

## The Influence of Local Governments over the Transformation in Inspection Understanding of Turkey on Tutorship Inspection

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### **Abstract**

The expansion in the functions and activities of public administration in last years led to the administration more systematic and convenient with the scientific rules. However, the expansion and frequency for the functions and activities of the administration brought about inertia in bureaucracy, red taping and corruption and the complaints of the governed about the activities of the administration. All these developments led to invent, develop and use the contemporary inspection methods and techniques. Local governments are the governmental administrative units which are investable and complementary parameters of the public administration together with the central government in almost all countries. During the historical progress, the local governments has been transformed into the essential institutions in executing the local services by providing the productivity and effectiveness and enhancing the democratic possibilities. Local governments are the closer and at the lower level administrative bodies. The power and the functionality of local administration is directly relevant with the level democracy in any given society. In analyzing the legal and structural transformation of public administrative inspection in last years of Turkey, it can be seen that the important problems are still remaining under the inspection of administration for the tutorship. In this presentation, the influence of the transformation emerged in the understanding of inspection in the public administration over the tutorship inspection of local administration has been elaborated and offered some new solutions for the problems which may arise during this process.

**Keywords:** Public administration, local administration, inspection, tutorship inspection, local autonomy

### **Introduction**

In the discipline of public administration, the changing process has been initiated in 1980s and prolonged until now has influenced deeply the understanding of public administration in Turkey as various countries and led to the legal and structural transformation. The most important step in this changing the novelties suffered the control mechanisms and its implementations. The old fashioned inspection in classical public administration contains the punishment of the personal who committed the mistake was replaced by the understanding of inspection consist of preventive approach to take precaution before

creating the mistakes and faults and depending upon the guidance function for employees and result and process-based parameters.

Local governments as the main parameter of the public administration are governing bodies which has the separate entity and autonomy as well as public entity. Central government attempts to control and take under provision the local governments in order to prevent the abasement of the authorities given by the central government contrary to the legal rules and the common interests, unity and the integration of the state and create the harmony and coordination in the state services.

Local governments are bound to be supervised by the central government because it is the direct representative of the central government. Nevertheless, overcontrol and excessive surveillance of the local governments may lead to prevent the development of the potential governance capacity of the local governments. However, the guardianship inspection of the central government over the local governments can be hampered by the convenient balance between the local autonomy and benefits expected from the inspection.

The regulations concerned with the guardianship inspection over the local governments put in an appearance in Constitution and the laws. The extents, aims and the constrains of the guardianship inspection should not be directed into the propriety control because of the ambiguity of the legal framework. However, the guardianship inspection of local governments may give harm their local autonomies. For this reason, this surveillance should be in minimum level and in accordance with the legal framework. In this presentation, the influence of the transformation within the understanding of the control over the guardianship inspection of the local authorities and how this transformation led to some legal and structural changings and existing problems and their ways of solution concerned with this transformation will be subjected into the detailed analysis.

### **Transformational Analysis of the Inspection Understanding in Turkey**

New public administration understanding emerged as a reaction and alternative of traditional and classical approach turned into the paradigm which is prevalent, transforming, directing and interpreting the changings in the activities, structure of the economic and executive system in 1980s (Bilgiç, 2003:36). This paradigm transformation in the discipline of the public administration since 1980s became effective in Turkey and implemented into the legal regulations in 2000s. This transformation suffered in the scope of the public administration reflected into the inspection mechanism with the peculiarities of focusing on the factual trues and convenience with the legal regulations, adequacy on the new requirement and conditions and referring the contemporary inspection techniques and mechanisms.

In this context, Public Fiscal Management and Inspection Code with 5018 number entered into force in 2003 separates the inspection as the internal and external control. In accordance with this Code, the internal control can be operated by the internal auditor and internal control has been defined as the guidance, independent and objective security building activities as well as inspecting the public administration to be governed in accordance with the principles of efficiency, effectiveness and productivity (Article 63).

