

**AN EVALUATION ON THE STRUCTURE OF THE SOCIAL ASSISTANCE AND SOLIDARITY
FOUNDATION OF THE BOARD OF TRUSTEES**
*SOSYAL YARDIMLAŞMA ve DAYANIŞMA VAKFI MÜTEVELLİ HEYETİNİN YAPISINA İLİŞKİN BİR
DEĞERLENDİRME*

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ABSTRACT

Turkey is a country experienced in social assistance. The Foundation culture seen in the Ottoman Period has a significant share in the formation of this experience. Public relief is provided by many central and local institutions on the current situation in Turkey. Although this is the case, most of the activities related to social assistance are carried out by the Social Assistance and Solidarity Foundations (SASF). The structure of the boards of trustees of SASFs has been established with the Social Assistance and Solidarity Encouragement Law No. 3294. The Board of Trustees is the final decision maker in Foundation transactions. This delegation consists of natural and elected members. There is a bureaucratic relationship based on hierarchy between natural members and the head of the delegation. The existence of this bureaucratic relationship can be determinant in the voting elections of the members. This decisiveness generally manifests itself in the way that appointed members cannot express their opinions openly, consequently the decision of the head of trustees is final.

Keywords: Social Assistance, Social Assistance and Solidarity Foundation, Board of Trustees

ÖZET

Türkiye sosyal yardımlar konusunda deneyimli bir ülkedir. Bu deneyimin oluşmasında Osmanlı Döneminde görülen Vakıf kültürü, önemli ölçüde pay sahibidir. Türkiye’de mevcut durumda kamusal sosyal yardımlar birçok merkezi ve yerel kuruluş tarafından yararlanıcılara sağlanmaktadır. Durum bu olmakla birlikte sosyal yardımlara ilişkin faaliyetlerin çoğu Sosyal Yardımlaşma ve Dayanışma Vakıfları (SYDV) tarafından yerine getirilmektedir. SYDV’lerde karar oranı Mütevelli Heyetidir. SYDV’lerin mütevelli heyetlerinin yapısı 3294 sayılı Sosyal Yardımlaşma ve Dayanışmayı Teşvik Kanunu ile oluşturulmuştur. Bu heyet doğal ve seçilmiş üyelerden oluşmaktadır. Doğal üyeler ile heyet başkanı olan mülki amir arasında hiyerarşiye dayanan bir bürokratik ilişki bulunmaktadır. Bu bürokratik ilişkinin varlığı üyelerin oy seçimlerinde belirleyici olabilmektedir. Bu belirleyicilik genel olarak, atanmış üyelerin kendi fikirlerini açıkça dile getiremedikleri, sonuç olarak mülki amirin kararının nihai olduğu şeklinde kendini göstermektedir.

Anahtar Kelimeler: Sosyal Yardım, Sosyal Yardımlaşma ve Dayanışma Vakfı, Mütevelli Heyeti

INTRODUCTION

Social assistance is the most frequently used social policy tool in alleviating poverty. The main purpose of providing social assistance is to reduce poverty by following a successful policy in combating poverty. Although social assistance activities are carried out regularly in all countries, the impact of these assistance in reducing poverty may be different. The main task in providing social assistance to the needy in Turkey belong to the Social Assistance and Solidarity Foundation. There is a SASF organization in all provincial and district centers. Foundations have a private law legal entity and have an autonomous administrative structure. The decision-making body for all transactions of foundations is the Board of Trustees (BOT).

The Board of Trustees (BOT) decides on issues such as recruiting and dismissing personnel, determining social assistance beneficiaries, purchasing goods and services related to the SASF. The head of the board of trustees is the governor in the provinces and the district governor in the districts, and the other members are the provincial directors- who are senior managers of the provincial organizations of the ministries- and elected members.

