

ISS/EC 2007-16

On Regulatory Agencies in Turkey
and Their Independence

Ünal Zenginobuz

Temmuz 2007
Sosyal Bilimler Enstitüsü
Boğaziçi Üniversitesi
34342 Bebek
İstanbul TURKEY

Boğaziçi Araştırma Raporları deneme
niteliğinde olup, bilimsel
tartışmaya katkı amacıyla
yayımlandıklarından, yazar(lar)ın
yazılı izni olmaksızın alıntı yapılamaz.

July 2007
Institute of Social Sciences
Boğaziçi Üniversitesi
34342 Bebek
İstanbul TURKEY

Boğaziçi Research Papers
are of preliminary nature,
circulated to promote
scientific discussion.
They are not to be quoted
without written permission
of the author(s).

On Regulatory Agencies in Turkey and Their Independence*

E. Ünal Zenginobuz
Department of Economics and
Center for Economic Design
Boğaziçi University
34342 Bebek Istanbul

June 12, 2007

Abstract:

The paper presents an overview of the recently created regulatory agencies in Turkey and assesses their formal (statutory) independence using a standard index. Independent regulatory agencies are characterized by organizational features that are very different than those of the traditional bureaucratic structures in Turkey. The independence scores calculated for Turkish regulatory agencies indicate that most of them were granted considerable operational and financial independence when they were created. Assessing their independence characteristics provides valuable insight on how the course of liberalization that Turkey started on at the beginning of 1980s have played itself out in the area of regulatory policy.

Keywords: independent regulatory agencies, Turkey

JEL Codes: K23, L50

* This paper is a revised version of a paper prepared for presentation at Working Group on Political Economy Seminar Series, Boğaziçi University, December 27, 2002. I would like to thank the organizers of the seminar series, Murat Somer of Koç University and Gül Sosay of Boğaziçi University, for their invitation, which instigated the work that led to this paper. I would also like to gratefully acknowledge the support by Boğaziçi University Research Fund (Project No. 01C101 and Project No. 02C102) for my research on this topic.

Introduction

Liberalization policies that have been affecting developed as well as developing economies since the beginning of 1980's have brought about important changes in the way the state has exercised control over the economy. An important aspect of liberalization policies has been the retreat of the state from utility (infrastructure) sectors, where a public firm typically used to be the monopoly producer. Utility sectors have typically been characterized by market failures, such as natural monopoly conditions in production, that prevent competitive markets from emerging and/or working efficiently, which had been the rationale behind public monopolies in these sectors. On the other hand, the retreat of the state from production in these sectors has been accompanied with the introduction of policies that aim at "regulating" the newly liberalized markets, albeit with less intrusive instruments. This is part of a more general shift in terms of the role of state in the economy. Instead of policies that focus on stabilization and redistribution at the macroeconomic level, regulation (but not direct control) of economic activity at the micro, or sector, level has come to forefront (Majone 1996a, 1996b, 1997).

One of the prominent features of this shift to regulatory policies has been the creation of specialized independent regulatory agencies (IRAs). IRAs are different from standard bureaucratic structures. They are administrative entities that are created by special laws, and they typically have separate legal personalities. IRAs can have very different powers that range from simple information provision to full competency on the regulatory process (including rule-making and adjudicative powers) in a specific area of activity. By design, they are insulated from direct (political) control by the executive. Such agencies have been created not only in former state run utility sectors, but also to cover a wide range of issues, such as competition policy, consumer protection, and food safety.

The objective of this paper is to provide an overview of IRAs in Turkey with a view to assessing their independence characteristics. IRAs are characterized by organizational features that are very different than those of the traditional bureaucratic structures in Turkey, and examining how they came into existence and assessing their independence characteristics provides valuable insight on how the course of liberalization that Turkey started on at the beginning of 1980s have played itself out in the area of regulatory policy.

After a prolonged period of economic and political turmoil in the second half of 1970s, Turkey set on a course of market-oriented reforms at the end of 1979, which was a fundamental break with the country's *étatist* past.¹ Reform of the trade regime stood at the core of the reform program. This involved commitment to a more flexible exchange rate policy and abandoning of import substitution policies through promotion of exports as well as liberalization of imports. Another main objective of the 1980 reform was to reduce the size of the public sector and to allow more freedom to private initiative and markets in determining resource allocation in the economy. Privatization of state-owned enterprises and liberalization of financial markets were conceived as two very important aspects of this process.²

The 1980 reforms brought about profound changes in the incentive structure economic actors faced and in the way they did business. Export promotion policies created a new set of incentives, especially for the manufacturing industry and the share of manufacturing in exports has dramatically increased within a rather short period of time. Financial liberalization have also been by and large achieved, especially with the liberalization of the current account in 1989. However, privatization of state-owned firms, an aim announced as one of the pillars of the reform program of 1980, started in 1986 but has not made headway up until very recently. The privatization experience of Turkey in 1980s and 1990s can be described at best as mediocre, as restructuring of most of the utility-like sectors, such as telecommunications and electricity, with large state-owned firms were not fully accomplished during this period.³ Turkey's meagre performance in privatization in 1980s and 1990s largely draws from its failure to institute and implement an effective regulatory framework, including a well functioning competition policy.

The appearance of IRAs in the Turkish institutional scene has occurred in the aftermath of developments briefly reviewed above. Although their first appearance goes back to beginning of 1980s, their proliferation has taken place in the 1990s and the 2000s.⁴ As we will present in more detail below, except for instituting the Capital Markets Board in 1981 as a semi-

¹ The military regime that seized power in 1980 at the height of the crisis continued with the reform program.

² For reviews of Turkey's liberalization policies, see Öniş and Riedel (1993), Togan (1994), and Togan and Balasubramanyam (1996).

³ The privatization of telecommunications sector have by and large been completed as of 2007; however, state dominated structure in electricity sector still prevails. For a detailed review of Turkey's privatization experience between 1986 and 1998, see Karataş (2001).

⁴ In fact, this is the period during which proliferation of IRAs have been witnessed in a considerable number of emerging economies. For analysis of spread of IRAs in emerging economies 1990s, see Sosay and Zenginobuz (2005).

independent agency mandated to develop, regulate, or supervise capital markets, Turkey paid little or no attention to establishing an effective regulatory framework in the 1980s. The importance of instituting a regulatory framework prior to liberalization and privatization of industries has finally been realized and legislation has been passed to this effect only towards the end of 1990s. Moreover, this only came after years of stagnant economic conditions and only in the aftermath of the Southeast Asian and the Russian crises of 1997 and 1998 that exacerbated some of the very important structural problems the Turkish economy had failed to address.

Creation of IRAs in Turkey⁵

There are currently nine public entities in Turkey that concur with a broad definition for IRAs.⁶ In the order of their date of establishment, these are *Capital Markets Board* (1981), *The Higher Board for Radio and Television* (1994), *Competition Agency* (1994), *Banking Regulation and Supervision Agency* (1999), *Telecommunications Agency* (2000), *Energy Markets Regulatory Agency* (2001), *Sugar Agency* (2001), *Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency* (2002), and *Public Procurement Agency* (2002).

Capital Market Board (CMB) is the first public body that was established in Turkey with the broad traits of a *bona fide* IRA. It was established in 1981 in conjunction with the enactment of Capital Market Law No. 2499, which provided the legal framework for the establishment of an official capital market. CMB was given the task of establishing and developing capital markets and instituting an effective regulatory framework that would protect the rights of all investors and other parties involved. It was established as a public legal entity in its own right and given the authority to make decisions independently. However, in terms of the Turkish administrative law, it was a body considered as “related” to the Ministry of Finance.

