

The Effectiveness of the Public Auditorship Institution (Ombudsman) in Turkey and a Comparison with the National Ombudsmen of England and France

Didem Geylani* & Ahmet Nohutçu**

Abstract

The present concept of an ombudsman was first adopted in Sweden in 1809. The ombudsman was successfully implemented in Sweden after WWII due to the inadequacies of traditional control mechanisms in regulating the administration. First and foremost, fundamental information on the ombudsman institution is provided in this paper. The article aims to compare the effectiveness of the ombudsman institution (Public Auditorship Institution) in Turkey to that of the national ombudsmen in England and France. The annual reports of the Public Auditorship Institution and the national ombudsmen in England and France were examined in this perspective. The effectiveness of the Public Auditorship Institution has grown in comparison to prior years, according to the tests; nonetheless, this increase was not at a suitable level when compared to the national ombudsmen in England and France.

Keywords: Ombudsman, Public Auditorship Institution, National Ombudsman of England, National Ombudsman of France.

Türkiye'deki Kamu Denetim Kurumu'nun (Ombudsman) Etkinliği ve İngiltere ve Fransa Ulusal Ombudsmanı ile Karşılaştırılması

Öz

Ombudsman, modern anlamda ilk kez 1809 yılında İsveç'te uygulanmaya başlanmıştır. İsveç'te başarılı bir şekilde uygulanması ve geleneksel denetim mekanizmalarının idareyi denetlemede yetersiz kalması ombudsmanın özellikle II. Dünya Savaşı'ndan sonra dünyada hızla yayılmasında etkili olmuştur. Mevcut çalışmada öncelikle ombudsman kurumu hakkında temel bilgiler verilmiştir. Çalışmanın amacı İngiltere ve Fransa ombudsmanları ile karşılaştırma yaparak Türkiye'de Kamu Denetçiliği Kurumu'nun etkinliğini analiz etmektir. Bu bağlamda Kamu Denetçiliği Kurumu ile İngiltere ve Fransa ombudsmanlarının yıllık raporları incelenerek analizler yapılmıştır. Yapılan incelemeler sonucunda Kamu Denetçiliği Kurumu'nun önceki yıllara oranla etkinliğinin arttığı; ancak bu artışın seçili ülke ombudsmanlarına göre yeterli düzeyde olmadığı sonucu ortaya çıkmıştır.

Anahtar Kelimeler: Kamu Denetçiliği Kurumu, Ombudsman, İngiltere Ulusal Ombudsmanı, Fransa Ulusal Ombudsmanı.

*Arş. Gör. | Van Yüzüncü Yıl Üniversitesi Kamu Yönetimi Bölümü | didemgeylani@gmail.com
ORCID: 0000-0002-4865-1975 | DOI: 10.36484/liberal.989343

**Prof. Dr. | İstanbul Medeniyet Üni., Siyasal Bilgiler Fakültesi | ahmet.nohutcu@medeniyet.edu.tr
ORCID: 0000-0002-1813-1223 | DOI:10.36484/liberal.989343
Liberal Düşünce Dergisi, Yıl: 26, Sayı:104, Güz 2021, ss.127-144.
Gönderim Tarihi: 31 Ağustos 2021 | Kabul Tarihi: 20 Kasım 2021

Introduction: The Main Question

In a period when human rights are extremely crucial, many constitutional and legal arrangements are made in order to secure the rights of the citizens who have been wronged due to the actions of the administration as a requirement of being a state of law. In this context, Article 125 of the Turkish Constitution states that the judicial remedy is open against all kinds of actions of the administration. As a matter of fact, the right of a person to apply to the judiciary is under constitutional guarantee. However, especially after the World War II, the workload of the judiciary increased significantly due to the disruptions and uncertainties that emerged with the increase in the activities of the state. The high workload causes the judiciary to work slowly and the injustices that arise, cannot be resolved in a short time and effectively. The fact that the process of applying to the judiciary includes complex procedures costly creates an obstacle for people to apply to the judiciary to seek their rights. Due to the increasing workload of the judiciary and some of its features, it has not been possible to effectively supervise the existing administrations. In addition, the radical changes in the understanding of administration in the 1980s led to a transformation in the field of auditing. Due to the inadequacy and incompleteness of the classical control mechanisms in overseeing the administration, direct, flexible, fast and inexpensive mechanisms have been started to be established for the protection of the rights and freedoms of individuals, which will eliminate the deficiencies of the existing control mechanisms and complement them. The ombudsman is one of the new control mechanisms established for the effective and rapid protection of the rights and freedoms of the citizens.

In the study, the concept of ombudsman, the emergence and historical development of the ombudsman institution, the characteristics of the ombudsman, its powers, duties and jurisdiction are discussed in order to provide basic information about the institution. The aim of the study is to analyze the effectiveness of the Public Auditorship Institution (Kamu Denetçiliği Kurumu-KDK) in Turkey by making comparisons with the national ombudsmen of England and France. In this context, the annual reports of the KDK and the English and French national ombudsmen were analyzed. KDK was compared with the ombudsman of selected countries in terms of effectiveness. The effectiveness of the KDK has increased compared to previous years; however, it was seen that this increase was not at a sufficient level according to the national ombudsmen of England and France. Finally, in the study, various suggestions are given to increase the effectiveness of the KDK. In the article, literature review and document analysis were made as a research method.

