

ADMINISTRATION IN THE OTTOMAN STATE

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Abstract: *Administrative law is usually assumed to be creature of the New Time. Administration, however, plays a key role to implement the sovereign will and governing acts of rulers (heads) of all kinds of states and in all historical periods. In other words, administration is related to the state as stable and sustainable form of social unity. Theoretically, state exists and appears at three levels – substantial (people and territory), attributive (social relations) and institutional (powers and authorities). Namely at institutional level administration and authorities are researched and are subject to administrative law. They provide sustainability and enforceability of state actions despite of the type of state.*

The paper reviews administration and its organization and functioning during the period of Ottoman domination over Bulgarian territory. Historical approach to that matter is expected to show some relations with the Europe-wide trends in the time after 1789 French Revolution. And the attempts to reform the Ottoman state governance during the centuries of domination in European South-East would propose ideas for achieving more efficiency of administration and sustainability of the large-scaled state.

The paper tries to present a new view to administration as bound to the state as institution, and to analyze the interest this administration represented, as well as the legal bases of its actions.

Keywords: State, Administration, Ottoman Empire, Ottoman domination

JEL Codes: L10, L11

INTRODUCTION

The current material represents a brief overview on the periods of development of Ottoman public (administrative) law system through adoption of secular legislation and establishment of main administrative bodies and structures. The Ottoman state goes through rapid territorial and military development and within a century of its establishment during the 13th century by Osman becomes a significant factor of European South-East and Asian Near East. During the 14th and 15th century Balkan peninsula falls under the ruling of Ottomans (Bulgaria – in 1396; Belgrade – in 1521) and they reach Budapest (1526) and Vienna (1683), also Baghdad (1535). Though within 16-17th century Ottoman state fails to continue expansion the European South-East suffers under the foreign rule and live dividedly between custom and new sort of law – Islamic.

But during these devastating events for South-East European Christian population there is another struggle in the very state of the Ottomans – struggle for law which is presented by the efforts of Ottoman heads of state (Sultans) assisted by early Ottoman legal school to elaborate and to formulate secular rules of law and to divide the Islamic religious law (Sharia) from other important for the state governance normative system – secular law – necessary for the land possession, taxation, state governance. The second group of acts that form this normative system was called Kanun.

Or, we can assume that after the immense territorial expansion including variety of people, cultures, legal and administrative traditions and customs the Ottoman Empire faces a new challenge – how to organize and to govern such a vast territory and such a large population, and – very important – to govern it efficiently in order to allow further expansion, internal stability and sustainability and vital resistance against foreign threats.

Phase 1. From the beginning to the first significant reforms (14-18th century)

The main course of Ottoman policy during the periode between 14th and 18th century is to safeguard the achievements of the great expansion of the young Ottoman state. Occupied territories and overridden South-East European medieval states needed to be ruled and governed in order to

allow the big state to operate in the steady military stance and to be ready to resist any counter-attack by the Christian states and population.

In this period Ottoman Sultans are in favour of the Islamic school of law – the Sunni Hanafi school and its great first scholar Abu Hanifa (from the 8th century). Adopting, or more correct adapting, Hanafism to the needs of the large Ottoman state Sultans become supreme legislators and besides their religious obligations they adopt secular legal acts to rule and govern the subjects in the state by legislation (kanun). For its effective activity as legislator the Sultan Suleyman I The Magnificent (1520-1566) was called Kanuni Sultan. These functions are called in Osmanistics like Sharia-Kanuni discourse: while Sharia as sacred law (religious law) for Muslims was out of Sultans reach and the Sultan was not able to amend or supplement it, and it was to be applied as it was (for this is the statute of the Sheikh ul-Islam), the Kanun, being secular law, as a law given by the rulers was totally in the hands of the Sultan and depended on his will.

Such secular law covered matters that were not in direct link to the religion and affected most of the population of the state. These were regulations on land tenure, on taxation and on crimes. Suleyman I assisted actively by a lawyer of the Hanafi school – Ebussuud (serving also as Sheikh ul-Islam) – gathered the previous rules adopted by the preceding Sultans and unified them in a new form – similar to codification – Kanun-i Osmani (Ottoman Codification).

Phase 2. The Age of Tanzimat (late 18th and the early 19th century)

While Suleyman I appears as the most significant ruling figure during the times of feudal Ottoman state, and during the vast expansion of its territory, and relating to the wish of the Sultan to not only apply traditional norms but to establish new rules for organization and governance of the building-up Empire, the times of late 17th century showed that new approach is needed. This relates to new reality when Ottoman state is exhausted by the large scale of expansion. Especially after the defeat at Vienna (1683) it appeared that new way of organization of the state and of its governance must be introduced. Attempts to this end were made significantly just at the second half of the 18th century when the capitulation regime after unsuccessful wars was imposed toward the Empire. Reorganization of the Ottoman state was necessary in order to bring the state close to the models of the Western European states – France, Britain, Prussia – which had already begun to apply wide system of state administration organized on the principles of Enlightenment and constitutionalism. We can assume that through the age of Tanzimat the state system of Ottoman Empire slowly turned to European samples and paved the road to the late 19th century attempts to adopt and implement the first constitution (1876).

