

FRENCH COMMERCE, NORTH AFRICAN PIRACY, AND OTTOMAN LAW IN THE MEDITERRANEAN (CLOSE-SIXTEENTH AND EARLY-SEVENTEENTH CENTURY)¹

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During his mission to the Ottoman Court (1593–1605), François Savary de Brèves conceived a manuscript with Ottoman documents as a guidebook for the representatives of France in the Ottoman Mediterranean towns and ports. One of the first beneficiary was André Du Ryer de Malezair, disciple of Savary de Brèves, who would be appointed for short time as consul of France in Egypt between 1623–1626.² This manuscript has been preserved at the Bibliothèque Nationale de France, Division Orientale,³ and is known as the *Manuscrit Turc 130*.⁴

It gathers between the same covers different types of Ottoman official documents (Imperial charters,⁵ legal opinions,⁶ orders, letters, reports, etc.), illustrating the legal status of Western trade and merchants into the Ottoman dominions in late-sixteenth

¹ This is a chapter from a planned book on Western trade and merchants in the Ottoman Mediterranean during François Savary de Brèves' time and having as a basic source the *Manuscrit Turc 130* from the Bibliothèque Nationale de France. To write these pages I have also used information gathered during my stay at Folger Shakespeare Library, Washington D.C., in 2005–2006. I would like to thank all from Folger Library who supported me to enrich my documentation on the Mediterranean.

² On André du Ryer, see: Alastair Hamilton, and Francis Richard, *André du Ryer and Oriental Studies in Seventeenth-Century France*, The Arcadian Library in association with the Oxford University Press, 2004.

³ Henceforward: Bibliothèque nationale de France – BNF; Division Orientale – DO.

⁴ For a detailed description of the *Manuscrit Turc 130*, see Viorel Panaite, “A French Ambassador in Istanbul and his Turkish Manuscript on Western Merchants in the Ottoman Mediterranean (late sixteenth and early seventeenth century)”, *RESEE*, XLII, 1–4, 2004, pp. 117–132. The documents were copied from right to left from the folio 2r to folio 30v only. Then, the scribe (scribes) opened the manuscript from left to right, and transcribed all Ottoman documents from the last folio (278r) to the folio 38v.

⁵ Viorel Panaite, ‘Western Diplomacy, Capitulations and Ottoman Law in the Mediterranean (16th–17th Centuries). The Diplomatic Section of the *Manuscrit Turc 130* from the Bibliothèque Nationale in Paris’, in *Revue Roumaine d'Histoire*. Editura Academiei Române, Bucarest, Tome XLIV, nos. 1–4, Jan–Déc. 2005, p. 69–88.

⁶ Viorel Panaite, “Western Merchants and Ottoman Law. The Legal Section of the *Manuscrit Turc 130* from the Bibliothèque Nationale in Paris”, in *Revue des Études Sud-Est Européennes*, Académie Roumaine, Institut d'Études Sud-Est Européennes, Bucarest, XLV, 1–4, 2007, p. 45–62.

and early-seventeenth century. Particularly, these documents offer information on Imperial Charters with commercial privileges granted to the French Kings in the second half of the sixteenth century, on legal condition of Western non-treaty Westerners, especially the Dutch merchants until the granting of their first *'ahdname* in 1612,⁷ on commercial navigation and carrying trade in the Ottoman Mediterranean,⁸ on the French consuls in the Levantine harbors, on prohibited merchandise and tax exemptions, on piracy and captives, etc.

“The Mediterranean – Alberto Tenenti said – was not exactly sailed by ships exchanging cheerful greetings at every encounter: to use a contemporary simile, it much more resembled a forest teeming with bandits”.⁹ In close-sixteenth and early-seventeenth century, the privateers and corsairs were also a daily presence in the Mediterranean, making from merchant shipping a dangerous profession. Actually, the last two decades of the sixteenth century represent the beginning of a new golden epoch in the history of piracy in the Mediterranean, a epoch which would last about one hundred years.

Historians disagreed on the consequences of piracy in the historical evolution of the Mediterranean. For instance, Alberto Tenenti had emphasized the direct connection between piracy and the decline of the Venetian navigation in the Levant.¹⁰ Besides the human loss, the authorities of that time evaluated often the material damages caused by piracy. For the last decade of the sixteenth century, François Savary de Brèves, who was directly interested in the success of Marseille’s commerce in the Levant, evaluated annual damages of 500,000 or 600,000 *écus*, caused by piracy, only.¹¹ On the other hand, certain Mediterranean communities compensated through piracy the damages caused by the strong commerce of the European ports, especially the Italian ones. Visible evidence of this partial success was the continuous development of the North African towns

⁷ Viorel Panaite, “Two Legal Opinions (*Fetvâs*) from the *Manuscrit Turc 130* (Bibliothèque Nationale, Paris) on the Western Non-Treaty Merchants in the Ottoman Mediterranean”. In *Enjeux politiques, économiques et militaires en mer Noire (XIV^e–XXI^e siècles), études à la mémoire de Mihail Guboglu*. Sous la direction de: Faruk Bilici, Ionel Căndea, Anca Popescu, Musée de Braïla-Éditions Istros, Braïla, 2007, pp. 169–194.

