Ombudsman and Local Governments

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ABSTRACT

The local governments in democratic countries began to acquire more importance since the scope of the public services they provide have been enlarged. In parallel with this progress, they use more public resources. This fact requires the operation of an inspection system while ensuring that the system does not damage the autonomous structure of the local governments.

In all democratic countries an inspection mechanism exists over local governments. While the control of national governments over local governments in developed countries are not so strong, it is just the opposite in developing countries.

The control of national government over local government is intensely observed in our country. This wardship inspection sometimes causes some implementations which are not compatible with the idea of democracy.

While the whole globe becomes more and more democratic day by day, this kind of a development is inevitable for our country as well. Therefore, complying with these contemporary and new developments is compulsory.
INTRODUCTION

Local governments are present to address the needs of local inhabitants. The formation of local governments dates back to very early times. The most important reason for their existence is to alleviate the burden of central administrations. The sharing of responsibilities sure enhances the effectiveness of administration. Local governments are of independent structure, on the other hand they get advantage of public resources, which enables central administrations to sustain a monitoring function on local governments. In many countries there is this monitoring mechanism on local governments even though the degree of monitoring varies. The impact of this monitoring mechanisms on local governments surfaces their level of influence.

We analysed existing local governments in our country, their deficiencies, ways to increase their efficiency and such within the framework of global examples. We also tried to point out the shortcomings of monitoring mechanisms of our local governments and gave specific examples accordingly. Then we offered some solutions to these problems.

It is out of question to let go of monitoring, thus it is urgent to define the flaws of mechanisms. By doing so we defend the rights of citizens. The concept of local ombudsman has been scrutinized in order to assign it as a control mechanism.

There are apparent problems when it comes to the efficiency and adequacy of local governments and monitoring mechanisms just as there are inadequacies in other public institutions. However monitoring mechanisms are sometimes used out of their own purpose or merely carried out as paper work. A well functioning monitoring mechanism illuminates administrators by updating them constantly about developments and avoiding prospective mistakes. These constitute the core of these mechanisms.

The insufficiency of local governments is deeply felt in our country which in turn calls for a new monitoring mechanism compensating for the deficits of local governments. This paper is designed to indicate that fairness of the functioning of local governments is maintained by local ombudsman.
PART ONE

PROBLEMS FACED IN MONITORING LOCAL GOVERNMENTS

1.1. Problems Faced in Monitoring Local governments
1.1.1. Problems Encountered in Administrative Monitoring

Generally, our monitoring mechanism is not geared towards detecting factors like effectiveness, efficiency or performance of public services. The mechanism heavily depends on watching out compliance with the rules only, it doesn’t function as it is supposed to do. The system is expected to mitigate waste of labour, time and resources. What it does, contrary to its purpose, is to give way to total waste of all those mentioned above.

Local governments are subject to different monitoring units, however there is no manifest coordination among those. Diverse monitoring units may knowingly or unknowingly keep on their monitoring on the same institution.

The monitoring of Municipalities is carried out by civil service inspectors and the monitoring of districts or towns demands the work of local administration controllers. The monitoring of municipalities is once more realized by commissioner of inspections. The whole situation described above unveils the fact that the same institution is subject to a two-round inspection by different bodies.

Some bodies in charge of monitoring have legislative power whereas some have executive power, which impedes desirable level of cooperation. As a matter of fact the same institution may be exposed to the inspection of two different bodies such as the Court of Inspections or The Ministry of the Interior. Amazingly some municipalities are inspectioned once in three years. This leads to the inefficiency of services and waste of energy and resources. Furthermore it curbs the effective operation of institutions that are monitored and encumbers the financial responsibilities of the state.

The activities of administrations are inspectioned in terms of their fairness, however their appropriateness or relevance to public welfare is neglected.

The layout of services rendered are most of the time fore grounded.
The implementation of administrative guardianship authority brings with itself some problems as well. There are various institutions, boards or authorities entitled to oversee municipalities. Instead of sufficing with measures to increase the effectiveness of monitoring the details regarding administrative guardianship that preclude public welfare should be surfaced.

