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RIGHT TO INFORMATION IN TURKEY IN THE SCOPE OF ACCONTABILITY*

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ABSTRACT

One of the reform initiatives taken in Turkey to ensure more accountable and transparent public administrations is "Law on Right to Information". Main purpose of this study is to analyze the extent of accountability achieved in public administration with the enactment of the Law on Right to Information, which entered into force on April 24, 2004. To this end, the number of the applications made in the scope of the Law on Right to Information and decisions taken by the Board on Access to Information have been analyzed and the accountability-related problems experienced in implementation of the Law on Right to Information have been detected. It seems that Law on Right to Information can serve as an important tool in ensuring accountability in Turkish public administration as long as considerable steps are taken in the long-term.

Key Words: *Right to information, accountability, public administration.*

TÜRKİYE 'DE HESAPVERİLEBİLİRLİK BAĞLAMINDA BİLGİ EDİNME HAKKI

ÖZET

Türkiye'de kamu kurumlarının daha hesap verebilir ve şeffaf olması amacına yönelik olarak yapılan reform çalışmalarından birisini de "Bilgi Edinme Hakkı Kanunu" oluşturmaktadır. Bu çalışmanın temel amacı Türkiye'de 24 Nisan 2004 tarihinde yürürlüğe giren Bilgi Edinme Hakkı Kanunu'nun kamu yönetiminde hesap verilebilirliği ne ölçüde sağladığını analiz etmeye çalışmaktır. Bu çerçevede Bilgi Edinme Hakkı Kanunu kapsamında yapılan başvuruların sayısı, Bilgi Edinme Değerlendirme Kurulu kararları incelenmiş ve Bilgi Edinme Kanunu'nun

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uygulanmasında hesap verilebilirlik açısından karşılaşılan sorunlar tespit edilmiştir. Bilgi Edinme Hakkı'nın Türk kamu yönetiminde hesap verilebilirliği sağlamada önemli bir araç olabilmesi uzun vadede bazı önemli adımların atılması ile mümkün gözükmektedir.

Anahtar Kelimeler: *Bilgi edinme hakkı, hesap verilebilirlik, kamu yönetimi.*

I- INTRODUCTION

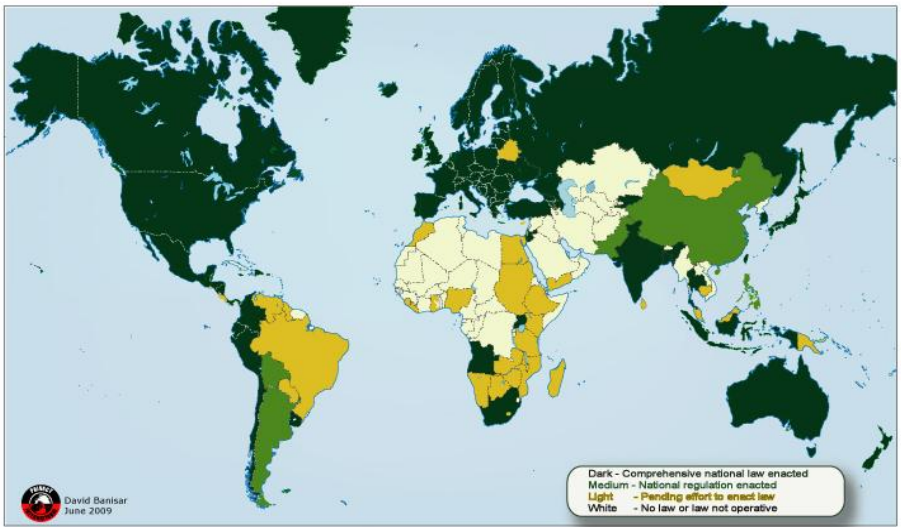
Public administrations have entered into a compulsory transformation process since the last quarter of the 20th century. Traditional public administration fell behind the economic, social, political and technological developments, which resulted in questioning of the welfare state approach and the Keynesian policies. As a result of these changes and transformations, public administrations have started to shrink due to privatization policies and it is aimed to develop a public structure which regulates and coordinates the services rather than undertaking all of them itself.

"Shrinkage of the state" has become the focal point of the reform initiatives induced by the changes and transitions in the public administration. To this end, many countries have made various reforms and concepts such as accountability, transparency, effectiveness and efficiency have been brought to the agenda.

