

***Western European Merchants in the Eastern Mediterranean
in 16th-17th century Islamic-Ottoman View.
The Evidence of a Turkish Manuscript from Bibliothèque Nationale de France***

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During my research stays in Paris and Istanbul, I discovered more manuscripts with peace treaties and legal opinions concerning Western trade and merchants in the Ottoman Empire. For instance, Bibliothèque Nationale in Paris preserved an Ottoman manuscript, which was conceived by François Savary de Brèves during his mission to the Ottoman Court (1592/3-1605), as a guidebook for the consuls of France in the Ottoman Mediterranean towns. I cannot establish yet how much this manuscript circulated inside and outside the empire, and influenced the French diplomatic and consular milieu. It is certain that the only direct beneficiary was André Du Ryer de Malezair, disciple of Savary de Brèves, who was appointed for short time as consul of France in Egypt (1623-1626).

He gathered between the same covers different types of documents, e.g. peace and commerce treaties, legal opinions issued by the grand-muftis from the Sa'adeddin family, Sultan's orders to the local authorities around the Mediterranean, correspondence between Ottoman and French sovereigns, reports of the Grand Vizier to the sultan etc. These documents concerned the same topic, that of the status of Western merchants in the Ottoman Mediterranean. Particularly, these documents offer information on the procedure of granting of commercial privileges to Christian sovereigns, on enemy ships, on the merchants' right over their merchandise, on the prohibition to enslave Christian merchants and to confiscate their merchandise, on the exception from the poll-tax, on the interdiction to take taxes from money, on the responsibilities of the French ambassador in Istanbul and consuls in Mediterranean harbours etc.

Considering the addressees of Imperial orders and ordinary letters, the main Mediterranean towns, harbors and regions mentioned in the manuscript, which have to be linked for completing the Ottoman Mediterranean puzzle, are as follows: Egypt and Alexandria, Aleppo, Algiers, Tunis and Tripoli of Libya, Chios, Antalya, Istanbul and Galata, Gallipoli and Avlonya.

Taking into consideration its structure, one can say this manuscript is a unique writing. Here then - apparently for the first time in a surviving Ottoman manuscript - we find clearly and undoubtedly all the necessity of legal legitimating of the stipulations from the peace agreements ('*ahdnames*) by legal opinions (*fetvas*). Regardless its structure and form, the substance of the documents offers - also for the first time - a complex picture of the Western trade and merchants (especially the French ones) in the Ottoman Mediterranean during the late-sixteenth and early-seventeenth century.

Having this manuscript as a basic source, I started a large documentation for writing a book on the legal condition of the Western merchants in the Ottoman Empire. The main directions of my research are: historiography and sources concerning the Western commerce in Mediterranean, the legal condition of the foreigners in the House of Islam (*müste'minlik*), the Capitulation granted by the Ottoman sultans to the Kings of France, the commercial privileges of the Western merchants in the Ottoman Empire, the status of Western consuls appointed in different Mediterranean harbours, the protection of those Western merchants who did not have their own ambassador at the Ottoman Court, the Christian slaves in the House of Islam, and piracy in Mediterranean.

1. Legal Sources. The legal-religious sources are firstly needed to define the legal status of foreign merchants in Ottoman territories. The Muslim scholars strove for recovering the Islamic legal tradition in relations with non-Muslims and to place it within the domain of the political authorities, even if this took place in less original forms (in form of summaries, compilations, annotations, commentaries, or Turkish-Ottoman translations). Any legal work contained also a body of rules and practices regulating the conduct of a Muslim state in peace or war with non-Muslims, gathered in chapters on holy war (*djihad*), tribute (*kharadj*), poll-tax (*djizye*), sovereignty (*hükümet*), foreigners (*müste'min*) etc., where scholars tried to systemize previous practices. Frequently, the authors dealt with the above-mentioned questions in a unique chapter, titled *kitab as-siyer*.