The external control is the providence of the supreme court of public accounts after spending the expenditure and its aim is the elaboration of the fiscal activities, decisions and transactions of the government within the framework of political accountability of the public administrations in accordance with the targets and plans determined by the legal regulations (Art 68).

The aim of inspection in the local government codes (Provincial Special Administration and Municipalities) is to help the presentation of the mistakes in the activities and transactions of the local governments and provide the improvement of the employees and organizations and ultimately make the government and control system more reliable coherent. In accordance with these targets, other aims of the inspection for the local governments are to analyze the services which have been realized impartially and within the framework of performance criteria and quality standards and to report the obtained results for the concerned people (Provincial Special Administration and Municipalities Codes Art. 37 and Obligation Law Art. 54). One thing to bear in mind here is to overemphasizing the guidance function of the inspection and to focus on the human-based understanding of the control mechanism.

### **The Aim, Extent and Constraint of the Guardianship Inspection**

Guardianship inspection is the inspection of the local governments by the other governmental institutions excluding the local authorities within the limits of the rules and laws (Gözübüyük 1976: 158). Guardianship inspection is realized by the executive body, institution and office authorized by the legal sources and this control has been limited with the constraints determined by the law. Guardianship inspection is implemented in order to provide the harmony in public services and secure the common interests of the state over the activities, transactions, bodies and employees of the local authorities (Arslan, 1990:508-510; Gürsoy, 1987:8-9; Aktan, 1976:4). Impliedly, Guardianship inspection is a kind of guarantee for the people benefited from the public services as well as the central governments and local authorities.

The reasons of the guardianship inspection implemented by the central government over the local authorities have been determined in 127 Article of 1982 Constitution. According to the Constitution, the central government has the authority of guardianship inspection in order to “provide the social interest” and “duly satisfaction of local necessities”. It means that the Constitution allows for the guardianship inspection and the inspection for the compliance with laws. This constitutional regulation has become the source and legitimacy ground of the strong guardianship inspection over the local governments (Eryılmaz, 1997:29; Geray, 1993:31; Çoker, 1992:6).

European Autonomy Charter of Local Governments which Turkey signed by putting some reservations includes the regulations pertaining with the guardianship inspection over the local authorities. 8<sup>th</sup> Article of the Charter is directly relevant with the nature, extent and way of implementation for the guardianship inspection. According to the Charter, the executive governmental inspection of the local authorities can be implemented just only in situations determined in the law and just only aims to provide the compliance with the principles of the Constitution (Keleş, 1995:14). European Autonomy Charter of Local Governments which Turkey signed by putting some reservations is principally limited with the inspection for the compliance with the law in respect of executive guardianship (Yeter,

1996:6; Gönül: 1993:33). The task, duty, responsibility of the direct local authorities is constrained with the inspection for the compliance with the law.

### **Implementation Ways of Guardianship Inspection**

In this kind of guardianship inspection, the inspector people and bodies are openly determined and the scope of inspection is regulated with laws. A public servant or a public institution or a body can be demonstrated as the guardianship post (Tezcan, 1995:268). Turning over of the guardianship inspection is not possible and this authority cannot be used by other bodies and institutions.

The guardianship inspection is a kind of inspection committed by the institutions placed in the central government or their representative in local places or back country. In this context, President of the Republic, Prime Minister, Council of Ministers, Ministry of Internal Affairs, other ministries, State Supervisory Council, Prime Ministry and Ministry of Finance Committee of Inspection, Ministry of Labor and Social Security, court of State and Court of Accounts and other relevant institutions and organizations and their representatives in back country have the authority of the inspection (Bozoğlu, 1996:18; Başsoy, 1993:300). However, the guardianship inspection over the provincial special administrations, municipalities, and relevant institutions or local government unions has been realized and some into enforcement by the local authorities as the representatives of Ministry of Internal Affairs and within the back country.