According to Turkish Constitution, Turkish administrative structure is unitary in nature in the sense that the executive branch is to be considered as constituting a whole in relation to all

⁵ For overviews of various aspects of IRAs in Turkey, see TÜSİAD (2002), Sönmez (2004). For international comparisons among IRAs in various developed and other countries, see Zenginobuz (2002).

⁶ To qualify as an IRA an agency should derive its own power and responsibilities from an act of law, it must have an organizational structure completely separate from ministries (in the sense of being neither appointed nor managed directly by elected officials), and it must have at least a certain level of financial independence.

central and other (decentralized) administrative units constituting the state. Therefore, a strict indivisibility of administration is envisaged, and even the agencies with separate public legal personality are considered as being under the tutelage control of the center (Sönmez, 2004; 179). In the case of agencies created with their own public legal personality, the indivisibility of administration is established by “relating” the agency to a (related) Ministry.

The status of relatedness constitutes an obvious violation of notion of independence for an IRA. To get around this issue the IRA’s that are established later were declared as being “affiliated” to a Ministry rather than being related to it. This was a creative piece of lawmaking as there is no previous mention of this notion in the Turkish administrative law. In fact, critics argue that the Turkish Constitution does not allow room for such a notion.⁷

A consequence of CMB’s initial related status was to carry out inspections of entities that operated in capital markets if, and only if, when requested by the Ministry of Finance. It could take action against infringements of the law, and impose sanctions on entities involved only with the approval of the Ministry. The considerable power of control exercised by the Ministry of Finance over the operations of CMB was ended through two extensive amendments of Capital Market Law No. 2499 that were enacted in 1992 and 1999.⁸ With these changes CMB became the sole authority with the power to regulate, supervise, and sanction in the capital market. Hence, it would be fair to say that CMB became a *bona fide* IRA only in 1999. CMB is now “affiliated” with a Ministry of State within the Prime Ministry instead of being “related” to the Ministry of Finance and enjoys full administrative and financial independence.

The Higher Board for Radio and Television (HBRT) was established in 1994 as a regulatory body following the ending of state monopoly in radio and television broadcasting in 1993.⁹ HBRT was created as an independent body with its own public legal personality to regulate, oversee, and sanction all entities involved in broadcasting. Its powers extend over technical aspects of broadcasting (such as frequency planning) as well as regulation of competition in the broadcasting market. Moreover, HBRT is responsible for overseeing the content of material broadcasting and has the power to sanction against illegal and “immoral” content

⁷ See Tan (2000) for a discussion of the place of IRAs in Turkish administrative law.

⁸ The *Law No. 3749* of 1992 and the *Law No. 4487* of 1999.

⁹ The *Law No. 3984* of 1994. The *Law No. 2709* of 1993 involved the constitutional amendment of the Article 133 of the Constitution of the Turkish Republic.

(ranging from temporary shutting down of stations to cancellation of broadcasting licenses). The procedure for nominating as well as appointing the nine Board members went through a number of changes, but in all cases both of these functions have been carried out by the Turkish Grand National Assembly.

Competition Agency (CA) is the body responsible for implementing the Turkish Competition Law, which was enacted in 1994.¹⁰ Competition Board, the decision making organ of the CA responsible for the enforcement of Competition Law, was not appointed until February 1997 and finally began its operations in November 1997. Competition Board comprises of 11 members. Various ministries and other governmental and non-governmental bodies nominate two candidates for each position and the Council of Ministers appoints one out of each two nominees as a member for a term of six years. The Competition Law grants full financial and administrative autonomy to CA, and it stipulates explicitly that CA is not subject to instructions and orders of any other governmental body, including the Council of Ministers that appoints the members of the Competition Board.

The enactment of the Competition Law and the establishment of CA have largely been due to Turkey's obligation under the Association Agreement between Turkey and the European Economic Community, the European Union (EU) as formerly called, to enact and implement a competition policy.¹¹ The Association Agreement requires that the parties should apply the provisions of Rome Treaty for the harmonization of their laws, tax rules, and competition policies. Pursuant to the agreement reached at the Association Council meeting of March 1995, Turkey and the EU finally created a customs union starting January 1, 1996.¹² This agreement required that Turkey undertook all necessary measures to enact and effectively implement the competition law and policies of the EU. Thus, enactment of Turkish Competition Law was a prelude on Turkey's part to the signing of the customs union agreement with EU.

Banking Regulation and Supervision Agency (BRSA) was established in June 1999 in conjunction with the enactment of Law of Banking No. 4389 that brought about significant restructuring of the Turkish banking industry. Turkish banking industry had been ailing all

¹⁰ Law No. 4054 on the Protection of Competition of 1994.

¹¹ The Association Agreement was signed in Ankara on September 12, 1963 and became effective on December 1, 1964.

¹² Decision No. 1/95 of the Association Council.

throughout the 1990s, primarily due to distorted incentives it faced in the chronically high and erratic inflationary environment, which went together with increasing government deficits. Together with the slackening of entry requirements to the sector and the overall weakness of the regulatory framework, this environment contributed to the fragmentation of the banking sector into small banks. A significant number of small banks carrying weak asset portfolios became insolvent over time and had to be transferred to the Savings Deposit Insurance Fund (SDIF), which at the time was being managed by the Turkish Central Bank.¹³

That the Turkish banking sector was in the verge of a crisis became apparent by 1997 and a sweeping restructuring of the banking sector was demanded by both the IMF and the World Bank as a precondition for extension of further loans. The restructuring of the regulatory framework in the banking industry started in 1999 with the new banking law mentioned above, which, among other significant changes, mandated the creation of BRSA. The restructuring process sector was certainly a very painful one and it was further exacerbated by two very severe banking crises, namely those of November 2000 and February 2001.

There was no official standby agreement with the IMF at the time BRSA was created, but both the passing of the new banking law as well as the establishment of BRSA were to a large extent carried out under the urging as well as guidance of the IMF. When Turkey finally signed a standby agreement with the IMF in December 1999, an official pledge to further broaden BRSA's mandate, to amend its independence status as well as to enhance the transparency of its operations were put in writing in the associated letter of intent.¹⁴ Several acts of law were then passed between 1999 and 2002 to amend various clauses of Law of Banking No. 4389 to carry out these promises.¹⁵ At the end, BRSA became the single regulatory and supervisory agency to oversee the sector, and it was given independent jurisdiction over the entry and exit of banks and over changes to the regulatory framework.

The disinflation program of 2000 carried out under the tutelage of the IMF involved not only tight fiscal and monetary policies as well as a pre-determined exchange rate to serve as a nominal anchor in reducing inflation from its chronically high levels, but also large-scale

¹³ SDIF was established in 1983. The Turkish Central Bank had managed SDIF from its inception until 2000, at which time it was transferred to the then newly founded BRSA.

¹⁴ See the *Strengthening the banking system and banking regulation* section of the letter of intent dated December 19, 1999, submitted to IMF. Available online at: http://www.hazine.gov.tr/standby/sb_english.

