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TRANSFORMATION OF THE "PUBLIC INTEREST" CONCEPT IN NEW TURKISH PUBLIC ADMINISTRATION

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ABSTRACT

Public interest was in the focus of public service until 1980s when New Public Management (NPM) claimed to dethrone traditional bureaucratic approach. In Turkey, the first years of the new millennium marked a major shift in terms of public administration philosophy, when public administration in Turkey had been reshaped according to the principles of economy, openness, effectiveness, participation and accountability. Despite a vague concept which is difficult to define, public interest has been easily identifiable in Turkish administrative law doctrine. The question here is whether the Turkish state apparatus has turned into just another individual who seeks to maximize its interest by making the most rational choice rather than seeking to realize public interest. The major NPM-inspired Acts which were enacted between 2003 and 2006 indicate that public interest is no more in the focus of Turkish public service.

Key Words: New Public Management, Public Interest, Public Service.

Kamu Yararı Kavramının Türk Kamu Yönetiminde Dönüşümü

ÖZET

Kamu yararı, 1980'lerde Yeni Kamu Yönetimi anlayışı geleneksel bürokratik yaklaşımı tahtından indirme iddiasıyla ortaya çıkana kadar kamu hizmetinin merkezinde yer alıyordu. Türkiye'de yeni binyılın ilk yılları, kamu yönetimi felsefesi anlamında büyük bir değişime sahne olmuştur; bu yıllarda Türkiye'de kamu yönetimi, ekonomi, etkinlik, verimlilik, katılımcılık ve hesap verebilirlik ilkelerine göre yeniden şekillenmiştir. Tanımlaması zor ve belirsiz bir kavram olmakla beraber, kamu yararı Türk idare hukuku doktrininde kolayca teşhis edilebilir. Buradaki soru, Türk devlet aygıtının kamusal yararı amaçlayan bir teşkilat olmak yerine, rasyonel tercih teorisinin öngördüğü gibi, çıkarını maksimize etmeye çalışan bir kişilik haline gelip gelmediğidir. 2003 ila 2006 yılları arasında Yeni Kamu Yönetiminden ilham alınarak çıkarılan başlıca kanunların incelenmesi, kamusal yararın artık Türk kamu hizmetinde merkezi bir yeri olmadığını göstermektedir.

Anahtar Kelimeler: Yeni Kamu Yönetimi, Kamusal Çıkar, Kamu Hizmeti.

INTRODUCTION

It is a reality that a worldwide transformation is underway in public administration understanding. This change of administrative philosophy brought to the agenda the restructuring efforts in public administration. Turkish public

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administration is going through a comprehensive reform process in order to attune to this trend of change and to perform the responsibilities that governments have been undertaking in the process of EU candidacy. In this context, the process which began with the Draft Act on Basic Principles and Restructuring of Public Administration (with its more common name, Public Administration Reform Draft) continued with such steps as Right to Information Act (2003) and its ordinance (2004), Act on Public Financial Management and Control (2003), foundation of Public Servants Ethical Board (2004), Act on Metropolitan Municipalities (2004), Act on Provincial Special Administration (2005), Act on Municipalities (2005), and foundation of Regional Development Agencies (2006). Within this process of reformation, one of the fundamental norms of Turkish public administration, "public administration" concept, failed to find itself a respectable place; it took the back seat behind concepts like efficiency, effectiveness and economy, which evoke higher administrative capacity.

1. "PUBLIC INTEREST" CONCEPT IN TURKISH ADMINISTRATIVE LAW

Gözübüyük points out that the general purpose of public administration is being beneficial to the public. According to Gözübüyük, public administration exists for the public and it provides service to the society or several groups that form the society so as to meet the needs of society:

> "Individuals both participate in and contribute to public administration in various of areas and at various levels. As a rule, no ratio exists between utilization of public services by individual and his/her contribution to those services. While organizing services, public administration takes into consideration not individuals but the society, or segment of society, in which those individuals live. Whenever there is a conflict between societal interest and individual interest, public administration acts in favor of societal interest. Public administration pursues the goal that individuals who constitute the society are provided a humanely life; it functions under the guiding light of this purpose" (Gözübüyük 2000: 8).