Right to Information has started to take part in the public administrations as a reflection of the transparency and accountability concepts, created by these changes and transformations. Particularly since 1980's, many countries have started to draw a legal framework for the Right to Information. While some countries regulate the Right to Information by their Constitutions, some others both by their Constitutions and other laws. Some other countries, on the other hand, have not made any regulation in relation to this Right (Kaya, 2005: 121–122). Countries which have legal regulations on the Right to Information (comprehensive national laws) are shown in dark green; those which have no such legal regulations in white (no law or laws not operative); those which have only Constitutional regulations on this Right in light green (national regulations enacted); and those which are currently working on some regulations on this Right in yellow colour (pending effort to enact laws) in the map below. General evaluation of the map shows that nearly all European countries and the North America have Right to Information Acts; while some Asian and African countries do not give any place to the Right to Information in their laws.

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Map 1: World Regulations on the Right to Information



(http://www.privacyinternational.org, 2009).

As seen in the map, Turkey is among those countries which have Right to Information Act. "Right to Information Act No 4982" and "By-Law on Rules and Procedures on Use of the Right to Information" were enacted on 24 April 2004 and 27 April 2004, respectively, in the scope of the reform efforts made to create more accountable and transparent public administrations in Turkey.

II- ACCOUNTABILITY AND RIGHT TO INFORMATION

Accountability is the obligation to answer and make explanation for the execution of the assigned responsibilities**.** This is an obligation of two parties. First party assigns a responsibility to the second party and the second party answers the questions of and reports on whether this responsibility has been met or not; if not, what is the reason of the failure; to which extent the objectives of this responsibility have been achieved; whether all efforts have been made to achieve the targeted results (Baş, 2001: 3).

Main components of accountability concept can be addressed in five main titles in the scope of the public administration: who, to whom, what,

how and what for (Acar, 2002: 211–230; Barberis, 1998: 466). The question of "who should be accountable?" aims to define those responsible for specific decisions and actions; the question of "To whom s/he should be accountable?" aims to define the addressee of the accountable individual; the question of "What should be the subject of accountability? aims to define the scope of accountability; the question of "How should the accountability be performed?" aims to define the accountability methods and techniques; and the question of "What for the accountability should be performed?" aims to define the changes created/required to be created by accountability in the public administration.

Full accountability can only be possible when information activities are carried out efficiently about the public operations and actions. In this framework, transparency can be suggested as a component of accountability (Acar, 2002: 211–230). Right to Information both entitles the citizens with the right to obtain information on the activities and decisions of the administration and obliges the public institutions and agencies to efficiently meet all information and documents demands, other than exceptional ones, of the demanding citizens. At this point, the Right to Information turns out to be an important element of accountability.

Main purpose of accountability is to improve democracy by making the administration accountable to higher number of citizens (Hız and Yüksel 2004: 45). Right to Information is also a democratic element required to prevent misuse of information by the administration for arbitrary interests and to enable the administered to call the administration to account via democratic means. Thanks to the Right to Information, citizen can access all documents and information related to all administrative decisions, operations and actions except for some limited information and documents (Eken, 2005:118).

Right to Information protects the state against public servants and the citizens against the state (Hız and Yüksel 2004: 45). It may also positively affect the relationship between citizens and the state. By preventing misuse of the operations and actions of the administration by the public servants for arbitrary interests, the Right to Information protects the state against the public servants. By enabling the citizens to access all information and documents of the administration, the Right to Information protects citizens against the state as well. Right to Information creates a new dimension in the state trust of the citizens accessing any kind of information and document, by this way, enables establishment of a positive relationship between the

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state and citizens. Administration -which is believed to be transparent and accountable- is protected against the fraud and similar allegations of the citizens. Thus, the Right to Information has three following dimensions. At this point, Right to Information can be concluded to be an important regulation in terms of state, citizens and public servants.

Right to Information protects;
the state ⟶ against public servants
the state ⟶ against citizens and,
citizens ⟶ against the state

III- RIGHT TO INFORMATION ACT IN TURKEY

One of the reform initiatives taken in the scope of public administration in Turkey to make public administrations more accountable and transparent is "Law on Right to Information". Turkish Law No 4982 on "Right to Information" entered into force on April 24, 2004 and "By-Law on Rules and Procedures Related to Enjoyment of the Right to Information" on April 27, 2004.