¹⁵ The *Law No. 4491* of December 1999, the *Law No. 4672* of May 2001, and the *Law No. 4743* of January 2002 all contained amendments to Law of Banking No. 4389.

structural reforms, especially complete privatization of state-owned firms in utility sectors, such as telecommunications and electricity. Establishment of a new legal and regulatory framework for utility sectors accompanied these recommendations. Independent regulatory agencies were recommended for all utility sectors to be privatized.

In fact, the establishment of BRSA marked the onset of a wave of new IRAs in a number of industries. BRSA started its operations in 2000. Also in 2000, a new act to liberalize the telecommunications sector was enacted and an IRA was established to regulate the industry. Finally, two different acts were enacted for the liberalization of electricity and natural gas industries in 2001, and an IRA was established to oversee the performance of both of these industries.

Telecommunications Agency (TA) was established in 2000 through the enactment of the Law No. 4502 and it started its operations within the same year. The establishment of TA as an IRA in charge of regulating the Turkish telecommunication industry followed an official undertaking by the Turkish government to privatize its state-owned monopoly telecommunications operator and liberalize its telecommunications market as part of a credit agreement with the World Bank in 2000.¹⁶ Previously, regulatory powers in the telecommunications industry were partly exercised by the Ministry of Transportation and partly by *Türk Telekomünikasyon A.Ş.*, the state-owned monopoly operator.

As in the case telecommunications sector, the establishment of IRAs for the electricity and natural gas (energy) sectors was part of an official pledge made by the Turkish government to restructure and liberalize its electricity market in a credit agreement signed with the World Bank in 2000.¹⁷ Initially, a separate IRA for the electricity market, Electricity Market Regulation Agency, was created by the Electricity Market Law No. 4628 in February 2001 to regulate the electricity sector. However, before its Board members were appointed, it was transformed into a joint regulator for the energy sector as a whole and named *Energy Markets Regulatory Agency* (EMRA) in April 2000 with the enactment of Law No. 4646 on the regulation of natural gas market. EMRA became operational in November 2001 and it has since been the sole authority responsible from regulation and supervision of all energy

¹⁶ See the *Telecommunications Reform* section of the Letter of Development Policy submitted by the Turkish Government to World Bank 2000. Available online at: http://www.hazine.gov.tr/standby/erl_ldp_ing.htm.

¹⁷ See the *Energy Reform* section of the Letter of Development Policy submitted by the Turkish Government to World Bank 2000. Available online at: http://www.hazine.gov.tr/standby/erl_ldp_ing.htm.

markets in Turkey. Previously the Ministry of Energy and Natural Resources was the body that carried out these tasks.

Turkey stands out as a special case where two IRAs were created to regulate agricultural markets. Sugar beet and tobacco are two important crops for the Turkish agriculture industry. A large number of farmers and their families in different parts of Turkey earn their living through production of these crops. Agricultural support policies that Turkish governments have traditionally undertaken with a view to securing votes in elections have largely been seen as a very important contributor to the mounting public debt. Consequently, IMF and the World Bank have both stipulated replacement of distortionary price supports in the agricultural sector with direct cash support to farmers. They also demanded serious reforms for the sector, including privatization of the state-owned sugar and tobacco production facilities.

In a series of letters of intent signed as part of standby agreements, Turkish government has indeed promised to do away with price supports for sugar beet and tobacco and privatize the state-owned sugar and tobacco factories with the aim of liberalizing these markets.¹⁸ There is, however, no mention of establishing IRAs for these sectors in the letters of intent. The creation of IRAs to regulate the markets for these two important crops seems to have aimed at compensating for the discontinuation of the state's direct presence in these two markets where the livelihood of a large number of families have depended for a very long time on subsidies through price supports. In this regard, it looks more like the choice of the Turkish government itself rather than an imposition by IMF or the World Bank. As we will see below when formal independence scores are presented for IRAs in Turkey, the overall structure and certain aspects of agricultural IRAs are markedly different than the IRAs established for non-agricultural sectors, with less independence from government's influence in terms of decision-making and financial matters.

Sugar Agency (SA) was established in 2001 by the Law No. 4634 and started its operations in the same year. Its Board members are appointed by the Council of Ministers from among nominations by various Ministries, sugar producers' cooperatives and private sugar product

¹⁸ Structural reform sections of letters of intent dated December 18, 2000; January 30, 2001; May 3, 2001; June 26, 2001; July 31, 2001; January 18, 2002; April 3, 2002; and June 19, 2002 all refer explicitly to the need for support policy reform for these crops and to privatizing state-owned production facilities involving these crops (all letters are available at http://www.hazine.gov.tr/standby/imf_standbyeng.htm).

manufacturers. In contrast to other IRAs, the Board members for SA are allowed to continue with their existing jobs. In fact, most of the members appointed for the Board were state employees in other state offices and continued with their work in their primary positions during their tenure at SA. Another interesting aspect of the structure of SA is the conditional sunset clause in the *Law No. 4634*. The clause stipulated that SA may be discontinued at the end of 2004 unless otherwise mandated by a decree of the Council of Ministers. In fact, the current government let the sunset clause become effective at the end of 2004 and, therefore, SA is currently extinct.¹⁹

Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency (TTAMRA) was established in 2002 by the *Law No. 4773* and given the mandate to regulate and supervise the tobacco, tobacco products, and alcoholic beverages markets. In addition, TTAMRA was also assigned to provide social regulation in the sense of developing and implementing policies to reduce consumption of the goods under its mandate. As in the case of SA, the Board members of TTAMRA are all appointed by the Council of Ministers and they are allowed to continue with their existing jobs. However, interestingly enough, there is no sunset clause for TTAMRA in *Law No. 4773* that established it.

Most recently, in 2002, the Public Procurement Agency (PPA) was established by the Public Procurement Law No. 4734. The PPA started its operations in the same year. Its main tasks include serving as a complaints office in all matters related to public procurement for all affected parties; developing and enacting all secondary regulations related to public procurement as well as designing and developing the form and content of contracts to be signed among parties.

Table 1 (see Appendix) provides further details about the structure of Turkish IRAs, including information on their statutory independence and accountability.

¹⁹ However, the terms of the Board members were extended for a period of two years. It is not clear what they will be compensated for as the Board as well as other operational units of SA are now officially disbanded.

Independence of IRAs: Theoretical Considerations

Independence: The Fundamentals

An initial question to be addressed regarding IRAs is why governments and legislatures choose to delegate decision-making powers to authorities that will by design be independent from them. After all, IRAs may follow policies that will be different than what the governments and legislatures would themselves choose to follow, and it is not evident why governments and legislatures would want to forego some of their powers in this manner.

Gilardi (2005), in his review of the literature on the rationales for the establishment of IRAs²⁰, provides the following list as to why IRAs may prove to be preferable to ordinary bureaucratic structures:

- *Expertise*: IRAs by design have more flexible organizational structures that also provide better compensation for their employees, leading to more qualified personnel to work for them than those that work for traditional bureaucracies;
- *Flexibility*: Their autonomous structures allow IRAs better adjust to changing conditions in the industries they regulate;
- *Decision-making costs*. IRAs are not going to be inhibited from making decisions regarding industries they regulate in cases where elected governments would tend to stall due to uncertainty about political gains and losses of policies;
- *Credible commitments*: IRAs, with their longer time horizons, ameliorate the credibility problem that arises due to the fact that commitment by a government to a regulatory policy in a particular industry (for example, one that promises fair return to long-term investments by private agents) cannot be guaranteed to last beyond the following election as the new government may have different preferences over outcomes in that industry;
- *Stability*: IRAs also imply a more stable policy environment even in the absence of credibility problems (due to, for example, high likelihood that the same government remains in power over several elections) as the rules and regulations will less likely be subject to sudden and unexpected changes;

²⁰ See Majone 1994, 1999, 2001; Horn 1995; Moe 1990; OECD 2002: 95.