Ombudsman Institution and Its Historical Development

The old Swedish term ombudsman is a combination of ‘agent’, ‘ombuds’ meaning ‘representative’ and ‘man’ meaning ‘person’. In Swedish language, ombudsman delegate means the person authorized to act on behalf of the King and the people, such as a representative, ambassador, lawyer and another person (McClellan, 1969: 463; Fendoğlu, 2011: 26). The Turkish use of the word ombudsman means public arbitrator, mediator, parliamentary commissioner, civil rights defender (Eren, 2000: 81-82), ombudsman, people’s lawyer, citizen spokesperson (Sezen, 2001: 72).

Although the word ombudsman has a widespread use in the international arena, different names are used in countries that have an ombudsman institution. In France, “Défenseur des Droits”, in Turkey “Public Auditorship Institution-Kamu Denetçiliği Kurumu” (Şengül, 2013: 76), in England “Parliamentary Commissioner for the Administration” (Herzog, 2015: 186) are used. The main reason for the differences in the words used according to the countries instead of the ombudsman is that the institution is named according to the purpose and function of its establishment in the country (Usta and Akıncı, 2016: 2738).

The ombudsman has one or more of the functions of improving the relations between the citizen and the administration, protecting the rights and freedoms of the citizens, improving the maladministration, and protecting the citizens against maladministration, according to the areas in which he concentrates his activities in accordance with the purpose of its establishment in the countries (Herzog, 2015: 190; Temizel, 1997: 38). It is not possible to make a single definition of the ombudsman institution, as its function varies according to the constitutional and administrative structures of the countries and the purpose of its establishment. Despite these differences, an institution must have certain characteristics in order to be accepted as an ombudsman. According to these basic features, the ombudsman is an independent state body that supervises the actions of the administration, but cannot take binding decisions (Erhürman, 1998: 88-89).

Until the end of World War II, the ombudsman institution existed in Sweden and Finland and, the ombudsman institution did not attract the attention of other countries (Ferris et al., 1980). However, with the increase in the activities undertaken by the state after the war, citizen complaints about the actions and transactions of the administration, the interest in the protection of human rights increased the education of the people and their participation in the administration (Diaw, 2008: 7; Karcı, 2016: 43). In this period, as

a result of the mentality changes in democratic countries, impartial, independent, expert institutions were needed (Fendoğlu, 2011: 34). In addition, as a result of the revival in international relations and the intensification of interaction between scientists and administrators, the information about the existence and effective functioning of the ombudsman institution has led other countries to establish the ombudsman institution (Efe and Demirci, 2013: 53). Thus, the ombudsman institution has spread rapidly as a tool for strengthening the rule of law and democratization in developing countries as well as in developed countries. These countries, while choosing the ombudsman system, adopt the practices in Sweden as an example and adapt it to their own legal systems (Cheng, 1968: 30).

Today, the ombudsman institution is established in countries with different populations, political-administrative structures, areas and spreads around the world. The ombudsman stands out as the control mechanism of the 21st century (Esgün, 1996: 267).

Features, Duties and Authorities of The Ombudsman Agency

Some features, duties and powers of the ombudsman institution may change according to the administrative structure of the country in which it was established and the reasons for its establishment. Despite differences, the characteristics, duties, authorities and jurisdiction that an institution must have in order to be called an ombudsman are discussed under this title.

Features of the Ombudsman Institution

The most basic and most important feature of the ombudsman institution is that it can act independently and impartially. The ombudsman institution should not be under the influence of any authority or person while carrying out its activities (Akıncı, 1999: 295). In determining the independence and impartiality of the ombudsman; from the constitutional or legal texts in which the institution was created, the ways of being elected and appointed, the immunity and the inability to deal with any other job together with the ombudsman, the way of being appointed and the renewal or non-renewal of the duty at the end of the term, the absence of external control over its activities, the financial opportunities it has (Temizel, 1997: 56), factors such as the authority that appointed him, his term of office and dismissal are effective (Ünal, 2013: 81).

The fact that the ombudsman institution not only audits for compliance with the law, but also audits for fairness (Erdoğan, 2015: 44), being simple, inexpensive, flexible, fast, easy and directly accessible, distinguishes it from other administrative and judicial review mechanisms and makes it superior. In addition, the ombudsman accepts the complaints of the citizens about the transactions and actions of the administration without any complicated formality or form (Ünal, 2013: 83).

The effort to develop a friendly dialogue with the administration is another distinguishing feature of the ombudsman. Ombudsman makes suggestions to the administration by detecting the mistakes and deficiencies of the administration. Thus, the ombudsman guides the administration and contributes to the improvement of the administration. From this point of view, it can be said that there is not a distance but a closeness between the ombudsman and the administration (Şengül, 2007: 128). While solving citizen complaints, the ombudsman also contributes to the improvement of the administration by guiding the administration.