In Turkey, right to information is not a directly regulated right. Before the Law No 4982 was enacted in 2004, citizens used to make information demands on the basis of the "Right to Petition". Article 74 of 1982 Constitution regulates right to petition as follows: Citizens and, on the basis of the principle of reciprocity, the foreigners domiciled in Turkey have the right to apply in writing to the competent authorities and to the Turkish Grand National Assembly with regard to requests and complaints concerning themselves or the public. The result of the application concerning himself shall be made known to the petitioner in writing as soon as possible. The way of exercising this right shall be determined by law."

It can be suggested that right to petition is not used by the citizens as an effective administrative application tool in Turkey. Citizens exercise right to petition only to inform the administration on the things they demand and the things they are disturbed by. The petition of a citizen, who is not duly informed on the issue stated in his/her petition, could only be subject of an administrative suit as long as such situation created a legal result for the petitioner. However, right to information is a demand right; therefore, it assigns the administration the responsibility to inform the individual, which is defined as an administrative assignment. In other words, the administration is responsible for an active duty. Taking no action by or

negligence of the institution means violation of this active responsibility and the applicant is entitled to bring a suit in this scope (Soykan, 2006: 28).

Despite this significant difference between the right to petition and the right to information, it can be commented that the right to petition supports the right to information and that this structure contributes to transparency in and democratization of the public management.

Law No 4982 on Right to Information is composed of five parts. First Part defines the purpose of the Law, the organizations and institutions covered by the Law and some basics concepts mentioned in the Law. Second Part discusses the right to information and the obligation to provide information. Third Part gives information on application for access to information; quality of the information and document to be demanded; access to and time limits on access to information and document; response to applications; appealing procedure; and The Board of Review of the Access to Information (BEDK). Fourth Part details the procedures excluded by the Law, under the title of Restrictions on the Right to Information. Final Part presents information under the title of Miscellaneous and Final Provisions on penal provisions and on the report detailing the information applications made previous year and the results of these applications.

When evaluating the Law on Right to Information in terms of its effects on accountability in Turkish Public management; the Law will be analyzed by using a well-structured accountability table to see whether it answers the questions of "Who should be accountable, to Whom, for What, How and With What Consequences?" and if yes at which level it answers these questions.

Table 1: Right to Information and Accountability Table

WHO?	**TO WHOM?**	**FOR WHAT?**	**HOW?**	**WITH WHAT CONSEQUENCES?**
Public agencies and institutions as well as professional organizations which qualify as public institutions.	To the citizens	In compliance with the equality, impartiality and openness, which are prerequisites of democratic and transparent management; to organize the rules and procedures related to exercise of the right to information.	Application to access for information can be made personally, in electronic or some other media by presenting a petition listing the name, surname, signature and address of the applicant to the institution holding the demanded document or information.	**In The Short Term** - To test functioning of the system - To build confidence - Adoption of transparency by the institutions **In The Long Term** - Transparency - Openness

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Before explaining the place of the Law on Right to Information in the Accountability Table, it will be appropriate to briefly discuss the main purpose of the Law. Main purpose of the Law is defined as "*The purpose of this law is to regulate the procedure and the basis of the right to information according to the principles of equality, impartiality and openness that are the necessities of a democratic and transparent government*" in Article 1. Purpose of the Law is expressed as "To ensure a management closer to individuals, to enable the citizens to perform their function of ensuring openness to audit and transparency, to improve the confidence of citizens in the state" in the general grounds for the law.

First column of the accountability table presents the question *"Who should be accountable?"* The Law covers public institutions and agencies as well as the professional organizations which qualify as public institutions (Article 2). Private persons and entities are not covered by the Law. There is an ambiguity about whether the information obtained by the private organizations (the ones assigned to undertake specific public services) when performing the assigned public services are covered by the Law or not (Eken, 2005:118). Examination of the decisions taken by the Board of Review of Access to Information shows that the concept of "public service" is taken as basis in such situations. When there is a public service, the institution undertaking this public service -regardless of whether it is a public or private organization- is considered to be included in the scope of the Law.

"To Whom?" question presented in the second column of the accountability table explains who enjoy the rights granted by the Law. Article 4 of the Law states that "*Everyone has the right to information.*" Foreigners domiciled in Turkey can exercise the rights granted by the Law as long as they meet specific conditions. These conditions are as follows: (i) The information or document they demand shall be related to their field and (ii) Home country of the foreigners living in Turkey and making information/document demand shall grant the same right to the Turkish citizens living in that country.