It follows from the above excerpt that public administration does not necessarily represent the common interest of each and every individual in the society; the interests of different and small supra-individual unit, i.e. minority groups, disadvantaged groups, women, students etc., are also accepted as "public interest".

According to continental European administrative law doctrine, public administration is stronger compared to the individual. There can be cases that the authorities endowed upon public administration for the sake of public interest are used in a manner which are not compatible with public interest. Public administration has to remain within legal borders and pay attention to

objectivity in order to avoid abuse of authority. Judicial supervision is thus an effective means for safeguarding the individual against unlawful acts. Following the continental example, the most important objective of the state in Turkish public administration doctrine is realization of public interest. The spirit of the legal framework, which regulates the operation of public administration, is provided by the hypothesis that general interest of the society is superior to individual interests. Public servants, who deliver public service, have to follow public interest, not their personal interests (Günday 2002: 523; Hunbury 2004: 187).

Another important aspect of public interest is the production by public bureaucracy of all goods and services needed by people. Therefore the government carries out some activities by means of public entities so as to realize public interest and produce the goods and services that people need.

2. CONCEPTUALIZATION OF PUBLIC INTEREST IN TURKISH DOCTRINE

In book 1 of the Ethics, Aristotle argues that the good of the community "is clearly a greater and more perfect thing to achieve and preserve" than the good of the individual. Burtt asserts that Aristotle does not ever suggest that people can be taught to "sacrifice" or "forsake the private for the public" in the name of the state (Burtt 1993: 364); if this is not a total demise of the public interest, then what is it?

Public interest, which is referred to as the general good, public benefit, or public welfare, is a frequently-referred term in Turkish administrative law, public law and political science; however, there is no consensus on what should be understood from this concept. Nevertheless, researchers who study administrative law and political science are in a general agreement that public interest has two basic meanings. Its first meaning is the legal, technical and narrow meaning; the second one is broader political and ideological meaning of the concept. In legal, technical and narrower sense, public interest is used as a measure in determining the limits of (i) the property right and (ii) interventions in its essence. In broader political and ideological sense, the concept has several explanations. For example in Roman law, the concept of public interest "embodies the material and indispensable needs of the society, including religious, moral, aesthetic and other kinds of belief-related and emotional needs" (Keleş 1993: 94).

In public administration law, the term "administrative contract" defines the type of contract where (i) one of the parties is administration, (ii) public interest is pursued, (iii) the content is about public service and its conduct; and

(iv) administration is endowed with superior privileges[1]. Although some tone of inequality and lack of balance in favor of the administration is inherent in administrative contracts, this situation brings about the restriction of administration with it. In an administrative contract, administration is the party which makes sure that public service is provided in accordance with public interest, which grants it some privileges; but, on the other hand, as the service is required to fulfill public interest, the administration is subject to restrictions in terms of choosing the other party, subject matter, purpose and mode of the contract.

An administrative contract which grants some rights and authorities to the parties can be terminated in a number of ways. For example, it can be terminated when parties fulfill their obligations, or it can be terminated when its term expires; or, administration can terminate the contract as a sanction in case of "gross negligence", or with a procedure in cases where no negligence exists but public interest requires so, in which case the damages of the other party are compensated (Giritli et al. 2001: 860).

The amendment made to 155th article of Turkish Constitution ruled out the preliminary control made by Council of State[2], hence, suitability and legality control over contracts of concession; as a result, it is now possible that a contract for delivering public service, which inherently involves public interest, can become binding for parties without being controlled first by the state. Consequently, the public service contract of concession becomes enforceable before the issues of whether all conditions related to delivering public service, or whether all requirements specific to delivering a public service are met are not controlled in advance by an official authority other than the administrative body which is a signatory of that contract.

