	4 years	Yes	Yes
NDK	President	No	4 years	Yes	Yes
SEDDK	President	No	4 years	Yes	Yes

C. The Position of Institutions vis-à-vis the Legislative, Executive, and Judicial Branches

The position of regulatory and supervisory agencies (RSAs) vis-à-vis the legislative, executive, and judicial branches is a key determinant in analyzing their levels of independence and autonomy. The characterization of an institution as "independent" does not merely rely on the presence of this term in legal texts, but is directly associated with its functional and institutional stance in relation to the three branches of government. Similarly, the concept of autonomy is closely linked to the obligations of institutions toward these branches and their levels of accountability.

Within this framework, the first issue examined is whether the notion of independence is explicitly defined in the legal statutes of the relevant institutions. The analysis reveals that all RSAs emphasize independence in their founding laws or presidential decrees. For example, the RTÜK legislation states: "The Supreme Board shall carry out and exercise its duties and authorities granted by this Law and related regulations independently and under its own responsibility"[59]. Similarly, the NDK's legislation reads: "The Authority shall carry out and exercise the duties and powers assigned to it independently"[60]. The same wording is found in the

[59] Law No 6112. "Radyo ve Televizyonların Kuruluş ve Yayın Hizmetleri Hakkında Kanun.", Art.34.
[60] Presidential Decree No 95. "Nükleer Düzenleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi.", Art.3.

Presidential Decree establishing SEDDK[61]. These provisions allow institutions to operate within a framework of functional independence and imply resistance to external interference in their decision-making processes. However, such independence is often limited to the functional level and lacks robust foundations in terms of structural or budgetary autonomy.

Secondly, the obligations of these institutions toward the legislative body, namely the TBMM, are considered. The requirement to report to the legislature is seen as an important indicator of both accountability and the extent to which institutions can act independently. According to the legislative framework, RTÜK, BTK, EPDK, KİK, RK, and NDK are not subject to any direct reporting obligations to the TBMM. In contrast, KVKK, BDDK, SPK, SEDDK, and KGK are required to submit annual activity reports to Parliament. For instance, KVKK submits its report to the Parliamentary Human Rights Inquiry Committee[62], while BDDK[63], SEDDK[64], and SPK[65] report to the Parliamentary Planning and Budget Committee. Although the KGK law does not specify a particular parliamentary committee, it mandates submission of reports to the TBMM[66]. These differences indicate a variation in the transparency and accountability levels of the institutions toward the legislature.

Thirdly, the obligations of these institutions toward the executive branch are assessed. In this context, institutions can be grouped into three categories. RTÜK, BTK, RK, KGK, and NDK do not have direct reporting or information-sharing obligations with the executive. Conversely, SPK, BDDK, EPDK, KVKK, and SEDDK are required to submit their annual reports to the executive branch. For example, SPK provides information to the President upon request by the Ministry of Treasury and Finance[67]. BDDK reports semiannually to the Presidency on the implementation of strategic documents[68]. KVKK[69] and SEDDK[70] submit their activity reports to both the TBMM and the President. EPDK sends its report, including detailed financial statements, to the Ministry of Energy and Natural Resources[71]. On the other hand, the independence of KİK appears more limited, as its financial reports and final accounts are subject to discharge by presidential decision[72], highlighting a budgetary dependency on the executive.