- *Economic efficiency*: The better regulatory environment resulting from (i)-(v) above will lead to better economic performance in markets subject to regulation;
- *Public participation and transparency*: IRAs embody more open and transparent decision-making processes than those of ordinary bureaucratic structures, and therefore are more open democratic control by consumers and ordinary citizens;
- *Blame shifting*: IRAs shield politicians from blame when unpopular decisions are taken or when regulatory failures occur;
- *Political uncertainty*: IRAs provide the politicians with a vehicle to lock in policies that they favor beyond their term of office as the policies of IRAs are by their nature more difficult to interfere with.

Some of the points in the list above involve normative prescriptions indicating why IRAs should be preferred in favor of other type of regulatory bodies, while others involve positive predictions indicating why we would expect politicians to choose delegating some of their authority to IRAs. Of the points raised in the list above, the two that have received a lot of emphasis in recent work on delegation are the credibility problem and the uncertainty problem (Bendor, Glazer, and Hammond 2001; Huber and Shipan 2004; Miller 2005).

The Credibility Problem and the Independence of IRAs

The credibility and the time inconsistency problem that governments face in implementing their policies was first pointed at systematically by Kydland and Prescott (1977), where the issue was how to conduct monetary policy. Should the governments exercise discretion and adopt their monetary policies to current conditions, or conduct policy on the basis of fixed rules (“rules versus discretion”)? They pointed out that there was a potential conflict between policy-makers discretion and policy optimality, and they argued that the ensuing problem could be ameliorated if the policy makers could credibly commit themselves to a fixed and pre-announced course of action. Policy-makers discretion can lead to time inconsistent policies, because (i) policy-makers will change their policies over time to adapt them to new information (which was not available at the time initial decision was made); (ii) their preferences may change (a new government, new public opinion etc.).

Time inconsistency problem arises in politics as a consequence of the lack of well-defined political property rights: the right to exercise public authority does not belong to anyone; public authority is only temporarily attached to those who win elections (Moe (1990)). There is an inherent uncertainty in the democratic political process: “whatever today’s authorities create stands to be subverted or perhaps completely destroyed – quite legally and without compensation whatever – by tomorrow’s authorities” (Moe 1990: 227).

When the success of policy relies ultimately on the response of rational individuals, even a policy that has been adopted with best of intentions for the benefit of the collective good may be rendered ineffective by rational actors that anticipate the future moves of policy-makers who would want to change these policies when new contingencies arise. Policies that are rendered time-inconsistent due to expectations of rational agents suffer from a lack of credibility. Time inconsistent policies are not credible because rational actors know that they are subject to revision. It is very difficult for elected politicians to be credible, because they have a very short time horizon, namely the next election. Also, a legislature cannot bind the following legislatures, nor a majority a subsequent majority. Hence the coherence of policies over time is jeopardized.

One possible solution to this credibility problem for governments is the delegation of competencies to independent agencies. Policy-makers thus give up their discretion and commit themselves to more or less fixed rules (Shepsle 1991; Dixit 1996).²¹ Independent agencies have different incentives and do not suffer from the short time horizon imposed by the democratic process. Hence their capacity to credibly commit themselves is much greater than that of democratically accountable and elected bodies.

The policy-makers need to be credible especially when they cannot rely on coercion to implement their policies (Majone 1997). For example, in the case of foreign direct investments, if a government wants to convince foreign investors to invest in its domestic firms, it cannot force them, but it has to convince them that its policies will favor their investments. Hence it must establish credibility.

²¹ See also Elster (1984) on the strategy of commitment to manipulate the feasible set of alternatives through restricting the set of possible actions and changing the reward structure.

In addition to time-inconsistency and the related credibility problem, there are, however, other political transaction costs that affect political exchange. These costs involve informational problems such as adverse selection (hidden information) and moral hazard (hidden action), which in turn lead to what are called the “agency losses”. Agency losses arise whenever one actor, the principal, delegates some power or competencies to another actor, which becomes its agent (Moe 1984; McCubbins, Noll, and Weingast 1998). Adverse selection occurs when the principal cannot be sure that he is selecting the agent that has the most appropriate skills or preferences; moral hazard occurs when the agent’s actions cannot be perfectly monitored by the principal.

The establishment of independent agencies will give rise to agency problems. The agency will tend to pursue its own interests rather than that of the government unless some incentive mechanisms are established. While agencies may solve the credibility problem with their independence from political influence, agency losses that will inevitably arise due to information problems may very well outweigh the credibility gains arising from their independence.

Political Uncertainty and Delegation of Authority to IRAs

In addition to the credibility problem, governments may also be willing to give up authority to IRAs due to what is called “political uncertainty” (Moe 1990). Political uncertainty refers to the possibility that future decision makers will be different from the current ones and will in most likelihood want to change the policies adopted by the latter. One way of reducing the possibility of policy reversal that will be undesirable from the viewpoint of the current decision makers is to make it more difficult to temper with policy by creating an independent agency with a mandate that is biased towards keeping the favored policy.

By insulating their favored agencies and programs from the future exercise of public authority governments will, of course, “not only be reducing their enemies’ opportunities for future control; they will be reducing their own opportunities as well.” (Moe 1990: 227-229). That is, creating an independent agency to protect favored policies will affect not only the future decision makers but all decision makers, including the one that creates the independent agency. In other words, creating the independent agency will also tie the hands of the decision maker that creates it.

It should be noted that the argument regarding the credibility problem and political uncertainty argument are partially related to each other as the presence of political uncertainty exacerbates the credibility problem. However, as noted by Gilardi (2005), the incentive for creating an independent agency is very different in each case.

Independence of IRAs: How to Measure Independence?

In an attempt to operationalize the notion of regulatory independence, Greve (2002) considers the following five questions²²:

- (i) Can any minister interfere and overrule the decisions made by the agency in specific cases?
- (ii) Can any minister make strategic decisions regarding the regulation?
- (iii) Does the same personnel policy and management rules apply as in the central administration in general?
- (iv) Can the minister formulate policy independently of the regulatory agency?
- (v) Is the regulatory agency financed by government and parliament through the ordinary state budget?

The degree of regulatory independence is then related to how many of these questions are answered in the negative.

In contrast to Greve's definition, which only concerns the relationship between the independent regulator and government, Smith's (1997: 1) definition also pays attention to the relationship between the regulatory agency and the regulated industry. He defines independence for regulators as consisting of the following three elements:

- (i) an arm's-length relationship with regulated firms, consumers and other interests,
- (ii) an arm's-length relationship with political authorities,

²² As cited in Johanssen (2003): 21.

- (iii) organizational autonomy, such as earmarked funding and exception from restrictive civil service salary rules, that is necessary to establish the requisite expertise and to maintain those arm's-length relationships.

Operationalization of independence

Towards a more detailed operationalization of regulatory independence, Gilardi (2002) develops a measure that concentrates on formal (statutory) independence. He draws on Kreher's (1997) operationalization, which uses many of the insights developed for measuring central bank independence (Cukierman *et al*, 1992; Cukierman and Webb, 1995; Kreher, 1997).

