Chapter 10

Evaluation of The Effects of Global Economic Developments on Administrative Law in Türkiye

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Abstract

Administrative law, one of the branches of public law in Turkey, briefly regulates the internal functioning of the administration and the relations between the administration and individuals. The concept of administration refers to institutions and organizations that perform a public service by using public power on behalf of the public. The public services provided by the administration are very diverse, particularly security, health and transportation. Although the public services provided by the administration were very limited in the past, today, a wide variety of services have started to be provided in different areas of life. Moreover, with increasing globalization, the factors to be taken into consideration in the provision of services have also diversified. Today, administrations have to take into account both national and international dynamics and developments while providing the public service they are assigned to provide. This is because the legislature or authorized bodies make legal arrangements for the needs of the society. While implementing the legal regulations, the needs of the society and the developments should be taken into consideration. While acting on behalf of the public and pursuing the public interest, the administration must take into account factors such as technology, international law, digitalization and adapt itself to developments according to the conditions of the day. This depends on the flexibility of the administration in adapting to the developments. This is because the failure of the administration to adapt to the developments causes the administration not only to fail to fulfill the duties it is obliged to fulfill in the globalizing world, but also to fall behind international developments and become unable to see the needs of individuals and society. Therefore, this study examines the relationship between administrative law and the global economy, tax regulations, the right to intervene for the public interest, international regulations, digitalization, environmental protection

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and competition law. Finally, we propose solutions as to what the attitude of the administration and administrative law should be in the face of these developments.

1. ADMINISTRATIVE LAW IN TÜRKIYE AND THE GLOBAL ECONOMY

Administrative law is the branch of law that regulates the relations and rules of the administrator, the administered and the administered (Gözle & Kaplan, 2020, s. 16). The importance of administrative law has increased with the expansion and diversification of public services provided by the administration. In the past, states, kingdoms or empires provided a limited number of services such as justice and security. However, today, in parallel with the developments in societies, the services needed have increased, and most of them have started to be provided by the state. However, over time, states began to provide some public services through private legal entities, while continuing to provide some public services themselves. (Gözle & Kaplan, 2020, s. 277) The importance of administrative law and administrative law regulations regarding the services provided has increased day by day. (Ulusoy, 2020, s. 486)

In the past, administrative law and the economy were closely related, and the relationship between administrative law and the global economy has become even more important with globalization. While administrative law regulates the activities related to public services provided in a country and the legality of these activities, the global economy covers the increase in trade and economic relations between countries and the effects of these relations on economic growth. In light of today's developments, it is necessary to address the relationship between the global economy and businesses and administrative law in terms of some areas. The relationship between the global economy and administrative law can be examined in different dimensions. Today, these are basically legal regulations, digitalization, public-private partnerships (PPP), environmental law, public tender and c ompetition law.

Before addressing the relationship between administrative law and the aforementioned fields, it is useful to mention some basic points about the economy and businesses at the national level. This is because how the state, and the administration in particular, will or should react to the developments of today can be evaluated more accurately by taking into account past experiences.

a. Relationship Between Economic Regulations and Administrative Law:

With the acceleration of global economic integration, states have to make various regulations in order to protect their national economies and develop them against competing economies. These regulations are necessary both to balance the ever-developing and diversifying international trade and for local businesses to grow and compete in global markets. Administrative law comes into play at this point and serves to put the interventions of states on the economy on a legal basis.

b. Legal Regulations Regarding the Economy in Türkiye:

Countries make various legal arrangements in order to regulate the economy and ensure the public interest. These regulations generally cover public finance, trade, investment and competition. Some of the prominent regulations are as follows:

- Tax Laws: Legal texts that determine the mechanisms by which the state and certain public authorities collect and distribute taxes. Taxes such as income tax, corporate tax, value added tax constitute public revenues.
- Competition Law: It is related to the regulations to be made in order to ensure fair competition in the markets and to prevent monopoly. Regulations in the field of competition law are important for citizens to receive more appropriate and quality services in a competitive environment.
- Trade and Customs Laws: Legal texts that aim to regulate international trade and cross- border movement of goods.
- Labor and Social Security Laws: Covers the rights and obligations of workers and employers, minimum wages, working hours and social security. The purpose of these legal texts is to ensure that business life is conducted in an orderly manner, and when disputes arise, to ensure that they are resolved according to predetermined procedures.

c. The State's Right to Intervene in Public Interest:

Public interest can be defined as that which is in the interest of the people under the sovereignty of the state. (Gül, 2014, s. 537) The right of the State to intervene in the public interest can be expressed as the right to intervene in private property or economic processes in order to protect the general interests of society. Today, these interventions can take various forms: For example, the state may expropriate private property in whole or in part, or

establish easement rights in favor of the administration for public interest purposes, as stated in Article 46/1 of the 1982 Constitution[2]. However, this intervention is not unlimited and can be carried out in accordance with the principles and procedures set out in the relevant laws and must be paid in advance. (Tanör & Yüzbaşıoğlu, 2016, s. 141-142) The state may intervene by conducting price controls to prevent excessive increases in the prices of basic consumer goods. In some cases of exorbitant price increases and stockpiling, fines may be imposed on those concerned. Another method of control is regulatory control. With regulatory supervision, the state can supervise the activities of actors in various sectors within the framework of legal rules and administrative regulations. As can be seen, one of the main starting points of the administration and the state is the public interest.

d. Tax Regulations and Public Expenditures:

Another relationship between administrative law and enterprises is tax regulations, public expenditures and other procedures. Taxes, which are the revenue collection tool of the state, can either encourage or restrict economic growth. Tax cuts or increases can directly affect consumer spending and investor behavior. Although taxes are the main source of public revenue, excessive tax burden may prevent investors from investing and consumers from working, earning income and spending. Again, the state may offer subsidies and incentives to support certain sectors, areas or investments. These subsidies have the function of increasing production and growing the economy. Finally, the state can support economic growth by spending on areas such as education, health and infrastructure. Public investment can increase economic productivity in the long term. The improvement of infrastructure and basic services is directly related to the economy.

e. The Impact of Tax and Public Finance Policy on Economic Growth:

Tax and public finance policies have a direct impact on economic growth. For example, high tax rates can often restrict investment and consumption, while low tax rates can stimulate economic growth. In addition, effective and efficient government spending can also have a positive impact on growth. Spending public revenues where they should be spent will ensure that citizens and investors receive better quality services and will have a positive impact on economic growth.

2 For the 1982 Constitution, see: https://www.mevzuat.gov.tr/mevzuatmetin/1.5.2709.pdf, Accessed 10/10/2024

f. The Compliance Process of International Companies with Tax Regulations and Public Finance Policies:

The most important relationship between administrative law and national and global businesses is the process of harmonization. This is because companies operating globally have to adapt to the tax regulations and public finance policies of different countries. According to the theory of sovereignty adopted in law, each country has the right to make regulations in all areas it deems necessary in the places under its sovereignty, to prevent violations of regulations, and to impose sanctions in case of violations. (Teziç, 2014, s. 139) This is important for the cross-border business of national enterprises, as well as for the domestic operations of global enterprises. Although there is a wide legal regulation area for national businesses and they can operate if they comply with the conditions, the situation for global businesses needs to be examined. Therefore, the harmonization process for global enterprises should be considered in two different dimensions: tax and fiscal policy harmonization.

According to Article 73/1 of the 1982 Constitution, everyone is obliged to pay taxes according to their financial capacity in order to finance public expenditures. The text of the Constitution does not discriminate between citizens or foreigners, but states that everyone has to comply with this obligation. When global businesses operate in different countries, they must comply with the tax legislation of those countries. Issues such as transfer pricing and double taxation agreements are important areas of compliance for international companies.

Global businesses have to comply with local regulations in order to benefit from government incentives. For example, companies wishing to benefit from investment incentives offered by a country must meet the investment and employment criteria set by that country. If the criteria are not met, it will not be possible to benefit from investment and employment incentives.

Ultimately, while administrative law and economics determine the ways in which the state can intervene in markets as a matter of sovereignty, striking a balance between the global economy and national regulations is crucial for economic development and investment.

2. ADMINISTRATIVE LAW AND INTERNATIONAL REGULATIONS

International regulations for global businesses are vital for the balanced and fair functioning of international trade and the global economic system. These international regulations aim to create a balanced structure in both

economic and social dimensions by regulating the activities of companies in different countries. This is because through international regulations, states aim to harmonize the regulations applicable in their own countries with each other. Moreover, the impact of international law on administrative law and the regulations introduced by European administrative law for international companies have also been decisive in terms of facilitating global trade.

a. International Regulations for International Businesses:

The activities of global companies are subject to both national and international norms. These businesses have to act according to the regulations in both areas while operating. Some prominent international regulations are as follows:

- OECD Regulations[3] (Organisation for Economic Co-operation and Development): The OECD sets regulations for ethical and responsible business practices for international companies. These regulations cover issues such as human rights, environmental protection, labor rights and anti-corruption.
- WTO (World Trade Organization) Agreements[4]: WTO agreements have introduced regulations for multinational enterprises to liberalize international trade and remove trade barriers. They provide mechanisms for tariffs, trade quotas and trade dispute settlement.
- Double Taxation Agreements: Double taxation agreements are made to prevent international companies from paying taxes twice when operating in more than one country. These agreements alleviate the tax burden of companies while allowing governments to collect regular revenues. Paying taxes in both countries of operation can be a significant cost for businesses.
- United Nations (UN) Global Compact[5]: This UN initiative sets out the basic criteria that international enterprises should adhere to in terms of human rights, labor standards, environmental protection and anti-corruption. Although it is a voluntary arrangement, many multinational companies have adopted these principles.