Duties of the Ombudsman Institution

The duty of the ombudsman is to deal with the problems that arise between public officials and citizens. Issues related to the private sector are outside the scope of the ombudsman (Özden, 2007: 401). The duties of the ombudsman are generally to protect, research, examine, supervise, contribute to the development and improvement of the administration (Özden, 2010: 43) and advise the administration (Herzog, 2015: 190).

The ombudsman accepts and examines the complaints of the citizens that arise in the face of all kinds of direct or indirect actions, attitudes and behaviors of the administration against the law, human rights, justice and good administration principles, and responds to the complaints within the framework acceptable to both the administration and the individual. By trying to bring a solution in accordance with fairness, the mediation task is realized (Demir, 2002: 132; Avşar, 2012: 112; Fendoğlu, 2011: 66).

While protecting the citizen against the administration, the ombudsman performs a two-way function by contributing to the development of the administration in terms of ensuring transparency and honesty (Özden, 2010: 43; Aktaş, 2011: 370). Thus, the ombudsman aims to develop relations between the administration and citizens, to ensure that citizens trust the administration,

and to ensure that public services are carried out in an effective, fast, transparent and citizen-oriented manner (Köseoğlu, 2010: 36).

Although the scope of duty of ombudsman varies from country to country, the main duties of ombudsman in general are as follows (Fendoğlu, 2011: 28; Köksal, 2005: 58);

1. In some countries it is only to protect and promote human rights.
2. In some countries, it is to raise awareness of the individual against mal-administration and to protect them with laws.
3. In some countries, it is the auditing of administration in accordance with fairness.
4. In some, it is to act as a mediator in solving the problems between the administration and the individual and to ensure the improvement of the state-individual relations.

The ombudsman generally has four different duties listed above. In many countries, ombudsman perform only one or two of these functions, or all together.

Powers of the Ombudsman Institution

The ombudsman, who is an authority to that individuals who are victims of the use of public power can apply, is equipped with the necessary powers for the resolution of disputes between the administration and individuals (Şengül, 2007: 128). The powers of the ombudsman should be clearly stated in the constitution and laws (Temizel, 1997: 52). The issue of in which areas the ombudsman will be authorized and in which areas will be disqualified has been regulated in different ways in countries (Eryılmaz, 2016: 389).

In some countries, the ombudsman works at the national level, while in some others there are separate ombudsman for the regional or local level. When an ombudsman is appointed only for a specific regional or local administration or international organization, its jurisdiction remains limited to this region or local administration (Sezen, 2001: 76; Şahin, 2010: 136). Apart from the regional, local and national ombudsman, there are specialized ombudsman (military ombudsman, consumer ombudsman, prison ombudsman, etc.). Countries apply one or more of the ombudsman types in accordance with their administrative structure and needs (Karcı, 2016: 49; Avşar, 2012: 149). Although it differs from country to country, another authority of the ombudsman institution is that it can act *ex officio*. The ombudsman can take

action spontaneously regarding the action taken by the administration without filing a complaint (Temizel, 1997: 55).

The coercive authority of the ombudsman for the implementation of the recommendations by the administration is the authority of public criticism and persuasion through reports to the legislature and the press (McClellan, 1969: 463-464). In addition, the ombudsman has the authority to investigate, propose corrective measures and make the findings public. The most important power in the hands of the ombudsman is the moral sanction it will create on the administration. It does this by means of persuasion, criticism and public disclosure. It prepares annual or periodic reports that include the advisory decisions of the ombudsman and the attitude of the relevant administration towards the ombudsman's decisions. The ombudsman presents this report to the parliament and the public (Sezen, 2001: 76). The ombudsman is important in terms of the effectiveness of the institution, that it creates public opinion against the relevant administration by announcing the injustices and rights violations committed by the administration against the citizens with the reports it prepares (Işıkay, n.d.).

Within the scope of the ombudsman's supervisory authority, he has wide powers such as accessing all kinds of information and documents of the institution about which the complaint is filed, calling the administrator and inspecting the units when necessary, in order to resolve the complaints on the basis of law and fairness (Işıkay, n.d.). In the event that all kinds of information and documents related to administrative action are not given to the ombudsman, an investigation may be launched against the relevant administration and personnel of the ombudsman and their violations may be punished.

The powers of the ombudsman, according to the result of the investigation and audit that is the subject of the complaint, are as follows: Initiating disciplinary investigations, applying to the judiciary, applying for unconstitutionality, making reform proposals regarding laws or other regulations (Temizel, 1997: 55; Küçüközyiğit, 2006: 98).

Although the ombudsman's powers in general are as stated above, there are some cases where the ombudsman is not authorized. The ombudsman does not have the authority to make binding decisions regarding the administration and personnel, to cancel administrative proceedings, to sentence the administration to pay compensation, and to give orders to public institutions (Erhürman, 1998: 95). In addition, the ombudsman is not authorized to change administrative or judicial decisions, since he is not a senior administrator or judge (Tortop, 1974: 40).