Kreher (1997) introduces the distinction between statutory independence and actual independence, as it would not be possible to reduce actual independence to legal status of the agencies. Elaborating on Kreher' (1995) distinction, Gilardi (2002) distinguishes between *formal independence* and *actual independence*, and introduces an operationalization of formal, or statutory independence. He divides formal (statutory) independence into four dimensions:

- A. Status of the head of the agency
- B. Status of the board members
- C. Relationship with the government and parliament
- D. Financial and organizational autonomy.

The status of the head of agency (A) aims to assess how independent the head of agency will likely to be in terms of (i) term of office; (ii) who appoints him/her; (iii) the conditions for his/her dismissal; (iv) whether he/she can hold other government position; (v) whether the appointment is renewable or not; and (vi) whether independence from any other (political or otherwise) affiliation is a formal requirement for the appointment. The same indicators are used in assessing the independence status of board members (B) as well. Together the head of agency and board member status variables aim to assess how independent the executives of the agency from undue political influence both at the appointment stage and when they serve after being appointed.

The relationship with the government and parliament variable (C) aims to capture how independent the agency will be from the executive and the legislative branch in its operations. The specific indicators cover (i) whether the independence of the agency is formally stated in law or not; (ii-iii) the formal obligations of the agency towards the government and the parliament; and (iv) whether the decisions of the agency can be overturned by any body other than a court.

The last variable covers the financial and organizational autonomy (D) of the agency. The indicators cover (i) where the income of the agency comes from; (ii) who controls the budget of the agency; (iii) who decides on the agency's internal organization; and (iv) who is in charge of the agency's personnel policy.

The indicators associated to these variables are presented in Table 2 (See Appendix). In each case 0 indicates lowest level of independence and 1 indicates highest level of independence. Indicators are first aggregated at the variable level, with equal weights. Then, the variable-level indices are aggregated, again with equal weights, to arrive at the overall independence index.

Independence of IRAs in Turkey

Using Gilardi's (2002) index described above, we assess the formal independence of Turkish regulatory agencies. Table 3 (see Appendix) presents the data on Turkish IRAs pertaining to the construction of the independence index under consideration. Table 4 (see Appendix) presents the values calculated for the variable-level and the overall independence indices. The last two rows on electricity regulators in Italy and the U.K. are from Gilardi (2002) and are included for the purpose of comparison.

Table 4 reveals a general tendency regarding the formal independence of Turkish agencies. The highest overall independence index value belongs to CA with 0.74 (out of a full value of 1.00). Including CA, the overall formal independence index values for six out of nine Turkish IRAs are in the 0.71-0.74 range. HBRT has an overall independence index of 0.62. The main outliers are the two IRAs in the agricultural sector, namely TTAMRA with an overall independence index value of 0.39, and the now extinct SA with an index value of 0.23.

Comparing the four variable-level indices among themselves, we observe that the values for the formal independence indices that involve the appointment stage, i.e. the agency head status variable (A) and the board member status variable (B), are in general lower than the values for the relationship with government and parliament variable (C) and the financial and organizational autonomy variable (D). These last two variables pertain to independence in the post appointment stage.

The highest value for the agency head status variable (A) is that of HBRT with 0.78 (out of a full value of 1.00), followed by 0.75 of PPA. The values for BRSA, CMB, TA, EMRA, and CA fall in the 0.56-0.62 range. The lowest two values are for the two agricultural IRAs, namely 0.25 for TTAMRA and 0.20 for SA. The values for the board member status variable (B) exactly mimic those for the head status variable as both the head of the agency and board members are appointed under exactly the same rules and procedures. The low values for TTAMRA and SA stem from the fact that the both the head of agency and boards members can be state employees in other offices in government and can keep their positions while serving for these agencies. Moreover, there is no formal requirement that they be independent and act independently of their other (main) appointments, which in practice translates into them serving the ministers that their main appointments are affiliated with.

The highest value for the relationship with the government and parliament variable (C) is 0.85 (out of a full value of 1.00), which belongs to PPA. PPA is followed by BRSA, CMB, TA, EMRA, and CA, all of which have a value of 0.84. HBRT has a value of 0.58 for this variable, which is a consequence of the fact that it has to present an annual report to government that must be approved, as well as being fully accountable to the parliament. As for the agencies in the agricultural sector, TTAMRA has a value of 0.65 for this index, while SA has a value of 0.17, which is the lowest among all of the agencies. While the independence of TTAMRA as an agency has been stated formally, there is no such statement for SA. SA is also fully accountable to the government, while TTAMRA has to present an annual report for information only. Both agencies have the same type of responsibility towards the parliament (to present an annual report for information only). As for who can overturn their decisions, SA's decisions can be overturned unconditionally by the government, while TTAMRA's decisions can be overturned by the government with qualifications.

In terms of financial and organizational autonomy variable (D), CA scores a value of 1.00 (out of a full value of 1.00). CA does in fact enjoys full autonomy in terms of its income source, and financial and personnel decisions. CA is followed by TA with a sub-index value of 0.88 in this category (TA's income source being partially under government control). BRSA, CMB, and EMRA all have the value of 0.75 (their internal organization being determined by the Council of Ministers). PPA has a value of 0.63 (with its income source being partially under government control and its internal organization being determined by the Council of Ministers), and HBRT with a value of 0.50 (with its budget under partial control of government, in addition to its income source being partially under government control and its internal organization being determined by the government). The agricultural IRAs again score very low in this variable, both TTAMRA and SA with a value of 0.38.

Observations and Concluding Remarks

Informal, or actual, independence, as opposed to formal independence that is considered in this study, is obviously also an important issue. In fact, it will be the most relevant factor when the question under consideration is the decision to delegate. However, formal independence is the fundamental issue when one studies the creation of IRAs by decision-makers (Gilardi 2005). Formal independence is a variable that decision-makers are able to determine and shape, and it will have considerable impact on how the actual independence of an agency will turn out to be.²³

We have noted above that the Turkish administrative structure is conceived in the Turkish Constitution as unitary in nature, which entails a strict indivisibility of administration. IRAs, with their separate public legal personality and their defining characteristic of “independence” are in fact rather “foreign” entities in the Turkish bureaucratic order. Therefore, investigating the formal independence granted to them by decision makers at their

²³ It should be noted that formal independence may neither be a sufficient nor a necessary condition for actual independence of IRAs, as suggested by comparing the independence scores for the Italian and the U.K. electricity regulators given in the last two columns of Table 4. We observe that the Italian *Autorita* displays similar features in terms of its formal independence to the Turkish case, values for Italian indices being higher for all variables and, hence, in the overall (0.84 for *Autorita* versus 0.71 for EMRA). The formal independence index value calculated for the U.K. regulator OFGEM is lower compared to its Italian and Turkish counterparts (0.45). In terms of actual rather than formal independence, casual observation on the state of regulatory practices and successes in these countries would, on the other hand, put the U.K. ahead of both Italy and Turkey.

creation is revealing about the nature of institutional change and transformation in Turkey in the aftermath of the sweeping reforms towards liberalization in the 1980s.