⁸ Viorel Panaite, “French Commercial Navigation and Ottoman Law in the Mediterranean according to the *Manuscrit Turc 130* (Bibliothèque Nationale de France)”, in *Revue des Études Sud-Est Européennes*, Académie Roumaine, Institut d’Études Sud-Est Européennes, Bucarest, XLVI (nos. 1–4), 2008 (in print).

⁹ Alberto Tenenti, *Piracy and the Decline of Venice. 1580–1615*, translated from *Venezia e i corsari, 1580–1615*, Bari, 1961, with an introduction and glossary, by Janet and Brian Pullan, University of California Press, Berkeley and Los Angeles, 1967, p. 29, 61.

¹⁰ Tenenti, *Piracy. Venice*, p. 30.

¹¹ *Histoire du commerce de Marseille publiée par la Chambre de Commerce de Marseille*, sous la direction de Gaston Rambert, Tome III, *De 1480 à 1515* par Raymond Collicier; *De 1515 à 1599* par Joseph Billioud, Paris, 1951, p. 549.

(Algiers reached 100,000 inhabitants in the seventeenth century) in comparison with the economic decline of the traditional Mediterranean ports, like Genoa, Venice or Barcelona.¹²

Piracy was not specific to a community or race. The pirates could be of any ethnicity and religion. In the Mediterranean, Muslims and Christians practiced piracy alike. According to the *Lex mercatoria*, “a pirate is a sea-thief, or an enemy to human kind, who aims at enriching himself by marine robberies, committed either by force, fraud or surprise, on merchants or other traders at sea.” All are not equally bad, but even the best of them are offensive to the fair trader.¹³ If it should make a distinction, one can say that a special appetite for robbery on the high seas manifested the renegades, who composed as a rule the crews of pirates. The editor of Nicolas de Nicolay’s *Les quatre premiers livres des navigations et pérégrinations orientales* illustrated the edition of 1568 with a ‘generic renegade’, who became so famous in the sixteenth century.¹⁴ In Algiers, the renegades formed the most part of pirates. Actually, the renegades were ‘more (numerous) than the other inhabitants, the Moors, Turks and Jews of Algiers.’ According to Antonio de Sosa’s description, who gave an extensive list of nations, in the second part of the sixteenth century there was ‘no Christian nation in the world from which there are no renegades in Algiers.’

And beginning with the remote provinces of Europe, there are in Algiers renegade Muscovites, Reds (...), Bulgarians, Poles, Hungarians, Bohemians, Germans, from Denmark and Norway, Scots, Englishmen, Irishmen, Flemish, Burgundians, Frenchmen, Navarrese, Basques, Castilians, Galicians, Portuguese, Andalusians, Valencians, Aragonese, Catalans, Majorcans, Sardinians, Corsicans, Sicilians, Calabrese,

¹² Maurice Aymard, “Chiourmes et galères dans la Méditerranée au XVI^e siècle”. *Histoire économique et sociale du monde méditerranéen 1450–1650. Mélanges en l’honneur de Fernand Braudel*, Toulouse, 1973; Michel Fontenay, “L’Empire ottoman et le risque corsaire au XVII^e siècle”. *Actes du I^{er} Colloque International d’histoire. Économies méditerranéennes, équilibres et intercommunications. XIII^e–XIX^e siècles*, Athènes, 1985, p. 429–459; Michel Fontenay, “La place de la course dans l’économie portuaire: l’exemple de Malte et des ports barbaresques”. *Annales. Économies, Sociétés, Civilisations*, XLIII/6, 1988, p. 1321–47; Philippe Hiély, *XVII^e siècle, âge d’or de la piraterie en Méditerranée*, vol. I–II, Marseille, 1996.

¹³ Wyndham Beawes, *Lex mercatoria rediviva: or, the merchant’s directory... Extracted from the best writers both at home and abroad; more especially from those justly celebrated ones of Messieurs Savary; improved and corrected by the author’s own observations, during his long continuance in trade. The whole calculated for the use and service of the merchant, lawyer, senator, and gentleman*. London, 1752, p. 257.

¹⁴ See the illustration *Les Yurongnes* in Nicolas de Nicolay, *Les quatre premiers livres des navigations et pérégrinations orientales*, Lyon, 1568.

Neapolitans, Romans, Tuscans, Genoese, Savoyans, Piedmontese, Lombards, Venetians, Slaves, Albanians (...) Greeks, Candiotas, Cretans, Cypriots, Surianos (from Surinam) and from Egypt, and even Abejinos of Prester John, and Indians from Indies of Portugal (India), from Brazil and New Spain.¹⁵

There were various forms of sea-plunder, from uninhibited piracy to licensed piracy.¹⁶ Sometimes it was practiced a piracy of extreme violence, in which the main aim was to rob the ships, and consequently the peoples were killed without mercy. Yet, the most frequently piracy implied the robbery of ship, making captives and selling the peoples.