3 For OECD Regulations see: https://www.oecd-ilibrary.org/, Accessed 10/10/2024

4 For information on the WTO, see: https://www.wto.org/, Accessed: 10/10/2024

5 For the UN 10 Principles see: https://www.globalcompactturkiye.org/public/10-ilke, Accessed 10/10/2024

b. The Impact of International Law on Administrative Law in Turkiye:

While international law basically regulates inter-state relations, it also affects domestic law. The main effects of international law on administrative law are as follows:

Integration of International Agreements into Domestic Law: International agreements on issues such as international trade, human rights and environmental protection can be incorporated into domestic law in accordance with the procedure set out in the Constitution. According to Article 90 of the Constitution, the implementation of international agreements in Türkiye is subject to ratification by the Turkish Grand National Assembly (TBMM) through a ratification law. However, agreements signed on economic, commercial or technical issues can be directly put into force without the approval of the Parliament if their duration does not exceed one year. International agreements concluded pursuant to a law of authorization are also not subject to parliamentary approval. Signed agreements become part of domestic law according to the procedure set out in the Constitution, and thus fall within the field of administrative law. (Özbudun, 2021, s. 229)

Environmental and Human Rights Obligations: International companies are required to comply with international environmental and human rights norms in the countries where they operate. Whether companies comply with these norms can be determined through administrative oversight. This is implemented through administrative law and national regulations take these norms into account.

Investment and Trade Regulations: International trade agreements are implemented as national regulations under administrative law if they are signed in the procedure laid down in the Constitution. For example, World Trade Organization decisions or free trade agreements also affect national administrative regulations.

c. European Administrative Law and Regulations for Cross-Border Companies:

Over time, the European Union has developed a set of administrative procedures on a number of issues such as competition, trade, public aid, civil organizations and access to Union regulations. This has led to the emergence of a new area of law in the member states of the European Union, known as European administrative law. The European Union (EU) has introduced important regulations for companies operating in the member states of the Union, as well as for international companies providing services and

trade internationally. European administrative law plays a key role in both protecting competition and promoting fair trade practices.

- Single European Market: The recognition of the internal market of the European Union as a single market was introduced to ensure the free movement of goods, services, capital and workers. In this context, international companies can also operate freely within the European Union. However, although the single market provides freedom, it does not mean that companies are completely free. In order to operate, companies must fully comply with European Union regulations.
- Competition Law[6]: The European Commission has introduced strict competition regulations to prevent monopolization and abuse of market power by multinational companies. Large mergers are regulated under anti-trust rules, which prohibit anti-competitive practices and impose penalties where necessary.
- Data Protection (GDPR)[7]: The EU General Data Protection Regulation (GDPR) applies to all companies operating within the EU and introduces strict regulations on the protection of personal data. These regulations also apply to multinational companies operating cross-border and heavy fines can be imposed for violations.

d. Global Trade Facilitation and Administrative Law:

Harmonization between international regulations and administrative law to facilitate global trade is critical for the smooth functioning of the global economic system. This harmonization can be achieved in a number of areas, including double taxation avoidance and digital trade regulations.

- Harmonization: The adoption of common standards and norms across countries facilitates compliance with regulations for multinational companies. This is because legal certainty and predictability, as a requirement of the rule of law, enable individuals to prepare themselves for legal obligations by knowing their legal obligations in advance. The harmonization of national norms with international regulations makes it easier for international companies to prepare themselves for the obligations imposed. For example, global harmonization of environmental standards or labor rights can eliminate differences in

6 For European Union Competition Policy see: https://www.ab.gov.tr/8-rekabet-politikasi_73.html, E.T: 10/10/2024

7 For the General DataProtection Regulation (GDPR) see: https://gdpr-info.eu/, E.T: 10/10/2024

practice in different countries. The adoption of a single or closely aligned practice would provide a more secure environment for companies.

- Avoiding Double Taxation: Double taxation agreements encourage trade by preventing international companies from paying taxes twice on the same income. Double taxation increases both the cost to companies and the price that individuals pay for goods or services. Administrative law can help implement such international agreements in domestic law.
- Digital Trade Regulations: With the increase in digital trade, the importance of developing international norms for cross-border e-commerce activities continues to increase day by day. Lack of regulation in this area may lead to a decrease or even cessation of trade. Making international digital trade regulations and integrating them into national administrative law will facilitate more effective global digital trade.