Public Auditorship Institution (KDK) in Turkey

Many concrete proposals and studies have been made for the establishment of the KDK. The “Reasoned Constitutional Proposal” prepared by Ankara University Faculty Members, development plans, research reports, draft laws and laws include the establishment of an ombudsman Institution. These concrete suggestions and studies have been effective and decisive in the establishment of the ombudsman institution (Ünal, 2013: 153). As a result of the studies carried out, the title of the ombudsman institution was changed as “Right to petition, right to obtain information and apply to the ombudsman” with the amendment made in the Constitutional amendment made in 2010 in Article 74 titled Right to Petition. Thus, the ombudsman institution became a constitutional institution and started to receive complaints regarding the functioning of the administration as of March 29, 2013.

KDK, upon a complaint about the functioning of the administration, all kinds of actions and transactions, attitudes and behaviors of the administration; It is in charge of examining, researching and making suggestions to the administration in terms of compliance with law and fairness within the understanding of justice based on human rights. The duty of the institution is regulated in accordance with the purpose of the law (art. 5/1). KDK takes action upon a complaint application as specified in the law. This indicates that KDK does not have the authority to examine *ex officio*.

Looking at the structural and institutional aspects of the KDK, it is seen that the institution has an independent and impartial status, the chief ombudsman is elected and dismissed by the parliament, and the institution has a system that provides fast, inexpensive and easy applications. In addition to the chief auditor, the secretary general, experts, assistant experts and other personnel also work in the institution.

Natural and legal persons can apply to the institution. The application is kept confidential at the request of the applicant. Article 7 of the Regulation on the Procedures and Principles Regarding the Implementation of the KDK Law states that real and legal persons whose interests have been violated have the right to complain, however, if the complaint is about human rights, fundamental rights and freedoms, women’s rights, children’s rights and general issues of public interest, a violation of interest will not be sought. In order to apply to KDK, administrative remedies must be exhausted. Applications made without exhausting administrative remedies are sent to the relevant institution. However, the institution may accept applications even if the

administrative remedies are not exhausted, in cases where there is a possibility of irreparable or impossible damages (art. 17/4).

The information and documents requested by KDK regarding the subject of examination and research must be submitted to the Institution within thirty days from the date of notification of this request. Upon the application of the chief auditor, the relevant authority opens an investigation against those who fail to submit the requested information and documents without a justified reason within this period (art. 18). KDK concludes its examination and research within six months at the latest from the date of application made to KDK (art. 20).

It is seen that the basic features that the ombudsman should have, are in KDK. The ombudsman also has features such as the independent and impartial status that the ombudsman should have, being mostly elected by the parliament and dismissed by the parliament, being attached to the parliament, being established by the constitution, not having a binding nature, presenting its reports to the parliament and making it public. Apart from this, the purpose of establishment, term of office, mode of action, powers to strengthen moral sanction and the organizational structure it has, which differ from country to country, are formed according to the special conditions of the country, such as the ombudsman of other countries, and its administrative and political structure.

Effectiveness of Public Auditorship Institution (KDK) and a Comparison with the National Ombudsmen of England and France

In this part of the study, first of all, the effectiveness of the KDK is discussed through annual reports. Afterwards, the effectiveness of the KDK with the national ombudsmen of England and France are compared.

Effectiveness of the Public Auditorship Institution (KDK)

Effectiveness in public administration is a performance dimension that determines the degree of reaching these goals and targets as a result of the activities carried out by public organizations in order to achieve their goals and strategic goals (Arslan, 2002: 4-5). The effectiveness of the institution is determined by KDK, which determines the unfair action and activity and attitude and behavior of the administration in line with the complaints of the citizens, by implementing the decision of the institution in the nature of advice and eliminating the injustice within the specified period (6 months).

In order to measure the effectiveness of the institution, the complaints applications, the types of decisions taken and the consideration of the advisory decisions by the administrations were examined. The implementation of the decisions taken by KDK by the relevant administrations is one of the main factors that determine the effectiveness of KDK. However, since KDK does not have the authority to make binding decisions, its decisions are not sanctioned. At this point, public support, which constitutes the moral sanction power of KDK, is important (Şengül, 2007: 143).

Statistical Information on Complaint Applications Made to Public Auditorship Institution

KDK started to receive applications as of April 29, 2013. The number of complaints received by the institution shows how well-known the institution is by the citizens. As can be seen in Table 1, there is an increase in the number of complaints made to the institution. The applications made to the institution about basic support loan requests during the epidemic period were effective in the 330.22% increase in complaint applications in 2020 compared to the previous year. 72,418 of the 90,209 complaint applications made in 2020 are related to the basic support loans given within the scope of the epidemic (Kamu Denetçiliği Kurumu [KDK], 2021). The increase in complaints made to KDK generally indicates that the institution is effective on the basis of its activities, public opinion and administrations.

