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Özlü Rukiye Mehtap
PhD in Public Law, Tokat Gaziosmanpaşa University
Tokat, Republic of Türkiye,
e-mail: mehtap.dolek@gop.edu.tr ORCID: https://orcid.org/0000-0002-7505-4586

TRUSTEE APPOINTMENTS IN PLACE OF SUSPENDED MAYORS: BEYOND THE LIMITS OF ADMINISTRATIVE TUTELAGE IN TÜRKIYE

Abstract. This study examines the legal nature of trustee appointments in place of mayors suspended from office due to terrorism-related offences in Türkiye. In recent years, the practice has become one of the most contested dimensions of central–local government relations. The mechanism is formally justified within the framework of administrative tutelage as it seeks to preserve the institutional unity between the central administration and municipalities. Existing scholarship generally approaches trustee appointments from two perspectives. The first emphasizes security and counter-terrorism concerns, while the second focuses on democratic backsliding and the erosion of local democracy. In contrast, this study systematically situates the practice within the normative framework of administrative law. It asks whether the direct appointment of trustees by the central administration remains within the constitutional and legal limits of administrative tutelage. Methodologically, the article employs qualitative document analysis based on constitutional provisions, legislation, judicial decisions, national and international reports, and scholarly literature. The analysis evaluates the trustee mechanism through four dimensions: the principle of legality in administrative tutelage, the constitutional and statutory scope of tutelary powers, the balance between administrative tutelage, local autonomy, and democratic representation, and the purpose of tutelary intervention. The findings demonstrate that the trustee system exceeds the legal boundaries of administrative tutelage. Although the suspension of mayors may be justified as a temporary precautionary measure aimed at ensuring the continuity of public services, the subsequent appointment of trustees produces distinct constitutional and democratic consequences. Since the mechanism was originally introduced through a decree law enacted during the state of emergency period, its legitimacy within the ordinary constitutional order remains deeply contested. Furthermore, the hierarchical relationship between the appointing authority and trustees expands the scope of administrative tutelage beyond its classical supervisory character. In addition, the functional neutralization of municipal councils and executive committees weakens the institutional integrity of local self-government. The study concludes that the trustee mechanism constitutes a sui generis form of intervention requiring a reconsideration of the constitutional limits of central administrative intervention in local self-government.

Keywords: *administrative tutelage, trustee appointments, local democracy, autonomy, Türkiye.*

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Problem statement. The tension between the democratic legitimacy of local governments and the central administration's concerns for unity and security constitutes one of the most contested areas of contemporary public law. In Türkiye, the suspension of mayors from office and the subsequent appointment of substitutes by the central administration represent one of the most striking manifestations of this tension. This practice extends beyond the limits of a mere administrative measure and triggers a multi-layered debate concerning the continuity of local democratic representation, the scope of administrative tutelage, and the fundamental principles of the constitutional order.

Within classical administrative law doctrine, administrative tutelage is understood as a limited, exceptional, and narrowly interpreted form of oversight over local authorities [45; 63; 30; 4; 64; 5; 29; 50; 68; 80; 46; 1]. However, the direct appointment by the central administration of replacements for suspended mayors stretches this traditional framework of tutelary authority.

In this context, it is essential to draw an analytical distinction between the measure of suspension and the subsequent act of appointment. Suspension may, under certain conditions, be justified as a temporary measure based on considerations of public interest and the continuity of public services [52; 57]. However, the substitution mechanism that follows this measure produces distinct legal consequences and becomes decisive in assessing the limits of administrative tutelage.

The legislation provides for two substitution models depending on the grounds for suspension. In cases related to official-duty offences, the municipal council elects an acting mayor from among its members. In contrast, where suspension is justified on the basis of terrorism-related offences, the central administration directly appoints an acting mayor. It is this second model – the appointment of trustees – that constitutes the focus of this study. Such appointments extend beyond a technical measure aimed at filling an executive vacancy; they effectively render the municipal council and executive committee functionally inoperative, undermining institutional integrity and transforming municipalities into extensions of the central administration in terms of decision-making processes. Consequently, the practice emerges not as a conventional supervisory mechanism within classical administrative tutelage, but as a sui generis form of intervention based on the direct substitution of municipal powers.

Review of recent scholarly publications. The existing literature addresses trustee appointments along two main axes. The first approach evaluates the practice as an instrument in counter-terrorism and security policies, arguing that it serves functional administrative purposes [2; 48; 49; 8; 7]. Similarly, within the counter-terrorism context, some studies assess the practice through the lens of the offence of abuse of office [32]. These studies emphasize that trustee appointments prevent municipal resources from being used by terrorist organizations. There are also studies arguing that such appointments are necessary as they enhance efficiency and effectiveness in local service delivery [33]. Furthermore, reports issued by the Ministry of Interior highlight the objectives of the trustee practice and its role in counter-terrorism, while enumerating its achievements in local service provision [58]. Similarly, the Union of Municipalities of Türkiye underscores that the practice is employed to ensure that municipal services are delivered in line with the interests of the local population [73]. While these analyses highlight practical and security considerations, they largely treat the practice as functionally justified without critically interrogating its normative and democratic implications.