1.1.2. Problems Encountered in Judicial Monitoring

The most obvious problem encountered during the monitoring of the judicial authorities is the slow pace of the process. This thwarts the smooth functioning of public services. The monitoring of the judicial system is realized so as to decide whether the activities of local governments are in compliance with laws. It doesn’t deal with its capability to address needs.

This type of monitoring is different than the other types of monitoring as it has to conform to strict rules and procedures. For instance after a certain period of time this monitoring can not step in.

Monitoring of the judicial system poses some difficulties for those vulnerable due to unfair administrative conducts. Just as the judicial cases administrative cases demand the technical expertise and experience of lawyers. Resorting to a lawyer is a costly business for an average person. The intricate nature of processes, the need for legal expertise, the slow pace of legal processes all constrict the supervising of public management.

The overseeing of the judicial system is lacking as it doesn’t check the appropriateness of the system. Some administrative activities may be to the detriment of citizens even though the activities are in conformity with laws.

The monitoring of the judicial system may be problematic since it holds the benefits of the governed prior to the governors, which makes it distant to administration. Judges may act in a reserved manner fearing that they will rank appropriateness higher than compliance with laws.

Another point worth mentioning is the complexity of the sharing authorities among judicial bodies.
1.1.3. Problems Encountered in Public Monitoring

The first and foremost requirements for the display of public reaction in a positive or negative way, awareness of the local administrators about these reactions and their creation of solutions and assurance of the expected benefits are the existence of a democratic environment and development of the mass communication media.

Press or media can be the largest advantage or disadvantage for obtaining support of the public. Possession of mass communication media by particular political and/or capital powers might stripe it out of its position as a controlling tool for the public and turn it into the control apparatus of a certain minority. Effectiveness of the public control depends on the extent to which the mass communication media can be used in line with the aim and reflect the opinions as well as feelings of the public.

Information and orientation of the public opinion is generally realized through press and media tools. However, press and media tools usually have the tendency to show interest in interesting events. Even though a situation that is of interest for many citizens, a situation that interest very few people in the society might remain in the agenda of the media for several days. In addition, media might have enough accumulated knowledge for revealing the administrative faults.

1.1.4. Problems Encountered in Political Monitoring

Most of the political control do not provide direct control over local governments. Because, it is the government which is essentially concerned with the political control of the parliament. That is, the parliament can control local governments by means of the central government. This indirect control resurfaces especially in activation of the administrative control.

Political control is left without any function because of the inter-party discipline and the integration between legislation and execution. Indeed, it is very hard for this way of legislation, which is not easy to activate, let alone to get a result and is not quite available for tackling issues other than the general stuff, to execute a
capable function concerning the complaints of plain citizens about the administration.

The number of parliamentarians is small, however, the complaints are high in number. There is a severe lack of correspondence between the number of parliamentarians and the number of complaints. Also, the parliamentarians are politically member of a political party and they might any time be blamed for taking sides. The parliamentarians might not have the time and the opportunity to deal with complaints among many other issues of concern. Additionally, there might also be a condition of inequality since not everyone has the chance of access to the parliamentarians.

Considering the matter from the point of view of the assemblies of local governments themselves, we see that the municipality assemblies cannot execute their task in an adequate manner as a natural consequence of the adoption of the system based on a ‘strong mayor’ in our municipalities despite the fact that they are formed as a result of elections.

1.1.5. Problems Encountered in Organizational Monitoring

Organizational control is carried out through hierarchical control and administrative scrutiny (boards of scrutiny).

In hierarchical control, the seniors usually do not disclose the mistakes made by those in the inferior position as a show of solidarity within the institution and they sometimes leave them without any punition. Hierarchical control is a kind of control for the institution rather than a control for the citizens. In hierarchical control, it is the local government itself that both controls and is controlled. Therefore, the results cannot be followed by the citizens.

Besides, effectiveness of the financial control carried out by internal inspectioning staff affiliated to the mayor within the hierarchical structure is also controversial.