Table 1. Complaint Data Table by Years

Year	Complaint Number	Increase Rate of Complaints Compared to the Previous Year	Number of Files Transferred from the Previous Year	Total	Concluding File Number
2018	17.585	%2,65	4.062	21.647	17.615
2019	20.968	%19,24	4.032	25.000	21.170
2020	90.209	%330,22	3.830	94.039	91.100

Source: (KDK, 2019; KDK, 2020a; KDK, 2021)

What is much more important than the number of complaints received by KDK is what kind of decision is made about the complaints. After examining

the complaint of the citizen, KDK renders decisions regarding invalidation of the application, non-examination, remittance, consolidation, friendly solution, decision on non-decision, refusal, recommendation, partial recommendation and partial refusal. Friendly solution, recommendation, partial rejection and partial recommendation decisions are important in terms of demonstrating the effectiveness of KDK. For this reason, only the number and percentage distribution of friendly resolution, recommendation, partial refusal and partial recommendation types in the annual reports of KDK are discussed in Table 2.

There has been a significant increase in the number of cases resolved through the friendly solution put into practice since 2017. In the increase in the number of cases resolved in this way, KDK's determined attitude towards a friendly solution, the increase in the recognition of the institution by the administrations and the relations of the institution with the Parliament were effective (KDK, 2017: 145).

Table 2. Distribution of Decision Types by Years

Decision Types	2018	2019	2020
Friendly Solution	1.916	1.607	1.808
Recommendation Decision	677	860	68.128
Partial Recommendation Partial Rejection Decision	269	410	704

Source: (KDK, 2019; KDK, 2020a; KDK, 2021)

KDK in Turkey handled a total of 21,647 complaint applications in 2018, including those transferred from the previous year. Of the 21,647 applications, 4,106 (23%) were accepted. The number of applications for which a friendly solution decision, recommendation, partial recommendation and partial rejection decision were given is 2,862. This number reveals the effectiveness level of KDK. This rate corresponds to 83.88%. At this point, it can be said that the success of the institution in solving problems is 83.88%. When the responses of 657 administrations to 946 decisions to give advice to administrations are evaluated; 459 administrations stated that they would comply with the decision and 198 administrations gave reasons. The ratio of administrations to comply with the recommendations given was 70% in 2018 (KDK, 2019).

KDK in Turkey handled a total of 25,000 complaints in 2019, including those transferred from the previous year. Of the 25,000 applications, 21,170 (84.68%) were concluded by the institution, and 3,830 complaint applications continue to be examined. Of the 21,170 applications, 4,870 (23%) were accepted. The number of applications for which a friendly solution decision, recommendation, partial recommendation and partial rejection decision were given is 2,877. This number reveals the effectiveness level of KDK. This rate corresponds to 81.66%. At this point, it can be said that the success of KDK in solving problems is 81.66%. When the responses of 1027 administrations to the 1,270 decisions to give advice to the administrations are evaluated; 722 administrations stated that they would comply with the decision and 255 administrations gave reasons. The ratio of administrations to comply with the recommendations given was 75.17% in 2019 (KDK, 2020a).

In Turkey, KDK handled a total of 94,039 complaints in 2020, including those transferred from the previous year. 91,100 complaint applications have been concluded and 2,939 applications have been transferred to 2021. 72,640 (79.74%) of these applications were accepted. The number of applications for which a friendly solution decision, recommendation, partial recommendation and partial rejection decision were made about the accepted applications is 72,403. This number reveals the effectiveness level of KDK. This rate corresponds to 98.70%. At this point, it can be said that the success of KDK in solving the problems is 98.70%. When the responses of 1,325 administrations to 941 decisions regarding giving advice to administrations are evaluated; 1,012 administrations stated that they would comply with the decision and 313 administrations gave reasons. The ratio of administrations to comply with the recommendations given was 76.38% in 2020 (KDK, 2021). KDK handles complaints with 273 personnel (KDK, 2020b: 19).

Comparison of Public Auditorship Institution (KDK) with Selected Country Ombudsman in terms of Effectiveness

When comparing the KDK and the national ombudsmen of England and France, information on the number of complaints, the resolution of complaints, the number of personnel in the 2018, 2019 and 2020 annual reports of the ombudsman, and the approach of the administrations to the ombudsman's decisions were included and a comparison was made over these.

In the annual report of the national ombudsman of England (Parliamentary and Health Service Ombudsman-PHSO), it is stated that a total of 114,278 applications were made to the ombudsman in 2018. While 72% of

the applications are directed to other institutions; the remaining 28% were accepted for the first stage as a complaint application. The first stage, the first evaluation, has been completed for 32,389 applications with complaints transferred from the previous year. About 25,000 of the applications are about the national health service (NHS). 23,960 of these applications were informed about how to file complaints with the national health service (NHS) and other public institutions in the country and were referred to another organization that could help. In the second phase, 8,291 applications were investigated further. At this stage, 6,739 applications were evaluated. Of these, 2,429 were handled in the third phase, the research phase. The remaining 4,164 applications were closed for reasons such as the complainant's request. Of the total investigated complaints, 179 (6.5%) were approved, 95 (3.5%) were resolved before the conclusion of the investigation, 825 (31%) applications were partially approved, 1,344 (50%) complaints were rejected at this stage and 233 (9%) was closed at the request of the complainant. Compared to the last two years, fewer complaints were evaluated in 2018 and the evaluation period took longer. It has been stated that this decrease in the performance of the institution is due to the changes made in the organizational structures. It is foreseen that there will be a significant improvement in the evaluation periods of the institution. Approximately 85% of people who filed complaints with the Ombudsman reported that they were satisfied with the service of the institution (Parliamentary and Health Service Ombudsman [PHSO], 2019).