The second approach adopts a critical lens, assessing trustee appointments in terms of local democracy, municipal autonomy, and the rule of law. Scholars in this tradition emphasize that trustee appointments weaken local democratic structures and autonomy [56; 53; 51; 31], highlighting the need to shield local governance from the "virus" of centralization [55]. Moreover, the practice is evaluated from the standpoint of a democratic constitutional state, with scholars arguing that its implementation outside the extraordinary conditions for which it was designed is legally problematic [53; 65].

Despite these contributions, both approaches remain limited. The first overlooks the democratic and legal ramifications, while the second does not systematically situate trustee appointments within the normative framework and limits of administrative tutelage. This gap points to an underdeveloped conceptual understanding of the practice's legal nature and its implications for local governance.

Aim and tasks of the research. This study examines trustee appointments within the framework of the legality, scope, and purpose of administrative tutelage, assessing the balance between administrative tutelage, local autonomy, and democratic representation. The tasks of the research are the following: to analyse the legality of trustee appointments in light of the constitutional and statutory framework of administrative tutelage; to examine the scope of such appointments through the prism of the appointing authority, the status of the appointed trustees, and the de facto dissolution of municipal organs; to assess the constitutional balance between administrative tutelage, local autonomy and democratic representation; and to evaluate the declared purposes of the practice against its actual operation.

Research hypothesis. The central argument advanced here is that trustee appointments constitute a sui generis intervention that exceeds the limits of administrative tutelage. Accordingly, the study not only explains an existing practice but also calls for a rethinking of the meaning and boundaries of administrative tutelage in contemporary public law.

Methodology applied. Drawing upon legislation, judicial decisions, national and international documents, and scholarly literature, the study employs qualitative document analysis to evaluate the practice's legal and normative dimensions. The analytical construction proceeds through four complementary lenses – the principle of legality of administrative tutelage, its constitutional and statutory scope, its balance with local autonomy and democratic representation, and the declared purpose of administrative tutelage – each of which is applied consecutively to the same empirical material, namely the institution of trustee appointments introduced into Turkish law through Decree Law No. 674 and subsequently incorporated into Law No. 5393.

In line with COPE and WAME guidelines on the responsible use of generative AI in scholarly publishing, the author declares the limited use of a large language model (ChatGPT) during manuscript preparation. The tool was employed solely for language editing and stylistic refinement of the English text – grammar verification, syntactic clarity in legal formulations, and terminological consistency. It was not used for the identification, selection, or interpretation of statutory provisions, judicial decisions, or scholarly sources; nor for the formulation of the research question, hypothesis, analytical framework, doctrinal argument, or conclusions, all of which are entirely the author's own work. Every model-assisted passage was

independently verified by the author, who bears sole academic responsibility for the manuscript's content.

Main material. The analytical deployment of the four lenses identified above proceeds in four consecutive sections. The first examines trustee appointments against the principle of legality of administrative tutelage; the second, against its scope and the structural effects of such appointments on the organs of local self-government; the third, against the constitutional balance between tutelage, local autonomy and democratic representation; and the fourth, against the declared purpose of administrative tutelage as codified in constitutional and statutory provisions.

Trustee Appointments and the Principle of Legality in Administrative Tutelage. The statutory framework governing the appointment of trustees by the central administration in cases where mayors are suspended due to terrorism-related offences must be evaluated in light of the principle of legality in administrative tutelage. The trustee provision, added to Article 45 of the Municipal Law, was initially introduced under Decree Law No. 674, Article 38, on 15 August 2016, shortly after the declaration of a state of emergency following the coup attempt orchestrated by the Fethullahist Terrorist Organization on 15 July 2016. This provision was later incorporated into Law No. 5393 through Article 34 of Law No. 6758 on 10 November 2016. The measure raises significant questions regarding the principle of legality in administrative tutelage under Turkish law.

According to Article 127 of the Constitution, administrative tutelage must be established exclusively by law. This principle is widely acknowledged in both doctrine and case law. The rules and principles governing administrative tutelage are determined by legislation [5; 50; 68; 80; 46]. Both the Constitutional Court and the Council of State have consistently held that the scope of the central administration's tutelary authority over local governments must be explicitly defined in law [24; 15; 16; 18; 17].

The principle of legality requires that tutelary authority be prescribed in a law; it cannot be established through secondary regulatory instruments, such as administrative regulations [47]. Some scholars argue that, following Law No. 6771, presidential decrees could be used to confer administrative tutelage powers [62]. Under this interpretation, although Article 127 of the Constitution was not explicitly amended, a systematic reading of constitutional provisions in conjunction with the principle of administrative integrity might allow Presidential decrees to constitute a legal basis for tutelage. In practice, Presidential decrees have indeed been used to exercise tutelary authority. Nevertheless, even this view acknowledges the constitutional ambiguity inherent in such practice, emphasizing that only an explicit constitutional amendment could definitively resolve the issue.