Turkey's addition of IRAs to its institutional structure can perhaps be best explained by its close involvement with IMF and the World Bank programs, as well as its long-standing accession process with EU. For example, the creation of one of Turkey's earliest IRAs, namely, the Competition Agency, was, to a large extent a consequence of a formal requirement in the Custom Union agreement between Turkey and EU that went into effect in 1995. Although the notion of establishing a competition authority had been discussed in Turkey since the 1970s, a competition law establishing the Competition Agency as an IRA, could be passed only in 1994. The period during which IRAs proliferated in Turkey has also been the time it went through severe financial and economic crises and has had to resort to help from IMF and the World Bank, both of which urged and guided the establishment of IRAs in various sectors. For example, IMF included expanding the mandate of the newly founded BRSA as well as increasing its independence and transparency as a condition in its December 1999 standby agreement with Turkey. IMF has also been a significant influence in the creation of an IRA for public procurement in 2002. The World Bank, on the other hand, were very instrumental in the creation of IRAs in the telecommunications and energy sectors, which was stipulated in Turkey's various credit agreements with the Bank.

The formal independence scores calculated for Turkish IRAs in this study show that most of them were granted considerable operational and financial independence when they were created. As noted above, this was despite serious legal difficulties stemming from Turkish Constitution and administrative law. Strong influence of IMF and the World Bank, as well as the impact of EU accession process, cannot be ignored in the establishment of IRAs in Turkey with organizational characteristics quite peculiar to its received administrative structure. The independence features and the calculated independence scores of six major IRAs (namely CBM, BRSA, CA, TA, EMRA, and PPA) are similar to each other and reflect the insistence of IMF and the World Bank that a certain organizational form is a prerequisite for IRAs.

However, it would be simplistic to conclude that IRAs were created in Turkey solely because of dictates of IMF, the World Bank, and EU. Various Turkish governments have noticed the adverse effects of liberalization without adequate regulation. They have not been able to

design and introduce institutional reforms by themselves and have actively recruited help from IMF and the World Bank, and they have tried to use the EU accession process as a vehicle to institute change. Necessity of introducing reforms to achieve economic stability and growth as well as to enhance credibility and competitiveness in international markets has been realized and rather creative methods of reinterpreting the Constitution and administrative law in order to allow for independent entities in Turkish administrative structure were voluntarily engaged.

There is also evidence that the Turkish decision makers have realized that IRAs could provide solutions for problems peculiar to the country's own markets. For instance, while IMF and the World Bank demanded Turkey to liberalize its sugar beet and tobacco markets, they did not require the creation of regulatory agencies in these sectors. The establishment of the Sugar Agency and the Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulation Agency looks like a purely creative initiative by the Turkish government, reluctant to totally give up its presence and control in these sectors since the livelihood of millions of Turkish farmers depends on sugar beet and tobacco production. The World Bank's preference to see these two IRAs as transitory agencies, which resulted in inserting a conditional sunset clause in the law establishing the Sugar Agency, provides indication that that these are not IRAs actually favored by international financial institutions. They are, rather, not-so-independent regulatory agencies which the Turkish government has created to introduce a new form of state involvement in agricultural markets and to mitigate the effects of liberalization promoted by the IMF and the World Bank. Very low across the board independence index values calculated above for these two IRAs strongly suggest that Turkish decision makers wanted to main oversight and control in these two important sectors.

References

- Bendor, J., A. Glazer and T. Hammond (2001), "Theories of Delegation", *Annual Review of Political Science*, 4, 235-269
- Cukierman, A., S. B. Webb and B. Neyapti (1992), "Measuring the Independence of Central Banks and Its Effects on Policy Outcomes", *World Bank Economic Review*, 6(3), pp. 353-398
- Cukierman, A. and S. B. Webb (1995), "Political Influence on the Central Bank: International Evidence", *World Bank Economic Review*, 9 (3), 397-423
- Dixit, A. K. (1996), *The Making of Economic Policy. A Transaction-Cost Politics Perspective*, The MIT Press.
- Elster, J. (1984), *Ulysses and the Sirens. Studies in the Rationality and Irrationality*, Cambridge, Cambridge University Press.
- Gilardi, F. (2002) "Policy Credibility and Delegation to Independent Regulatory Agencies: A Comparative Empirical Analysis", *Journal of European Public Policy*, 9, 6, pp. 873-893
- Gilardi, F. (2004) *Delegation in Regulatory State: Origins and Diffusion of Independent Regulatory Agencies in Western Europe*, unpublished Ph. D. Dissertation, Université de Lausanne, Switzerland
- Gilardi, F. (2005) "Evaluating Independent Regulators" in OECD 2005
- Greve, C. (2002) *Privatisering, regulering og demokrati. Telestyrelsens funktion som uafhængig reguleringsmyndighed*. Aarhus Universitetsforlag, Aarhus (Magtudrednings skriftserie)
- Horn, M. J. (1995), *The Political Economy of Public Administration. Institutional Choice in the Public Sector*, Cambridge, Cambridge University Press
- Huber, J. D., and C. R. Shipan. 2004. *Politics, Delegation, and Bureaucracy*. Manuscript, Columbia University and University of Iowa.
- Johannsen, K. (2003) "Regulatory Independence in Theory and Practice - a Survey of Independent Energy Regulators in Eight European Countries", AKF Forlaget, AKF (Danish Institute of Governmental Research), Copenhagen.
- Karataş, C. (2001) "Privatization in Turkey: Implementation, Politics of Privatization and Performance Results". *Journal of International Development*, 13, pp. 93-121
- Kreher, A. (1997), "Agencies in the European Community – A Step Towards Administrative Integration in Europe", *Journal of European Public Policy*, 4(2), 225-245.
- Kydland, F., and E. C. Prescott (1977), "Rules Rather than Discretion: The Inconsistency of Optimal Plans", *Journal of Political Economy*, 85(1), 73-491.

- Majone, G. (1994) "The Rise of the Regulatory State in Europe", *West European Politics*, 17 (3), pp. 77-101
- Majone, G. (1996a), *Regulating Europe*, Routledge, London.
- Majone, G. (1996b), "Temporal Consistency and Political Credibility: Why Democracies Need Non-Majoritarian Institutions", Working Paper RSC No 96/57, Florence, European University Institute.
- Majone, G. (1997), "Independent Agencies and the Delegation Problem: Theoretical and Normative Dimensions", in: Steuenberg, Bernard and Frans van Vught (eds.), *Political Institutions and Public Policy*, Kluwer Academic Publishers, 139-156.
- Majone, G. (1999) "The Regulatory State and Its Legitimacy Problems", *West European Politics*, 22, 1: 1-24.
- Majone, G. (2001), "Nonmajoritarian Institutions and the Limits of democratic Governance: A Political Transaction-Cost Approach", *Journal of Institutional and Theoretical Economics*, 157, pp. 57-78
- McCubbins, M. D., R. G. Noll, and B. R. Weingast (1998), "Political Control of the Bureaucracy", in: Newman, P. (ed.), *The New Palgrave Dictionary of Economics and the Law*, Vol. 3, Macmillan, 50-54.
- Miller, G. J. 2005. The Political Evolution of Principal-Agent Models. *Annual Review of Political Science* 8:203-225.
- Moe, T. M. (1984), "The New Economics of Organization", *American Journal of Political Science*.
- Moe, T. M. (1990), "Political Institutions: The Neglected Side of the Story", *Journal of Law, Economics, and Organisation*, 6, Special Issue, pp. 213-105.
- OECD (2002a) *Regulatory Policies in OECD Countries, From Interventionism to Regulatory Governance*, Paris, France: OECD Publications
- Öniş, Z. and Riedel J. (1993) *Economic Crises and Long-Term Growth in Turkey*. World Bank Comparative Macroeconomic Studies. Washinton D.C.: World Bank.
- Shepsle, K. A. (1991), "Discretion, Institutions, and the Problem of Government Commitment", in: Bourdieu, Pierre and James S. Coleman (eds.), *Social Theory for a Changing Society*, Westview Press, pp. 245-263.
- Smith, W. (1997) "Utility Regulatory – the Independence Debate", *Public Policy for the Private Sector*, the World Bank Group, Note No. 127
- Sosay, G. and E. Ü. Zenginobuz (2005) "Independent Regulatory Agencies in Emerging Economies", Boğaziçi University, Research Papers, ISS/EC 2005-10