Constitutional court stated in a resolution that "the government can deliver a public service with its personnel, equipment and means; it can also contract it out to private persons. However, in the latter case, the person who is now responsible for delivering the service is answerable to the public to whom this service is delivered as well as third persons…Then, on one side there is a

[1] In order that a contract is accepted as an administrative contract, there are three preconditions: (i) at least one of the parties has to be a public body, (ii) the subject of the contract has to be performing a public service; and (iii) the administration must be granted with authorities that transcend those provided in private law (Constitutional court decisions 09.12.1994 T., E. 1994/43, K. 1994/42-2 and 28.06.1995 T., E.1994/71, K.1994/23. Council of State also agreed with the foregoing in a number of decisions. For an example decision, see Council of State 10th Division, 29.04.1993 T., E. 1991/1, K.1993/1752).

[2] Council of State is the highest authority and court of appeal for suitcases where one (or more) of the parties is a government agency.

public service which aims public interest, and, on the other side, there are private persons who consider their own interest, and this conflict of interests has to be balanced. In order to secure this balance, the government agency has to be given both authority and responsibility over the public service to be delivered"[3]. Any society with individuals whose interests are not protected is not a health society; therefore, both private and public interests should be safeguarded by the administration.

The concept of public interest needs more clarification before another aspect of public interest, customer/citizen orientation in public services, is discussed. Sezer states that public interest is a concept with a content which changes depending on time and place. Although it is a volatile concept, in countries where central administration is dominant (i.e. France, Turkey) this concept is comprehended in very similar ways. Accordingly, public service includes "the uninterrupted and regular activities offered to the public with the purpose of satisfying general and collective needs and realizing public benefit by state or other public corporations, or by private persons under the supervision and control of the government" (Onar 1996: 13).

There are at least two conditions which have to be realized if a service is to be regarded as public service. The first condition is that it has to be directed to and beneficial for the public in general; the second condition is that the service is delivered by government agencies or, if it is delivered by private persons, it is under tight supervision and control of relevant government agency.

In the process which evolved from traditional public administration to new public management and new public services, the concept of public interest, which used to be defined in political terms and determined legally, has come to represent a collection of all individual interests; at the final stage, it is more like a result of the conciliation on shared values; this new situation represents a shift from its original, Weberian meaning (Sezer 2008:154).

Public interest is also defined as "basic and general objective which is oriented towards protecting the benefit of one segment or all of the society, observed by public administration in its actions and operations" (Bozkurt et al. 1998: 132-3). One of the common measures used for determining whether a service is oriented towards public interest can be to find out whether the revenue generated by delivering a service can be used for the same service in the future. Another measure is the avoidance of any harm to the society due to the actions and operations undertaken to deliver a public service, or minimization of potential damages to the society (Öztekin 2002: 194).

[3] Constitutional Court, 12.04.1990., E. 1990/4, K. 1990/6.

There may be cases when public interest cannot be measured in monetary terms. For example, the removal of a real estate which prevents the proper building of a street essential for city transport can require the expropriation and demolition of a very luxury building. If this is not done, it can be more difficult to make up for the tangible and non-tangible losses from which the society shall suffer in the future (Öztekin 2002: 2).

Organizations which offer public service place the principle of public interest in the core of their actions; as a result, public action can sometimes fail individual expectations or disappoint the public with the low quality of service offered. From the Turkish administrative law literature, it follows that if public interest is observed in offering a service, it has to be offered even though it is not of high quality. Such negligence of the quality aspect in public service has been harshly criticized by proponents of the new public management.

The common point of the concepts "public good", "public welfare", "public well-being", "common good" and "general benefit", all of which have connotations similar to "public interest", is that they all indicate to a benefit or interest which is different or above individual interest (Bilgin 1995: 174). In Turkish literature, public interest is based on the predominance of general interests over individual ones, principles of authority and responsibility, objective legal norms and objective legal situations created by them (Alada 1993: 30). For this reason, for a long time the content of "public interest" made it difficult to see as "customer" the public to whom public service was offered.