[61] Presidential Decree No 47. "Sigortacılık ve Özel Emeklilik Düzenleme ve Denetleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi.", Art.3.
[62] Law No 6698. "Kişisel Verilerin Korunması Kanunu.", Art.20.
[63] Law No 5411. "Bankacılık Kanunu.", Art.97.
[64] Presidential Decree No 47. "Sigortacılık ve Özel Emeklilik Düzenleme ve Denetleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi.", Art.17.
[65] Law No 6362. "Sermaye Piyasası Kanunu.", Art.129.
[66] Decree Law No 660. "Kamu Gözetimi, Muhasebe ve Denetim Standartları Kurumunun Teşkilat ve Görevleri Hakkında Kanun Hükmünde Kararname.", Art.20.
[67] Law No 6362. "Sermaye Piyasası Kanunu.", Art.129.
[68] Law No 5411. "Bankacılık Kanunu.", Art.97.
[69] Law No 6698. "Kişisel Verilerin Korunması Kanunu.", Art.20.
[70] Presidential Decree No 47. "Sigortacılık ve Özel Emeklilik Düzenleme ve Denetleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi.", Art.17.
[71] Law No 4628. "Enerji Piyasası Düzenleme Kurumunun Teşkilat ve Görevleri Hakkında Kanun.", Art.8.
[72] Law No 4734. "Kamu İhale Kanunu.", Art.53.

Finally, whether decisions made by these institutions can be overturned by any authority other than the judiciary is evaluated. According to Article 125 of the Turkish Constitution, recourse to judicial review shall be available against all actions and acts of administration[73]. Beyond this, an analysis of relevant legislation indicates that no higher administrative or political authority has the power to annul the decisions of these institutions. This suggests that, in terms of regulatory acts, the institutions are relatively protected from extrajudicial interventions. A comparative overview of the relationships between these institutions and the legislative, executive, and judicial branches is provided in Table 3.

Table 3. Indicators of the Relationship Between RSAs and the Legislative, Executive, and Judicial Branches

RSAa	Independence Statement (in Legislation)	Reporting to Parliament	Reporting/Information to the Executive	Can Decisions Be Overturned by a Non-Judicial Authority?
RTÜK	Yes (Law No. 6112, 2011, Art. 34)	No	No	No
KVKK	Yes (Law No. 6698, 2016, Art. 21)	Yes (Human Rights Committee)	Yes (President)	No
BDDK	Yes (Law No. 5411, 2005, Art. 82)	Yes (Planning and Budget Committee)	Yes (President)	No
SPK	Yes (Law No. 6362, 2012, Art. 117)	Yes (Planning and Budget Committee)	Yes (President)	No
EPDK	Yes (Law No. 4628, 2001, Art. 4)	No	Yes (Ministry of Energy and Natural Resources)	No
RK	Yes (Law No. 4054, 1994, Art. 20)	No	No	No
BTK	Yes (Law No. 2813, 1983, Art. 5)	No	No	No
KİK	Yes (Law No. 4734, 2002, Art. 53)	No	Budget discharged by Presidential Decision	No
KGK	Yes (Decree Law No. 660, 2011, Art. 8)	Yes (TBMM; Committee not specified)	No	No
NDK	Present (Pres. Decree No. 95, 2022, Art. 3)	No	No	No
SEDDK	Present (Pres. Decree No. 47, 2019, Art. 3)	Yes (Planning and Budget Committee)	Yes (President)	No

D. An Assessment of RSAs Financial Autonomy

One of the most critical indicators in determining the level of autonomy of regulatory and supervisory agencies (RSAs) is financial autonomy. Financial autonomy is analyzed based on the source of the institution's budget and the mechanisms through which it is controlled. If an institution is financially dependent on another authority in conducting its activities, its

[73] Constitution of the Republic of Türkiye. "Türkiye Cumhuriyeti Anayasası.", Art.125.

institutional independence or autonomy becomes significantly questionable. In this context, institutions that derive their budgets from the central government—namely, the Treasury—possess a more limited degree of financial autonomy compared to those funded by the sectors in which they operate.