Decisions in the BOT are taken unanimously or by majority vote. There is a subordinate-superior relationship based on hierarchy between the head of the board of trustees and other members. The hierarchical authority gives the superior the authority to make transactions related to the subordinate's office, to give orders to the subordinate, to supervise the subordinate's transactions. This authority is an inalienable power stemming from the administrative structure. In the context of the BOT, the decision to be made by a civilian authority who has hierarchical authority over the provincial directors will be more decisive for this reason. Because the other members will make a choice in the direction of the vote of the civilian authority - head of board of trustees- in the meeting of the committee in order to protect their positions and work in harmony with the civilian authority. This situation shows that the decision-making process of the BOT has a content that does not encourage participation and does not comply with the democratic structure.

1. SOCIAL ASSISTANCE

Social assistance is one of the most fundamental components of modern welfare states. In its most concrete form, in the welfare state, when all economic possibilities of the citizen are exhausted, it is the last part of the social safety net (Bahle, Hubl-Pfeifer, 2011). Social assistance is customarily defined as a benefit in cash or in-kind, financed by the state and usually provided based on a means or income test. It may involve universal benefit schemes – financed by tax but without a means test – or subsidies (for housing, energy, food, education, and health). Within the scope of social assistance, there are cash benefits for people below a certain income; income supports and in-kind supports for certain groups (Ditch, 1999: 116; Howell, 2001: 257; Zastrow, 2013: 183-185).

Social assistances are “public assistances that are not based on the principle of compulsory participation or financed by the general state budget or special taxes devoted to a specific purpose, where there is no relationship between participation and its provision (assistance)” (Güzel-Okur, 2002: 568). Social assistances can also be defined as “income transfers provided to the poor people because they do not have sufficient income due to an extraordinary situation or not included in social security or the retirement or unemployment income support provided by social security is insufficient, even if they are included in social security” (Arın, 2013: 236.)

Family is the main and often the only safety net providers of social welfare activities for a significant part of Turkey's population. However, the opposite situation is seen in families with financial difficulties. The person also needs social assistance to compensate his own financial needs and, in an amount, to support his family (Grütjen, 2006: 128). By means of social assistance, it is desired to provide a minimum standard of living to people whose earnings are not sufficient to support themselves, their families, or their dependents and who cannot earn sufficient for various reasons. In addition, it is aimed to ensure the livelihood of those who are in need and their dependents, and to bring them to participate in production by obtaining a state of income as soon as possible. Thus, their wealth are secured by meeting their mandatory like people's nutrition, shelter, clothing, etc. needs and they are offered the opportunity to earn income (Türkoğlu, 2014: 280).

Social assistance is based on the idea that human beings live humanely and that human beings are the most valuable entity. While the existence of the individual is secured in social assistance, it is aimed not only to protect individuals but also to make them self-sufficient.

The purposes of social assistance in general can be listed as (Aca, 2020: 23-36),

- Reducing neediness
- Protecting income and increasing economic efficiency
- Ensuring social inclusion, social integration
- Protecting people against risks
- Providing redistribution
- Providing behavioral change in individuals.

Social assistance has both positive and negative aspects socially, economically, and culturally. Accordingly, the positive aspects of social assistance are that it is complementary to the gaps (it is aimed at those who cannot benefit from the social security system and it closes the deficits of the system), it is a saver

(individual assistance is provided according to the type of need), psycho-social benefits (it provides individuals to get rid of the psychology of poverty, albeit for a short time. The negative aspects of social assistance can be expressed as psychosocial harms (stigma and humiliation), causing laziness amongst people, creating addiction and being vulnerable to abuse.

Social benefits are a social policy tool. The actors of social policy include the state, local governments, family, market, and civil society. Among them, the main and constant actor is the state. So, it is impossible to think of a social policy without the state. The duty of other actors is to complete it within the stasis of the state (Sarıipek, 2017: 81). Therefore, the state-central government should be included in the social assistance system as an essential element. the SASF are firsthand responsible organization from social assistance in Turkey.