According to Yıldırım, public administrators are the guardians of public interest (Yıldırım 2009: 106). The trust felt towards public administrators by citizens is beyond interpersonal or organizational dimensions, as the mutual relation between citizens and administrators is different from the relations between individuals and market, or between companies; it is political and democratic in its nature. Here, not some kind of logic of consequence, but logic of appropriateness, which is based on the phenomenon that administrative power is entrusted by people and for people, is followed (Yang 2005: 275-6, cited by Yıldırım). For this reason, rightness comes before efficiency for the state apparatus (Bingöl 1998: 78). A citizen-oriented administration has to have organic bond with democratic political mechanisms which determine the content of public interest. This bond is indispensable for a public administration which is in service of the public, and is also accountable, answerable, transparent and sensitive (Yıldırım 2009: 112-3).

As regards offering of public services, new public management tends to neglect public interest against private interest, citizen orientedness against customer orientedness, and political benefit against economic benefit, which

represents an essential aspect of the epistemological break from the traditional public administration (Yıldırım 2009: 109).

3. IMPLEMENTATION OF SECOND GENERATION STRUCTURAL REFORMS

Once macroeconomic stability was instituted to a large extent, the focus of economic reforms was directed to second generation structural reforms. Simultaneously the EU accession process also gained impetus and harmonization steps were taken in particular in telecommunications, energy and transportation. These are the industries where government presence is widely felt, which are broad in scope and which include considerable public interest. Reorganization activities undertaken in these areas, which were promised in discussions with international financial organizations like World Bank and IMF, calls for overturning these areas almost completely to private sector; this is also an obligation undertaken in EU accession negotiations. In Turkish administrative law doctrine, the purpose of private sector is defined as "gaining profit", not "realization of public interest". New public management discourse defends that the purpose of such reorganization is to make smaller the area regulated by government and thus better serve to public interest; however, discussion continues on how the complete overturn to private sector of areas which involve such essential public interest shall promote public interest.

As a matter of fact, "academic attention for the core public service values has traditionally been rather limited (Van de Walle 1998)". Van de Walle asserts that "what is even more striking is that there is almost no public input in the reform debates. Governments do not generally have information at their disposal on citizens' preferences in these reforms. Apart from a number of EU-wide surveys with a rather limited scope of topics and few background variables, only limited public opinion information is available (Van de Walle 2006: 184)".

When the belief in government that a service must be provided by the government is broken, it is easier to detach that service from the bulk of services undertaken by the government and make it a part of second generation structural reforms. Dwivedi and Gow provide a perfect example to the change in the perception of public interest at government level.

> …So long as the Post Office was considered a vital link in the national communication system, there were no complaints about the cost of the subsidy provided each year by Parliament. As soon as ministers began referring to it as a commercial service, it descended to the level of an ordinary business in the mind of many, and it began to be viewed as a costly bureaucratic service (1999: 42; cited from Lee).

4. THE CONCEPT OF "PUBLIC INTEREST" IN "CHANGE IN ADMINISTRATION FOR ADMINISTERING THE CHANGE" REPORT (2003)

Within the "restructuring in public administration" program which was launched in 2003, a study titled "Change in Administration for Administering the Change" was prepared in October 2003. This study provided the foundation for Draft Act no. 5227 on Basic Principles and Restructuring of Public Administration, which was formulated in 2004. In this report, the 21st century vision of public administration, particular attention is given to new public management practices and examples are given from experiences of a number of countries. In addition, description was provided as to how international developments affected Turkey and the general perspective on change in Turkey, followed by the then current structure of public administration and the reasons of the necessity of change.

The report, which is one of the most fundamental sources of restructuring in public administration, concludes by dealing with the basic principles and areas of restructuring. In the report, no mention was made of public interest.