In the annual report of the national ombudsman of England, it is stated that a total of 112,262 applications were made to the ombudsman in 2019. While 82,998 of the applications were directed to other institutions; The remaining 29,841 applications were accepted for the first stage as complaints application. The majority of applications are about NHS. A total of 29,264 applications were examined in more detail, with applications transferred from the previous year. While taking a decision on 5,658 of the accepted complaint applications; 24,183 of them were not accepted because the complaints were not ready or the PHSO was not the right institution to investigate the complaints. Of the 5,658 applications that were decided against, 746 were fully or partially approved, 871 were rejected, 3,597 were evaluated, and 444 were resolved without the need for any further investigation. Among the applicants who investigated their complaints and were subsequently accepted, the level of satisfaction increased from 85% in the previous year to 86% in 2019 (PHSO, 2020).

In the annual report of the national ombudsman in England, it is stated that a total of 103,965 applications were made to the ombudsman in 2020. While 73,070 of the applications were directed to other institutions; the remaining

30,895 applications were accepted for the first stage as complaints application. The majority of the applications made were about NHS, as in previous years. While taking a decision on 5,236 of the accepted complaint applications; 25,659 were not accepted because the complaints were not ready or the PHSO was not the right institution to investigate the complaints. Of the 5,236 applications that were decided against, 650 were fully or partially approved, 472 were rejected, 3,742 were evaluated, and 372 were resolved without the need for any further investigation. With the organizational changes and personnel trainings, the time for reviewing the application has been shortened. Application review 155 in 2019; It lasted 140 days in 2020. Resolved applications and the mediation approach generated a high level of satisfaction with both complainants and organizations (PHSO, 2021).

In England, the relevant administrations are contacted about the errors identified during the examination of the complaint applications and suggestions are made to them to correct this error. Administrations are given time to implement these recommendations and they are followed up until they are implemented. Results are processed into compliance data published on the website every three months. Administrations have agreed to comply with 99% of the recommendations given by the ombudsman regarding the complaints applications. In rare cases, it is observed that administrations do not comply with the recommendations. In this case, a report is sent to the Public Administration and Constitutional Affairs Committee, which will hold them accountable. The agency handles complaints with approximately 400 full-time staff. (PHSO, 2019; PHSO, 2021).

Table 3. Number of Complaint Applications Made to the Ombudsman by Country

Country	2018	2019	2020
England	32.389	29.841	30.895
France	95.836	103.066	96.894
Turkey	17.585	20.968	90.209

The annual report of the French national ombudsman (Defenseur des droits) states that over 140,000 applications were made to the ombudsman in 2018. 95,836 of the applications made in 2018 constitute complaints. The remaining applications consist of information applications and telephone interviews. 95,836 complaint files related to the complaints filed in 2018 were handled. 94% of the complaints are related to public services. The authority

has resolved approximately 80% of the complaints through reconciliation. He made 400 recommendations to administrations (Défenseur des droits, 2019).

It is stated that more than 151,000 applications were made to the national ombudsman of France in 2019. 103,066 of the applications made in 2019 constitute complaints. The remaining applications consist of information applications and telephone interviews. Complaints filed in 2019 increased by 7.5% compared to the previous year, 2018. This year, 99,095 files were examined and 80% of them were resolved through consensus. 78% of the complaints were related to public services. It has made 694 recommendations to administrations (Défenseur des droits, 2020).

It is stated that over 165,000 applications were made to the French national ombudsman in 2020. 96,894 of the applications made in 2020 constitute complaints. The remaining applications consist of information applications and telephone interviews. Complaints filed in 2020 decreased by 6% compared to the previous year, 2019. 75.6% of the complaints were related to public services. Approximately 80% of the complaints were resolved through consensus. The institution made 257 recommendations to the administrations (Défenseur des droits, 2021). The ombudsman of France handles complaints with approximately 250 staff (www.defenseurdesdroits.fr, 2021). The satisfaction level of citizens towards the defender of rights in France is generally around 85%. Administrations comply with the recommendations of the rights defender at a rate of approximately 80% (Défenseur des droits, 2020).

In Turkey, the compliance rate of the administration with the recommendation of KDK was 70% in 2018 and 75% in 2019 with an increase of 5 points. Looking at the year 2020, this rate was 76.38%. The result-oriented activities of KDK in the institutional, public and inter-agency areas have been effective in the increase in the compliance of the administrations with the recommendations of the institution (KDK, 2021). Considering the ratio of the decisions made about the acceptable applications of the total of the friendly solutions, recommendations and partially recommendations for the last three years, it is 83.88% in 2018; to 81.66% in 2019; It corresponds to 98.70% in 2020. These rates show the extent to which the institution finds a solution to the applications made to it or puts its will to solve it. As a matter of fact, this ratio reveals the ability of the institution to solve problems.