2. SOCIAL ASSISTANCE AND SOLIDARITY FOUNDATIONS IN TURKEY

The foundation, which literally means "to stop, to retain", has played an important role in the Islamic world and especially in the Ottoman Empire since the past (Ballar, 2008: 25). Foundations, which continue their existence widely, especially in the civil field, are established as private law legal entities. In Article 101 of the Civil Code numbered 4721, "Foundations are groups of property with legal personality that are formed by real or legal persons who allocate sufficient goods and rights to a specific and permanent purpose".

In the Law on Foundations, the types of foundations such as subordinate, annexed, community, tradesmen and new foundations are defined. Foundations established according to the Turkish Civil Code numbered 4721 and the Turkish Civil Code numbered 743-abrogated-were defined as new foundations. Social Assistance and Solidarity Foundations (SASF) are in the status of new foundations in this sense. Although SASFs are a public institution, they display a similar structure to private organizations in terms of functioning. SASF looks like a public organization with its features like the head of the BOT to be the local governor, depend largely on the Social Assistance and Solidarity Promotion Fund (SASPF) in terms of resources, the BOT mainly composed of public employees, carrying out supervision by central institutions, working mostly in district or governorship buildings and the use of resources is determined by law. On the other hand, it is in the form of a private organization due to its form of establishment, working method, employment style, the legal regime to which its personnel are subject, and some members of the BOT.

Foundations are managed by the director of the foundation working under the Board of Trustees. Foundations also employ deputy directors of the foundation, social inspectors, accountants, and assisted services personnel. Foundations are managed by the director of the foundation working under the Board of Trustees. Foundations also employ deputy directors of the foundation, social inspectors, accountants, and auxiliary service personnel. Foundation personnel are employed in accordance with the provisions of the Labor Law No. 4857, and private law provisions are applied in the resolution of all disputes regarding personnel. Employees have the status of contract workers. Foundations aiming to help the poor with periodic shares they receive from the SASPF have an autonomous structure and are independent from each other.

General Directorate of Social Assistance, one of the main service units of the Ministry of Family, Labor and Social Services, is responsible for ensuring coordination between Foundations. Although there is no hierarchical link between Foundations and General Directorate of Social Assistance legally, there is a similar relationship to administrative guardianship control, which includes the approval, examination and supervision of the works and transactions performed in practice. Almost all the expenditure budget of the foundations is covered by the allowances provided from central budget. The amount of donations and grants made to foundations is very low. Assistances carried out with foundation resources (İpek, 2015: 77-104);

- Family Assistance (Food, Fuel, Housing Assistance),
- Education Assistances
- Health Assistances
- Disability Assistance
- Special Purpose Assistances (such as Disaster Support),

- Project Supports (income generating projects for urban areas, income generating projects for rural areas, training projects for employment, cooperation projects for social assistance / social services).

The main problem encountered in the assistance provided by SASFs is related to the determination of neediness. The process of determining neediness is generally carried out in two stages. In the preliminary stage, an inquiry is made in the institution database regarding the economic and family status of the applicant. In the second stage, a household visit is made. Based on the situation reports prepared because of the determination of the social investigator, the BOT decides whether the person should receive social assistance or not.

3. BOARD OF TRUSTEES OF SOCIAL ASSISTANCE AND SOLIDARITY FOUNDATIONS

It is not possible for the foundation to acquire a legal entity as per Article 49 of the Civil Code without a management body. The management body can be shown as a single person or more than one person in the foundation deed (Akünel, 1995: 134). The management body of foundations in the form of a board is called the "board of directors", "the board of trustees". The one-person management body is called "manager", "trustee". The most important duty of the management body due to the law is to manage the foundation inside and to represent it outside. In other words, it is to ensure that the foundation becomes operational and represents it against third parties (Serozan, 2011: 455-456; Avcı, 2006: 44). Unlike other legal entities, the decision and management body are the same in the foundation. That is, the authority and responsibility to make decisions and to implement these decisions are in the management body (Oğuzman et al, 2013: 375; Ayan, 2013: 215)

The Board of Trustees is the decision-making body of SASF. In terms of the members of the board of trustees, an important change was made in the law numbered 5263, which regulates the establishment of the General Directorate of Social Assistance and Solidarity. With the said amendment, the senior official of the police in provinces and districts, who was previously a member of the BOT, was removed from membership. Currently, the provisions regarding the establishment and duties of the BOTs are included in the Law No. 3294 on Encouraging Social Assistance and Solidarity.