Firstly, regarding the source of RSAs' budgets, it is found that the Banking Regulation and Supervision Agency (BDDK) generates its entire budget from revenues obtained from the sector in which it operates. The BDDK's budget is composed of contributions, fees, and other legal revenues collected from banks and financial institutions[74]. No support or financial assistance from the central government budget is foreseen for the agency. In this regard, the BDDK may be considered one of the most financially autonomous institutions. Conversely, the Personal Data Protection Authority (KVKK) and the Insurance and Private Pension Regulation and Supervision Agency (SEDDK) do not generate direct revenue from their respective sectors; instead, their budgets explicitly include Treasury funding. The budgets of the KVKK[75] and SEDDK[76] are supported by resources provided by the Treasury. This situation limits their financial autonomy and potentially creates a dependency relationship vis-à-vis other branches of government.

Other RSAs such as the Radio and Television Supreme Council (RTÜK), the Information and Communication Technologies Authority (BTK), the Energy Market Regulatory Authority (EPDK), the Public Procurement Authority (KİK), the Competition Authority (RK), the Public Oversight, Accounting and Auditing Standards Authority (KGK), and the Nuclear Regulatory Authority (NDK), generally operate with hybrid budgetary structures. Their budgets consist of revenues from sector-based fees, contributions, or fines, in addition to resources allocated from the central government budget. While this hybrid structure provides a certain degree of financial flexibility for some institutions, partial dependence on the central budget still limits their overall level of autonomy.

Secondly, the extent to which these institutions' budgets are subject to audit mechanisms has been examined. In Türkiye, the authority to audit the use of public resources is constitutionally vested in the Court of Accounts. Within the framework of the Public Financial Management and Control Law No. 5018, all RSAs are subject to audit by the Court of Accounts. This indicates that the financial transactions of these institutions are regularly audited in terms of legality and the efficient use of public resources. It is important to note, however, that such audits do not directly infringe upon institutional autonomy; rather, they provide a positive mechanism for institutionalizing accountability.

In conclusion, the level of financial autonomy of RSAs is closely related to the nature of their funding sources and the manner in which the use of these resources is monitored. Institutions that finance their budgets entirely through sectoral revenues exhibit stronger financial independence, whereas those dependent on the central government budget demonstrate

[74] Law No 5411. "Bankacılık Kanunu.", Art.101.
[75] Law No 6698. "Kişisel Verilerin Korunması Kanunu.", Art.29.
[76] Presidential Decree No 47. "Sigortacılık ve Özel Emeklilik Düzenleme ve Denetleme Kurumunun Teşkilat ve Görevleri Hakkında Cumhurbaşkanlığı Kararnamesi.", Art.16.

relatively lower levels of financial autonomy due to the unidirectional nature of their funding streams. This aspect adds a significant dimension to broader debates on institutional independence. Based on the assessments provided in this section, the indicators that may be used to compare the financial autonomy of these institutions are presented in Table 4.

Table 4. Financial Autonomy Indicators of RSAs

RSAs	Source of Budget	Treasury Support	Revenue from Sector	Court of Accounts Audit
RTÜK	Hybrid	Yes	Yes	Yes
KVKK	Central Government	Yes	No	Yes
BDDK	Sectoral Revenues	No	Yes	Yes
SPK	Hybrid	Yes	Yes	Yes
EPDK	Hybrid	Yes	Yes	Yes
RK	Hybrid	Yes	Yes	Yes
BTK	Hybrid	Yes	Yes	Yes
KİK	Hybrid	Yes	Yes	Yes
KGK	Hybrid	Yes	Yes	Yes
NDK	Hybrid	Yes	Yes	Yes
SEDDK	Central Government	Yes	No	Yes

III. THE IMPACT OF THE PRESIDENTIAL GOVERNMENT SYSTEM ON REGULATORY AND SUPERVISORY AGENCIES

The transition to the Presidential Government System has ushered in extensive structural and functional transformations within Turkish public administration. These changes have profoundly influenced the organizational configurations, financial structures, and oversight mechanisms of Regulatory and Supervisory Agencies (RSAs). In this new governance framework, the institutional position of RSAs within the broader public bureaucracy has been redefined, resulting in notable shifts in their hierarchical and administrative relationships.