The Islamic law treatises, written by pre-Ottoman or Ottoman scholars, are needed to analyze the view of *shari'a* towards the foreigners. Considering that the Ottomans adopted the Hanafi legal school, more relevant for my study are of course the Hanafi writings. No work has been preserved from Abu Hanifa (d. 767), but his learning on the Islamic 'international' law was taken over and developed by his disciples, especially by Abu Yusuf Ya'kub (d. 798) and Muhammad ash-Shaybanî (d. 805). The former wrote an essential book for Islamic law of nations, entitled *Book of the Land Tax (Kitab al-kharadj)*, which was used - in its Arabic version - by the Ottoman muftis as source for their legal opinions. Moreover, this work was

translated to Turkish by Rodosizade Mehmed Ayaslugi in 1683, answering to the order of the grand vizier Kara Mustafa Pasha, who wanted to know how to proceed in the relations with non-Muslims concerning especially the tribute, as well as what Abu Yusuf Ya'kub had written at Harun ar-Rashid's command. The most complete synthesis of the Hanafî 'international' law was written by Muhammad ash-Shaybanî - called "Hugo Grotius of Islam" by European scholars -, of which the major work, *The Grand Book of Conduct of Government (Kitab as-siyar al-kabîr)* has reached us through the commentaries of as-Sarâhsî (d. 1090). The Ottoman religious scholars used the Arabic version up to the nineteenth century, when the Turkish translation, made by Mehmed Munîb 'Ayntabi between 1796-1798, was published by Mahmud II's order.

The Hanafî original precepts on *siyar* were re-covered, annotated and systematized by the Ottomans during the fifteenth to seventeenth century. The most famous example is Ibrahim al-Halebi (d. 1549). His work was translated many times from Arabic to Turkish, firstly, by Mehmed Rahîmî (d. 1655) in the first half of the seventeenth century. But the most known Turkish translation was made in the eighteenth century by Mehmed Mevkûfatî (d. 1760), being very often published during the nineteenth century with the title *Commentary upon Confluence of Seas*. According to Islamic tradition, Ibrahim al-Halebî wrote distinct chapters on relations with non-Muslims. In Western Europe, al-Halebî's work was known by *Tableau général de l'Empire Ottoman* of Ignace Mouradgèa d'Ohsson, published in 1784-1824, who translated and modernized the Ottoman scholar's text.

Legal opinions (*fetvas*) were the most important Ottoman contribution to the Islamic Holy Law (*shari'a*). There are contradictory opinions on the origin and functions of muftis during Ottoman history (see the works of U. Heyd, Hilmar Krüger, R.C. Repp, J.H. Walsh, Colin Imber, Haim Gerber etc.). There is evidence that the sultans had recourse to the grand mufti (*shaykh al-Islam*) and followed his advises, even from the fifteenth century, but as a rule in the seventeenth and eighteenth centuries. *Fetvas* are especially known as collections of legal opinions. Usually, these collections were gathered legal consultations issued by a single grand mufti, but starting from the seventeenth century the *fetvas* were fitting better to the questions put by practice that were gathered in thematic collections, which became manuals of Islamic law for scholars. They also contained chapters on relations with non-Muslims.

One of the questions to be answered is what relevance the legal opinions for the status of foreign merchants in the Ottoman Empire could have? My attention is focused on the legal opinions which were included deliberately by Savary de Brèves in the above manuscript from the Bibliotheque Nationale in Paris to explain and legitimate - from the point of view of the

Islamic Ottoman law - the commercial privileges and the legal condition of Western merchants in the Ottoman Mediterranean.

The Islamic legal and religious sources offer a theoretical model for establishing the legal position of foreigners. But, to study the Ottoman view on trade with Europe and foreign merchants it is necessary to enlarge the documentary background, implying a deeper analysis of administrative and diplomatic chancery documents, which could reflect more directly and better the political, commercial and diplomatic practices. From these, the relevant are the imperial charters, diplomas, letters, and orders, petitions, reports, authorizations of free traffic granted to foreign merchants etc.

Yet, a comprehensive image could be obtained by correlating the information from Ottoman documents with data from French, Venetian, English, Dutch etc. sources (for instance, instructions, correspondence, reports of the Western ambassadors and consuls in the Ottoman Empire; traveling accounts etc.).

2. Foreigner in Ottoman legal view. A question to be answered is the legal condition of foreigners in the House of Islam (in Turkish, *müste'minlik*). The legal status of foreigners in the Abode of Islam was generally established by the Islamic Holy Law (*shari'a*).