According to the law, "Local administrative chiefs are the natural president of the foundation, and in the provinces, the mayor, the treasurer, the provincial national education director, the provincial health director, the provincial agriculture director, the provincial social services and child protection institution director and the provincial mufti; In the districts, the mayor, property manager, district national education director, district supervisor of the Ministry of Health, if any, the district agriculture director and the district mufti form the board of trustees of the foundation. In addition, for each activity period, village and neighborhood mukhtars within the province will hold one mukhtar member among themselves by the absolute majority of those who attend the meeting upon the call of the governor, and two representatives and charitable citizens to be elected among themselves by the executives of the non-governmental organizations established in the province and working for the purposes specified in this Law two people to be elected by the provincial assembly; The absolute majority of the participants in the meeting to be held by the village and neighborhood headmen within the district upon the call of the district governor and one member from among themselves, a representative to be elected by the managers of the non-governmental organizations established in the district and acting for the purposes specified in this Law, and two people to be elected by the provincial council among the charitable citizens take part in the BOT.

If there is no non-governmental organization in the province or district that operates for the purposes specified in this Law, a third person elected by the provincial council among the charitable citizens shall serve in the BOT. In the provincial and district SASFs in provinces with metropolitan municipalities, two members specified in the second paragraph to be elected among the charitable citizens; for provincial social assistance and solidarity foundations by the governor directly, and for district social assistance and solidarity foundations by the governor upon the proposal of the district governor. In addition, if there is no non-governmental organization operating for the purposes specified in this Law in the province or district, a third person is determined directly by the governor for provincial social assistance and solidarity foundations, and by the governor, upon the proposal of the district governor, for district SASFs. If there is no village within the boundaries of the province or district, one more neighborhood mukhtar serves on the BOT instead of the

village mukhtar. The governor in the province, a deputy governor as vice president; metropolitan mayor, general secretary, or deputy general secretary; the provincial mayor may also appoint a deputy mayor to represent him at the meetings.

Table 1: The Structure of the Board of Trustees in Social Assistance and Solidarity Foundations (SASF)

NATURAL MEMBERS OF THE BOARD OF TRUSTEES		
Metropolitan	City	District
Governor (Deputy Governor)	Governor (Deputy Governor)	District Governor
Metropolitan Mayor (General Secretary / Deputy Secretary General)	Provincial Mayor (Deputy Mayor)	District Mayor
Provincial Treasurer	Provincial Treasurer	Merchandise Manager
Provincial Director of National Education	Provincial Director of National Education	District Director of National Education
Provincial Director of Health	Provincial Director of Health	District Manager of the Ministry of Health
Provincial Director of Agriculture	Provincial Director of Agriculture	District Director of Agriculture
Provincial Social Service and Children Protection Institution Director	Provincial Social Service and Children Protection Institution Director	District Mufti
Provincial Mufti	Provincial Mufti	
SELECTED MEMBERS OF THE BOARD OF TRUSTEES		
1 Village Mukhtar	1 Village Mukhtar	1 Village Mukhtar
1 Neighborhood Mukhtar	1 Neighborhood Mukhtar	1 Neighborhood Mukhtar
2 NGO representatives	2 NGO representatives	1 NGO representatives
2 charitable citizens (determined by the Governor)	2 charitable citizens (determined by the Provincial General Assembly)	2 charitable citizens (determined by the Provincial General Assembly)

The Board of Trustees is the board that makes the final decision in all matters related to the foundation, from determining the beneficiary of social assistance to the employment of foundation personnel. Apart from the amount determined by the central administration such as old age and disability pensions, it is also the decision maker in determining the amount of assistance for some benefits such as neediness pension. Receiving attendance fee for the meetings attended by the members of the Board of Trustees is prohibited in accordance with the decision taken by the Social Assistance and Solidarity Fund Board. The Fund Board also checks for the appropriateness of the operations and transactions of the Board whether it is necessary. As a result of the audit, when it is concluded that the assistance was made even though it is not necessary, the amount paid is collected from the members of the board of trustees who signed the decision and the Fund is registered as a revenue (Uçarcı, 2003: 48-52).