As for the internal control of administration, it becomes far from constituting an assurance for the citizens due to the reasons such as the hierarchical structure, emotions of solidarity and worries felt by the administration about the possibility that
the inferiors might be hurt by being controlled and that they might one day encounter these difficulties themselves. The actual function of the administrative government is essentially geared towards assuring the effectiveness and productivity of the administration in the first place. Thus, having been alienated from the public and its benefits, this way of control has come to a point where it has deviated from its actual condition, started to run its own rules and to deem the execution of these rules as its sole raison d’être. Besides, professional solidarity is also an element that eliminates the effectiveness of hierarchical control.

The boards of scrutiny report directly to the highest hierarchical senior of the institution in which they are. This position ensures their independence from the administration. However, we encounter different applications from time to time, which is not in accordance with this general rule.

It can also be observed that there is a lack of institutionalization in terms of the Board of Scrutiny in many local government agencies. This lack has direct influence over the work of inspectionors, hence performance of the board. As a matter of fact, in a research report drafted upon the effectiveness of scrutiny and control, it is pointed out that ‘a certain image of scrutiny should be formed so that the function of scrutiny has preponderance and role in the municipality government’. Incomplete realization of institutionalization reduces the effectiveness of scrutiny and control.

Another problem related to the boards of scrutiny in local governments is the fact that the research and examination reports prepared by the boards of scrutiny are not put into implementation most of the time by those in executive positions.

Second Part

NEW METHODS OF CONTROL

2.1. Local Ombudsman

2.1.1. The Concept of Ombudsman

An ancient word in the Swedish language, Ombudsman is made up of the words ‘ombud’ (representative, vice) and man (person). As for the term Ombudsman as an institution, it denotes a person or people elected by the parliament for
representing the parliament. The Turkish equivalent for Ombudsman is termed in various ways such as mediator, public controller, public referee, lawyer of the people and parliament commissioner.

Ombudsman is the name assigned to an elected, independent, high-ranking authority generally elected by the legislative body, who helps the citizens in their problems with the administration, is reported upon their complaints, can bring about offers to the authorities of the administrative institutions related with that issue. The word also expresses the post of this authority.

Defined as the official person authorized for examining and finalizing the complaints by citizens according to the doctrine, ombudsman is the way of controlling public administration by listening, examining the complaints and carrying out investigations.

In a definition accepted by the International Union of Bar Councils, it is defined as ‘The Office that is provided by the constitution, the legislative body or the parliament, which is accountable primarily to the body of legislation and the parliament, includes a high-ranking, independent bureaucrat, acts upon its own initiative in line with the complaints of people suffering from unjust applications by the government institutions, authorities and personnel, has the right to carry out research, to offer an application of discipline and to issue reports.’

From the point of view of the citizen, the Ombudsman is a valid tool that provides an assurance for the fulfillment of justice and the good, fast, quick, simple and respectful treatment by administrative institutions for people who benefit from their services. From the point of view of the administration, Ombudsman is an additional method for eliminating faults that ensures the correction of errors which were not detected on operations done by the administration during the implementation of operations. Ombudsman is a factor which sees the administrative malfunction where an error is committed and enforces the valid applications when there is no error made. Therefore, the Ombudsman is an additional protective tool that is valid for both the citizen and the administration.

On the other hand, Ombudsman can control availability just as it can control accordance with law. Using an authority not possessed by an administrative judge, it can control whether the patient receives good treatment at hospital.
2.1.2. The Reasons that Bring About the Ombudsman

Inadequacy of Classical Means of Control is undoubtedly the most important reason that brings about the ombudsman with regards to the protection provided for the citizens before the administration. We might deduct that the institution of ombudsman stems from the inadequacy that emerges for the control of the administration. While ombudsman was an institution peculiar to Sweden where it first emerged, it became in time a means of control that was adopted and successfully applied by many countries as a new method for control of the administration. Indeed, the administration is controlled in various ways. However, each of these means of control have certain pitfalls and shortages as it was mentioned before.