Sönmez, Ü. (2004) “Independent Regulatory Agencies: The World Experience and the Turkish Case”, Unpublished M.Sc. Thesis, Department of Political Science and Public Administration, Middle East Technical University, Ankara

Tan, T. (2000) "Bağımsız İdari Otoriteler (Autonomous Administrative Bodies)" in İ. Atiyas (ed.), *Devletin Düzenleyici Rolü: Türkiye'de Elektrik ve Telekomünikasyon Sektörlerinde Özelleştirme ve Rekabet (The Regulatory Role of State: Privatization and Competition in Turkish Electricity and Telecommunications Industries)*. İstanbul: Tesev Yayınları.

Togan, S. (1994) *Foreign Trade Regime and Trade Liberalisation in Turkey during 1980's*. London: Avebury Press.

Togan S. and Balasubramanyam V.N. (eds.) (1996) *The Economy of Turkey Since Liberalization*. London: Palgrave.

TÜSİAD (2002), *Bağımsız Düzenleyici Kurumlar ve Türkiye Uygulaması*, Yayın No. TÜSİAD-T/2002-12/349, İstanbul.

Zenginobuz, E. Ü. (2002) “Uluslararası Karşılaştırmalar (International Comparisons)”, in *Bağımsız Düzenleyici Kurumlar ve Türkiye Uygulaması (Independent Regulatory Agencies and the Case of Turkey)*, Yayın No. TÜSİAD-T/2002-12/349, İstanbul

Table 1.1: Independent Regulatory Agencies in Turkey, Finance Sector

	Law/ Date of Creation	Sectors	Composition and Appointment of the Board	Source of Income	Financial Oversight	Judicial Oversight
Banking Regulation and Supervision Agency (BRSA)	Law 4389 / 1999 (became effective in 2000)	Banking	-7 members -6 year term (renewable) Nominations by: -Minister in charge of BDDK	-Special Fund: up to three per ten thousand of the total assets of banks (as reported in their balance sheets)	Audited by a committee appointed by the Minister in charge of BDDK and consisting of an inspector from Court of Accounts, an inspector from Ministry of Finance, and an inspector from Prime Minister's office	Regional Administrative Court
Capital Markets Board (CMB)	Law 2499 / 1981	Capital Markets	-7 members -6 year term (renewable) Nominations by: -"Related" Minister (2) -Ministry of Finance (1) -Minister of Industry and Trade (1) -BDDK (1) -TOBB (1) -Union of Turkish Capital Market Intermediary Institutions (1)	-Special Fund: three per thousand of the issuance value of capital instruments -General Budget (if necessary)	Minister in charge of SPK	Regional Administrative Court

Table 1.2: Independent Regulatory Agencies in Turkey, Utility Sectors

	Law/ Date of Creation	Law/ Date of Creation	Composition and Appointment of the Board	Source of Income	Financial Oversight	Judicial Oversight
Telecommunications Agency (TA)	Law 4502 / 2000	Telecommunication	-5 members -5 year term (renewable) Nominations by: -Minister of Transportation (3) -Minister of Industry and Trade, and TOBB (Union of Turkish Chambers and Exchanges) (1) -Telecommunication Sector (1)	-Frequency license and usage fees -One per ten thousand of license fees -Contributions from operators -Income from publications and consulting -General Budget (if necessary)	Court of Accounts	Council of State/ Regional Administrative Court
Energy Market Regulatory Agency (EMRA)	Laws 4628 and 4646 / 2001	Electricity Natural Gas	-7 members -6 year term (renewable) -Appointed directly by the Council of Minister	-License fees -One percent of transmission fees -Contributions from up to one per thousand of annual revenues of operators in the natural gas sector	Supreme Supervision Board (under Prime Minister)	Council of State

Table 1.3: Independent Regulatory Agencies in Turkey, Competition

	Law/ Date of Creation	Sectors	Composition and Appointment of the Board	Source of Income	Financial Oversight	Judicial Oversight
Competition Agency (CA)	Law 4054 / 1994 (put into effect in 1997)	All Sectors	-11 members -6 year term (renewable) Nominations by: -Competition Authority (4) -Minister of Industry and Trade (2) -Minister in charge of State Planning Institute (1) -Court of Appeals (1) -Council of State (1) -Interuniversity Council (1) -TOBB (Union of Turkish Chambers and Exchanges) (1)	-Two per thousand of registered capitals of corporations -Five percent of fines assessed by RK -Income from publications	Court of Accounts	Council of State

Table 1.4: Independent Regulatory Agencies in Turkey, Agriculture

	Law/ Date of Creation	Sectors	Composition and Appointment of the Board	Source of Income	Financial Oversight	Judicial Oversight
Sugar Agency (SA)	Law 4634 / 2001	Sugar and sweeteners	-7 members -5 year term (renewable) Nominations by: -Minister of Industry and Trade (1) -Minister of Agriculture (1) -Minister in charge of Undersecretariat of Foreign Trade (1) -Turkish Sugar Factories Inc. (1) -Union of Turkish Sugar Beet Producer Cooperatives (1) -Private Sugar Companies (2)	-Five per thousand of revenues from domestic sales of companies	Supreme Supervision Board (under Prime Minister)	Regional Administrative Court
Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulatory Agency (TTAMRA)	Law 4733 / 2002	Tobacco, Tobacco Products, and Alcoholic Beverages	-7 members -5 year term (renewable) Nominations by: -Minister of Finance (1) -Minister of Health (1) -Minister of Agriculture (1) -Undersecretariat of Treasury (1) -Undersecretariat of Foreign Trade (1) -Union of Turkish Chambers of Agriculture (1) -Minister in charge of TEKEL Inc. (1)	-Four per thousand of revenues from tobacco products and alcoholic beverages produced (import value if imported) -License fees	Supreme Supervision Board (under Prime Minister)	

Table 1.5: Independent Regulatory Agencies in Turkey, Various

	Law/ Date of Creation	Sectors	Composition and Appointment of the Board	Source of Income	Financial Oversight	Judicial Oversight
The Higher Board for Radio and Television (HBRT)	Law 3984 / 1994	Radio and television broadcasting	-9 members -5 year term (renewable) Nominations by: -Political Parties in Parliament (5) -Higher Education Council (2) -Association of Journalists and Press Council (1) -National Security Council Secretariat (1)	-Annual frequency allocation fees from private radio and television companies -Five percent of advertisement revenues of private radio and television companies -Administrative fines -General Budget (if necessary)	Supreme Supervision Board (under Prime Minister)	Regional Administrative Court in Ankara
Public Procurement Agency (PPA)	Law 4734 / 2002	All public bodies	-10 members -5 year term (nonrenewable) Nominations by: -Minister of Finance (2) -Minister of Infrastructure and Housing (3) -Undersecretariat of Treasury (1) -Council of State (1) -Court of Accounts (1) -Union of Turkish Chambers and Exchanges (1) -Confederation of Turkish Employer Unions (1)	-Five per ten thousand of value of procurement contracts (to be collected from contractors) -Fees for filing complaints -Income from publications --General Budget (if necessary)	Court of Accounts	Regional Administrative Court