CONCLUSION AND SUGGESTIONS

Boards of trustees of foundations assume an important responsibility in terms of the impact of their decisions. It is out of question not to accept the task for members of BOT because of law. In practice, it has been observed that some members of the BOT are not willing to fulfill the task. Muhammet Ruhat Yaşar, in his paper entitled “A Local Experience in Combating Poverty: Elâzığ Poverty Mapping Project”, presented at the International Symposium on Poverty Alleviation Strategies, said, “There are serious problems in the establishment and functioning of the BOT in SASFs, the natural members of the council attended the meetings reluctantly and many of them have not sufficient knowledge and experience on poverty. Therefore, the presence of people who are knowledgeable about the subject in the BOT will provide healthier results” (Yaşar, 2010: 115-132).

The current structure of the BOT makes it not possible for the natural members of the board to make free decisions without feeling any pressure. For example, in a delegation vote to determine a social assistance beneficiary, if the head of the BOT -governor or district governor- gives the affirmative vote, in what direction will the votes of other natural and elected members be? Or, considering that this beneficiary does not meet the neediness criteria, will other members of BOT will be able to vote against the president's vote?

Or, which natural and elected member can express their opinions openly in a meeting with the governor district governor?

As a result, the formation of the BOT is seen as problematic in terms of the hierarchical relationship between the public institution directors (natural members) - who are the current members of the board - and the governor/district governor. Since the directors of the institution - the provincial/district directors who are members of the BOT - are the hierarchical subordinates of the governor/district governor, the preference of the head of BOT will be more decisive in the decision-making process. In this form, the current structure contains an undemocratic practice that does not encourage participation, far from governance, and where the will of one-person decision is determinant. For this reason, it is recommended to establish a new BOT structure in which there will be few or no public institution directors, more NGOs, charitable and mukhtars, and even social assistance beneficiaries will be included.