5. THE CONCEPT OF PUBLIC INTEREST IN TURKISH PUBLIC ADMINISTRATION REFORM LAWS

5.1. Act No. 4982 on Right to Information (2003) and its Ordinance (2004)

Right to Information Act, which aimed at ensuring openness and transparency in public administration, was accepted in 2003 and became enforceable in 2004. This act and its ordinance which was enacted in 2004 became an important factor of knowledge-based citizen participation.

When EU practices are examined, sensitive documents explanation of which can jeopardize protection of privacy, and commercial benefits of a real and legal person (in particular public safety, defense-related and military issues, international relations, and financial policies of the Union or a member State), court records, and inspection and auditing documents are subject to exception. However, if public interest requires that they are explained, no exception can be in question (Peers, 2002:6).

Two articles of the act which became enforceable on April 24th, 2004, were amended in 2005. The purpose of the act is defined in the 1st article as follows: "to regulate the principles and procedures related to the utilization of right to information by individuals in accordance with the principles of equality, impartiality and openness which are requirements of democratic and transparent administration". One year later, Ordinance no. 2004/7189 on the Implementation of Right to Information Act was enacted. Once the act no. 4982

came into effect, the obstacles in front of participatory democracy and transparent and accountable administration were removed in part (Eken, 2005:175).

In the 21st article of the act on the secrecy of private life, it reads "in cases justified by public interest, personal information or documents can be disclosed by institutions and entities provided that the related person is notified at least seven days in advance and his/her written consent is obtained".

There is no other mention of the concept of public interest in the text of the act. In the Ordinance no. 2004/7189 on the Implementation of Right to Information Act, which is a guide for implementation of the act no. 4982, public interest is addressed in the following contexts:

- Article 12 (characteristics of the information and documents to be requested): information and documents, for which a declaration was made for disclosure and/or announcement on a given date, before which they can harm public interest, which can be used in order to gain personal interest, cannot be disclosed or made accessible before that given date.
- Article 32 (secrecy of private life): in cases justified by public interest, personal information or documents can be disclosed by institutions and entities provided that the related person is notified at least seven days in advance and his/her written consent is obtained".

When the texts of act and ordinance are examined, it can be seen that public interest was not emphasized, but the focus was on individual rights and obligations within the scope of right to information.

5.2. Act No. 5018 on Public Financial Management and Control

The overall objective of the Act on Public Financial Management and Control, which was accepted in 2003, is described as "regulating the structure and operation of public financial management, formulization and implementation of public budgets, accounting and reporting of all financial processes, and financial control for the purpose of ensuring effective, economic and efficient acquisition and employment of public resources in accordance with the policies and objectives defined in development plans and programs, accountability and financial transparency" (article 1). There are two sections in the act which refers to the concept of public interest:

Supporting from budgets

Article 29.- Public resources cannot be provided, support cannot be given or benefits cannot be generated to real or legal persons without a legal justification. However, provided that it is prescribed in the budgets of public bodies within general administration, support can be given to associations,

foundations, unions, bodies, entities, funds and similar organizations observing public interest.

Donations and supports

Article 40.-….. "Conditional donations and supports granted to public bodies for utilization in public interest, ……. are registered by the top administrator of the serving body as income to a scheme to be opened in the budget and as an allowance to a scheme to be opened for spending within the purpose which was its condition. No transfers can be made to the scheme from this allowance other than its original purpose."

The concept of "public interest" was not included in the 3rd article of the Act titled "Definitions".

5.3. Act No. 5176 on Foundation of Public Servants Ethic Board

Act no. 5176 on "Foundation of Public Servants Ethic Board", which was enacted in 2004, is an important step taken towards achieving a public administration which is in concert with ethical principles. Public Servants Ethic Board, which was founded according to this act, "is authorized and instructed to examine and investigate on an ex officio basis or upon application the claims that ethical code of conduct is violated, report to relevant bodies the results of its activities, conduct or outsource studies on accommodating ethical culture in the public realm, and to support the studies in this area (article 3)".