The citizens become day by day away from possessing enough information about the scope and limit of their rights and reasonability before the paramount duties and evermore complex structure of the state of our age. This situation impoverishes individuals before the administration day by day and rendering them bound to protection. Man becomes crushed among the gears of bureaucracy and falls into an ultimate desperation. Human rights face the danger of losing the progress made within this tumultuous environment. Politicians and experts on law have started to look for new means of control that will enable salvation from this state of affairs. This is the point where we encounter the ombudsman as a person who examines the complaints by citizens concerning the administration and creates solutions.

2.1.3 Historical Evolution of the Ombudsman Institution

Some believe that the concept of ombudsman resembles certain historic forms or institutions such as Grandstands in Rome, Yuans during Han Family in China between 205 B.C and 220 A.C. or the censors in the U.S.A in the seventeenth century.

The concept of Ombudsman first came out at the beginning of the eighteenth century. The Sweden King took shelter in the Ottoman Empire when he was defeated by the Russians at Poltava War in 1709. He stayed in Edirne for quite some time.
The King was very sensitive in issues like the fair treatment of people and well administration, thus in order to avoid mischievous people's conducts in his country he started a novel system in 1713. He appointed a person as Hogste Ombudsmannen who would abide by the King’s requests or orders and act according to laws. Judges and administrators would also decide taking into consideration the regulations in the country.

The King was given a report which indicated the events occurred in the country during his absence, the complaints of citizens and the solutions offered by the appointed person. The King drew a conclusion favouring the practices of this appointed person that he should keep his good work on a permanent basis as it would be to the advantage of his country. The King’s idea led him to institutionalize this concept of Ombudsman. Ombudsman had kept on working as an observer till 1809, however through a law passed in this year he came to be a legally acting person. As democracy spread in the country Ombudsman was believed to inspect all executive and its subordinate bodies on behalf of legislative body.

It was widely thought that the King was inspired by the Cadi(Kadılık) system prevalent in the Ottoman Empire.

There were institutions in the Ottoman Empire in charge of listening to the complaints of citizens about administration such as the House of Justice or the Court of Injustice, which had similar activities that of the Ombudsman. These institutions were responsible for cases between the administration and the people. People from Emevis, Abbasi, Memluk and Selchuklu were also present in these houses or courts. These bodies convened at least twice on a weekly basis.

The Public came to be more and more powerful in social life, which turned classical systems less effective in the defense of citizens against administration. Therefore the concept of Ombudsman appeared to be a desirable channel of administration in democratic countries. This concept remained a system peculiar to Sweden for more than a century, then it was realized in Finland in 1919, in Denmark in 1955 and in Norway in 1952. Afterwards it extended to New Zealand in 1962 and to the UK in 1966, which made the system take the Anglo-Saxon legal system under control. It penetrated in the USA, in states like New Jersey(1974), Alaska(1975), New York City(1979), Atlanta(1974), Detroit(1974). Via France it became a part of
the Continental Europe’s legal system. The Resolution numbered 457 dated in 1975 the system was advised to member countries through Advisory Assembly of European Council. It was applied in Austria in 1976, in Holland and Spain in 1981 and in Germany in 1959. Then it took on a universal form as it was realized in more than 90 countries.

In 1992, the European Agreement was signed that later on formed the European Ombudsman. This person was appointed by the European Parliament and had the same status with the European Court of Justice.

The Function of Ombudsman is the same in all countries whereas their name varies to great extent. For instance he is called the Defender of Citizens in Canada, the Defender of Folks in Spain, the representative of Justice in Portugal, the commissioner of parliament in the UK, the Defender of Civil Rights in Poland and mediator in France.

2.1.4. The Concept of Local Ombudsman

Local ombudsmen have the same functions, however they do carry out their jobs in a specific city or region. They defend civil rights and try to offer solutions for mischief in local governments. Besides they put forward their offers for the improvement of local administration.

Shortly local ombudsmen have a limited scope of responsibilities and authorities as they operate in a defined region.

The administrative processes have distinguishing features and selected figures take part in the decision-making processes, which makes ombudsman’s inspection different.