One of the most salient outcomes of this transformation concerns the evolving nature of independence, autonomy, and accountability within these institutions. Traditionally, RSAs were designed to operate at an arm's length from political authority, serving as specialized entities responsible for ensuring regulatory balance, transparency, and compliance across key economic and social sectors. Their semi-autonomous status was intended to safeguard policy continuity and credibility against short-term political pressures.

However, the reconfiguration of executive power under the Presidential System has, in practice, led to a centralization of authority that has diluted these agencies' functional autonomy. The enhanced control of the executive over appointment processes, budgetary allocations, and administrative oversight has gradually weakened the RSAs' capacity to perform their balancing and supervisory roles effectively. Consequently, their institutional independence—once a cornerstone of modern regulatory governance—has become increasingly constrained, raising critical questions regarding the sustainability of impartial regulation and the preservation of technocratic decision-making within the current administrative model.

A. Erosion of Institutional Independence and Autonomy

The adoption of the Presidential Government System has culminated in a marked centralization of executive authority within the Turkish administrative structure. Although the de jure independence of Regulatory and Supervisory Agencies (RSAs) remains formally acknowledged in the legal framework, and their institutional affiliations with the relevant ministries are preserved, in de facto terms many of these bodies have been rendered subordinate to either the Presidency or specific ministries. This subordination has redefined their operational status, effectively situating them within the executive hierarchy rather than as autonomous regulatory actors.

Under the new system, the appointment and dismissal of board members and senior executives are now predominantly governed by Presidential Decrees—replacing the former practice whereby such powers were exercised by the Council of Ministers[77]. This institutional change has substantially expanded the supervisory reach of the executive branch over the internal structures of RSAs, producing an administrative configuration that weakens the principle of independence, which constitutes a core element of modern regulatory governance. The lack of transparent and objective criteria for dismissals further amplifies the risk of political or personal interference, thereby eroding the technical and functional autonomy that RSAs require to maintain impartiality and credibility in their regulatory roles[78].

Conversely, it can be argued that the consolidation of appointment authority under the executive has contributed to a more coherent integration of RSAs into the broader administrative system. From a coordination perspective, this alignment enables greater policy coherence, facilitates inter-institutional communication, and may enhance the synchronization of sectoral regulatory objectives with national development strategies. Nonetheless, the resulting tension between administrative coordination and institutional independence continues to pose a significant challenge to the balance between effective governance and autonomous regulation in the post-2018 administrative framework.

B. Limitations on Financial Autonomy

Financial autonomy constitutes a fundamental prerequisite for Regulatory and Supervisory Authorities (RSAs) to effectively perform their oversight and enforcement responsibilities within their respective sectors. Nevertheless, the transition to the Presidential Government System has considerably intensified executive influence over the allocation, approval, and utilization of agency budgets. As a result, the budgetary expenditures of many autonomous bodies have become subject to prior authorization by the relevant ministries, thereby constraining institutional discretion and diminishing administrative independence[79].

[77] Decree Law No 703. "Anayasada Yapılan Değişikliklere Uyum Sağlanması Amacıyla Bazı Kanun ve Kanun Hükmünde Kararnamelerde Değişiklik Yapılması Hakkında Kanun Hükmünde Kararname."

[78] Presidential Decree No 3. "Üst Kademe Kamu Yöneticileri ile Kamu Kurum ve Kuruluşlarında Atama Usullerine Dair Cumhurbaşkanlığı Kararnamesi.", Art.4.

[79] Akbey, Ferhat. "Cumhurbaşkanlığı Hükümet Sisteminde Bütçe Hakkı ve Kanunu." International Journal of Public Finance 5, no. 1 (2020), p.1–26.

In this context, financial autonomy should be conceptualized not merely as the capacity to generate independent revenue streams but also as encompassing the authority to determine and execute expenditure decisions without external interference. Agencies that remain dependent on Treasury transfers or require central government approval for their spending can therefore be regarded as only nominally autonomous. This structural dependency undermines the very notion of regulatory independence, which, according to public administration theory, is indispensable for ensuring impartiality, credibility, and policy consistency[80].