Third column of the accountability table presents the question "*For What?"* Transparency has two dimensions: Duty to give information and the right to information (Eken, 2005: 116). While the right to information enables citizens to get information on the activities and decisions of the management, the duty to give information assign the public institutions and

organizations covered by the law with the responsibility to finalize the demands made by the citizens to access the information and documents excluding the exceptional information and documents. Public institutions and organizations are liable to provide any information or document (except for the exceptional information and documents) demanded by the citizens[1]. In practice, public institutions and organizations are observed to refrain from providing many information and documents by basing such information and document demands on the provision on exceptional documents and information. The Law has some deficiencies at this point. Since the Law does not clearly outline which information and documents are classified, the management uses its discretion right to avoid the responsibility to providing some information and documents (Hız ve Yılmaz: 2004: 58). No regulation has been made to eliminate this problem yet, which constitutes an important problem in this scope. For instance, State Secrets Law has not been approved. Failure to clarify the scope of state secrets and secrecy level is controversial to the principle of openness, one of the purposes of the Law on Right to Information. This situation not only poses some problems for both the citizens and managers but also prevents effective implementation of the Law on Right to Information (Hasdemir, 2007: 72).

The question *"How?"* is presented in the fourth column of the accountability table. This title discusses how citizens exercise the right to information; in other words, this title details the process of exercising the right to information. With the introduction of the Law, an Information unit has been established in each institution and, the institutions have started to broadcast these units in their official web-sites.

It is stated in Article 6 of the Law that the application for the access to information can be made through a petition that includes the name, surname, residence or the work address and signature of the applicant; that the application can be made directly or through electronic or other types of communication tools; that, where the applicant is a legal entity, application can be made with a petition that includes the title and address of the entity,

[1] Exceptions listed in the Fourth Part of the Law are: the transactions that are not subject to the judicial review; information and documents pertaining to state secrets; information and documents pertaining to economical interests of the state; information and documents pertaining to state intelligence; information and documents pertaining to administrative investigation; information or documents pertaining to judicial investigation and prosecution and; the information and documents pertaining to privacy of the individuals, privacy of communication, works of art and science, institutions' internal regulations, institutions' internal opinions, information notes and recommendations.

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the signature of the authorized person and certificate of authorization. In the first implementation years of the Law, applications could only be made personally since e-signature law had not been enacted yet and there were some technical-difficulties related to e-signature. However, with the legitimization of e-signature practice, it is now possible to make online applications. However, some institutions still do not accept online applications although it has been nearly 6 years since the enactment of the Law. Such behavior may have two possible reasons: Firstly, public institutions and organizations want to limit the number of applications. Thanks to e-signature, it is possible for citizens to demand any information - whether necessary or not- from public institutions. Personal application, on the other hand, can serve as a tool to prevent unnecessary exercise of the right to information. Secondly, organizations and institutions do not have sufficient number of qualified personnel and technical infrastructure required to reply online applications.

After submission of the petition related to information demand, the institution may reject the application on the grounds that demanded information or document is not included in the information and documents it must keep; a search or analysis has to be made to obtain such information or document; it is published or open to public access. Unless the content of the demanded information or documents covers the above-listed grounds or any information falling out of the scope of the right to information; institutions and organizations have to provide an approved copy of the demanded document to the applicant. Organization or institution receiving information or document application can charge from the applicant the cost of information or document provided in this scope (Article 10).

While some institutions and organizations charge the cost of the provided information or document, some others do not. Sometimes institutions are observed to demand high costs either to defer the applicant or to elongate the information or document provision process. Upon this confusion, General Communiqué on Information and Document Accession Charges entered into force on February 14, 2006. In the framework of the communiqué, public institutions and organizations are free to charge or not the information or document they will provide. However, when they do, they have to comply with the principles specified in the communiqué. The Communiqué states that no search, examination or writing charge shall be demanded for maximum 10 pages of information or document and it sets maximum and minimum limits for the charges. This Communiqué prevents,

to a large extend, the use of charge as a deterrent tool by the public institutions and organizations when they do not want to provide the demanded information or documents.