Local ombudsmen not only watch out the fair implementation of decisions taken by local councils, but also try to enhance the quality of decisions and administration. They keep an eye on legal processes.

Nowadays we not only have national ombudsman but also local ombudsman as well. There are examples in the UK, in Hawai, in Quebec Canada, in Italy Tuscany and Liguriada, in Germany Rhineland and Platinate, in Zurich, in the Netherlands in Roterdam and in France Paris.
2.1.4.1. The Reasons for Local Ombudsman

It has always been discussed whether it is necessary to have a local ombudsman other than a national ombudsman in many countries. In some countries there are local ombudsman together with national ombudsman or there is only one ombudsman for local and national businesses.

National ombudsmen were most of the time overloaded with so much work, in this sense the existence of local ombudsman alleviated their burden. For this reason local ombudsmen became recognized personalities. In Justice System there is enormous stratification as there are diverse jobs to do. The same thing is valid for local government bodies. It is necessary to form an ombudsman system to keep things straight.

It is significant to note that it is tough to adapt the concept of Ombudsman due to Constitution-related restrictions. There is no legislative-executive relation in local governments. Regional administrative members constitute executive bodies.

2.1.4.2. The Organization of Local Ombudsman Institution

The legal status of local ombudsman is generally stated in the laws or the Constitution. Laws are more common in the organization of Ombudsman concept.

Local ombudsmen are formed according to their national counterparts. For instance Regional Administrative Commissioner in the UK is established according to Parliament Commission. However there are vast differences between the two. They do not account for their business at the Ministries. They submit reports to the representative boards of their region. Their expense is met through the shares allocated to all the local governments. Contrary to the Parliament and Health Commissioners, personnel of the Local Government Commissioners are constantly appointed.

2.1.4.2.1. Election, Dismissal and Enabling the Independence of the Local Ombudsman

As a rule of thumb, local ombudsmen are elected by the parliament. Their independence also necessitates this. Moreover, being elected by the parliament strengthens the democratic legitimacy of ombudsmen. Their appointment by
governments is rarely seen. For example, local ombudsman (local government commissioner) is appointed by the Queen upon the proposal of the government, in many other countries, however, they are elected by the parliament parallel to the central ombudsman. Appointment of the ombudsman is kept dependent on the existence of a strong majority in some countries. For instance, in Spain the defender of the people is appointed by the 3/5 (three fifth) majority of the congress of national deputies. The same majority is also observed in the senate. In some countries, they are elected by local assemblies. In France, Mayor of Paris appoints the local ombudsman himself.

Local ombudsman work independently from both the parliament and the government. S/he is autonomous in activities related to his/her own areas of functionality. Existence of the institution of ombudsman is dependent on the independence of the institution. An ombudsman that is not independent will not be able to execute the duties assigned to himself/herself, moreover s/he will diminish the trust and respect felt for him/her.

Since local ombudsmen are generally elected by the parliament, their tenure is also often limited and is the same with the tenure of the parliament. However, there are also different applications in question. For example, a local ombudsman in England who demonstrates good behaviour can hold his tenure till s/he retires at the age of 65. Much as s/he has the right to be re-elected at the end of the tenure, s/he might not have the right to be elected again.

As for dismissal, the system in which ombudsman is elected by the parliament also ensures the possibility that s/he can be dismissed when necessary. However, it usually allows the possibility for the Ombudsman institution to be dismissed within very tight restrictions and by the high court. For example, in England, the local ombudsman can be dismissed by the Queen following the endorsement by the both houses of the parliament.

The conditions for becoming an ombudsman also varies among countries. It is not compulsory for the ombudsman to be specialized in law. They are elected among the university staff, public personnel and renown people who have an established record of respect, confidence, independence, consistency and integrity. There is only the obligation of having received a degree of law in Denmark. On the
other hand, there are different applications, too. For instance, in England, personnel of the local ombudsman is appointed.

As for the budget of the ombudsman, it is set by laws and no institution can exert influence upon it or control it. The expenditures of the local ombudsman in England is covered through the shares that are allocated to all the local governments. The pay she gets is equal to the highest pay in the country or above it.