However, it may also be argued that centralized fiscal oversight serves a complementary purpose in promoting accountability and safeguarding the efficient management of public funds. From a governance perspective, such control mechanisms aim to prevent the misuse of financial resources and to maintain coherence in national fiscal policy. Conversely, in cases where agencies are financed directly through levies, fees, or contributions collected from the industries they regulate, a comparatively higher degree of financial autonomy—and by extension, operational independence—tends to be observed.

C. Transformation of Oversight Mechanisms

Under the Presidential Government System, the functional oversight of Regulatory and Supervisory Agencies (RSAs) has become increasingly subject to the control and supervision of the relevant ministries. Traditionally, RSAs were designed to operate outside the conventional administrative hierarchy, being accountable primarily through judicial review rather than executive oversight. This institutional design was intended to preserve their impartiality and safeguard regulatory decision-making from political influence. However, the growing involvement of ministries in the monitoring and coordination of RSAs has weakened this principle, effectively reasserting the doctrine of administrative tutelage (idari vesayet) within the regulatory domain[81]. Such a shift undermines the agencies' capacity for independent decision-making and risks transforming them into semi-executive extensions of ministerial authority rather than autonomous regulatory entities.

Moreover, accountability practices across several RSAs remain limited in scope and depth. In many cases, institutional accountability is confined to the submission of annual reports—an arrangement that falls short of ensuring comprehensive democratic oversight. The insufficiency of participatory and parliamentary control mechanisms raises concerns about transparency and responsiveness, both of which are fundamental to modern governance standards. Nevertheless, the Court of Accounts (Sayıştay) continues to play a vital role in promoting financial transparency and accountability through its audit functions. Its evaluations provide an essential, albeit limited, safeguard against fiscal mismanagement and contribute to maintaining a degree of public trust in the regulatory system.

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[80] van Houten, Pieter. Fiscal Autonomy and Party Politics in Catalonia. Leicester: University of Leicester, 2003.
[81] Tan, Turgut. "Bağımsızlıklarını Yitiren Düzenleyici Kurulların İşlevsellikleri de Sorgulanıyor." İdare Hukuku ve İlimleri Dergisi no. 23 (2024), p.6.

D. Issues of Reappointment and Term Length

Under the Presidential Government System, the tenure and reappointment conditions of agency heads and senior executives are now determined through administrative regulations enacted by the executive authority[82]. The discretionary power vested in the Presidency over the duration and renewal of these appointments has direct implications for the autonomy and integrity of decision-making processes within Regulatory and Supervisory Agencies (RSAs)[83]. The dependence of reappointment on political approval creates a structural vulnerability, potentially fostering a relationship of dependency between agency members and the executive. Such dependency risks compromising the impartiality and objectivity of regulatory decisions, as the anticipation of reappointment may encourage conformity to political preferences rather than adherence to institutional mandates or public interest considerations[84]. From a broader administrative perspective, this dynamic signifies a gradual erosion of bureaucratic neutrality and a shift toward the politicization of senior regulatory positions. The prioritization of political loyalty over institutional rationality undermines the technocratic ethos upon which the legitimacy of independent regulatory governance is traditionally founded. Nevertheless, it may also be contended that these appointment procedures aim to promote continuity, coherence, and administrative stability within the restructured governance framework. By ensuring leadership alignment with national policy objectives, the system ostensibly seeks to enhance coordination and the efficient implementation of public services. However, this balance between political responsiveness and institutional autonomy remains delicate, and its mismanagement may weaken both regulatory credibility and long-term policy effectiveness.