The institutions shall provide the required information within 15 working days. However, where the required information or document is to be obtained from another unit within the applied institution or when it is necessary to receive the opinion of another institution or if the scope of the application pertains more than one institution; the access shall be provided in 30 working days (Article 11). In practice, some institutions are observed not to comply with this period. In a study made by CNBC-e Business, Prime Ministry and Executive Ministries were asked two questions through Internet about their personnel number and motorized vehicle number in the scope of the right to information on September 24, 2008. Some of these Ministries replied the questions on time while some others did not reply these questions at all (Taşpınar, 2009: 80). The fact that some Ministries did not reply the application at all shows that the law does not impose deterrent sanctions on the institutions and organizations covered by the same. Researches similar to this one were made by Yaman Akdeniz in 2004 and by TESEV in 2006. These studies produced similar results as well.[2]

The applicant who has made application in the scope of the Law on Right to Information and whose application has rejected may appeal to the Board of Review of the Access to Information before appealing for judicial review within 15 days starting from the official notification of the decision (Article 13-14). As can be understood from the provisions of the Law, appeal to the Board is not a prerequisite for appealing for judicial review. However, the appeal stops the time required for application to judicial review.

The Board of Review of the Access to Information is composed of 9 members elected among judges by the Cabinet of Ministers[3]. The structure

[2] For detailed information on TESEV study: See: "Vatandaşın Bilgi Edinme Hakkı Uluslararası Konferans Tutanakları"; For detailed information on the study by Yaman Akdeniz: SEE: "Türkiye'de Bilgi Edinme Hakkı Kanunu'nun Bakanlıklar Tarafından Uygulanması" and "Freedom of Information In Turkey: A Critical Assessment of the Implementation and Application of the Turkish Right to Information Act 2003".

[3]The Council of Ministers appointed two members amongst the four candidates nominated by the General Board of the Court of Appeals and the Council of State from their members; three members, each amongst the scholars of criminal, constitutional and administrative law who bear the title of Professor or Associate Professor; one member among the two candidates that have the qualifications to be elected as chief of Bar and are nominated by the Turkish Bar

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of the Board and member election method is criticized from many aspects. First of all, it is suggested that election of the members by the Cabinet of Ministers damages autonomous structure of the Board (Hacaloğlu, 2004). On the other hand, composition of the board only from the lawyers and exclusion of the graduates of the public management, economy and similar departments is discussed as another problem. Inclusion of not only the lawyers but also the public managers and economists in the evaluation of the appeals will enable the Board to take more sound decisions.

All institutions and organizations covered by the Law shall prepare a report on the information pertaining to the applications made previous year (received, accepted, rejected, partially responded, brought to appeal), to be submitted to the Board of Review of the Access to Information. (Article 44).

Each year, the Board of Review of the Access to Information sends the general report it will prepare, together with the reports provided by public organizations and institutions, to Turkish Grand National Assembly (TBMM) till the end of April. These reports are publicized by TBMM with in two months following their receipt from the BEDK. Up to now, 5 reports have been prepared in 2004, 2005, 2006, 2007 and 2008. Information applications made in 2004-2008 years in the framework of these reports are given in Table 2.

Table 2: Information Applications Made and Responses given in 2004–2008 years in Turkey

	Total	**Accepted**	**Partially Accepted**	**Rejected**	**Secret Removed**	**Court Action**
2004	395.557	347.959	13.648	20.474	3.571	-
2005	626.789	542.364	21.712	54.234	5.979	311
2006	864.616	746.999	38.092	69.199	9.617	539
2007	939.920	751.089	108.530	70.378	8.151	554
2008	1.099.113	947.428	51.730	81.466	5.424	424
Total	3.925.995	3.335.839	233.712	295.751	22.965	1.828

(This Table is prepared on the basis of the Reports on Right to Information, prepared by TBMM in 2004–2005–2006–2007 and 2008).

Association, two members amongst those who have been serving as general director; and a member among judges in service of the Ministry of Justice as recommended by the Minister (Article 14).

Although it was the first year of the implementation of the Law, 395557 applications were made in 2004. This figure increased by 58% in 2005, 38% in 2005–2006 period, 9% in 2006–2007 period and 11% in 2007–2008 period. Examination of the rates shows that the increase recorded in 2005 and 2006 was much higher than the increase recorded in 2007 and 2008. In 2007 and 2008, the system started to operate well and some public institutions and organizations started to broadcast in their official web-site specific documents and information before citizens made application for access to such information and documents. This may be suggested as the reason behind the gradual decrease recorded in the rate of increase in the number of applications.