In Turkey, which has a population of 84.3 million according to the World Bank data for 2020 (<https://data.worldbank.org/>, 2021), applications to the KDK have increased compared to previous years. KDK handles complaints with 273 personnel. The implementation of the decisions made by KDK about

the applications made by the administrations is important in terms of understanding the effectiveness of KDK. Although the rate of administrations in Turkey to comply with the recommendations of the KDK has increased compared to previous years, this rate lags behind England and France. In England, this rate is 99%, while in France it is about 80%. In terms of resolving complaints through friendly resolution, Turkey has outperformed England and France, especially in 2020.

Concluding Remarks

In order to increase the compliance rate of the administrations with the recommendations of the KDK to the levels of England and France, the institution should be more recognized and taken into account by the administrations. A stronger public pressure can be created on the administrations so that the recognition and greater consideration by the administrations of the KDK, which is relatively new compared to the ombudsmen in England and France, can be created and the KDK can be given the authority to open administrative investigations against the personnel of the relevant administrations who violate the law. In order to create stronger public pressure on the administrations, the public should have more information about the institution and its reports. Apart from these, the number of personnel of the institution can be increased in order to increase the effectiveness of the KDK, and a local ombudsman affiliated to the parliament can be established besides the national ombudsman as in England. These two are important for more effective handling of the institution's increasing applications. Considering the complaint rates regarding local governments, the establishment of a local ombudsman other than the national ombudsman in Turkey is a necessity for the effectiveness of the institution. Considering the populations of England and France, the above-mentioned needs to be achieved in order to increase the effectiveness of the national ombudsman in Turkey, which has a population of approximately 20 million more. In addition, these complaints should be investigated effectively within 6 months, which is the time for the ombudsman to handle complaints. In England and France, various arrangements are made in the institution to reduce this period to a much shorter period than 6 months. In order to achieve this in Turkey, first of all, the number of personnel working in KDK should be increased and a local ombudsman should be established, taking into account the number of complaints that will increase in the coming years.

References

- Akıncı, M. (1999). *Bağımsız idari otoriteler ve ombudsman*. İstanbul: Beta Yayıncılık.
- Aktaş, K. (2011). Kamu denetçiliği kurumunun anayasal sistemindeki yeri ve etkinliği sorunu. *Türkiye Barolar Birliği Derneği*, 94, 359-374.
- Arslan, A. (2002). Kamu harcamalarında verimlilik, etkinlik ve denetim. *Maliye Dergisi*, 140, 1-14.
- Avşar, B. Z. (2012). *Ombudsman iyi yönetilen Türkiye için kamu hakemi*. İstanbul: Hayat Yayınları.
- Cheng H.Y. (1968). The emergence and spread of the ombudsman institution. *The ANNALS of the American Academy of Political and Social Science*, 377(1), 20-30.
- Demir, G. (2002). *Ombudsman aranıyor*. İstanbul: Ahi Kültürünü Araştırma Yayınları-Sade Ofset Matbaası.
- Diaw, M. C. (2008). Ombudsmen, people's defenders and mediators: independence and administrative justice in state transformation. *Verifor Comparative Case Study* 7, January.
- Efe, H. ve Demirci M. (2013). Ombudsmanlık kavramı ve Türkiye'de Kamu Denetçiliği Kurumundan beklentiler. *Sayıştay Dergisi*, 90, 49-72.
- Erdoğan, T. (2015). *Ombudsman ve Türkiye'de Kamu Denetçiliği*. İstanbul: Legal Yayıncılık.
- Eren, H. (2000). Ombudsman kurumu. *Atatürk Üniversitesi Erzincan Hukuk Fakültesi Dergisi*, IV(1), 79-96.
- Erhürman, T. (1998). Ombudsman. *Amme İdare Dergisi*, 31(3), 87-102.
- Eryılmaz, B. (2016). *Kamu yönetimi: düşünceler, yapılar, fonksiyonlar, politikalar* 9.Baskı. Ko-caeli: Umuttepe Yayınları.
- Esgün, İ.U. (1996). Ombudsman kurumunun Türkiye için gerekliliği üzerine bir değerlendirme. *A.Ü.H.F. Dergisi*, 45, 251-278.
- Fendoğlu, H. T. (2011). *Kamu denetçiliği (ombudsmanlık)*. Ankara: Yetkin Yayınları.
- Ferris, C., Goodman, B. and Mayer, G.(1980). *Brief on the office of the ombudsman. international ombudsman institute*. Occasional Paper 6, September.
- Herzog, E. M. (2015). *The book of the ombudsman*. Madrid: Defensor del pueblo.
- İşıkay, M. (t.y.). Ombudsmanlık kurumunun Avrupa Birliği ve Türkiye'deki konumu. Erişim Adresi: www.jura.uni-saarland.de/turkish/MIsikay.html.
- Kamu Denetçiliği Kurumu Kanununun Uygulanmasına İlişkin Usul ve Esaslar Hakkında Yönetmelik. Resmi Gazete Tarihi: 28.03.2013. Sayısı: 28601.
- Karçı, Ş. M. (2016). *Ombudsman: İskandinav modelleri ve Türkiye uygulaması*. Ankara: Seçkin Yayıncılık.
- Köksal, M. (2005). *Ombudsman "kamu hakemi"*. Ankara: Melis Matbaacılık.
- Köseoğlu, Ö. (2010). Avrupa Ombudsmanı'nın hukuki statüsü, işleyişi ve kurumsal etkinliği. *Sayıştay Dergisi*, 79, 31-62.
- Küçüközyiğit, H.G. (2006). Ombudsmanlık kurumu - hukuksal ve siyasal bir inceleme. *Uluslararası Hukuk ve Politika*, 2(5), 90-111.
- McClellan G. B. (1969) *The role of the ombudsman*. 23 U. MIA L. REV. 463.
- Özden, K. (2010). *Ombudsman ve Türkiye'deki tartışmalar*. Ankara: Seçkin Yayıncılık.
- Özden, K. (2007). Yerel demokrasi bağlamında Türkiye'de ombudsman denetimi. . Bilal Eryılmaz, Musa Eken ve Mustafa Lütfi Şen (Ed.). *Kamu yönetimi yazıları içinde*(s.384-410). Ankara: Nobel Yayınları.