In conclusion, international regulation of international enterprises, the impact of international law on administrative law and the regulations of European administrative law on companies are important topics for facilitating global trade. Harmonization of these regulations enables multinational enterprises to carry out their activities more effectively and to develop international trade. Failure to make adequate and necessary regulations in this area, or failure to make them a part of domestic law, will hinder the development of global trade.

3. DIGITALIZATION AND ADMINISTRATIVE LAW

Digitalization refers to the widespread use of technologies in the field of information and communication, digitizing data, conducting transactions electronically and providing services through digital technologies. Digitalization accelerates and makes processes more efficient in both the public and private sectors. In particular, technologies such as the internet, cloud storage, artificial intelligence and big data are some of the important tools of digitalization.

As it affects every aspect of life today, digitalization is a transformation that deeply affects administrative law. While administrative law regulates the legality of public administration and administrative procedures, digitalization serves to realize these processes in electronic environments. The digitalization of the services provided by the state and the transfer

of administrative procedures to electronic environments makes the implementation of administrative law faster and more effective.

The connection between administrative law and digitalization can be evaluated under the headings of e-government applications, digital administrative procedures and data management. E-Government applications can be defined as providing public services electronically. Today, such administrative practices have become widespread. These applications make administrative procedures more accessible to the addressees and the procedures become transparent. Digital administrative procedures can be defined as taking and announcing administrative decisions regarding public services electronically. It is faster and easier for the addressees to access digital administrative procedures. With data management and digitalization, it is possible to provide public services more efficiently through the management and analysis of big data. This situation brings the opportunity for administrative decisions to be based on more robust data.

a. Conveniences Provided by Digitalization in the Context of Administrative Law

Today, the widespread use of technology and the ability to provide certain public services electronically have positively affected administrative law in many respects. With digitalization, administrative procedures and decisions are becoming more transparent. The face-to-face contact of public institutions with individuals and the intensity of services have decreased, and the opportunity for faster and easier access to citizens through e-government portals has been opened. Electronic services, which have an important place in our lives with digitalization, provide great savings in terms of both time and cost compared to physical transactions. Citizens can access many services online and perform their transactions without facing bureaucratic obstacles. For example, people can apply to any public institution without any limitations and obstacles, and the response given by public institutions can reach the addressee mostly within a few days. In the absence of digitalization, the notification of administrative procedures to the addressees takes a long time and costs increase.

Thanks to digital platforms and technological opportunities, administrative procedures can be carried out more quickly and efficiently. For example, individuals can complete their paperwork quickly through electronic signature and online application systems. This is because applying to the administration in a physical environment can sometimes take more than one working day.

The electronic delivery of public services through e-government systems requires the application of administrative law in a digital environment. E-government systems allow citizens to perform administrative transactions such as paying taxes, making applications or obtaining information online. It is only possible for individuals to deal with the administration electronically if the administration is ready for this in terms of technological infrastructure and legal regulations. When administrative transactions are digitized, security and authentication gain great importance. Electronic signature and digital identity systems play an important role in ensuring that these transactions are carried out in a reliable manner. Another benefit of digitalization is transparency. Transactions carried out in the digital environment can be easily recorded and audited. This is an important development in terms of the supervision of the administration, which is one of the fundamental principles of administrative law.

b. Legal Issues Emerging from Transferring Administrative Procedures to Digital Platforms

The use of technological means and digital platforms brings benefits but also some risks and problems. The main ones are privacy, security, electronic signature and legal validity, cybercrime and cyber corruption.

With digitalization, the protection of personal data has become an important issue. Unauthorized use of personal data and cyber-attacks are factors that threaten security in digital administration processes. This is because records kept electronically can be copied very easily if they are not stored securely. Failure to securely store information related to all areas of people's lives can make society vulnerable to all kinds of threats. Although the e-government application is open for service in Türkiye, it has been claimed many times that the data in the system has been stolen and the administrative authorities have had to make explanations on the subject.[8]

The legal validity of electronic documents and the legal status of electronic signature is one of the issues discussed in the digitalization process. According to Article 5 of the Electronic Signature Law No. 5070, which entered into force in Türkiye on 24/07/2004, an electronic signature has the same legal consequences as a manual signature. Although a legal basis is provided for electronic signature as a legal regulation, the system will be well established according to the problems arising in practice.

8 For the Presidential statement dated 13/04/2024, see: https://cbddo.gov.tr/duyurular/6341/e-devlet-kapisi-verisizintisi-iddialari-hakkinda-basin-aciklamasi, Accessed 10/10/2024

Administrative transactions through digital platforms pose a risk of cybercrime and electronic corruption. Effective regulations and controls against these crimes are necessary.