No ship could be sure that it would navigate safely in the Mediterranean. In October 1590, two Turkish galleys, on their way from Algiers to Constantinople, had come near the coast and had fallen into the hands of the Christians through a rising of the galley slaves led by a Genoese renegade.¹⁷ In January 1591, the English captured a Catalan ship which, with all its crew and all its cargo, was sent to Barbary, where the people were sold to the Turks and Moors as slaves.¹⁸ Such examples are omnipresent in the contemporary sources.

From time to time, the public of France learnt about acts of piracy made by 'Turks' (*Turcs*) and the victims amongst their compatriots.¹⁹ At the same time, the same public found out from short publications about the contra-piracy actions initiated by the Christian sovereigns or local authorities. Some of these actions succeeded by making prisoners some *Turcs* and confiscating their ships.²⁰

¹⁵ Maria Antonia Garcés, *Cervantes in Algiers. A Captive's Tale*, Vanderbilt University Press, Nashville, 2002, p. 35.

¹⁶ Kenneth R. Andrews, *Elizabethan Privateering. English Privateering during the Spanish War. 1585-1603*, Cambridge At the University Press, 1964, p. 15.

¹⁷ *Calendar of State Papers and Manuscripts, relating to English Affairs, Existing in the Archives and Collections of Venice and in other Libraries of Northern Italy*. Edited by Horatio F. Brown, Vol. VIII: 1581-1591. London, 1894, doc. 975, p. 507.

¹⁸ Tomaso Contarini, the Venetian ambassador in Spain, to the Dodge and Senate (*State Papers. Venice*, vol. VIII, doc. 1003, p. 519).

¹⁹ *Cruel Martyre de la personne du très-valeureux capitaine M le Cte de La Richardière, mis a mort par les mains des Turcs...*, Paris, 1620.

²⁰ *Récit de la prise de plusieurs vaisseaux des Turcs... Grand Duc de Toscane...*, S.I, n.d.; *Histoire véritable de la prise des vaisseaux, de plusieurs corsaires et pirates turcs, et sont prisonniers à Vallongne*. A Paris, chez le veufue du Carroy, rue des Cannes, à l'enseigne de la Trinité, 1620; *La victoire obtenue par M. le général des galères de France sur les plus redoutables corsaires du Turc...*, Paris, 1620; *La lettre d'un getilhomme de M. le Baron de Cesi, ambassadeur pour le roi en Levant... touchant la prise de cinq galères turques et autres grands exploits de guerre faits par les cosaques et polonais sur les Turcs et les Tartares...*, Paris, 1620.

Four main groups of corsairs²¹ activated in the Mediterranean: Uskoks,²² Knights of Malta,²³ North Europeans (English and Dutch) and Muslims of North Africa. Affecting directly the French commerce in the Mediterranean, both North African and English piracy are illustrated by more official documents of the *Ms. Turc 130*. In this article, we shall try to valorize several Imperial orders (*hüküm*) and a legal opinion (*fetvâ*) concerning the plundering activity of peoples from Algiers, Tunis and Tripoli of Libya (so-called the Barbary in Western sources), either humble subjects, captains of ships (*re'is*) or local high-officials (*hâkim*).

In the close of the sixteenth century, piracy was an everyday life on sea in the area of the North African (Barbary) coasts,²⁴ composed of ambushes and surprise attacks, of which the numerous French merchant vessels were usually victims. Both the regular navy and private ships were sent to plunder western commercial shipping and Christian territories. Even if sometimes operated individually, the fleet operation was much commoner for the Barbary corsairs.²⁵

Let us add that the Muslim pirates described their robbing actions against Christian ships as being a 'religious duty' (*farz*), as a holy war against the infidels²⁶. Actually, only the Muslim corsairs from the North Africa abused by the *jihad* doctrine and used it to legitimate the enslaving of Christian merchants and the robbing of their ships in the Mediterranean. Some late but significant evidence belongs to the Moroccan pilgrim Abu Salim al-'Ayyashi, who pointed out in the

²¹ Pál Fodor, "Piracy, Ransom Slavery and Trade. French participation in the liberation of Ottoman slaves from Malta during 1620s", *Turcica*, 33, 2001, p. 119–34.

²² Uskoks (South Slave refugees) were especially robbing in the Adriatic Sea. The Habsburgs and the Papal State hired them often to damage the Venetian and Ottoman commerce in the Dalmatian area (See, Kálmán Bend, "Les uscoques entre Venise, la porte ottomane et la Hongrie". *Venezia e Ungheria nel contesto del barocco europeo*, Florence, 1979, p. 399–408; Catherine Wendy Bracewell, *The Uskoks of Senj. Piracy, Banditry and Holy War in the Sixteenth Century-Adriatic*, Ithaca-London, 1992).

²³ See: Paul Cassar, "The Maltese corsairs and the Order of St. John of Jerusalem," *Scientia* XXIX/1–2 (Malte, 1963), 26–69; Peter Earle, *Corsairs of Malta and Barbary*, London, 1970; Michel Fontenay, "Corsaires de la fois ou rentiers du sol. Les Chevaliers de Malte dans le 'corso' méditerranéen au XVII^e siècle", *Revue d'histoire moderne et contemporaine*, XXXV, 1988, p. 361–84.