2.1.4.2.2. Task and Jurisdiction of the Local Ombudsman

It is the most prominent task of the local ombudsman to scrutinize any kind of operations carried out by local governments, including the administrative decisions by the local assemblies, both in terms of their characteristics that will add quality to their decisions and with regard to justice. S/he controls it not only in terms of accordance with law but also humanity and human rights. In England, for instance, similarly to the task of the Parliament Commissioner, the task of the Local Government Commissioner is also to investigate the complaints by people who claim to have been inflicted by damage or destruction (injustice) stemming from bad ruling. There is no investigation carried out in issues that provide the possibility to claim one’s right in any judicial office or in the court. However, evaluation of conditions is left to the commissioner.

As a result of the local character of local ombudsmen, they each have their separate jurisdictions in a different way from the central ombudsman.

The task and authority of the local ombudsman is generally determined by counting. Because, presence of more than one ombudsmen might lead to a confusion of authority. In order to prevent this, the areas of duty and authority are clearly portrayed.

Some countries have raised certain restrictions concerning the authorities and duties of local ombudsmen. The ombudsman is not assigned the authority to investigate some operations carried out by local governments. For instance, in England, controversies arising from the conventional and commercial operations concerning public transport vehicles and markets, personnel problems as well as some educational matters are not investigated by the ombudsman.
Local government ombudsmen are responsible for examining the complaints about unjust applications stemming from bad ruling. However, they do not discuss upon the merits of the decisions taken by local governments using their authority of appreciation.

2.1.4.2.3. Application to the Local Ombudsman

Local ombudsman can act by his/her own decision upon a complaint from the citizens about any kind of administrative operation and action of the local governments as well as upon any kind of shortcoming that is reported. Action of the local ombudsman has not been depended on the same procedures in every country. Generally, s/he acts by his/her own decision (automatically) upon the request of the Parliament or upon the complaint of the citizen.

Local ombudsmen receives and inquires the complaint of the citizen without being bound by the condition of a formality or format. Ombudsman can act as a result of his/her observations on daily newspapers, journals and public controls even if there is no complaint. Direct application is possible in most countries. For example, in England, direct application to the central ombudsman (parliament commissioner) is not possible, it is possible only through a parliamentarian, though, direct application to the local ombudsman is possible.

The right to complain can usually be utilized by the citizens. Some countries have granted this right to legal persons as well as legal persons within public and private law. In England, a group people having or not having a real personality (companies, partnerships, charity associations, etc.) apart from real persons can also apply to the local ombudsman. However, in some countries, people of foreign nationalities have also been granted the right to apply to the ombudsman.

Another issue concerning application to the ombudsman is whether the person making the application has any sort of interest in this. While some countries stipulate that the person to apply to the ombudsman be suffering from a violation of law, some other countries have regarded adequate the existence of a similarity between the public service that is the subject of complaint and the subject of complaint within the framework a wider application. In England, the condition of
having a damage in one’s right or being inflicted by an unjust application is pre-
requisite for a person to apply to an ombudsman.

While some countries have imposed a time limitation for applying to the
ombudsman, some other countries have not imposed any kind of limitation.
Applications exist in some countries where there are arrangements as to fact that the
ombudsman can be applied to in case no result is obtained following an application
to the administration, whereas no such requisite is observed in some countries.

There is no requisite for a particular format for application to the ombudsman
and application is for free. Applications can be submitted in a written fashion as well
as orally.

Although rendering of complaints by the victims themselves constitutes the
essence, their personal representatives, a member of their families or their legal
representative can also submit the complaint on behalf of them in case of their
inability to act on behalf themselves due to death or similar reasons.

2.1.4.2.4. Working Style of the Local Ombudsman

As for the complaint brought up to himself, the local ombudsman firstly
evaluates whether the transactions of the related local government is in accordance
with the laws or not. He takes the issues of equity and justice into consideration
while inspecting the files. The evaluation of the complaints in accordance with the
laws is essential. Moreover, while evaluating the files, it is inspected whether the
issue is compatible with the laws, constitution, and the obligatory articles of the
international agreements.