Consequently, the source of administrative tutelage must remain legislative. Granting tutelary powers through Presidential decrees or extraordinary measures without constitutional amendment contradicts the exceptional and limited nature of this authority. Accordingly, the regulation of trustee appointments under Decree Law No. 674 clearly violates the principle of legality of administrative tutelage.

The Law on the State of Emergency No. 2935 enumerates the measures available to the government during the period of emergency. Measures that directly interfere with the composition of municipal organs or authorize the central administration to replace an elected mayor are not included. Hence, trustee appointments lack a clear legal basis and exceed the limits of permissible

intervention. The Venice Commission has noted that the use of emergency decrees to expand powers beyond the scope defined in law can render constitutional emergency provisions meaningless [76; 77].

The subsequent incorporation into ordinary law of the state of emergency decree into law approximately three months later does not resolve concerns regarding the principle of legality of trustee appointments. Transforming an emergency measure into ordinary legislation does not satisfy the substantive legality requirements of a democratic state [65]. Emergency provisions designed for temporary application cannot be normalized without violating procedural norms of legislative enactment, nor can they be used to permanently bypass parliamentary scrutiny. Significantly, the regulatory framework permitting trustee appointments predated the coup attempt: a legislative proposal presented to Parliament on 19 August 2016 within "Omnibus Bill No. 411" was withdrawn following strong opposition. This indicates that the measures enacted through Decree Law No. 674 did not solely arise from the urgency of the state of emergency, but instead reflected a broader tendency toward centralization facilitated by the exceptional conditions of the state of emergency. Measures presented as part of counter-terrorism efforts against terrorist organizations thus evolved from temporary interventions into a permanent legal status, fundamentally altering the structural integrity of local democracy.

The Constitutional Court has held that emergency decrees, by their nature, are limited to the period and territory of the declared emergency; their application outside these bounds undermines the principle of legality and the rule of law [12]. Integrating measures devised under the state of emergency into normal legal frameworks contravenes the principles of a democratic constitutional state [71]. The Venice Commission similarly emphasizes that embedding emergency measures into ordinary law does not confer legal legitimacy; instead, it risks perpetuating exceptional powers and eroding the integrity of the legal system [76; 77]. Integrating these emergency measures into ordinary law not only undermines the principle of legality and the rule of law, but also sets a precedent for expanding central authority at the expense of local democratic governance, highlighting the urgent need to critically examine the scope and limits of administrative tutelage in Türkiye.

Trustee Appointments and the Scope of Administrative Tutelage. The scope of the central administration's tutelary powers over mayors is regulated by the Constitution and the Municipal Law. According to one line of scholarship, the central administration possesses the authority to suspend mayors from office [50; 46; 1]. Pursuant to Article 127(4) of the 1982 Constitution, mayors may be suspended from office as a temporary measure where an investigation or prosecution is initiated against them for an offence related to their duties. In other words, a suspension decision constitutes an exercise of administrative tutelage.

Another view holds that tutelary control over mayors manifests not only in the power of suspension, but also in the ability to apply to the judiciary for the termination of a mayor's mandate [1]. Under Article 44 of Municipal Law No. 5393, the Council of State adjudicates cases concerning the removal of mayors from office upon the application of the Ministry of Interior. According to Article 24(2) of the Council of State Law, such cases are heard by the Council of State acting as a court of first instance and are subject to specific procedural rules. This form of oversight has been characterized in the literature as administrative tutelage in a substantive

sense [79; 1]. However, such a characterization is problematic, as this review is judicial in nature and is conducted by the Council of State, an independent and impartial judicial body rather than a unit of the central administration. Moreover, pursuant to constitutional provisions, disputes concerning the acquisition and loss of mayoral status are subject to judicial review.

Another form of tutelage over mayors arises in the form of compulsory substitution of municipal organs, as provided for in Article 46 of the Municipal Law. For such substitution to occur, the municipal council must first fail to elect an acting mayor from among its members after four rounds of voting, as stipulated in Article 45. In cases where a mayor is suspended due to offences related to their duties or where the mayoral office becomes vacant, the law prioritizes the election of a mayor or acting mayor by the municipal council from among its own members, thereby preserving local democratic representation. However, if the council fails to elect an acting mayor within four rounds, the Minister of Interior or the governor is authorized to appoint one. Although this mechanism aims to ensure the continuity of public services, it constitutes a sensitive area that requires careful assessment in terms of the scope of tutelary powers.

In this respect, the Constitutional Court's decision provides an important framework [11]. The Court held that, particularly in exceptional circumstances such as the simultaneous vacancy of both the mayoral office and the deputy mayoralty, the authority granted to the Minister of Interior or the governor to make an appointment – limited to cases of necessity and aimed at preventing disruption of services – derives from the tutelary powers envisaged under Article 127 of the Constitution. The Court emphasized that, for such appointments to fall within the scope of tutelage, safeguards ensuring the preservation of local democratic representation must be in place. Notably, the Municipal Law No. 1580 explicitly required that appointments to the position of acting mayor be made from among the elected members of the municipal council. This requirement has been regarded as a key safeguard ensuring that the exercise of tutelary powers by the central administration does not undermine the democratic character of municipalities. Indeed, the Court considered the selection of the appointee from among elected council members to be a decisive factor in maintaining the principle of local representation. Accordingly, such appointments within the scope of tutelage do not amount to the direct substitution of the mayor by the central administration; rather, they entail a temporary designation from within elected bodies solely to ensure the continuity of public services. In this respect, it should be underlined that, compared to the former Municipal Law No. 1580, the currently applicable Municipal Law No. 5393 of 2004 establishes a more problematic tutelary framework in terms of safeguarding local democratic participation.