4. ADMINISTRATIVE LAW AND PUBLIC-PRIVATE PARTNERSHIPS

Privatization of public services is a process that allows the private sector to provide some public services that the state is obliged to provide. In this process, the state retains its supervisory, control and regulatory duties, although it delegates the provision of the service to private sector firms. The aim is generally to ensure that public services are provided in a more efficient, competitive and innovative manner. In addition, the outsourcing of public services does not relieve the state of its primary obligation to provide the service.

The privatization of public services in Türkiye has accelerated since the 1980s within the framework of economic liberalization policies. Privatization processes generally take place in the following ways:

- Tender Process: The state can delegate the provision of certain public services to the private sector through tenders. For example, in energy, infrastructure or health services, private sector firms can undertake these services through tenders.
- Privatization Administration: The Privatization Administration manages privatization processes in Türkiye and organizes the sale, transfer or lease of state-owned enterprises.
- Public-Private Partnership (PPP) Models: The public-private partnership model is preferred especially for large infrastructure projects. In this model, the state and the private sector work together; the state supervises the project and assumes certain responsibilities. The private sector establishes the necessary infrastructure and starts to provide services. The benefit of this system is that the service is provided without burdening public finances.

Legal regulations in the process of privatization of public services are at the core of administrative law. This process is supervised and regulated by legal frameworks. For example, tender processes are regulated by the Public Procurement Law No. 4734 in Türkiye. According to Law No. 4734, the tender process during the transfer of public services to the private sector must be carried out in accordance with the principles of transparency, competition and equality. Privatization procedures are also carried out

under Law No. 4046 on Privatization Practices. This law determines the privatization policies of the state and regulates the practices within the legal framework.

Another dimension of the privatization of public services is related to contract law. Contracts between the state and the private sector for the execution of privatized public services must comply with the principles of administrative law. In these contracts, criteria such as the quality, pricing and duration of the service are determined by the administration. These contracts, which are administrative acts, are subject to administrative judicial review.

The state retains the authority of supervision and control in the event that public services are provided by the private sector. Although the services that should be provided by the administration are provided by private law persons, it cannot be said that the administration is completely out of the loop. The state's delegation of these services to the private sector requires the activation of control mechanisms to ensure the quality and reliability of the service. The audit and control mechanisms used in this process are as follows:

- Regulatory and Supervisory Authorities[9]: In Türkiye, there are independent regulatory bodies that oversee private businesses operating in sectors such as energy, communications and health. For example, the Energy Market Regulatory Authority (Enerji Piyasası Düzenleme Kurumu) supervises private companies in the energy sector, while the Information and Communication Technologies Authority (Bilgi Teknolojileri ve İletişim Kurumu) regulates the basic rules to be followed by those operating in the telecommunications sector and supervises compliance with the regulations. These institutions also have the authority to impose sanctions.
- Public Procurement Authority (Kamu İhale Kurumu): Tasked with overseeing the transparency and legality of the procurement process, this institution plays a supervisory role in the transfer of public services to the private sector.
- Contract Supervision: Whether the contracts concluded between the state and the private sector are duly fulfilled or not should be regularly audited by the public authorities. If the contract is a private law contract, a lawsuit can be filed in the judicial jurisdiction and if it is

9 For the list of Regulatory and Supervisory Authorities see: https://www.sayistay.gov.tr/reports/category/28-duzenleyici-ve-denetleyici-kurumlar, Accessed 10/10/2024

an administrative contract, a lawsuit can be filed in the administrative jurisdiction against the relevant parties. The focal points of these inspections are the maintenance of service quality, fair pricing and timely provision of services.

Strengthening regulatory oversight ensures more transparent, accountable and efficient delivery of public services by the private sector and improves the quality of services. Strict state oversight ensures that public services are delivered without disruption. Protection of consumer rights is also crucial for public services provided by the private sector. Strong oversight mechanisms ensure that consumers are protected from deceptive practices or excessive pricing. Increased oversight contributes to the development of a culture of transparency and accountability in the private sector. Effective oversight of the administration ensures the efficient use of public resources.

After privatization, the state retains some important obligations despite the provision of public services by the private sector. One of these is supervision and regulation. The state is obliged to supervise the delivery of privatized services by the private sector in a lawful, safe and quality manner. This supervision is carried out by regulatory bodies and public authorities. The state must also ensure that privatized services are provided in the public interest and are accessible. Public services provided by the private sector should be provided on equal terms to all segments of society.