- Sezen, S. (2001). Ombudsman: Türkiye için nasıl bir çözüm. *Amme İdaresi Dergisi*, 34 (4), 71-96.
- Şahin, R. (2010). Ombudsman kurumu ve Türkiye'de kurulmasının Türkiye'nin demokratikleşmesi ve Avrupa Birliği üzerine etkileri. *Türk idare Dergisi*, 468, 131-157.
- Şengül, R.(2013). Kamu yönetimi ile birey ilişkilerinin dönüşümüne ombudsman kurumunun etkisi. *Süleyman Demirel Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi*. 18(3), 71-88.
- Şengül, R.(2007). Türkiye'de kamu yönetiminin etkin denetlenmesinde yeni bir kurum: kamu denetçiliği kurumu. *Kocaeli Üniversitesi Sosyal Bilimler Enstitüsü Dergisi*, 14(2), 126-145.
- Temizel, Z.(1997). *Yurttaşın Yönetime karşı korunmasında bağımsız bir denetim organı ombudsman*. İstanbul: IULA-EMME Yayınları.
- The Constitution of the Republic of Turkey 1982. Access Address: <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.2709.pdf>
- Tortop, N. (1974). Yönetimin denetlenmesi ve denetleme biçimleri. *Amme İdaresi Dergisi*, 7(1).
- Usta, S. ve Akıncı, A. (2016). Kamu yönetiminde hesap verebilirlik mekanizması olarak ombudsmanlık kurumu: Almanya Örneği. *Journal of Human Sciences*, 13(2).
- Ünal, F. (2013). *Türkiye'de yerel yönetimlerin denetimi ve yerel yönetim ombudsmanı*. Ankara: Savaş Yayınevi.
- 6328 sayılı Kamu Denetçiliği Kurumu Kanunu. Resmi Gazete Tarihi: 29.6.2012. Sayısı: 28338.

Reports

- Defenseur des droits. (2019). *Rapport annuel d'activite 2018*. Access Address: <https://www.defenseurdesdroits.fr/>.
- Defenseur des droits. (2020). *Rapport annuel d'activite 2019*. Access Address: <https://www.defenseurdesdroits.fr/>.
- Defenseur des droits. (2021). *Rapport annuel d'activite 2020*. Access Address: <https://www.defenseurdesdroits.fr/>.
- Kamu Denetçiliği Kurumu (KDK). (2017). *2017 yıllık raporu*, <https://www.ombudsman.gov.tr/yillik-rapor.html> - .
- Kamu Denetçiliği Kurumu (KDK). (2019). *2018 yıllık raporu*, <https://www.ombudsman.gov.tr/yillik-rapor.html> -.
- Kamu Denetçiliği Kurumu (KDK). (2020a). *2019 yıllık raporu*, <https://www.ombudsman.gov.tr/yillik-rapor.html> -.
- Kamu Denetçiliği Kurumu (KDK). (2020b). *2019 yılı faaliyet raporu*. Erişim Adresi: <https://www.ombudsman.gov.tr/Publishing/IdareFaaliyetRaporlari.html>.
- Kamu Denetçiliği Kurumu (KDK). (2021). *2020 yıllık raporu*. Erişim Adresi: <https://www.ombudsman.gov.tr/yillik-rapor.html> -.
- Parliamentary and Health Service Ombudsman (PHSO). (2019). *Ombudsman's Annual Report and Accounts 2018-19*. Access Address: <https://www.ombudsman.org.uk/publications>.
- Parliamentary and Health Service Ombudsman (PHSO). (2020). *Ombudsman's Annual Report and Accounts 2019-2020*. Access Address: <https://www.ombudsman.org.uk/publications>.
- Parliamentary and Health Service Ombudsman (PHSO). (2021). *Ombudsman's Annual Report and Accounts 2020-2021*. Access Address: <https://www.ombudsman.org.uk/publications>

The Internet Websites

- Defenseur des droits. www.defenseurdesdroits.fr.
- World Bank. <https://data.worldbank.org/>