Finally, trustee appointments in relation to terrorism-related offences should be examined – particularly in light of the appointing authorities, the appointees, and the de facto dissolution of municipal organs (council and executive committee) – to determine whether they fall within the scope of tutelary powers.

Beyond Administrative Tutelage: The Appointing Authority. The appointment of trustees by the central administration to replace mayors suspended from office on terrorism-related charges raises the question of whether such a practice can be considered within the scope of administrative tutelage.

Under Article 127 of the Constitution, mayors may be suspended from office as a temporary measure where the legally prescribed grounds are met, in

pursuit of the public interest. However, any acting mayor to be designated in such circumstances must comply with the principles of local autonomy and democratic representation; accordingly, the central administration should not, in principle, possess direct appointment authority in this field. Prior to the amendment introduced by Decree Law No. 674 to Municipal Law No. 5393, the legal framework was aligned with this understanding, as acting mayors were elected by and from among the members of the municipal council. By contrast, the Decree Law introduced a distinct regime for terrorism-related offences, granting the central administration the authority to appoint trustees within the scope of suspension measures. Notably, Law No. 5393 does not grant the Minister of the Interior an explicit authority to suspend mayors on the grounds of terrorism-related offenses. The Minister's authority to suspend a mayor on terrorism-related grounds is not explicitly regulated under the relevant legal framework, whereas Article 45/2 of the Municipal Law is confined to the appointment of a substitute mayor following suspension [69]. The Minister's removal power applies only to offenses related to the mayor's official duties. Since terrorist offenses do not necessarily relate to the mayoral office, the exercise of this power in such cases becomes legally contentious. In administrative law, lack of authority is considered the default, while authority is treated as the exception [5; 50; 64; 68; 1]. Furthermore, the principle of legality in administrative tutelage requires such authority to be explicitly prescribed by law. Therefore, in the current framework, the Minister of the Interior is widely considered to lack the legal authority to suspend mayors for terrorism-related offenses.

Pursuant to Article 127 of the Constitution, the central administration does not have the authority to appoint or directly determine the decision-making organs of local governments (i.e., the mayor and the municipal council) [50].

In this regard, the Constitutional Court's 1988 decision constitutes a key point of reference. Indeed, an amendment to Article 93 of Municipal Law No. 1580 provided that, where an investigation or prosecution is initiated against elected municipal organs or their members for offences related to their duties, the Minister of Interior may suspend them as a temporary measure until a final judgment is rendered. It further allowed, upon the proposal of the Minister and with the approval of the Prime Minister, for the temporary appointment of a mayor from among the municipal council members. In other words, a provision akin to today's trustee practice was attempted to be introduced into the legal system as early as 1987. The matter was brought before the Constitutional Court, which held that the constitutional issue did not arise from the necessity of making an appointment per se, but from the fact that such appointment was to be made upon the proposal of the Minister and the approval of the Prime Minister. According to the Court, although the power of suspension derives from Article 127(4) of the Constitution, the direct appointment of a replacement cannot be regarded as a natural consequence of such suspension. Treating the authority empowered to suspend and the authority empowered to appoint as one and the same would be incompatible with the purpose and meaning of Article 127. Extending the central administration's tutelary powers beyond the limits set out in Article 127 would effectively undermine the principles of local self-government and decentralization [11].

The Court thus considered the exercise of tutelary power through direct appointment by the central administration to constitute an overreach of constitutional limits. As emphasized in the judgment, while Article 127 confers

upon the central administration the authority to suspend, it does not grant a corresponding power to directly appoint a replacement. In light of this approach, the authority of direct appointment must be interpreted not as an ordinary administrative mechanism, but as an exceptional and narrowly circumscribed measure to be used only in cases of necessity and on a temporary basis. Moreover, the requirement that the appointee be selected from among elected municipal council members emerges as a fundamental safeguard delimiting the scope of tutelage and preserving local autonomy.

Against this background, the current practice raises serious constitutional concerns. On the one hand, it appears incompatible with the constitutional framework; on the other, it risks transforming what is formally conceived as "administrative tutelage" into an instrument of "administrative domination." Such a transformation casts doubt on the principle of impartiality, increases the risk of conflicts of interest, and gives rise to public skepticism as to whether suspension decisions are based on objective grounds, thereby weakening their legitimacy. For this reason, the direct appointment of an individual by the central administration to the office of mayor constitutes a sui generis power that exceeds the constitutional limits of tutelary authority.

Beyond Administrative Tutelage: Appointed Trustees. The appointment of a governor or district governor as acting mayor in place of a mayor suspended from office on terrorism-related charges raises significant questions as to whether such a practice can be considered within the scope of administrative tutelage.