Table 2: Formal independence of regulatory agencies: operationalization (Gilardi (2002))

Variable	Indicators	Numerical coding
A) Agency Head Status	1) Term of Office	
	-over 8 years	1.00
	-6 to 8 years	0.80
	-5 years	0.60
	-4 years	0.40
	-fixed term under 4 at the discretion of the appointer	0.20
	-no fixed term	0.00
	2) Who appoints the agency head?	
	-the board members	1.00
	-a mix of the executive and the legislative	0.75
	-the legislature	0.50
	-the executive collectively	0.25
	-one or two ministers	0.00
	3) Dismissal	
	-dismissal is impossible	1.00
	-only for reasons not related to policy	0.67
	-no specific provisions for dismissal	0.33
	-at the appointer's discretion	0.00
	4) May the agency head hold other offices in government?	
	-no	1.00
	-only with permission of the executive	0.50
-no specific provision	0.00	
5) Is the appointment renewable?		
-no	1.00	
-yes, once	0.50	
-yes, more than once	0.00	
6) Is independence a formal requirement for the appointment?		
-yes	1.00	
-no	0.00	
B) Board members status	7) Term of Office	
	-over 8 years	1.00
	-6 to 8 years	0.80
	-5 years	0.60
	-4 years	0.40
	-fixed term under 4 at the discretion of the appointer	0.20
	-no fixed term	0.00
	8) Who appoints the board members?	
	-the board members	
	-the agency head	1.00
	-a mix of the executive and the legislative	0.75
	-the legislature	0.50
	-the executive collectively	0.25
	-one or two ministers	0.00
	9) Dismissal	
-dismissal is impossible	1.00	
-only for reasons not related to policy	0.67	
-no specific provisions for dismissal	0.33	
-at the appointer's discretion	0.00	

	10) May the board members hold other offices in government?	
	-no	1.00
	-only with permission of the executive	0.50
	-no specific provision	0.00
	11) Is the appointment renewable?	
	-no	1.00
	-yes, once	0.50
	-yes, more than once	0.00
	12) Is independence a formal requirement for the appointment?	
	-yes	1.00
	-no	0.00
C) Relationship with government and parliament	13) Is the independence of the agency formally stated?	
	-yes	1.00
	-no	0.00
	14) Which are the formal obligations of the agency vis-à-vis the government?	
	-none	1.00
	-presentation of annual report for information only	0.67
	-presentation of an annual report that must be approved	0.33
	-the agency is fully accountable	0.00
	15) Which are the formal obligations of the agency vis-à-vis the parliament?	
	-none	1.00
	-presentation of annual report for information only	0.67
	-presentation of an annual report that must be approved	0.33
	-the agency is fully accountable	0.00
	16) Who, other than a court, can overturn the agency's decision where it has exclusive competency?	
	-none	1.00
	-a specialized body	0.67
	-the government, with qualifications	0.33
	-the government, unconditionally	0.00
D) Financial and organizational autonomy	17) Which is the source of the agency's budget?	
	-external funding	1.00
	-government and regulated firms	0.50
	-government	0.00
	18) How is the budget controlled?	
	-by the agency	1.00
	-by both the government and the agency	0.50
	-the government	0.00
	19) Who decides on the agency's internal organization?	
	-the agency	1.00
	-the parliament	0.50
	-the government	0.00
	20) Who is in charge of the agency's personnel policy?	
	-the agency	1.00
	-the government	0.00

Table 3: Details on formal independence of Turkish IRAs

		BRSA	CMB	TA	EMRA	CA	SA	TTAMRA	HBRT	PPA
A) Agency Head Status	1) Term of Office	0.80	0.80	0.60	0.80	0.80	0.60	0.60	0.60	0.60
	2) Who appoints the agency head?	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.75	0.25
	3) Dismissal	0.67	0.67	0.67	0.67	0.33	0.33	0.67	0.33	0.67
	4) May the agency head hold other offices in government?	1.00	1.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
	5) Is the appointment renewable?	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00	1.00
	6) Is independence a formal requirement for the appointment?	1.00	1.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
B) Board members status	7) Term of Office	0.80	0.80	0.60	0.80	0.80	0.60	0.60	0.60	0.60
	8) Who appoints the board members?	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.75	0.25
	9) Dismissal	0.67	0.67	0.67	0.67	0.33	0.33	0.67	0.33	0.67
	10) May the board members hold other offices in government?	1.00	1.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
	11) Is the appointment renewable?	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1.00
	12) Is independence a formal requirement for the appointment?	1.00	1.00	1.00	1.00	1.00	0.00	0.00	1.00	1.00
C) Relationship with government and parliament	13) Is the independence of the agency formally stated?	1.00	1.00	1.00	1.00	1.00	0.00	1.00	1.00	1.00
	14) Which are the formal obligations of the agency vis-à-vis the government?	0.67	0.67	0.67	0.67	0.67	0.00	0.67	0.33	0.67
	15) Which are the formal obligations of the agency vis-à-vis the parliament?	0.67	0.67	0.67	0.67	0.67	0.67	0.67	0.00	0.67
	16) Who, other than a court, can overturn the agency's decision where it has exclusive competency?	1.00	1.00	1.00	1.00	1.00	0.00	0.33	1.00	1.00
D) Financial and organizational autonomy	17) Which is the source of the agency's budget?	1.00	1.00	0.50	1.00	1.00	0.50	1.00	0.50	0.50
	18) How is the budget controlled?	1.00	1.00	1.00	1.00	1.00	0.00	0.50	0.50	1.00
	19) Who decides on the agency's internal organization?	0.00	0.00	1.00	0.00	1.00	0.00	0.00	0.00	0.00
	20) Who is in charge of the agency's personnel policy?	1.00	1.00	1.00	1.00	1.00	1.00	0.00	1.00	1.00

Table 4: Formal independence of Turkish regulatory agencies

	A) Agency head status	B) Board member status	C) Relationship with the government and parliament	D) Financial and organizational autonomy	Overall Independence index
Banking Regulation and Supervision Agency (BRSA)	0.62	0.62	0.84	0.75	0.71
Capital Markets Board (CMB)	0.62	0.62	0.84	0.75	0.71
Telecommunications Agency (TA)	0.59	0.59	0.84	0.88	0.72
Energy Market Regulatory Agency (EMRA)	0.62	0.62	0.84	0.75	0.71
Competition Agency (CA)	0.56	0.56	0.84	1.00	0.74
Sugar Agency (SA)	0.20	0.20	0.17	0.38	0.23
Tobacco, Tobacco Products, and Alcoholic Beverages Markets Regulatory Agency (TTAMRA)	0.25	0.25	0.67	0.38	0.39
The Higher Board for Radio and Television (HBRT)	0.78	0.78	0.58	0.50	0.62
Public Procurement Agency (PPA)	0.75	0.75	0.85	0.63	0.74
Autorita per l'energia elettrica e il gas (Italy)*	0.81	0.81	0.84	0.84	0.84
Office for gas and electricity markets (OFGEM, U.K)*	0.21	0.21	0.67	0.75	0.45

*From Gilardi (2002).