The central government has under the subjection of the continuous inspection in order to provide the compliance of all local authority transactions in accordance with the common methods of the state. The guardianship inspection over the local governments principally provides balance between *de facto* and *de jure*. This inspection can be implemented against the negative activities such as the ignorance, negligence and mistakes of the public servants (Onar, 1966:633).

The activities of provincial special administrations and the authority of the guardianship inspection can be implemented just only the public servants who are not elected (Coşkun, 1976:32). The elected public servants are frequently inspected by the usual transactions such as the promotion, employee personal rights, annual leave, discipline investigation, suspension, dismissing.

### **The Problems in Guardianship Inspection and Ways of Solution**

The inspection of local authorities by means of the administrative methods is really important in protecting the local autonomies, inducing the improvement of these institutions, guiding their activities and preventing the potential and possible mistakes. The excessive and gross implementation of the administrative inspection has the danger of the distortion in autonomy of the local governments. On the other hand, the inadequacy of the inspection may lead to hinder for the targeted aims. Unfortunately, the inspection of the local governments has many problems in Turkey.

The administrative guardianship inspection over the local governments has been removed for the sake of their budget and employees, but it is rarely argued that the assembly resolutions can revoke these inspection in necessary circumstances (Güler, 2004:31). However, even though the administrative guardianship inspection over the local

governments was not totally removed, it was partially palliated in many respects. The most important problem in this matter is that much inspection council was abolished and many institutions were dissolved. As a result of these removals, we can witness a great gap in inspecting the search, investigation, analysis of the mentioned institutions.

Especially the Council of Accounts overtaken the mission of external audit cannot function to inspect the local governments with more than three thousand units in accordance with the legal compliance, performance criteria and fiscal dimension (Akdoğan, 2004:28; Uluğ, 2004:114-118).

The central government has the authority of guardianship inspection in order to “provide the social interest” and “duly satisfaction of local necessities”. It means that the Constitution allows for the guardianship inspection and the inspection for the compliance with laws. Nevertheless, it has the potential danger to shift the guardianship inspection into the discretionary and expediency inspection. Consequently, this kind of ambivalent and ambiguous statements can lead to misunderstanding and abasement. Therefore, the guardianship inspection should be limited with the compliance with the law and the constrains of the determined targets, aims and extents.

## **Conclusion**

The inspection of the local government could not be effective and influential in Turkey because there is deprivation of the targets, performance criteria, the principles of the compliance with the law for many years. However, we can mention about the overlapping and repetition of the inspections because many institutions and bodies overtaken the mission of inspection as a discrepancy of functions and conflict situations. In some cases, the local authorities could not have their tasks because they were subjected of excessive inspection and lessening of their power as a result of lack of confidence.

On the other hand, the corruption and extravagance and wastage have been prevalent in administrative affairs because of the lack of inspection in different levels of administration. As a result of the latest regulations, and amendments concerned with the local governments in Turkey, many missions, services and powers of the central government were delegated into the local authorities. However the local governments with their new and increased authorities could not achieved to satisfy the expectations of the local people. For this reason, the inspection of these bodies has become inevitable to be restrict inspected in effective and efficient ways.

The old fashioned inspection in classical public administration contains the punishment of the personal who committed the mistake was replaced by the understanding of inspection consist of preventive approach to take precaution before creating the mistakes and faults and depending upon the guidance function for employees and result and process-based parameters.

This transformation suffered in the scope of the public administration reflected into the inspection mechanism with the peculiarities of focusing on the factual trues and convenience with the legal regulations, adequacy on the new requirement and conditions and referring the contemporary inspection techniques and mechanisms. The regulations concerned with the guardianship inspection over the local governments put in an appearance in Constitution and the laws. The extents, aims and the constrains of the

guardianship inspection should not be directed into the propriety control because of the ambiguity of the legal framework. However, the guardianship inspection of local governments may give harm their local autonomies. For this reason, this surveillance should be in minimum level and in accordance with the legal framework.

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