The Islamic Ottoman terminology applied to foreigners is one of the questions to be answered in my book. According to Islamic Holy Law, during his stay in the Realm of Islam, a habitant from the Abode of War (*harbî*) was then called 'beneficiary of protection' (*müste'min*), a notion derived from *aman* (protection). In the chapter dealing with foreigners in his work on Islamic law, the great scholar Ibrahim al-Halebî (d. 1549) said: "Any enemy who enters with *aman* into our territories is called *müste'min*". Also, in the legal opinions issued by grand muftis, a foreigner was frequently defined as "an enemy who comes from the Realm of War and enters into the Realm of Islam with safe-conduct". In orders, law-codes or peace treaties, the foreigners were called both with the name of their states (*İngilterelü, Venedikliü, Francalu, Lehlü* etc.) and with religious-juridical terms, such as infidels, enemy or beneficiary of safe-conduct (*kafir, harbî, müste'min*).

The legal opinions issued by the grand muftis of the Sa'deddün family and copied by the French ambassador Savary de Brèves in his manuscript give a new image of the condition of the Western merchants, more close to practice than the Islamic legal texts.

3. Ottoman law of peace and treaty. The strong connection between peace and trade encourages the initial analysis of the Islamic law of peace. In spite of a theoretical permanent state of war between the *dar al-harb* (realm of war) and the *dar al-Islam* (realm of Islam), in

practice a permanent or temporary peaceful relationship with non-Muslims proved as being necessary. My research concerning Islamic Ottoman law of peace will try to answer more controversial questions.

First, what kind of peace was concluded between the Islamic sovereigns and non-Muslim rulers, “temporary peace” or “firm and lasting peace”? Second, what labels were applied by Islamic sovereigns to the European states, *dar al-harb* (realm of war), *dar al-sulh* (realm of peace), *dar al-dhimma* (realm of tributary protection), *dar al-muvada‘a* (realm of truce) etc.?

I am drawing a typology of peace agreements concluded by Ottomans with European rulers, which generally belonged to the category of covenants (*‘ahd*, *‘akd*). In Islamic legal and diplomatic view, there were two kinds of “peace agreements”: *‘ahd al-dhimma* (compact of tributary protection) and *muḩvada‘a* (truce). In the Ottoman chancery, any peace agreement was called *‘ahdname-i hümayûn* (Imperial charter) and this implied - implicitly or explicitly - a general *aman*, i.e. permission for access and guarantee of safety, granted to the subjects of respective foreign rulers. Thus, the life and property of the merchants coming from Venice, Hungary, Austria, Poland, France, England, Holland, Russia etc., and staying in the Ottoman territories were protected by a temporarily safe-conduct pass.

The Capitulations granted to the Kings of France in the second part of the sixteenth century, copied by the French ambassador Savary de Brèves in his manuscript, were a particular case of truce agreements (*muḩvada‘a*), which were frequently concluded between Muslim sovereigns and non-Muslim princes. When the Ottomans granted the first Capitulation to France, in 1536 or in 1569, this was already a long-time dilemma, and was still an up-to-date question.

4. Capitulatory Regime. There is a rich literature on the system of rights and privileges stipulated in the Ottoman *Capitulations*, concerning the traffic, navigation, merchandise, residence, commerce, legal disputes, the consuls of Western merchants in the Ottoman Mediterranean (see G. Pélissié du Rausas, *Le régime des Capitulations dans l’Empire Ottoman*, I-II, Paris, 1902-1905; Susan Skilliter, *William Harborne and the Trade with Turkey. 1578-1582. A Documentary Study of the First Anglo-Ottoman Relations*, Oxford University Press, 1977). Considering the main rights, liberties and privileges, such as free traffic, safety of persons and merchandise, individual responsibility etc., I intend to construct a typology of the legal status of foreign merchants in the Ottoman Empire, i.e. the Capitulatory regime, the mutual regime in the boundary areas, and the most favored nation clause regime. According to the peace treaties and other Ottoman documents, the merchants coming from certain Christian states (e.g. France, Venice, England, Poland, Holland etc.) enjoyed the “capitulatory regime”, and - having similar commercial privileges - the “most favored nation clause regime”. At the

same time, I intend to analyze the “mutuality” - the feature which made the difference between the Imperial Charters granted to the Western states and those concluded with neighbouring states (e.g. Venice, Hungary, Poland, Austria, Russia).

Completely unknown are the Ottoman central authorities’ attempts - as a consequence of the French ambassador Savary de Brèves’ petitions - to limit the abuses made by local officials and subjects against French merchants in the Mediterranean.