Increased administrative oversight can improve the quality and transparency of privatized public services. Particularly in strategic sectors (such as energy, health, infrastructure), the strong oversight authority of the administration will ensure the protection of the public interest.

In conclusion, it is critical for the state to establish effective control and regulation mechanisms in the process of privatization of public services in order to protect the public interest, improve service quality and comply with the law. Providing privatized services equally to all segments of the society, using public resources efficiently and ensuring that the private sector acts in a transparent and accountable manner are only possible through strong administrative controls.

5. RELATIONSHIP BETWEEN ENVIRONMENTAL LAW AND ADMINISTRATIVE LAW

Sustainability means using natural resources in a way that meets the needs of future generations and not using resources excessively and unnecessarily. Sustainability aims to balance economic growth, social welfare and environmental protection. Environmental protection policies are an

important part of sustainability and ensure the long-term conservation of resources by protecting nature. These policies encourage the reduction of energy consumption, limiting carbon emissions, waste management, biodiversity conservation and the use of green energy.

Türkiye ratified the Paris Climate Agreement[10] in 2021 and committed to reduce greenhouse gas emissions. The Paris Agreement aims to keep the global temperature rise below 2°C and stabilize it at 1.5°C. In line with this goal, Türkiye is taking steps to reduce its greenhouse gas emissions by submitting a National Contribution Declaration (NDC).

From an administrative law perspective, the implementation of environmentally friendly policies is ensured through various legal regulations and administrative actions and implementation according to these regulations. For example, the Environmental Law No. 2872[11] is Türkiye's main environmental law and establishes the general framework for environmental protection. The first article of the Law states that its purpose is "*to ensure the protection of the environment in line with the principles of sustainable environment and sustainable development*". The Law regulates issues such as waste management, carbon emission limitations and the use of renewable energy. The Law also states that the administration has the power of inspection and sanction. Another regulation related to Environmental Law is the National Energy Efficiency Action Plan. With this plan, Türkiye aims to promote energy efficiency and renewable energy policies and sustainable use of energy resources. However, action plans are far from being a means of supervision and enforcement in themselves and symbolize an ideal for the administration.

The state, or in particular the administration, imposes various obligations on businesses within the framework of environmental protection policies. These obligations are directly regulated on the basis of administrative law principles. These obligations of the state are waste management, carbon emission limitations and green energy incentives. Of these, waste management refers to the obligation of businesses to manage their waste in a way that does not harm the environment. In Türkiye, this process is regulated by the Waste Management Regulation[12]. According to this regulation, the state encourages recycling in the waste management of enterprises and conducts

10 The Paris Agreement: What is the Paris Agreement?, https://unfccc.int/process-and-meetings/the-paris-agreement, Accessed 11/10/2024

11 Environmental Law No. 2872: https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=2872&MevzuatTur=1&MevzuatTertip=5, Accessed 11/10/2024

12 Waste Management Regulation, https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=20644&MevzuatTur=7&MevzuatTertip=5, Accessed 11/10/2024

inspections to prevent waste from harming nature. Carbon emission limits are also used for the obligations imposed on businesses to limit greenhouse gas emissions in line with the Paris Agreement targets. In Türkiye, these obligations are regulated by the Communiqué on Monitoring and Reporting of Greenhouse Gas Emissions[13]. This regulation obliges businesses to reduce and report their carbon footprint. Another obligation is green energy incentives, whereby the state has to encourage the use of renewable energy. In Türkiye, under the Renewable Energy Resources Support Mechanism (YEKDEM), businesses are provided incentives to use clean energy sources. It can be said that this is an important step for businesses to move towards environmentally friendly energy sources.

In Türkiye, there are state-sponsored projects and practices for the protection of the environment, as well as a number of sanctions in case of environmental damage. Administrative sanctions for the protection of the environment are applied against businesses that do not comply with the legal regulations for the protection of the environment and violate the regulations. These sanctions are in the form of fines, temporary or permanent suspension of the activity, filing a criminal complaint against the relevant act if it constitutes a crime, and being held liable for compensation in terms of the monetary dimension of the damage.

Violations of environmental protection regulations are monitored in two different ways. The Ministry of Environment and Urbanization as the central administration basically conducts inspections and identifies environmental violations. Municipalities are also involved in environmental inspections, for example, controlling waste management and local energy regulations. Both administrative structures have powers and responsibilities defined by legal regulations, as well as the authority to impose sanctions.