²⁴ Laugier de Tassy, *Histoire des États barbaresques qui exercent la piraterie, contenant l'origine, les révolutions de l'état présent des royaumes d'Alger, de Tunis, de Tripoli et de Maroc, avec leurs forces, leurs revenus, leur politique et leur commerce par un auteur qui a résidé plusieurs années avec caractère public (Laugier de Tassy)*, traduit de l'anglois, Paris, 2 vols., 1757; Godfrey Fischer, *Barbary Legend. War, Trade and Piracy in North Africa, 1415–1830*, Oxford at the Clarendon Press, 1957.

²⁵ Earle, *Corsairs*, p. 11–12; Christianne Villain-Gandossi, 'Contribution à l'étude des relations diplomatiques et commerciales entre Venise et la Porte ottomane au XVI^e siècle. Part 2.' *Südost-Forschungen* XXVII, Munich, 1969, p. 18–19.

²⁶ M. du Caurroy, 'Législation musulmane sunnite: rite hanéfi.' *Journal Asiatique*, IV série, tome 12, 1848, p. 13, n. 6; *Piracy and Diplomacy in Seventeenth-Century North Africa. The Journal of Thomas Baker, English Consul in Tripoli, 1677–1685*, Edited with an Introduction by C.R. Pennell, London and Toronto, 1989, p. 45.

1660s that the corsairs' activity of Tripoli of Libya was a holy war which had its economic benefits:

The people of this city understand the blessings brought by the pilgrims and the *mujahidin* (fighters in holy war) for their subsistence. It is quite likely that they should group five or six escort parties to accompany them on the way out and coming back, and many times that coincides with the departure of the naval forces for the *jihād*.²⁷

In 1593, Murad III allowed the janissaries in Algiers to participate in privateering ventures, together with the local corsairs. Of course, ideologically, it was about a fight against the infidels. Practically, the sultan answered to the request of the governor of Algiers, Şaban Paşa, which had confronted with financial difficulties. He was promised that the corsairs would contribute a greater share of their booty to the provincial treasury. Actually, this permission encouraged frontiersmen to engage in private enterprise. In the last decade of the sixteenth century, the Sultans Murad III and then Mehmed III ordered to the governors (*sancak-beyi*), corsairs and janissaries in Algiers to obey their governor-general and to help collect the taxes.

The central administration in Istanbul desired all times to control the Barbary corsairs, but it could not control efficiently the naval border. This would affect the Western trade and merchants in the Mediterranean. Being unable to destroy the piracy, the Ottomans implemented some defensive counter-measures ashore or close inshore against pirates' incursions, such as patrol of frigates on the coast in search of the elusive pirates.²⁸

Piracy in the Mediterranean was not specific to humble peoples who chose to live on sea, for obtaining their subsistence wages. Piracy was a form of enrichment used by certain Ottoman local authorities, too. In North Africa, especially, they assisted the pirates, fitting out pirate ships. Moreover, they had middlemen, sometimes in person of Jewish residents in Constantinople, for the sale of the plunder, in the profits of which the Turkish official share.

The governors-general fitted out ships themselves, making in this way a sort of navy, which was the equivalent of the regular navies of France or other Mediterranean states. On the other hand, the *beylerbeyis* from Barbary licensed private individuals to equip ships on their own account. The private pirates had to

²⁷ N.R. Bennet, 'Christian and negro slavery in eighteenth century North Africa'. *Journal of African Studies*, I, 1980, p. 64–83; Murray Gordon, *L'esclavage dans le monde arabe. VI^e-XIX^e siècle*, Traduit de l'anglais par Colette Vlérick, Paris, 1987, p. 33. Yet, the raids launched in Africa for capturing slaves were rarely preceded by the procedure specific to the Holy War (Allan G.B. Fischer and Humphrey J. Fischer, *Slavery and Muslim Society in Africa*, Londres, 1970, p. 101).

²⁸ Andrew C. Hess, *The Forgotten Frontier. A History of the Sixteenth-Century Ibero-African Frontier*. Chicago and London: The University of Chicago Press, 1978, p. 109–110.

pay a share of their booty to the governors-general, normally one-eighth. Antonio de Sosa enumerates 32 captains (*re'is*) who lived in Algiers in 1581, of which ten were Turks and most part were Christian renegades, especially Italians. These *re'is* owned privately ships, built by both their own slaves and the common captives. After successful expedition on the sea, the *re'is* gave great feasts.²⁹

Considering that many French subjects were enslaved, in the 'ahdnames of 1569³⁰ and 1581 a clause was included concerning the prisoners from the countries subject to France. They must be set free and their possessions given up without default, in the time of whomsoever governor-general it may be and the governor-general should be dismissed and the stolen goods be compensated to them.

