THE CAPITULATIONS AND THE OTTOMAN LEGAL SYSTEM

Qadis, Consuls and Beratlis in the 18th Century

BY

MAURITS H. VAN DEN BOOGERT



BRILL LEIDEN · BOSTON 2005

CONTENTS

List of Figures and Tables	X
Abbreviations	xii
Acknowledgements	χV
Introduction]
Early Studies of the Capitulations	4
An Historical Survey	7
The Juridical Approach	g
Methodology	11
Published Texts	15
Chapter One The Sultan's Promise	19
Sacred Capitulations	19
Fermans and Berats	24
Revocation	26
Müste'mins	30
Tax Exemptions	32
Jurisdictions	33
Consular Jurisdiction	34
European Consular Regulations	38
The Qadi	42
The Imperial Council	47
Chapter Two The Protection System	63
Ottoman Protégés	64
Dragomans	64
Sons and Servants (hizmetkârs)	67
Warehousemen (mahzencis) and Brokers (simsars)	70
Moneychangers (sarrafs)	72
"Haratch Papers"	73
Commercialisation	76
An Ambassadorial Perquisite	77
The Price of Protection	79
Drofita	22

Recruitment	84
The Numbers of Protégés	85
A Survey	86
Instruments of Imperialism?	92
Bureaucratic Procedures	93
Western Policies	97
Ottoman Policies	105
The Legal Status of Beratles	112
Chapter Three Avanias: Misrepresentations of the Ottoman	
The Legal System	117
Historiography	118
Avania: Definitions and Origins	122
Avanists	126
The Making of Avanias	129
Case Studies	133
The European Perspective: Summaries of Nine	130
Avanias	133
Analysis: The Ottoman Legal Perspective	141
Conclusion	155
Concresion	100
Chapter Four The Division of Estates	
The Capitulations	159
Standard Procedures	163
Possible Complications: Ottoman Wives	168
Merchant Strangers	172
Possible Complications: Witnesses	174
The Estates of Dragomans	175
Possible Complications: Heirs Who Converted to Islam	177
A Case Study: The Estate of Dimitri Dallal	179
Actors	180
Legal Issues	182
Strategies	185
Outcome: Abdullah's Claim	188
Outcome: Yusuf's Claim	191
The Division of Part of the Estate	198
Conclusion	200
Appendix	200

CONTENTS ix

Chapter Five Bankruptcy	207
The Capitulations	208
"An Unhappy Affair": The Ideal Bankruptcy	213
Standard Procedures	217
Possible Complications: Fugitive Bankrupts	218
Possible Complications: Ownership of Consignments	220
Bankrupt Merchant Strangers and Ottoman Protégés	224
A Case Study: The Bankruptcies of Four Ottoman	
Warehousemen (1763)	226
Legal Issues	226
The Legal Position of the Consul	227
Interested Parties	230
Legal Strategies	235
a. Dealing with the Consulate	235
b. The Porte	242
c. The Qadi Court	248
i. Court Supervision	249
ii. A General Session in the Islamic Court	253
iii. Individual Trials in the Islamic Court	256
Conclusion	259
Appendix	262
Chapter Six Theft	
Theft in the Ottoman Legal System	263
A Case Study: Legal Disputes in a Partnership of Beratles	
(1781–1788)	263
Interested Parties	267
Legal Issues and Strategies	270
Outcome: The Caravan Conductor	278
Outcome: Yusuf Dwek Cohen	280
The Appeal and Its Aftermath	291
Conclusion	299
Chapter Seven Conclusion	303
Archival Sources	307
Selected Bibliography	309
Index	315