6. COMPETITION LAW AND ADMINISTRATIVE CONTROL

Competition regulations for technology companies in Türkiye are generally implemented by the Law on the Protection of Competition and the Competition Authority. Law No. 4054 on the Protection of Competition[14] applies to technology companies as in all sectors and authorizes the Competition Authority to intervene against practices that

13 Communiqué on Monitoring and Reporting of Greenhouse Gas Emissions, https://www.resmigazete.gov.tr/eskiler/2014/07/20140722-5.htm, Accessed 11/10/2024

14 Law on the Protection of Competition: https://www.rekabet.gov.tr/tr/Sayfa/Mevzuat/4054-sayili-kanun, Accessed 11/10/2024

distort competition in the market. In Türkiye, the market dominance of companies in the technology sector, especially in the areas of big data, digital platforms and software services, is closely monitored. The Competition Authority tries to prevent monopolistic practices by opening investigations against anti- competitive activities of technology companies.

The main areas that competition regulations focus on are market dominance, monopolistic practices and mergers and acquisitions. Law No. 4054 prohibits large technology companies that gain market dominance in Türkiye from engaging in practices such as excessive pricing, exclusion of new market entrants or monopolization. If the prohibition is violated, Law No. 4054 on the Protection of Competition in Türkiye prohibits monopolistic practices and imposes sanctions on companies engaging in such activities. The Competition Authority is the main body that enforces these rules. Mergers and acquisitions are prohibited in certain areas, and mergers and acquisitions in prohibited areas are subject to the permission of the Competition Authority. The approval of the Competition Authority is required to supervise the mergers and acquisitions of large technology companies in a way that distorts competition.

While there are competition regulations in Türkiye, there are also global regulations. Globally, competition regulations for large technology companies are quite common. In particular, the US and the European Union apply strict rules to limit the market dominance of technology giants (Google, Amazon, Facebook, Apple, etc.) and to protect competition.

The relationship between administrative law and competition law is important in terms of protecting the public interest and regulating markets. While administrative law refers to the authority of the administration to regulate the market in the public interest, competition law ensures that these regulations are protective of competition. Administrative bodies implement the legal regulations that form the basis of competition law and ensure the state's market control through administrative actions or transactions. The supervision by the administration is in the form of investigations and merger and acquisition reviews.

7. PUBLIC PROCUREMENT AND ADMINISTRATIVE LAW

Another important issue in the context of the global economy and administrative law is public procurement. Considering that both national and international companies operating in Türkiye in accordance with the legislation are subject to equal conditions in terms of participating in public tenders, the rules on public tenders are important.

Public procurement in Türkiye is regulated by the Public Procurement Law No. 4734. This Law lays down certain principles to ensure transparency, competition and efficiency in government procurement of goods, services and works. The basic principles to be observed in tenders to be held in accordance with the Public Procurement Law are transparency, competition, equal treatment, reliability, confidentiality, public scrutiny, public interest and efficient use of resources.

Of these principles, transparency means that procurement processes are conducted in a clear, understandable and publicly accessible manner. According to this principle, all stakeholders involved in the procurement process should have access to all information about the procurement process. From the announcement of tenders, to the evaluation of bids, to the announcement of the results, all information should be publicly accessible. According to the principle of competition, a wide participation in tenders should be ensured, aiming to procure goods and services at the best price and quality. The participation of different firms in tenders should be encouraged, as it is positive for competition. According to the principle of equal treatment, all tenderers should be treated equally and fairly and should not be discriminated against. The principle of trustworthiness requires that tenderers and bidders are trustworthy and that procurement processes are conducted in confidence. The public interest principle requires that procurement processes should maximize the public interest and be based on efficiency and effectiveness. The efficient use of resources requires that public resources are spent at the level required for the necessary needs.

Within the framework of the contracting authority's responsibility to provide public services, the implementation of the principle of transparency can take various forms. For the dissemination of tender notices and the transparency of procurement processes, it is important to publish tender notices on public platforms. In Türkiye, to this end, the Public Procurement Authority publishes tender notices on digital platforms.

The clarity of the conditions for participation in tenders is another important aspect of public procurement. Clear conditions of participation, evaluation criteria and decision-making mechanisms are effective in preventing potential corruption and irregularities. The criteria by which tender results are determined should be clearly publicized.

Large infrastructure projects and digitalization investments are costly and long-term projects. Applying public procurement principles to such projects will bring several benefits. Ensuring competition and broad participation of bidders will ensure that the public is served at the best cost-

benefit ratio. In large infrastructure projects, this is important to ensure that resources are used correctly. Transparency, especially in large investments and digitalization processes, is important to increase public trust. The open execution of project processes will prevent the misuse of public resources. Ensuring competition will also increase the likelihood of better quality goods and services.

The principles adopted in public procurement in Türkiye are in most respects in line with international standards. Türkiye adopts some standards recommended by international organizations such as the World Trade Organization (WTO), the United Nations and the European Union. In particular, the principles of transparency, increasing competition, non-discrimination and accountability are part of the standards adopted by these international organizations.