In the text of the act, only first article mentions public interest, where "observing public interest" is listed among the ethical responsibilities of public servants.

Purpose and Scope

Article 1 – The purpose of this act is to determine the foundation, duty and working procedures and principles of Public Servants Ethical Board so as to identify such ethical codes of conduct as transparency, impartiality, honesty, accountability, observation of public interest, which have to be observed by public servants, and to monitor implementation.

Accordingly, investigating and inspecting those public servants who do not observe public interest and reporting its findings to relevant authorities is among the roles of the Ethic Board.

5.4. Act No. 5126 on Metropolitan Municipalities (2004)

Metropolitan municipality is a local government organization which is resorted to for the administration of metropolitan areas. In Turkey, provincial centre municipalities where the population within municipal area, including the settlements which are not more remote than 10 kms to this area, is more than 750.000, can be turned into metropolitan municipalities by a parliamentary act which has to take into consideration their physical location and level of

economic development (article 4). As of 2010, sixteen provincial centers are organized as metropolitan municipalities.

According to sub-paragraph "n" of article 24 of the Act no. 5126, "common services provided in cooperation with other public bodies, private sector and non-governmental organizations at home and abroad in issues where public interest is envisaged, and other project expenses" are listed among the expenditures of metropolitan municipalities.

No other mention was made of the concept of "public interest" in the text of the act, which consisted of 33 articles and 4 provisional articles.

5.5. Act No. 5302 on Provincial Special Administration (2005)

Provincial special administration is founded according to 127th article of Turkish Constitution which regulates "local government". It defines a public corporation which is founded for the purpose of meeting the local common needs of provincial public, whose decision making body is elected by voters. It has administrative and financial autonomy.

In the 34th article which regulates temporary debarment, it reads "temporary debarment whose continuation shall not provide any advantage in terms of public interest is cancelled". The legislative body did not make any other reference to the concept of "public interest" in the text of the act.

5.6. Act No. 5393 on Municipalities (2005)

2005 dated Act on Municipalities, which is an important pillar of the restructuring program in public administration, replaced the Act no. 1580 on Municipalities, which was in effect since 1930. This act has great importance in terms of making new public administration philosophy prevail in local government. The text of the act frequently mentions new public management principles like performance, quality, participation and transparency. It is true that some of these principles are indirectly related to public interest; it cannot be denied that a transparent public administration is for the good of the entire society. However, "public interest" as a term is referred to only in two places, which are parallel to the Act on Municipalities and Act on Provincial Special Administration, which were discussed in detail above.

Temporary Debarment

Article 47. — Municipal bodies or members of these bodies that are under investigation or prosecution due to role-related crimes can be temporarily debarred from office by the Ministry of the Interior until the final verdict is given.

Temporary debarment decision is reviewed once in every two months. The temporary debarment practices which do not serve public interest are to be cancelled.

Relations with Other Institutions

Article 75. c) common service projects can be conducted with professional bodies which are granted the status of "public body", associations that work for public interest, associations and foundations of the disabled persons, foundations which enjoy tax exemption given by the Council of Ministers, and professional chambers which are covered by Act no. 507 on Artisans and Small Craftsmen.

5.7. Act No. 5449 on Foundation, Coordination and Roles of Regional Development Agencies (2006)

After Turkey was declared a candidate for European Union membership, the Union's regional development practices were taken as example within the adaptation of the *acquis communitarie* and it was decided to establish Regional Development Agencies based on Nomenclature of Territorial Units for Statistics (NUTS). The purpose of the Act no. 5449 which regulates the foundation of Development Agencies is defined as "regulating the principles and procedures related to the foundation, roles, and authorities of regional development agencies which shall be devised with the aim of realization of cooperation between public sector, private sector and non-governmental organizations, ensuring relevant and efficient use of resources, and mobilization of local potential so that regional development can be accelerated in a manner compatible with the policies and principles projected in national development plans and programs; these agencies are also to ensure sustainability, decrease the differences between and within regions in terms of level of development" (article 1). The text contains 32 articles and 4 provisional articles, none of which mention the concept of "public interest". There is no mention of the concept in the general justification text of the act, either.