Rate of information and document applications which were accepted and upon which demanded information and documents were provided was 87.9%, 86.5%, 86.4%, 79.9% and 86.2%, respectively, in 2004-2008 period. Majority of the applications were accepted. Rate of the applications rejected was 5.1%, 8.6%, 8%, 7.4% and 7.4%, respectively, in 2004-2008 period. The rate of partially responded applications was 3.4%, 3.4%, 4.4%, 11.5% and 4.7% respectively in 2004-2008 period. Some institutions and organizations decided on to provide the demanded information and documents by removing the classified and secret parts of such documents. The rate of such decisions was 0.9%, 1%, 1.1%, 0.8% and 0.5%, respectively in 2004-2008 period.

Examination of the appeal applications made to jurisdiction shows that no appeal was made to jurisdiction in 2004. This may have resulted from unawareness of the citizens about their right to appeal to the jurisdiction as it was the first year of law implementation or from no-necessity to appeal to jurisdiction. Number of appeal applications made to jurisdiction was 311 in 2005, 539 in 2006, 554 in 2007 and 424 in 2008. When compared to 2006 and 2007, the number of appeals to jurisdiction was lower in 2008, which can be regarded as an indicator of the fact that the Law started to be adopted by both citizen and the public institutions and organizations.

As stated earlier, real or legal applicants whose applications are rejected can appeal either to administrative jurisdiction or to the Board of Review of the Access to Information. Appeal applications made to the Board in 2004-2008 period are listed in Table 3.

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Table 3: Appeals to the Board of Review of the Access to Information

	Total	**Accepted**	**Partial Accepted**	**Rejected**
2004	300	184	38	78
2005	912	431	162	319
2006	1.102	380	228	494
2007	1.088	429	172	487(+7)
2008	1.154	400	210	544 (+88)
Total	4.556	1.824	810	1.922

(This Table is prepared on the basis of the information obtained from the Board of Review of the Access to Information on January 10, 2010)[4]

According to the obtained information, nearly 4.556 appeal applications were made to BEDK in 2004-2008 period. 1824 of these applications were decided to be "positive". In other words, appeal applicants were found eligible to obtain the information or documents they demanded from the rejecting institution or organization. 810 appeal applications were decided to be "partially positive" while 1922 appeal applications were decided to be "negative" and rejected. 7 appeal applications in 2007 and 88 appeal applications in 2008 were decided to have "no grounds for making a decision". Board of Review of the Access to Information decided that nearly 42% of the appeals were negative, 40% were positive and 20% were partially positive. Negative decisions are observed to be quite high.

2004 General Report of the Board of Review of the Access to Information states that "Majority of the appeal applications are related to rejections made by the public institutions and organizations to provide the applicant with the "investigation-inspection reports" and "personal records" related to the latter". Decisions made in 2005 - 2008 period shows that majority of the decisions are again related to investigation-inspection reports and personal records. The Board made decisions on such appeals generally in favor of the applicant[5]. The fact that majority of the appeal applications

[4] The decisions present the approximate values as of December 21, 2009. Total number of appeals does not cover the applications rejected due to missing document and information, etc.

[5]For instance; an appeal application was made to the Board on December 18, 2006. In the scope of the Law on Right to information, X demanded from his/her institution the copy of the investigation report prepared on him after a complaint made by one of his/her colleagues when they both were working in Çanakkale. Upon rejection of his/her application by his/her institution, X appealed to the Board of Review of the Application for Information. The Board decided unanimously that

for access to information are about "investigation-inspection reports" and "personal records" points out that Law on Right to Information ensures transparency firstly in the public sector. There may be many reasons why most of the appeal applications are composed of the information and document demands made by the public personnel. Firstly, citizens do not take the state and its functions too seriously. Secondly, an important part of the people on the street may be unaware of such right. Finally, citizens may not believe in the use of exercising such right. However, the transparency ensured in the public management has to be achieved between the citizens and public sector in the long term.