E. Institutional Reflection of Centralization

The Presidential Government System has institutionalized a more hierarchical and centralized administrative structure within the executive branch. Consistent with the principle of executive efficiency—one of the defining rationales of the new system—the relationship between Regulatory and Supervisory Agencies (RSAs) and the central government has become more formalized and integrated. This restructuring has established clearer lines of authority and coordination between RSAs and the executive, thereby enhancing vertical control and administrative coherence across policy domains.

However, this consolidation also carries significant implications for institutional diversity and specialized regulation. By embedding RSAs more deeply within the centralized administrative framework, the system risks constraining the principles of differentiation, flexibility, and decentralization that are fundamental to effective regulatory governance. Excessive centralization may diminish the capacity of agencies to respond to sector-specific needs, innovate in policy design, and maintain their technocratic character. Conversely, from a

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[82] Presidential Decree No 3. "Üst Kademe Kamu Yöneticileri ile Kamu Kurum ve Kuruluşlarında Atama Usullerine Dair Cumhurbaşkanlığı Kararnamesi."

[83] Çırakoğlu, Melikşah. "Düzenleyici ve Denetleyici Kurulların Denetlenme Şekillerinin İdari Vesayet Bakımından Değerlendirilmesi." Yıldırım Beyazıt Hukuk Dergisi no. 2 (2016), p.105.

[84] Özel, Işık. "The Politics of De-Delegation: Regulatory (İn)Dependence in Turkey." Regulation and Governance 6 (2012), p.125.

functionalist perspective, the incorporation of RSAs into a unified policy structure enables greater alignment with overarching public policy objectives and contributes to the acceleration of decision-making and implementation processes. Ultimately, this dual dynamic reflects a trade-off between administrative coherence and institutional autonomy—an enduring tension in the design of modern governance systems.

F. Legal Legitimacy and Presidential Decrees

A substantial portion of the legal framework governing the establishment, organization, and functioning of Regulatory and Supervisory Agencies (RSAs) is now determined through Presidential Decrees. This transformation signifies a major shift in the source of regulatory authority, diminishing the legislative branch's influence over the institutional design and operational parameters of these agencies. By transferring regulatory competence from the legislature to the executive, the new arrangement raises critical concerns regarding democratic oversight, legitimacy, and the balance of powers within the administrative system. In particular, the reduced involvement of parliament in the formation of regulatory structures may weaken the mechanisms of democratic accountability that traditionally underpin the legitimacy of public institutions[85].

Nonetheless, this development can also be viewed as a natural corollary of the administrative logic embedded in the Presidential Government System. Within this framework, Presidential Decrees function as flexible governance instruments that enable the executive to act swiftly and coherently in aligning institutional arrangements with overarching policy objectives. From an administrative efficiency perspective, such decree-based regulation contributes to policy consistency and adaptability, facilitating a more unified and responsive executive apparatus. Yet, the broader constitutional implication of this shift lies in the delicate balance between administrative efficiency and democratic legitimacy—a tension that continues to define the evolving character of governance under the Presidential System.

G. Differentiation in Accountability and Transparency

Under the Presidential Government System, notable variations exist in the levels of transparency and accountability among RSAs. These differences stem from the scope of each agency's responsibilities, operational intensity, and legal frameworks. While some agencies share comprehensive reports with the public, others adopt more technical and internally focused oversight approaches. This reflects institutional diversity. For instance, agencies like RTÜK tend to disclose more data to the public, whereas institutions like the Nuclear Regulatory Authority (NDK) exhibit highly limited accountability mechanisms. Such disparities create inequalities in public oversight and pose challenges in terms of institutional fairness and credibility.

The structural changes introduced by the Presidential Government System have reshaped the organizational design, financial operations, and administrative relations of RSAs.

[85] Yasin, Melikşah. "Cumhurbaşkanlığı Kararnamelerinin Türk İdari Teşkilat Hukukuna Etkileri." Anayasa Yargısı 36, no. 1 (2019), p.316.