5.8. Ordinance No. 2009/15169 on Principles and Procedures to Follow When Offering Public Services (2009)

Ordinance on Principles and Procedures to Follow When Offering Public Services was enacted in 2009. The purpose of the ordinance is presented in its first article as "regulating the principles and procedures which are to be followed by the administration so as to make sure that (i) a public administration is created which is efficient, effective, accountable, transparent, which relies on the declaration of citizens; and (ii) public services are offered in a fast, qualified, simplified and less costly manner. The term "public interest" is not referred to in the text of the ordinance, but the issues addressed under such titles as "provision of public services at first level and the closest location to the citizen" (article 3), "provision of public services in electronic media" (article 4), and "informing he citizens" (article 5) can be regarded as indirectly related to public interest.

CONCLUSION

Van de Walle argue that "reform debates and strategies related to the so-called 'Services of General Interest' balance between a need to safeguard competition, increase efficiency and create the internal market on the one hand, and concerns for universal service on the other". He believes that public sector reform is not just a technical matter; it "touches the very core of public services" (van de Walle, 2006:202).

In its document titled 'Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service' published in 2003, Organization for Economic Cooperation and Development (OECD) argued that serving the public interest was the fundamental mission of governments. In the same document, it is also stated that "public officials should accept responsibility for identifying and resolving conflicts in favour of the public interest when a conflict does arise" (OECD, 2003). On the other hand, some political scientists express that the concept of "public interest" is a rather vague one and is difficult to define. For example Morgan accused the concept for being very wide-ranging, diffused and vague, and claimed that it was not suitable for scientific standards (Morgan, 2001: 166-67). According to Bealey, "it is easier to talk about public interest than defining it" (Bealey, 1999; cited by Lewis, 2006: 694). As early as 1957, Schubert confessed that public interest is difficult to define (perhaps, even to identify) within administrative decision-making process (Schubert, 1957). On the contrary, some researchers asserted that its vagueness disappeared during implementation of public policies and started to reflect some sort of "reality" (i.e. Colm, 1962; cited by Box, 2007: 586-7).

That the concept of "public interest" is not included in the texts of acts which were put into effect in the last decade in accordance with New Public Management (NPM) philosophy does not necessarily mean that public interest is totally ignored in the reform process. However, it is clear that this concept is no more among the leading concepts in new public management period; it is very much outnumbered by the references made to such principles as effectiveness, efficiency, economy, accountability, transparency and participation. Referring to rational choice theory[4], one can conclude that in the

[4] "Rational choice theory", which maintains that individuals try to maximize their interest in all kinds of personal behaviour, assumes that citizens rely on perfect information when making their choices. As a concept that refers to the economic field in particular, the second assumption of rational choice is that there exists perfect competition in the market. Both of these assumptions can, and are being, criticized for not being realistic; however, it is true that some abstractions are needed in order to conduct some scientific analysis. A natural inference that can be made from rational choice is that individual, trying to maximize his/her economic interest, ignores public interest. Several researchers have concluded that there is a correlation between rational choice

reform process which is undertaken in accordance with NPM philosophy, the state is being forced to make a rational choice in order to protect its own interests. In this sense, the state apparatus is being disconnected from the public and becomes a "legal person" who exists for its own sake, but not for the public good; it shifts the priorities of public policies from protecting the public interest to decreasing costs and downsizing. It is hardly surprising that public interest is being ignored in this process.

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and new public management (NPM) paradigm; i.e. Kelly states that NPM relies on the supposition that people are rational and economic individuals who act in their own interest (Kelly 2000: 202).

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