Si les fustes des coursaires font esclaves lesditz Francois ou les portent vendre bien au loing, comme en la Grece ou Natolye, voulons que, quand lesdits esclaves seront retrouvez, qu'avec toute instance se face diligence de scaivoir en quelle main ils sont, de qui l'on les a euz, et qu'ils soient contrains de les trouver et représenter, et tout de mesme celuy qui les aura venduz; et si c'est soubz le nom de courseire et que ledit courseire est trouve et prins, qu'il soit chastie (au cas que ledit esclave soit veritablemet trouve Francois); et si ledit esclave s'est fait Turcq, qu'il soit libre, le laissant aller, et s'il est encores sous sa foy chrestiene, qu'il soit de nouveau consigne au Francois.³¹

Following the most favored nation clause, a similar article was included in the English *Capitulation* of 1580.³²

Being asked by the ambassador François Savary de Brèves, the Sultan Mehmed III added a new clause in the 'ahdname granted to the King Henry IV of France in February 1597. According to this new article, the pirates of Barbary were blamed for enslaving French merchants and asked to put them in liberty. Moreover, the responsibility of the *beylerbeyis* of Algiers, Tunis and Tripoli of Libya, who had tolerated or participated in the piracy activities, was emphasized.

Et d'autant que les corsaires de Barbarie allant par les portz et havres de la france y sont caressées, secouruz et aydez à leur advantage, de les piller et saccager en faisant les personnes esclaves contre nostre vouloir

²⁹ Garcés, *Cervantes*, p. 37.

³⁰ I. de Testa, *Recueil des traités de la Porte Ottomane avec les puissances étrangères*, Vol. I, Paris, 1864, p. 91–96; François Emmanuel Guignard, Comte de Saint-Priest, *Mémoires sur l'ambassade de France en Turquie et sur le commerce des Français dans le Levant, 1525–1770*, edited by Charles Shaffer. Paris, 1877, p. 385–393.

³¹ Saint-Priest, *Mémoires*, p. 381–392.

³² Richard Hakluyt, *The Principal Navigations, Voyages, Traffiques and Discoveries of the English Nation, made by Sea or over-land to the remote and farthest distant quarters of the Earth at any time within the compasse of these 1500 Yeeres: Devided into three severall parts, according to the positions of the Regions whereunto they were directed*, Vol. 3, Imprinted at London, 1598–1600, III, p. 60.

et celluy de l'Empereur Amourat nostre père, lequel pour faire cesser leurs violances et déprédations avoit diverses fois envoyé les puissans ordres et commandé par iceux de metre en liberté les Francois détenuz et restituer leurs actes d'hostilitez, Nous, pour y remédier, voullons et commandons avec ceste nostre capitulation Impérialle que les François pris sur la foy publique soient faitz libres et leurs facultés restituées: déclarant qu'en cas que lesdits corsaires continuent leurs brigandages, qu'au premier ressentiment qui nous en sera fait de l'Empereur de France, les vice Rois Gouverneurs des pais desquelz les voleurs et corsaires dépendront, seront obligez de paier les dommaiges et pertes qu'auront fait les François, et seront envoyées dudit Empereur.³³

François Savary de Brèves complained constantly by petitions (*'arz*) to the Sublime Porte about the piracy attacks against the French commercial ships. As a result of these petitions, the Sultan issued several Imperial commands, repeating his protection over the French vessels and merchants and his ban on any abuse against them. In the Başbakanlık Osmanlı Arşivi in Istanbul is preserved a register (*defter*) with Imperial commands dispatched between 1st June 1592–21st July 1597 (1 *Ramazan* 1001 – 2 *Zilhicce* 1005) to the governors, judges and other officials of Ottoman towns and provinces around the Mediterranean. Among them one can find also *hüküms* concerning the North African piracy, which were addressed to the local authorities of Algiers, Tunis and Tripoli of Libya.³⁴

The documents from the *Ms. Turc 130* completed the information from the above-mentioned register. It is about, especially, the *hüküms* of October 1597 and July 1598, addressed to the local authorities from the North Africa.

The first series of commands is dated from the third decade (*evahir*) of *Safer* 1006, but taking in consideration the French notes indicating *Écrit le 10 octobre 1597*, one can affirm that these *hüküms* were more precisely issued on 28 *Safer* 1006. Invoking the commercial privileges granted by the Imperial Charter of February 1597, François Savary de Brèves complained to the Ottoman Court that the corsairs and pirates from the three centers of the North Africa “had made prisoners the French merchants and robbed their ships”. As a result, the French merchants “abandoned the commerce into the Well-protected dominions”.³⁵

³³ BNF, Fonds Français no. 3653, f. 1r–6v; Saint-Priest, *Mémoires*, p. 398–410.

³⁴ This register is entitled *Fransa elçisinin 'arzu üzerine Tunus, Sakız, Mısır, Halep, Trablus-Sam, Galata, Cezâyir-i Garb, Rodos, Roma, Nakşa, Suğla ve İstanbul'un beylerbeyi, muhafız, kadı, bey ve sâ'ir ümerasına gönderilen hükümlerin kayıtlarını havi defter (Bâb-i Asafi, Divan Beylikçi Kalemî, Düvel-Ecnebiye, nr. 901 = BOA, A.DVN.DVE, 901, 12 folios; Bâb-i Asâfi Divan... Kalemli. Defter Kataloğu. 880–1252, p. 15)*