The ombudsman inspects all the information and documents related with the
issue of investigation, and he has the authority to interrogate anyone he deems
necessary. He can also use other techniques of investigation.

In the first phase of the investigation, after informing the local governments
about the complaints, the Ombudsman requests a response concerning the issue, and
decides whether it is necessary to proceed with a further investigation. The local
government in charge of the implementation reevaluates the application submitted
through the Ombudsman, and if there is a violation of law of injustice, it informs that
the mistake has been corrected in the first response. If the complainer or Ombudsman are not satisfied with the response of the local government, a decision can be taken in order to intensify the investigation.

The Ombudsman arrives at a decision as a result of the investigation he carries out. Administrative operations and actions may be against or compatible with the laws. In such a case, he submits his recommendations to the related institutions and persons. If the administration is convinced that the Ombudsman has arrived at a fair decision, it tries to resolve the problem by enacting a resolution, or it does not approve this decision. In this case, Ombudsman raises the issue to Local Council.

Only in England the local government commissioner is not answerable to the parliament or any of its ministers. If the local Ombudsman finds out that the complainer suffers from injustice due to misadministration, the local government has to take the report into consideration and inform the Ombudsman about the precautions that have been taken so far or planned to be taken in the future.

The local governments can take two kinds of precautions following the recommendations of the Ombudsman. It states that the implementation procedures will be overviewed so that the complainer would be compensated for the inequity he suffers and the misadministration causing the complaint would not be repeated again. However, if the local government does not give any feedback in a reasonable period of time or the solution it offers does not satisfy the ombudsman, or it does not take any kind of precautions, ombudsman draws up a new report. In England, the local government can not neglect the second report of the ombudsman by any means.

Moreover, following the completion of the report, the ombudsman can arrange a press conference and inform the public opinion about the trouble, solutions offered concerning the problem and the feedback of the relevant institutions regarding these solutions.

After completing an investigation, the local ombudsman has to send the copies of the report to the complainer, to the member or relevant person (if the complaint is submitted by a person other than the actual complainer) by whom the complaint is presented, and the administration and the people who are concerned with the issue of complaint.
If the local ombudsman decides not to carry out an investigation, he has to inform the complainer, the member by whom the complaint is presented and the relevant administration about his decision through a justified report.

Each local ombudsman has to submit a report concerning his annual activities, and each commission has to submit an annual report to the representative councils of the region. The reports must also be published so that the readers could benefit.

If the local Ombudsman finds out that the complainer suffers from injustice due to misadministration, the local government has to take the report into consideration and inform the Ombudsman about the precautions that have been taken so far or planned to be taken in the future.

In England, the number of complaints submitted to the local ombudsman per year is approximately 4000, one fifth of which is under the authority of ombudsman, and most of the complaints concern the planning and residential matters.

**CONCLUSION**

The local government authorities, which conduct the public services of local characteristic and are, in this context, based on the principle of local government, are autonomous institutions. Autonomy gives the local governments some rights and responsibilities. The local governments, which have some rights for a special budget, the juristic person status and independence of decision-makers owing to the autonomy, are obliged to effectively and productively carry out public services of local characteristic which are considered as the reason of their existence. The question of whether these services are performed effectively and productively so as to respond to the needs of the local people can only be understood by doing supervisions. For this reason, the system of supervision and control is applied to the local governments by the central government in order to ensure the harmony and unity throughout the country, carry out the public services and utilize the country’s
resources effectively and productively. This kind of control system usually appears as a guardianship supervision.

The mechanism of supervision and control of local governments in our country, as a principal institution of civil law, came from France. The form of practice in our country, however, acquired more centralist character compared to that of in France.

The control mechanisms, which are generally exercised on the local governments in our country, are as follows: administrative control, juridical control, political control and public control. The most important one of these mechanisms is undoubtedly the administrative control, that is to say the guardianship supervision, used by the central government. Because the greatest threat to the autonomies of the local governments comes from the guardianship supervision.