The two most important acts during that age were the Gulhane Hatt-i-Sherif (1839) and the Islahat Hatt-i-Humayun (1856) by the Sultan Abdul Medjid I (1839-1861). Along with rights that are proclaimed in favour of non-muslim population (equal treatment) these acts reformed the state governmental machine and thus complete the reorganization started earlier by Sultan Mahmud II (1808-1839) with the 1826 Vaka-i-Hayriye (auspicious incident) and disbandment of the Janissary corps and the attempt to build-up a new conscripted army.

Phase 3. The Constitutional Age (1876 to the fall of the Empire)

The final step to reforms was the 1876 promulgated Constitution. It provided the following institutions of the state: the Sultan (Khalif and Padishakh) who invested with a charge a Grand Vezire and the Sheikh-ul-Islam, and nominated and revoked Ministers, the latter formed a Council of Ministers presided by the Grand Vezire. Additionally, special regulations would be adopted to rule the functions and statute of the state officials. The Council of Ministers was due to draft laws and to submit the drafts to the two-chamber Assembly (consisting of the House of Lords /Senate/ and the House of Deputies /lower chamber/).

Based on the Constitution (Art. 109) a special law should provide the conditions and rules for election of different sorts of territorial units' councils: these of the vilayet (provinces), sanjak

(districts), kaza (municipality). The Vilaet's General Council had some prerogatives that are now typical to municipal councils – matters of general public interest such as communication, agriculture, industry and commerce. Similar councils should be established in kaza as well. They would deal with revenues on real estate property, with employment of property or of funds, with administration of special funds on orphans.

Rather short was the life of that Basic Law for the Ottoman state. In 1878 the Sultan Abdul Hamid II suspended it and started ruling as an absolute monarch until the Young Turkish revolt in 1908. Then the 1876 Constitution was put back into effect and the Parliament restored until the downfall of the Ottoman Empire by the end of the First World War and the establishment of the Republic of Turkey in 1920 and the adoption of a new – republican – Constitution.

CONCLUSION

The overview showed that during the centuries of existence of the Ottoman Empire there were several attempts to introduce reforms in order to adapt the state and the administrative system to the new wave of governance on the sample of the Western European states. Starting first with the try to emancipate secular law from religious doctrine (in the 16th century) passing through military reform (in the 18th century) and finally to constitutional reform (in the late 19th and the beginning of 20th century) the main structure of the Ottoman administration remains stable and untouched by these reforms – with territorial division and distribution of authority to their administrative bodies. The Ottoman administrative system remains rather centralized even during the more radical reorganizations – like the Tanzimat. Main administrative divisions – vilaet, sanjak, kaza, nahiya exist through all these centuries and appears even after the First World War and the establishment of modern Turkish republic.

The administrative bodies appeared at central and territorial level. At central – under the Sultan's figure – was the Grand Vezire and the Divan (from 19th century Council of Ministers), consisted by Vezires under which were Councilors (Ministers, Nazir) assisted by advisors (Kahya).

The territorial administration included different level of territorial units and their responsible officers. The Empire territory was constructed into two main parts – beylerbeyliks – commanded by beylerbey. In the 17th century this division was replaced by the more efficient one – vilaet – governed by pasha (provincial governor). Subdivisions of provinces were sanjaks headed by subashi (district chief) who administered taxation and military affairs. For more civil and jurisdictional purposes were the next divisions – kazi – headed by kadi who represented the legal authority of the Sultan and served as judges. Smaller territorial units were nahiya controlled by muhtesip (muhtar) serving in maintaining public order. During the Age of Tanzimat slight changes were introduced within these figures and divisions that become more civilian and serving more about administering the territories rather than to exercise military functions. Thus, for example, beys served as executive power mainly and they weren't able to punish without previous sentence by kadi (judge). So, we can assume that during the 19th century the Ottoman system takes the examples of Western states with the new principles of division of powers and legality and tries to apply them to its own traditional administrative structure.

The matters of administrative organization and actions in the Ottoman Empire are very complicated with combination of traditional forms (in Sharia) and newly established secular rules through Kanun and with attempts to introduce significant achievements of Western states. Unfortunately, 'the sick man in the East' was not able to reorganize and to reconstruct the heavy administrative system into a modern one and this reflects to the movements of the conquered people to regain their liberation.

The topic shall be subject to further and larger research in more details on legislation, building-up administrative divisions and structures and administering different public activities of the Ottoman state.

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