³⁵ BNF, DO, Turc 130, f. 200r–199v (*Cezâyir beylerbeyisine emr-i şerif ki gemiler ile Franca pâdişâhı istediği yere gide. Ecri le 10me octobre 1597*); f. 185v (*Tunis beğlerbeğisine hüküm* (above: *Cezâyir ve Trablusa bu minvâl üzere birer hüküm verilmiştir*; at the end: *Aus Bacha du Tunis*

Following the petitions submitted by the French ambassador, Mehmed III dispatched more circulars to the local authorities of Algiers, Tunis and Tripoli of Libya, such as governors, judges, commanders of janissaries, captains and soldiers (*beylerbeyine ve kadısına ve hassa ü gönüllü re'islerine ve yeniçeriler ağasına ve yoldaşlarına*). The Sultan's commands confirmed strongly and undoubtedly that the French subjects were beneficiaries of protection, and every Ottoman subjects should protect them: "henceforward, you had to be carefully that nobody make trouble to any French, contrary to the Imperial letter" (*min ba'd nâme-i hümayûna muhâlif Frâncaluları kimesneye rencide etdürülmeyüb beğâyet hazer eylesin*). At the same date, the Sultan dispatched an order to the captain Murad of Algiers (*Cezâyir-i Garb kapudânlarından Murâd re'is*). He asked him not to make prisoners and rob the combatants coming from Marseille, due to the friendship between the Sultan and the King of France. The latter informed directly the Sultan about these actions, which were contrary to the existent agreement between them, and the Sultan had already dispatched commands to the governors-general of Algiers, Tunis and Tripoli of Libya.³⁶

According to the *Ms. Turc 130*, another series of *hüküms* was dispatched from Istanbul to the the local officials of the North Africa on 5–14 July 1598 (*evâ'il-i Zilhicce 1006*). This month should be considered a turning point in the question of the French captives in the Mediterranean. In these orders, Mehmed III re-affirmed to the commanders of janissaries, to the heads and lieutenants of foot-soldiers from Algiers, Tunis and Tripoli of Lybia (*Cezâyir ve Tunis ve Trâblus-u Garbda olan yeniçeriler ağalarına ve yâyâ-bâşlarına ve kethüdâlarına*) the interdiction to practice piracy against the Western merchants, who entered legally into the Ottoman dominions.³⁷

The most important was a general command, summarized in its heading as being an 'imperial order for punishing those who did not obey to the Imperial command' (*emr-i pâdişâhiya itâ'at etmiyenlere siyâset olmak için hüküm-ü hümayûn*). In the text of this *hüküm*, the addressees were both the Ottoman governors-general, governors and the ship captains (*beylerbeyi, beyi, kapudan, re'is*), who made prisoners the French merchants, as well as the merchants protégés of France, and robbed their merchandise, contrary to the Imperial Charter granted to the King of France. Moreover, they were accused that did not apply in practice the Imperial commands to release the French captives made abusively.³⁸

Aus fins que il donna une galere Au motaferaga & aus hommes de l'ambassador de France pour les gider en Arger écrit le 10 octobre 1597; f. 184r–183v (*Cezâyir kapudânlarından Murâd re'ise*); f. 183r–182r (*Trablus beylerbeyine ve kadısına hassa ve gönüllü re'islerine ve yeniçeriler ağasına ve yoldaşlarına. Tunis ve Ceza'ire bu minvâl üzere hükümler verilmiştir*).

³⁶ BNF, DO, Turc 130, f. 184r–183v.

³⁷ BNF, DO, Turc 130, f. 140v–r (*Cezâyir ve Tunis ve Trablus-u Garbda olan yeniçeriler ağalarına ve yâyâ-bâşlarına ve kethüdâlarına*).

³⁸ BNF, DO, Turc 130, f. 147v–146v (*Emr-i padişahiya ita'at etmiyenlere siyaset olmak için hüküm-ü hümayun*).

Neither the Imperial Charter of February 1597 nor the Imperial commands (*hüküm*) dispatched in summer and autumn the same year put an end to the abuses committed by the local officials in Algiers, Tunis and Tripoli of Libya against the French ships and merchants.

Consequently, François Savary de Brèves continued to complain to the Ottoman dignitaries in Istanbul. Moreover, this question was submitted to the attention of the Grand Mufti, who would be asked to express the Islamic legal point of view on the piracy actions of local governors' against the Frenchmen. This *fetvâ*, copied also in the *Ms. Turc 130*, was issued by Mehmed bin Sa'adüddin in 1601–1603, when he occupied for the first time the office of *şeyh ul-islam*.³⁹

He started the legal opinion by affirming that it was absolutely and lawfully necessary to act according to the conditions and rules which had been included into the renewed Imperial Charter. In this way, it would be protected the friendship of the King of France, who is a lasting <and> old friendship of the ancestor grandfathers, with the Happy Padişah, the master of world (*cedd-i dostlukda sâbit kadem olan Franca kiralının dostluğun hıfz için*). In the first answer (*el-cevâb*), Mehmed bin Sa'adüddin replied that the new clauses from a *'ahdnâme* should be explained to their addressees, such as the provincial officials.