The control mechanisms exercised on the local governments have, in general, some problems too in addition to those of mentioned above.

The control system is not directed towards the determining and measuring of elements like effectiveness, productiveness, appropriateness and performance in carrying out the public services. The system, which are to a great degree crowded and suffocated by papers and directed to determine whether or not the rules are violated, can not perform its functions expected to be succeeded in doing public services. With its today’s function, the system, from which is expected to propose measures with its products in order to prepare the data for high ranking officials and prevent wasting labor, time and resource, in itself became the reason for extravagance of labor, time and resource.

Opinions and proposals in projects and reports, which are produced as a result of inspection, control, investigation and research activities, are usually not taken into account. Besides, there are a lot of organizations and institutions that exercise the authority of control on local governments. There is, however, no coordination among these institutions. Sometimes it appears that the same local government are continually and simultaneously inspected by the controllers of different institutions on the same matters without warning the sides concerned.

Exploring a new control methods, which will ensure the effectiveness, productiveness, and appropriateness in governing and at the same time impede the
violations of the citizens’ rights and freedoms, has become inevitable. At this point, the Ombudsman mechanism, which was established in Sweden in 18th Century, remained as an institution peculiar to this country for more than a century, and found an opportunity of application in most countries as a new control method owing to the problems confronted in supervision system, comes to mind.

The Ombudsman, who assists to solve the problems emerging from the relations between the citizens and government, makes a recommendation to the relevant officials of institutions on the matters complained about, and is usually selected by the legislative body, is an independent high level official.

From the point of view of citizens, the Ombudsman is an acceptable means that gives the impression of assurance of that administering the justice and treating those who benefit from the services with good, rapid, quick, simple and respectful manner by the administrative institutions. As to the government, the Ombudsman, which ensures to remedy the errors that has been omitted in the course of proceedings, is a purification method from the additional mistakes with regard to the operations carried out by the administration. The Ombudsman, which is located outside the administration but close to and has influential effect on it, is an independent and reliable, non-formalist position that acts together with people if needed and open to public.

The Ombudsman can make the control of appropriateness as well as the control of legality. The Ombudsman can take action following the submission of a complaint and on his own initiative as well, and investigates the citizens’ complaints and creates the solution proposals. The most important thing for an ombudsman decisions of which are not binding is the public support. The main point of the ombudsman’s decisions is “to persuade” and “to convince”.

The idea of ombudsman’s application in our country and, in this context, of establishing the local ombudsmen in order to investigate the local governments’ actions and operations, appears as a new method in overseeing the local governments. The question of whether the ombudsmen for local governments should be established in addition to the central ombudsmen, has been discussed in most countries that carry out the ombudsman system; firstly England and then some other countries established a separate ombudsmen for the local governments and carried
out successfully. For this reason, establishing a separate local ombudsmen for the local governments as well as the central ombudsmen in our country will bring a new understanding and activity to the control system.

The ombudsman established in local governments will inform the relevant local government about the reports and proposals prepared as a result of the investigations. In the event that the local government fails to comply with a lawful requirement of the Ombudsman, the authority of ombudsman will be legally exhausted. At this point, the ombudsman’s only power remained is to set the mechanism of political control into action against the local governments and to put pressure on the local government concerned by creating a public opinion.

Democracy from which is expected the effectiveness can only demonstrate it in surroundings where there are active citizens that participate to each stage of the government and are not solely “subjects”. Because of this, democracy requires the citizen to participate actively in the government, particularly local governments. The ombudsmenship is therefore an effective means in participation of citizens to the local governments and in overseeing the local governments.

The ombudsman is certainly not a panacean remedy. The ombudsman is, before all else, a goodwill institution. However, a local ombudsman institution, which will be established spending a lot of time thinking about and getting an arrangement suited to its natural character, will carry out a significant function encouraging citizens to participate in government and also prevent the misadministration, by which the citizens are affected, emerging from the actions and operations of local governments; and as for the improvement of the rights and freedoms and reducing the violations of rights to the least degree, it will make significant contributions.
REFERENCES