Article 45 of Municipal Law No. 5393 establishes a single criterion for the appointment of an acting mayor: eligibility for election. Within this framework, the discretion afforded to the central administration is formulated in notably broad terms. In practice, however, with a few exceptional cases, provincial governors or deputy governors are appointed by the Minister of Interior in provinces, while district governors are appointed by the governor in districts [58].

The appointment of hierarchical subordinates to a vacant mayoral office by the very authority that has ordered the suspension – namely, the Minister of Interior, or by governors acting under hierarchical supervision – raises serious concerns from the perspective of the rule of law and democratic governance. The concentration of powers in the hands of the central administration – encompassing the suspension of the mayor, the appointment of an acting mayor, and the hierarchical incorporation of the appointee – leads to a problematic accumulation of authority. In democratic systems, even within the executive branch, powers are distributed across different levels and are subject to both horizontal and vertical checks, thereby preventing arbitrariness and ensuring the legality of administrative action.

This concentration of power erodes the very scope of administrative tutelage exercised over municipal decision-making. Indeed, the core problem associated with trustee appointments emerges precisely at this juncture. As established in the doctrine, tutelary supervision exercised by the central administration does not encompass the power to issue binding instructions, to command, or to substitute its own decisions for those of local authorities [54; 46; 50; 1]. Any interpretation to the contrary would effectively eliminate the fundamental distinction between tutelage and hierarchy. Although substitution is recognized as an exceptional form of tutelary control, it constitutes one of the most intrusive mechanisms, severely impairing local autonomy [9].

The appointment of a public official affiliated with the central administration to replace a suspended mayor effectively amounts to assuming the mayoral office and exercising decision-making authority in their stead. At the same time, the fact that the appointee remains embedded within the hierarchical structure of the central administration enables the de facto centralization of municipal decision-making processes, thereby establishing, in practice, a relationship of command and instruction. The Ministry of Interior's 2019 report entitled Trustee System in Municipalities and the Current Situation illustrates this dynamic by listing, in detail, the projects implemented in provinces and districts under appointed acting mayors [60].

In this context, the appointment of a centrally affiliated public official to the office of mayor following suspension transcends the limits of classical administrative tutelage and leads, in effect, to the institutionalization of substitution. Here, the tutelary authority no longer confines itself to legality review but becomes a direct actor in local decision-making processes. This transformation indicates that, although municipalities formally continue to exist, their decision-making autonomy is substantially curtailed, and they are effectively reduced to components of the central administrative apparatus. Accordingly, the trustee practice departs from the classical understanding of tutelage as an exceptional and limited supervisory mechanism and evolves into a structural form of intervention that deepens centralization.

In this respect, the principle that tutelary power does not encompass substitution, the issuance of binding instructions, or corrective intervention is not merely a theoretical distinction; it constitutes a foundational safeguard for the preservation of local autonomy. Exceeding this boundary signifies not an expansion of tutelary authority, but a transformation of its very nature.

Beyond Administrative Tutelage: De Facto Dissolution of Municipal Councils and Executive Committees. Pursuant to Article 45(2) of Municipal Law No. 5393, the appointment of a trustee by the Ministry of Interior or the governorship following the suspension from office of a mayor extends beyond the mayoral office and produces systemic effects on other municipal organs, notably the municipal council and the executive committee, which constitute the institutional core of local democratic governance.

Under the foundational principles of municipal law, the mayor, the municipal council, and the executive committee are distinct organs vested with separate competences and functions. Notwithstanding the predominance of a strong-mayor model in Turkish municipal administration [6], the suspension of the mayor does not, as a matter of law, affect the legal existence, autonomy, or decision-making authority of the council or the executive committee. The municipal council remains the primary deliberative and decision-making body representing the local electorate, whereas the executive committee operates as a hybrid executive organ composed of both elected and appointed members.

However, the current practice effectively neutralises these organs. This raises a profound tension with the principle of the individuality of criminal responsibility enshrined in Article 38 of the Constitution. While criminal investigations or prosecutions concerning terrorism-related offences are, by their nature, personal, their administrative repercussions in this context extend far beyond the individual office-holder concerned. In practice, the suspension of the mayor triggers a chain of institutional consequences that render the municipal council functionally

inoperative, thereby producing effects that cannot be reconciled with the rule of law. Even if the suspension of the mayor may be justified as a precautionary administrative measure, the concomitant incapacitation of the municipal council constitutes a disproportionate and generalised interference with representative governance.

At this juncture, the tutelary relationship assumes a qualitatively different character. As noted by the Venice Commission [77], such practices may be conceptualised as a form of "collective sanction," insofar as they generate structural consequences that extend to the entirety of local democratic representation. The suspension of an elected mayor on the basis of individual allegations, coupled with the functional neutralisation of the municipal council, effectively penalises not only elected council members but also the electorate whose political will they embody. This outcome undermines the principle that legal responsibility must remain individualised and non-transferable.