In a related legal opinion, it was shown that, contrary to the Imperial Charter (*hilaf-ı 'ahdnâme-i hümayûn*), a local official – called generically Zeyd – gave his own galley to *levendat* and sent it to make piracy (*hükâmıdan Zeyd kendü kadırgasın levendata verüb korsanlığa gönderüb*). When one from the French ships had loaded merchandise with permission and protection from the Well-Protected Dominions and come back to the French country, the Zeyd's galley came across and confiscated some merchandise from the French ship (*Franca vilâyetine giderken rast geldüklerinde niçe metâ'ların gâret eyleyüb*). The problem (*mesele*) here was whether it should be punished a *hâkim* (a generic term for designating any local official), who participated to or tolerated the piracy, personally or by lending his ship.

In final answer to this specific question, Mehmed bin Sa'adüddin laid out the needed punishment. Accordingly, the Ottoman local official should pay damages for the seized merchandise, because his action was considered as being contrary to the pact with France. Of course, this punishment would be applied after it was concluded that Zeyd was, indeed, the person who had pillaged the French ship,

³⁹ This legal consultation is signed *Ketebehü elfakir Mehmed bin Sa'adeddin ufiye anhüma*. This signature belonged to Mehmed Efendi (Hoca Sa'adeddin Efendizade), *şeyh ül-Islam* in 1601–1603 (for one year and five months), and between 1608–1615 (for seven years). He was one of the sons of the famous chronicler Sa'adeddin, being born in 1568. His signature can also be identified at the end of other fourteen *fetvâs* (nos. 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17) copied by Savary de Brèves in this manuscript (*İlmiye Salnamesi. Osmanlı İlmiye Teşkilâtı ve Şeyhülislâmlar*, Matba'a-i Âmirce 1334 / 1916 (edition in modern Turkish transliteration), Ankara, 1998, no. 24; I.H. Danişmend, *İzahlı Osmanlı Tarihi Kronolojisi*, Cilt 5, Türkiye Yayınevi, İstanbul, 1947–1948 (reprinted, 1971), p. 118–9).

being verified and estimated without doubt what merchandise had been seized and deposited on his own ship.

So, the *şeyh ül-Islam* strongly blamed the involving of the Ottoman officials in piracy, because they should carefully observe the clauses of the *Capitulations* granted to the King of France. In this respect, it was emphasized the article of the Imperial Charter of 1597, saying “the goods and provisions confiscated contrary to the Imperial Charter be indemnified to the owner”. Here, Mehmed bin Sa’adüddin has given the answer which the Sultan required, legitimating the punishment of the central government in Istanbul. When a governor did not put in practice the Imperial orders asking to give back the pilleged goods, he should be removed from his office (*hâkim-i zâlim mahall-ı hükûmetinden ref’ olunmak lâzımdır*). The main invoked reason is that that Ottoman official affected severely the peace between the Sultan and the King of France.⁴⁰

Here is the transliterated text of this *fetvâ*:

BNF, DO, Turc 130, f. 26v:

- (1) *Bu mesele bayânında e’imme-i hanefiyeden cevâb ne vechledir ki:*
 (2) *Sa’âdetlü pâdişâha ‘alempenâh hazretlerinin Âsîâne-i ‘izzet aşyânlarıyla abâ’an cedd-i dostlukda sâbit kadem olan Franca*
 (3) *kıralının dostluğun hıfz için müceddeden ‘inâyet olunan ‘ahdnâme-i hümâyûnda derc olunan şurût ü kuyud ile ‘amel meşrû’ mudır?*
 (4) *Beyân buyurula.*
 (5) *El-cevâb: (6) Şurût beyân olunmak lâzımdır.*
 (7) *Suret-i mezbûrede hilaf-ı ‘ahdnâme-i hümâyûn gâret olunan emvâl ü erzâk kanğı hâkimin zamânında olursa ana tazmîn etdirile (8) deyü zikr olunan ‘ahdnâmede musarrah iken hükkâmdan Zeyd kendü kadırgasın levendata verüb korsanlığa gönderüb Franca gemilerinden emn (9) ü-âmân ile Memâlik-i mahrûseden metâ’ tahmîl edüb Franca vilâyetine giderken rast geldüklerinde niçe metâ’ların gâret eyleyüb hilaf-ı (10) ‘ahd gâret olunduğuna Zeydin ‘ilmi variken kendü gemisine düşen hisseyi kabul ü kabz eylediği muhakkak olduğu takdirce ‘ahdnâme-i (11) hümâyûnda derc olunduğu üzere gâret olunan metâ’ şer’ en Zeyde tazmîn lâzım olur mu? Beyân buyurula.*
 (12) *El-cevâb: (13) kendüsine düşende olur evâmir lâzimet ül-itâ’at sultâniyeye itâ’at eylemeyüb hilâf-ı ‘ahd böyle mezâlîme rızâ veren hâkim-i zâlim mahall-ı hükûmetinden (14) ref’ olunmak lâzımdır.*
Ketebehu el-fakîr Mehmed bin Sa’adeddîn ‘ifâ ‘anhümâ.⁴¹

⁴⁰ On “The Fixed Penalties”, see Colin Imber, *Ebu’s-su’ud. The Islamic Legal Tradition*, Stanford University Press, Stanford, California, 1997, p. 89–94. Also, see Uriel Heyd, *Studies in Old Ottoman Criminal Law*, Oxford, 1973.