Institutional independence and financial autonomy have been weakened, and the nature of their engagement with the executive has compromised their neutrality and technical competence. Additionally, the shift of oversight authority to the executive has led to weakened accountability mechanisms. These developments highlight the need to recalibrate Türkiye's administrative system and require the restructuring of RSAs in accordance with the principles of a democratic state governed by the rule of law. On the other hand, the process has also led to a more coordinated public administration system, enhanced resource efficiency, and strengthened control mechanisms. The roles of these agencies within public administration are being redefined in line with systemic needs, contributing to the more integrated and effective delivery of public services.

GENERAL EVALUATION AND CONCLUSION

This study has comprehensively examined the changes in the independence and autonomy levels of Regulatory and Supervisory Agencies (RSAs) following Türkiye's transition to the Presidential Government System. It has revealed the inconsistencies between normative regulations and practical applications, as well as the institutional vulnerabilities of these agencies. The findings indicate that the centralization of executive power has had significant effects on the institutional integrity, administrative independence, and financial autonomy of RSAs.

The concentration of executive authority under the Presidential Government System and the expansion of regulatory capacity through Presidential Decrees have created a divergence between the legal status and the de facto positions of RSAs. Although independence and autonomy principles appear to be preserved at the legislative level, the centralized management of appointment, dismissal, and reappointment processes has increased political influence within their decision-making mechanisms. This situation strengthens the paradigm of "legally independent but practically dependent" institutions; particularly, the political engagement risk posed by the reappointment possibility of chairpersons and members undermines the principle of impartiality.

Another significant finding is the considerable variation in independence and autonomy among different agencies. Some institutions, such as RTÜK and KVKK, enjoy a relatively balanced administrative structure due to the role of the TBMM in their appointment processes. In contrast, agencies established by the Presidency and directly affiliated with the executive exhibit more fragile decision-making frameworks. This differentiation opens the door to institutional inequalities and administrative injustices, complicating the coherent and predictable functioning of RSAs within the administrative system.

Evaluations concerning financial autonomy reveal that agencies dependent on the central budget possess a more limited institutional freedom. Agencies financed through sectoral revenues maintain a comparatively more independent financial structure; however, when expenditures require executive approval, this autonomy becomes largely symbolic. In this regard, the impact of financial resource management authority on institutional independence should not be overlooked alongside the source of funds.

Regarding their position vis-à-vis the legislative and judicial branches, RSAs also differ in terms of accountability and oversight mechanisms. The absence of reporting obligations to the TBMM for some agencies weakens democratic oversight capacity and hinders the coordinated execution of the balance and control function among institutions. This differentiation generates institutional imbalances concerning transparency and accountability principles, compelling some agencies to operate with greater openness towards the public and political authorities, while others remain relatively opaque.

In conclusion, this study demonstrates that the independence and autonomy levels of RSAs in Türkiye have weakened under the Presidential Government System, particularly as their position vis-à-vis the executive has evolved into one that threatens institutional impartiality. For the independence enshrined in the legal framework to become operational in practice, a substantial restructuring of institutional design, appointment procedures, financial resource management, and oversight mechanisms is necessary.

Accordingly, the following recommendations can be highlighted:

• Enhancing the role of the TBMM in appointing agency chairpersons and members is essential for strengthening the balance and control mechanism.

• Supporting agency budgets with sectoral revenues and structuring expenditure authority within the agencies represent a reform area to bolster financial independence.

• Limiting or exceptionally regulating the practice of reappointment at the end of terms is valuable for preserving institutional impartiality.

• Structuring the mandatory annual reporting of agencies more transparently towards both the legislature and the public will strengthen public oversight and democratic legitimacy.

Ultimately, the independence and autonomy of RSAs are critical not only for institutional effectiveness but also for the principles of the rule of law, democratic oversight, and governance. Positioning these agencies not as “islands within the state” but as fundamental elements of the constitutional system is indispensable for enhancing Türkiye’s institutional capacity and democratic standards.

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