5. Western non-treaty merchants. In the Ottoman Empire there were also trading merchants from Western states which did not receive an Imperial charter with commercial privileges and did not have permanent ambassadors to the Porte (see, Francis Rey, *La protection diplomatique et consulaire dans les Echelles des Levant et de Barbarie*, Paris, 1899; Pierre Arminjon, *Étrangers et protégés dans l’Empire Ottoman*, Paris, 1903). The above works were especially based on the Western sources, ignoring the Ottoman ones.

The legal condition of the merchants’ protégés can be drawn by analyzing both their relationship with the Ottoman authorities and their relations with their West-European protectors. This implies the emphasis on the rights and obligations of foreign protégés towards the Porte, on the one hand, and towards their European protector state, on the other hand.

Who were the “protectors”? Who were the “protégés”? During the centuries their status changed. Some of them passed from the “protégés” category to that of “protector” (the English case being the most significant). Others followed the contrary way, e.g. Venice for a short period. Yet, in the sixteenth - seventeenth century, most European merchants joined the group of the protégés merchants, when they lost the right to have permanent ambassadors to the Porte. They were usually protected during their stay in the Ottoman Empire by the French ambassador and consuls. Once England entered the Levant trade at the end of the sixteenth century, a French-English rivalry occurred concerning the protection of those Western merchants without a permanent ambassador in Istanbul, including the Dutch ones until 1612 (see A.H. de Groot, *The Ottoman Empire and the Dutch Republic. A History of the Earliest Diplomatic Relations. 1610-1630*, Leiden-Istanbul, 1978).

During his mission in the Ottoman Empire, François Savary de Brèves fought strongly to neutralize the English diplomatic policy carried against France, especially to preserve the old usage of protection over “non-treaty nations”, which was in danger of being lost in favour of England. For instance, the legal condition of Dutch merchants, as “protégés” of France, is abundantly illustrated by the Ottoman documents transcribed in the manuscript from the Bibliothèque Nationale in Paris.

6. Consuls played an essential role in defending the interests of Western merchants and in managing the affairs of the foreigner communities in the Mediterranean ports, such as Algiers, Tunis, Tripoli, Alexandria, Aleppo, Antalya etc. The unpublished Ottoman documents from the manuscript preserved at the Bibliothèque Nationale illuminate decisively the status of the French consulates in the Levant, their organization, functions, and relations with Ottoman authorities and French officials in Marseille and Istanbul.

7. Piracy and slavery. In the late sixteenth century, piracy and slavery were an everyday reality in the seas in the area of the Tunisian and Algerian coasts, composed of ambushes and surprise attacks, with very numerous merchant vessels usually the victims. For this region navigation and trade to and from the Levant was full of unexpected encounters and adventures. The Barbary shore became a nest of pirates, where both Muslim and Christian corsairs, with both local authorities and humble people operating.

The French ambassadors succeeded several times in obtaining orders from the Ottoman sultan for imposing Capitulations on the governors of Tunis and Algiers, and for liberating French slaves kept by Ottoman subjects around the Mediterranean. A famous case is represented by François Savary de Brèves' travel to the Levant, Egypt and North Africa, during his return journey to France (1605-1606). Moreover, having a written order of the sultan, he asked the governors of Tunis and Algiers to free all enslaved Frenchmen, to return all merchandise and ships pillaged and confiscated by the pirates, and to reinstate the right of French ships visiting the harbours of the Maghreb. After long discussions with the Divan's members and Kara-Othman Dey of Tunis, the French envoy succeeded in imposing a treaty of nine articles, which prohibited any plundering and enslaving action against French merchants. He failed in Algiers.

The documents from the Ottoman manuscript of the Bibliothèque Nationale in Paris illustrate also the efforts of Ottoman authorities in Istanbul to protect Western merchants during their commercial activity in the Mediterranean. This implied more actions, such as: mutual setting free of Muslim and Christian captives; returning of merchandise, ships and other plundered goods by Muslim pirates; ensuring the observance of Capitulations by the Muslim officials of the Levant and Maghreb; interdiction to reduce trouble to commercial traffic by the corsairs of Tunis and Algiers; reimbursement of confiscated goods by the corsairs; prohibiting the Ottoman pirates' ships which plundered Western ships in entering other Mediterranean harbours; arresting and forcing pirates to indemnify the pillaged goods; interdiction to confiscate merchandise taken from Western ships etc.

I hope to finish my book on Western merchants in the Ottoman Mediterranean by the spring of 2022.