⁴¹ BNF, DO, Turc 130, f. 26v (fetva 2+2a).

The old clauses which had forbidden the piracy against the Frenchmen were also registered in the Imperial charter of 1604, but in an enlarged form. Confirming all anterior orders, which had been issued by his ancestors, the Sultan Ahmed I granted to the King Henry IV the right to intervene directly against the pirates of Barbary. This authorization was given considering the Ottoman authorities hammered away at the problem of piracy, as it is abundantly proved by documents from the *Ms. Turc 130*.

Bien que les corsaires d'Alger soient bien accueillis dans les ports français ou ils se procurent de la poudre, du plomb, de la voilure et d'autres agrès, cela ne les empêche pas de piller les bâtiments français, quand ils les rencontrent, et de faire esclaves ceux qui sont à bord. Maintes fois, feu mon père a donné à cet égard des ordres, dont ils n'ont pas tenu compte, et ils ont continué leurs brigandages. De pareils méfaits encourageant ma propre réprobation, si des Français ont été faits esclaves de cette, ils seront mis en liberté, et leurs biens leur seront restitués. Puis, si dorénavant le roi nous dénonce, par lettres royales, de nouveaux brigandages, de la part de ces corsaires insoumis, le *beylerbeyi* sous l'administration duquel ils auront en lie, sera destitué et rendu responsable des indemnités à payer pour le pillage commis.

Enfin, si, malgré mes ordres impératifs, ces corsaires, ne se tenant pas pour dûment avertis, persistent dans leur désobéissance, le padichâh de France leur fermera ses places et ports, et avisera aux moyens de se faire justice lui-même; et, confirmant la précédente déclaration de mon père, je déclare à mon tour "que cela ne rompra nullement l'alliance conclue entre nous; et que je réserverai aussi bon accueil aux plaintes qu'aux bons témoignages du roi, à cet égard."⁴²

Nous consentons aussi et aurons agréable, si les corsaires d'Alger et Tunis n'observent ce qui est porté par cette notre capitulation, que l'empereur de France leur fasse courir sus, les châtie et les prive de ses ports, et protestons de n'abandonner pour cela l'amitié qui est entre nos majestés impériales, approuvons et confirmons les commandements qui ont été donnés de notre défunt père pour ce sujet.⁴³

Marseille's commerce was directly affected by the Barbary corsairs in early-seventeenth century. An extreme action took place in June 1604, when the

⁴² This is the French translation of the Ottoman text from Ahmed Feridun Bey (M. Belin, *Des Capitulations et des traités de la France en Orient*, Paris, 1870, p. 124. See also, Bibliothèque d' Arsenal, Ms. 4769 (Tome III), f. 299–322; Ahmed Feridun Bey, *Mecmu'a-ı Münşe'at es-Selâtin*, II, Istanbul, 1264–1265 / 1848–1849, p. 400–405; Saint-Priest, *Mémoires*, p. 420–430.

⁴³ This final paragraph can be found in the variant published by Ignace de Testa (Testa, *Traité*, Vol. I, p. 146).

janissaries of Bône, supported by the Algerian galleys of Murad *re'is*, destroyed the *Bastion* of France.⁴⁴

Advice for destroying the pirates of North Africa continued to come from more directions, also, after François Savary de Brèves left Istanbul. The most professional recommendations addressed to the authorities in Paris came from the French ambassadors and consuls in the Ottoman dominions. For instance, Gontaut Biron Baron de Salignac, French ambassador at the Ottoman Court in 1605–1610, wrote to the King Henry IV in March 1609 that “il seroit bien plus honorable de faire une descente en Barbarye, y prendre, sacager et ruyner Byserte en plein jour avec artillerye, bien que la place ne la mérite pas, et y demeurer tant de temps que ceux de Thunis et d’Arger”.⁴⁵

Marseille should be the first interested in destroying the Barbary piracy. There is evidence of a lot of plans but of less actions. Certain actions against Algiers took place, but they were too prudently or insufficiently prepared. In practice, no European power was implied decisively to eradicate the North African piracy.⁴⁶

⁴⁴ Charles de la Roncière, *Histoire de la marine française. IV. En quête d’un empire colonial*. Richelieu. Paris, 1910, p. 365.

⁴⁵ BNF, D. Occid, Fr. 16146, f. 235, cf. Roncière, *Marine française*, 365, n. 6. For other information, see *Ambassade en Turquie de Jean de Gontaut Biron, baron de Salignac, 1605–1610. Correspondance diplomatique & documents inédits*, ed. Comte Théodore de Gontaut Biron, Archives Historiques de la Gascogne, no. 19. Paris, 1889.

⁴⁶ In 1600, the captain of a Provence’s ship wrote and made known a plan, called *Dessein pour aller bruler les vaisseaux de Tunis*, to destroy the pirate ships which sheltered in the port of Tunis (Eugène Plantet, *Correspondance des Beys de Tunis et des Consuls de France avec la Cour. 1577–1830*, Vol. I, Paris, 1893, doc. 4).