From a doctrinal perspective, administrative tutelage is required to operate within rational and proportionate limits [66]. Yet, the contemporary configuration of trustee practices reveals a departure from these constraints. Rather than constituting a narrowly tailored supervisory mechanism aimed at ensuring legality, tutelary powers are exercised in a manner that produces systemic and collective effects. In this sense, the measure no longer retains the character of an individualised administrative intervention but evolves into a structural modality of control over local governance.

Moreover, the inability of municipal councils to convene without the authorisation of the appointed trustee engenders what has been described as a condition of "structural paralysis" in local democracy [77]. Under such conditions, the decision-making capacity of municipalities is effectively subsumed within the hierarchical framework of the central administration, reducing local authorities to de facto extensions of the central executive.

Accordingly, the present practice cannot be adequately captured within the classical framework of administrative tutelage. Rather, it reflects a substitutional mode of governance in which central authorities assume the functions of local organs, thereby exercising powers in their stead. The functional neutralisation of the municipal council and the executive committee thus represents a paradigmatic instance of intervention that transcends the constitutional and doctrinal limits of tutelary authority. In consequence, the equilibrium between tutelary oversight, local autonomy, and democratic representation is not merely strained but fundamentally disrupted.

Trustee Appointments and the Balance between Administrative Tutelage, Local Autonomy, and Democracy. Debates surrounding the trustee practice point to a broader theoretical and political question concerning how the constitutional balance between administrative tutelage and local democratic representation should be interpreted.

The constitutional framework governing municipalities necessitates the establishment of a delicate equilibrium between administrative tutelage and local autonomy. Article 127 of the 1982 Constitution explicitly guarantees the principle of democratic representation by stipulating that the decision-making organs of local authorities shall be formed through elections. Within this framework, the tutelary powers of the central administration over local governments are conceived as a limited and exceptional supervisory mechanism aimed at ensuring the lawful

provision of local public services [67]. This constitutional approach is further reinforced at the international level by Article 3 of the European Charter of Local Self-Government, to which Türkiye is a party, which requires that local authorities be constituted through free, equal, and universal suffrage.

This normative structure underscores the necessity of maintaining a balance between local autonomy and tutelary oversight. In exercising its tutelary powers, the central administration must duly respect the autonomy of municipalities as distinct legal entities [1]. The Constitutional Court has consistently held that tutelary authority cannot be interpreted as an unlimited power of intervention [13; 15; 19]. Rather, the legislature, in regulating such powers, is under an obligation to preserve local autonomy and to strike an appropriate balance between these competing principles. In this regard, the scope, modalities, and intensity of tutelary control must be carefully calibrated so as not to undermine the principle of local self-government. Local autonomy, in this sense, denotes both the legal personality of municipalities and their governance by elected organs [10; 14; 26; 25]. Accordingly, any exercise of tutelary authority must also respect the principle of democratic representation.

Against this background, the direct appointment by the central administration of a replacement for an elected local official entails a significant risk of transforming tutelary authority – intended to function as a supervisory mechanism – into a tool for the substitution of local political will. In this respect, the trustee practice has been widely criticized for undermining local democracy and weakening local autonomy [56; 53; 51; 31].

International actors have likewise framed their critiques of the trustee practice around this issue of constitutional balance. The European Commission's Türkiye Progress Reports for the period 2016–2024 have consistently highlighted the removal of mayors – particularly those affiliated with opposition parties – without final judicial decisions, followed by the appointment of trustees in their place. These reports emphasize that the broad interpretation of counter-terrorism legislation undermines democratic legitimacy, that by-elections are not held, and that restrictive effects on local self-government persist, despite repeated calls for alignment with the European Charter of Local Self-Government [34; 35; 36; 37; 38; 39; 40; 41]. Similarly, resolutions of the European Parliament have underscored that such practices seriously impair local democratic governance and render the will of the electorate ineffective [44], while the Committee of the Regions has stressed their detrimental impact on local democracy [42; 43].

The Congress of Local and Regional Authorities of the Council of Europe has likewise concluded that trustee appointments weaken local self-government and has recommended that municipal councils be allowed to elect a new mayor in cases of vacancy [21; 22; 23]. The Venice Commission has similarly warned that the substitution of elected local bodies through administrative measures raises serious concerns in terms of democratic legitimacy [76; 77].

In essence, the debate over trustee practices ultimately converges on the question of how the constitutional balance between administrative tutelage and local democratic representation should be drawn. The direct appointment by the central administration of an individual to replace an elected office-holder weakens the link between the electorate and its representatives, thereby structurally transforming the functioning of local democracy. Such a development risks eroding the political accountability of local governments to their constituencies

and reconfiguring them as hierarchical extensions of the central administration. Empirical studies further indicate that trustee practices are widely perceived as political interventions and have adverse effects on local democratic processes [31]. In this regard, concerns are increasingly raised that tutelary powers are being exercised beyond their intended purpose of safeguarding public order and administrative integrity, and are instead deployed in a manner that may be perceived as politically motivated.