The Board of Review of the Access to Information publishes in its official web-site the Board decisions taken on the appeal applications made till 2007 under the title of "Precedents". All the decisions taken by the Board started to be published in the official web-site of the Board since the mids of 2007. Failure to publish all the decision taken in the first years may have resulted from the fact that it took some time to sort out the personal information (www.bilgiedinmehakki.org). Examination of all decisions and selection of some decisions as precedents undoubtedly require making a separate study to this end. The Board may not have sufficient number of personnel to undertake this study. Secondly, the Bard may want to keep some decisions confidential, which are preferred not to be shared with the public. This situation contradicts with the principle of openness, the main purpose of the Law.

Last column of the accountability table presents the question of "With What Consequences?" The Law on Right to Information has undoubtedly brought about considerable changes in the public management. These changes can be classified into "short-term" and "long-term" changes.

In the short term, it enables managers to test the functioning of the system. Thanks to the Law on Right to Information, managers realize the mistakes they make and try to correct them on one hand and maintain functioning of the system if it functions well on the other hand.

Another short-term change brought by the Law on Right to Information is to ensure adoption of transparency in institutions. Public institutions and organizations in Turkey are organized around the concepts of privacy and official secret and they insist on maintaining this

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an approved full copy of the investigation report has to be opened to access of the applicant (Decision No: 2007/191).

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organization. Sanctions of the Law are not deterrent enough, which can be suggested as a barrier before adoption of transparency by the institutions. Under penal provisions of the Law and By-Law, there is a bilateral sanctions mechanism for both the provider and the receiver of the information (By-Law, Article 42):

- Public personnel found negligent and faulty in the implementation of the Law and By-Law shall be subject to disciplinary penalty as per the legislation they are liable to.
- For those who duplicate and use the provided information and documents for commercial purpose and those who publish such information and documents without obtaining prior permit of the related institution or organization; provisions related to penal and legal liability shall apply.

Despite the sanctions introduced by the Law, many public institutions and organizations are observed not to reply information applications at all and are not penalized due to their such acts. Even, public institutions and organizations are indifferent to the decisions made by BEDK on the appeals made by the information applicants.

Dr. Yaman AKDENİZ, who established 'www.bilgiEdinmehakkı.org' site in Turkey, stated in an interview he made with CNBC-e Business that "Board of Review of the Access to Information is not quite efficient in the evaluation of the appeal applications; however, it enables the system to warn the institutions and organizations unwilling to provide information and documents." He also underlined in this interview that "No criminal action is taken against the organizations and institutions that are unwilling to give information and documents and, The Board remains indifferent to the organizations and institutions which violate the Board decisions"(2009: 81).

In the long term, The Law on the Right to Information is expected to ensure transparency and openness. Turkish public sector organized according to the principles of privacy and official secret has to change its institutions, personnel and even itself against this change. It seems difficult to ensure this transition in a short time for the public management which has to provide the citizens and its personnel with any information and document except for those related to its activities. Although it has been more than six years since enactment of the Law, citizens are still unaware of the Right to Information and bureaucracy is unwilling to provide citizens with this right. In this framework, it is normal that the change will not occur suddenly. The

changes recorded in the short term can be suggested to be a tool for ensuring transparency in the Turkish public management in the long term.

IV- CONCLUSION

Developments in the national and international areas have turned citizens into individuals who not only have liabilities and responsibilities but also actively participate in the administration and supervise and question the administration. As a result of this transition, citizens want to be informed on the structure and functioning of the public institutions and agencies (Eken, 2005:114). Right to Information Act No 4982 was enacted in 2004 in Turkey. An important step taken towards accountability and transparency in public administration, Right to Information Act has not been able to meet the expectations at a satisfying level. This has two important reasons. First reason is related to the implementation of the Right to Information Act and second reason is related to the failure to develop a citizen identity which can call the administration to account.

Turkish Public Administration took shelter behind the concepts of "official secret" and "confidentiality" for quite a long time and citizens were prevented from obtaining administrative information and from participating in the administration. Content and benefits of this right are not well-known by the citizens and, confidentiality and official secret principles are thought to still apply in the public administration. Most of the appeals made in Turkey in relation to the Right to Information are composed of "investigation-examination reports" and "registry reports", which shows that Right to Information Act has ensured transparency firstly within the public administration. In other words, rather than building trust between the state and citizens, Tight to Information Act has ensured transparency within the public administration since its enactment. Right to Information Act, which promotes transparency in the public administration, should be capable of building trust between the state and citizens in the upcoming years.

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