The WTO's Public Procurement Agreement (GPA) and the EU's EU Public Procurement Directives are examples of international standards that Türkiye refers to in its public procurement processes. Although both regulations are taken as reference in the regulation of legislation, Türkiye is not a direct party to these agreements and directives. Moreover, the principles set by the OECD for public procurement are harmonized in Türkiye. These standards aim at increasing efficiency and preventing corruption in public procurement processes.

The World Trade Organization (WTO) and other international organizations have introduced certain standards that must be applied in public procurement. The WTO's Government Procurement Agreement (GPA) adopts the principles of transparency, competition, fair treatment and non-discrimination in public procurement. The OECD and the United Nations Development Program (UNDP) also provide various principles and guidelines on public procurement. These standards aim to make procurement processes more reliable and fair, particularly in developing countries. The adoption or ratification of these regulations in Türkiye makes it necessary to take them into account in domestic law.

In conclusion, the implementation of transparency, competition and accountability principles in public procurement contributes to the most efficient use of state resources and the provision of quality public services. Adoption of international standards will contribute to making Türkiye's public procurement processes internationally reliable and transparent.

8. FORWARD-LOOKING LEGAL REFORMS IN TECHNOLOGY

Digital sovereignty refers to a state's control and regulatory authority over its digital infrastructures, data, digital economy and the internet. This includes a country's capacity to independently manage the digital economy, digital services and technologies. Digital sovereignty reflects the effort of states to ensure control over security, data protection, economic activities and social relations in the digital world.

Administrative law is a branch of law that determines the responsibility for providing public services and supervising these processes. With digitalization, the scope and application area of administrative law has expanded to include digital sovereignty issues. In this context, administrative law is becoming an important tool that determines the authority of Türkiye's to control and regulate digital platforms, data security, cyber security and digital rights.

At this stage, Türkiye will need to make some reforms in the field of administrative law in order to ensure their digital sovereignty in the context of digitalization and the global economy. The reforms that need to be made should take various forms.

With the digital delivery of public services, the protection of personal data has become increasingly important. Türkiye should ensure data security on digital platforms through legal regulations such as the General Data Protection Regulation (GDPR). By increasing its authority over digital platforms, Türkiye needs to create legal regulations to combat cybercrime, protect digital rights and prevent unfair competition. Likewise, the global economy depends on the security of digital infrastructures. Türkiye should therefore legislate and strengthen policies on cybersecurity to protect digital sovereignty.

The taxation of digital platforms and international technology companies is part of digital sovereignty and state economic sovereignty. Administrative law and tax law have to administratively supervise the activities of these companies and regulate taxation procedures in line with the requirements of the times.

Public administrations have various responsibilities and obligations towards citizens in the provision of digital services. First of all, digital services should provide equal access to all citizens. It is especially important that citizens living in rural areas or with limited digital skills can benefit from services. In line with the social state approach, appropriate tools should be developed for citizens who have limited or no access to technology. At the

same time, public administrations are obliged to protect citizens' personal data. This includes both technical security measures and legal protection mechanisms. Digitalization of public services makes decision-making processes more transparent and auditable. One of the most important advantages of digital services is that they offer fast and efficient transactions.

9. CONCLUSION

The globalizing economy and digital transformation processes are reshaping administrative law and creating new balances. Administrative law and administrative regulations must adapt to these transformations. This adaptation process is possible by making legal systems more flexible, open to innovation and integrated into digital infrastructures. In particular, while digitalization affects the activities of both states and businesses, it has also created the necessity to increase the supervision and regulation capacity of the public authority according to the requirements of the age.

The activities of global businesses that transcend national borders bring to the fore the need for greater international cooperation and harmonization of administrative law. Türkiye need to create new regulatory mechanisms to protect local businesses in the face of global competition, to protect the public interest and to ensure fair trade. To this end, both national and international regulations need to be harmonized. In addition, for businesses, administrative law should be able to offer innovative solutions by reducing bureaucracy and speeding up digital processes.

This new balance brings opportunities and challenges for both government and businesses. Türkiye need to ensure effective oversight of global businesses, while at the same time adopting a legal structure that encourages innovation and focuses on privacy and security. Businesses, on the other hand, should pay more attention to compliance with increased administrative controls while taking advantage of the benefits of digitalization. Administrative law will continue to play a critical role in the fair and sustainable regulation of both global and local economic activity in the future.

As a result, administrative law has to adapt more rapidly to the dynamics in the global economic system and transform into a structure that balances domestic and international dimensions. This transformation will strengthen the interaction between states and businesses, increase the effectiveness of legal regulations and contribute to both economic development and social welfare in the long run.

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