Trustee Appointments and the Purpose of Administrative Tutelage. The fundamental purpose of administrative tutelage is the protection of public interest [46; 50; 1]. Trustee appointments following the suspension of mayors due to terrorism-related offences must be evaluated within this framework. While the primary objective of such measures is to safeguard public welfare, they also pursue specific subsidiary aims. Pursuant to Article 127/5 of the Constitution, the suspension of locally elected officials is intended to ensure the continuity of local public services in accordance with the principle of administrative unity, to maintain coherence and harmony in public administration, to protect public interest, and to guarantee that local needs are appropriately met. These subsidiary aims remain ultimately circumscribed by the overarching concern for public welfare. Jurisprudence further reinforces that tutelage powers should not be exercised for personal, political, or third-party advantages [27; 28].

The trustee mechanism became particularly salient in response to the increasing urban influence of the PKK after 2015 and the 2016 coup attempt orchestrated by FETÖ. Implemented as a measure to control local governments within the scope of counter-terrorism, it is argued to possess a degree of legitimacy [48]. Historical precedents exist: following the military coups of 1960 and 1980, appointments of military personnel to mayoral offices in major cities such as Istanbul and Ankara were carried out to ensure administrative control [33; 3]. Official reports from the Ministry of Interior emphasize that while local governance should ideally reflect the will of the people, trustee appointments are necessary to preserve national sovereignty when elected municipalities fall under the influence of terrorist organizations. These reports assert that being democratically elected does not legitimize criminal conduct, that rights cannot be abused under any legal regime, and that the state is responsible for upholding both democracy and the rule of law [58; 59; 60]. The government also highlights that this system prevents municipal resources from being diverted to terrorist organizations, restores municipal functionality, and ensures the resumption of local services [60]. Some scholars argue that the continuation of trustees' terms after the state of emergency and the loss of several municipalities by the HDP (Halkların Demokratik Partisi-Peoples' Democratic Party) in the 2019 local elections may indicate public preference for centrally appointed administrators and uninterrupted local services over terrorism-linked elected officials [53]. In this sense, the primary objective of trustee appointments appears to prioritize service delivery over local autonomy [78; 8].

However, the broad discretion afforded to the Minister of Interior – and the frequent absence of immediate judicial review – has raised serious concerns regarding democratic legitimacy, local autonomy, and the potential political use of trustee appointments [61]. Although formal safeguards such as judicial oversight and periodic review exist in theory, in practice, during periods of intense political polarization, this discretion blurs the line between legitimate administrative

control and political intervention [70]. Field research indicates that a majority of participants perceive trustee appointments as politically motivated interventions rather than neutral administrative measures [31].

Internationally, the practice has also been criticized not only for legal and institutional concerns but for its political implications. The targeting of opposition-affiliated mayors has been a focal point of critique [74]. The European Union's Türkiye Progress Reports between 2016 and 2024 consistently highlight the removal of opposition mayors without judicial decisions and the appointment of trustees as a problematic practice [34; 35; 36; 37; 38; 39; 40; 41]. The Council of Europe and the Venice Commission have repeatedly recommended that Türkiye refrain from trustee appointments to safeguard local democracy and electoral rights [21; 22; 23; 75; 76; 77].

Domestic political criticism echoes these concerns. Opposition leaders contend that dismissals and trustee appointments constitute a "political purge" under the guise of legality, and that the judiciary has been reduced to the role of political enforcer rather than dispenser of justice [72]. Such critiques underscore that the debate over trustee appointments extends beyond legal frameworks into the political realm, emphasizing that these measures have exceeded the bounds of administrative tutelage and weakened local autonomy and democratic representation mechanisms.

The differentiated application of trustee appointments further reinforces the perception of political instrumentalization. While in some municipalities governed by the AKP (Adalet ve Kalkınma Partisi – Justice and Development Party) or the MHP (Milliyetçi Hareket Partisi – Nationalist Movement Party), mayors removed on FETÖ-related charges were replaced by acting mayors elected by municipal councils, in municipalities governed by mayors from the DEM Party (Halkların Eşitlik ve Demokrasi Partisi – Peoples' Equality and Democracy Party), direct appointments by the central government were made despite comparable legal circumstances [51; 65]. This selective application suggests that the mechanism is structured not according to neutral administrative needs but to produce political outcomes. The occasional preservation of local representation alongside the wholesale replacement in other cases illustrates that trustee appointments can operate as a discretionary instrument, selectively constraining electoral choice and reshaping the local political sphere. Accordingly, the practice of trustee appointments can be seen as exceeding the legitimate scope of administrative tutelage, serving as a tool to restructure local political authority.

Conclusions and prospects for further research. The study conducted demonstrates that trustee appointments in place of suspended mayors exceed the classical constitutional framework of administrative tutelage in terms of legality, scope, and purpose, as well as the balance that must be maintained with local autonomy and democratic representation. When the exercise of appointment authority, the status of the appointed actors, and the de facto neutralisation of municipal organs are considered together, it becomes evident that this practice cannot be confined to tutelary supervision. Rather, it results in the direct substitution of local governments by the central administration. In this respect, trustee appointments represent not merely an expansion of administrative tutelage but a qualitative transformation of it. What is at stake is no longer the supervision of local authorities, but their functional replacement.

This shift fundamentally weakens the principles of local autonomy and democratic representation.