REFERENCES

- Aca, Z. (2020). Yapabilirlik Yaklaşımı Çerçevesinde Kamusal Sosyal Yardımların Etkinliği Analizi: Bursa Örneği. Ankara: Türk Metal Sendikası Araştırma ve Eğitim Merkezi Yayınları-39.
- Akünel, T. (1995). Türk Medenî Hukukunda Tüzel Kişiler [Legal entity in Turkish Civil Code], İstanbul.
- Aile ve Sosyal Araştırmalar Genel Müdürlüğü. (2010). Sosyal Yardım Algısı ve Yoksulluk Kültürü: Türkiye’de Kamusal Sosyal Yardım Alanların Yardım Algısı ve Yoksulluk Kültürü Araştırması [Perception of Social Welfare and Poverty Culture: Welfare Perception of Public Welfare and Poverty Culture Research Areas in Turkey]. Ankara: Aile ve Sosyal Araştırmalar Genel Müdürlüğü.
- Arın T. (2013). Kriz, Devlet, İktisat ve Sosyal Güvenlik Politikaları Seçilmiş Yazılar, İstanbul: Bilgi Üniversitesi Yayınları.
- Avcı, Mehmet Ö. (2006). Türk Medenî Kanununa Göre Vakıf Yönetim Organı [Foundation Management Body according to Turkish Civil Code]. İstanbul.
- Ayan, Ö. (2013). 6102 sayılı Türk Ticaret Kanunu Çerçevesinde Anonim Şirket Yönetim Kurulu Üyelerinin Sadakat Yükümlülüğü ve Bu Yükümlülüğün İhlalinin Sonuçları [The Loyalty Obligation of the Members of the Board of the Joint Stock Company within the Framework of the Turkish Commercial Code No.6102 and the Consequences of the Breach of this Obligation]
- Bahle, T., Hubl, V., & Pfeifer, M. (2011). The last safety net: A handbook of minimum income protection in Europe. Bristol, UK: *The Policy Press*
- Ballar, S. (2008). Yeni Vakıflar Hukuku. İstanbul: Seçkin Yayınevi.
- Çoğurcu, C. (2010). Sosyal yardımlaşma ve dayanışma genel müdürlüğü Stratejik yönetim ve projeler [General Directorate of Social Assistance and Solidarity Strategic management and projects]. M. Kardaş (Ed), Uluslararası Yoksullukla Mücadele Stratejileri Sempozyumu bildiriler kitabı içinde (s. 69-86). Uluslararası Yoksullukla Mücadele Stratejileri Sempozyumunda sunulan bildiri, Ankara.
- Ditch, J. (1999). Full Circle: A Second Coming for Social Assistance, in J Clasen (der), Comparative Social Policy Concepts, Theories and Method, UK-USA: Blackwell, 114-135.
- Güzel, A. & Okur, A. R. (1992). Sosyal Güvenlik Hukuku, Yenilenmiş 3. Bası, Beta Basım Yayım Dağıtım A.Ş., İstanbul.
- Grütjen, D. (2006). The Turkish Welfare Regime: An Example of the Southern European Model? The Role of the State, Market and Family in Welfare Provision. *Turkish Policy Quarterly*, 7, 111-129.
- Howell, F., (2001). Social Assistance - Theoretical Background, in “Social Protection in the Asia and Pacific”, ed. I. Ortiz, Asian Development Bank, Manila, ch 7
- İpek, M. (2015). Yeni Yoksulluk ve Türkiye’de Sosyal Yardım Paradoksu. 1 (1), 77-104.
- Oğuzman, M. Seliçi, K. Özer, O ve Özdemir, S. (2013). Kişiler Hukuku (Gerçek ve Tüzel Kişiler), Gözden Geçirilmiş ve Yenilenmiş 12. Bası’dan 13. (Tıpkı) Bası, İstanbul.

- Saripek, D. (2017). Hak Temelli Sosyal Politikadan “Hayırseverlik Temelli Sosyal Politikaya Geçişte Sivil Toplum Örgütlerinin Rolü. *İnsan ve İnsan*, 4, 81-99.
- Serozan, R. (2011). Medeni Hukuk Genel Bölüm/Kişiler Hukuku
- Sosyal Yardımlaşma ve Dayanışmayı Teşvik Kanunu. (1986, 14 Haziran). Resmi Gazete (Sayı: 3294) Erişim Adresi: <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.3294.pdf>
- Taffa, H. Azize, A. & Sayın, C. (2020) Examining the functioning of public social assistance system: The case of Antalya. *Mediterranean Agricultural Sciences*, 33(1), 73-78
- Türk Medeni Kanunu. (2001, 8 Aralık). Resmi Gazete (Sayı: 4721) Erişim Adresi: <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.4721.pdf>
- Türkoğlu, İ. (2014). Sosyal devlet bağlamında Türkiye’de sosyal yardım ve sosyal güvenlik. *Akademik İncelemeler Dergisi*, 8 (3) , 275-305 .
- Uçarcı, Refik A. (2003), Sosyal Yardımlaşma ve Dayanışma Fonu ve Vakıflar, *Türk İdare Dergisi*, 438, 48-52.
- Yaşar, Muhammed R. (2010, Ekim).Yoksullukla mücadelede Yerel bir deneyim: Elazığ yoksulluk haritası projesi [A local experience in alleviating poverty: Elazig poverty mapping project]. M. Kardaş (Ed), Uluslararası Yoksullukla Mücadele Stratejileri Sempozyumu Bildiriler kitabı içinde (s. 115-132). Uluslararası Yoksullukla Mücadele Stratejileri Sempozyumunda sunulan bildiri, Ankara.
- Zastrow, C. (1991). *Social Problems: Issues and Solutions*. Chicago: Nelson-HallPub.