This finding necessitates a fundamental reconsideration of the current model for addressing the administrative vacuum that arises following suspension. In this regard, priority should be given to a model in which the acting mayor is elected by the municipal council. Although this mechanism relies on indirect representation and may entail certain limitations – particularly in metropolitan municipalities where representational concentration may distort voter preferences – it nevertheless offers a significantly higher degree of democratic legitimacy than direct appointments by the central administration. At the same time, potential discrepancies between the political composition of the municipal council and the electorate's direct preferences complicate the assumption that this model provides full representational fidelity. Accordingly, while the council-based substitution model is normatively preferable, its structural limitations must also be acknowledged.

Any substitution model involving the central administration should be strictly confined to exceptional circumstances. In this context, a limited appointment power may be granted to the central administration only where the municipal council fails to elect an acting mayor within a specified period. However, such authority must be restricted to appointments from among elected municipal council members. Any broader discretion would inevitably exceed the limits of administrative tutelage.

Comparative models in which deputy mayors automatically assume office also raise concerns regarding democratic legitimacy in the Turkish context. Since deputy mayors are not directly elected by the public, their authority derives from a secondary and indirect form of legitimacy. Therefore, the viability of such a model depends on institutional reform requiring that deputy mayors be selected exclusively from among directly elected municipal council members. Under this condition, a deputy-based substitution mechanism may constitute a viable alternative that ensures both administrative continuity and greater compatibility with democratic legitimacy.

Furthermore, the current practice of rendering municipal councils and executive committees inoperative following the appointment of trustees should be abolished. The neutralization of these organs extends beyond the mere transfer of executive authority; it undermines the institutional integrity of municipalities and constitutes an intervention that exceeds the permissible boundaries of administrative tutelage.

In conclusion, the existing system based on trustee appointments is fundamentally incompatible with the institution of administrative tutelage. Accordingly, the legal provisions enabling this practice should be removed, and the field should be re-regulated through ordinary legislative processes. Administrative continuity in local governments can only be ensured through an institutional framework that prioritizes elected bodies and confines central intervention to exceptional circumstances. Otherwise, trustee appointments will not merely remain an administrative practice that exceeds legal limits, but will evolve into a transformative mechanism that erodes the normative foundations of administrative tutelage and redefines the core principles of local democracy.

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Озлю Рукіє Мехтап
доктор наук у галузі публічного права,
Університет Токат Газіосманпаша, Токат, Турецька Республіка,
e-mail: mehtap.dolek@gop.edu.tr ORCID: https://orcid.org/0000-0002-7505-4586

ПРИЗНАЧЕННЯ УРЯДОВИХ УПОВНОВАЖЕНИХ НА ЗАМІНУ УСУНУТИХ ВІД ПОСАДИ МЕРІВ: ЗА МЕЖАМИ АДМІНІСТРАТИВНОЇ ОПІКИ В ТУРЕЦЬКІЙ РЕСПУБЛІЦІ

Анотація. Усунення обраних мерів від посади та призначення на їхнє місце урядових уповноважених (kayyum) центральною адміністрацією стало визначальною ознакою відносин між центром та місцевим рівнем у Турецькій Республіці, що порушує питання про межі інституту адміністративної опіки. Практику було формалізовано Декрет-законом № 674 у вересні 2016 року через доповнення до статті 45 Муніципального закону № 5393 і збережено у подальших електоральних циклах. Якщо попередні наукові розвідки зосереджувалися переважно на безпековому аспекті або на проблематиці демократичного відступу, то правові та концептуальні виміри практики залишалися недостатньо розробленими. Ця стаття усуває зазначену прогалину, пропонуючи системний та багаторівневий аналіз призначень урядових уповноважених крізь чотири взаємодоповнювані оптики – принцип законності адміністративної опіки, її конституційний обсяг, статус призначального органу та правове становище призначуваних осіб, – а також оцінюючи баланс між адміністративною опікою, місцевою автономією та демократичним представництвом. Метод дослідження – якісний аналіз документів: конституційних положень, рішень Конституційного Суду та Державної Ради Туреччини, висновків Венеційської комісії, Європейської хартії місцевого самоврядування та наукової доктрини. Показано, що призначення урядових уповноважених виходять за межі класичної адміністративної опіки. З урахуванням призначального органу, статусу призначуваних осіб та фактичної нейтралізації муніципальних органів, практика трансформується з наглядової у безпосередньо заміщувальну та тягне за собою колективні наслідки, несумісні з принципом індивідуальності кримінальної відповідальності. Призначення урядових уповноважених, відтак, становлять sui generis форму центрального втручання, яка перевищує конституційні межі адміністративної опіки і тому потребує скасування. Висновки статті виходять за межі турецького кейсу: запропонована рамка чотирьох оптик адміністративної опіки може застосовуватися до інших юрисдикцій, де надзвичайні правові режими впливають на місцеве самоврядування, зокрема й у контексті пост-конфліктного відновлення повноважень обраних органів громади.

Ключові слова: *адміністративна опіка, адміністративна домінація, призначення урядових уповноважених, місцева демократія, автономія, централізація держави, Турецька Республіка.*

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