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MĀLIKĀNA
(lifelong lease of governmental estates in the Ottoman state)

In the ownership relation structure of the Ottoman Empire, whose feudal system was based on government property on land (*erazi miri*), there existed a very interesting establishment – *mālikāna*, a lifelong lease of governmental estates. This establishment is interesting not only for its legal character but also for the fact that it enabled the upper layers of the Ottoman society in provinces to strengthen their economic position and that it influenced in a particular way the strengthening of the feudal anarchy in Turkey during 18th and 19th centuries.

The term *mālikāna* itself is a Persian expression derived from the Arabic word *mālik* – “owner, lord, ruler”.¹ In the Ottoman Empire this term had been used with different meanings long before the establishment of malikana as a longlife lease of governmental estates.

Malikana designated the category of land property (or some other estate) given by the sultan as an entire property (milk, mulk) without any limitations or obligations. The sultan used to present in this way members of his family (sultan’s wife), meritorious men of highly placed positions, some beys from border areas and so on.²

Another form of malikana, especially frequent in Anadolia, is known as *malikane divani* and it represented the estate whose revenues were divided between its owner and the state. Besides physical persons it was often enjoyed by vakufs (*vaqif*). Besides the right to dispose of the estate, the owner had the right to collect tithe of main agrarian products, while the state reserved the right to collect *avariz-i divaniye*, extra taxes

¹ S. Sāmi, *Kāmūs-i Türki* 1260; Branislav Đurđev, *Prilog pitanju razvitka i karaktera turško-osmanskog feudalizma – timarsko-spahijskog uredenja*. Godišnjak Istor. društva BiH, I, 1949, 115.

² Cf. H. Hadžibegić, *Rasprava Ali Čauša iz Sofije o timarskoj organizaciji u XVII stoljeću*. GZM new series, vol. 2, 1947, pp. 184, 186.

and some supplementary tributes from dependent peasants. A vakuf or an owner of mulk enjoyed only a part of revenues designated by the term *malikâne hissasi* in contrast to the state's part which was called *divani*. That is why this form of malikana was named *malikâne-i divāni*.³

In contrast to the first one, this kind of malikana could be designated as an "incomplete malikana". Its owners were denied many of their rights. The state collected a part of revenues from these estates and this, by all means, reduced their value. The state usually awarded spahiyas with its part of revenues (*divani*) giving it as a timar and thus connecting this kind of a land property with its feudal system which in this way strengthened on the basis of imobile governmental property (*erazi miri*). Consequently, malikane *divani*, in contrast to the first, complete malikana, was not exempted from all tributes collected by the state, although as a property it was completely owned by its proprietor. These tributes, to be sure, were not accompanied by proprietor's duty to accomplish some service for the state. He was only obliged to undergo limitations of his economic immunity which in this case consisted of taking of considerable part of revenues by the state for the interests of the ruling class.

During the development of the Ottoman feudalism there existed a third kind of malikana which most resembled proper feudal estates whose proprietors had bigger obligations towards the state. This is in fact a particular kind of timar known as *mülk eskinçili*. The legal nature of this malikana (mulk) is similar to that of the first and second kind, for its holder had full right to dispose of it and his male and female descendants had the right to inherit it. The proprietor was only obliged to equip and place into government's disposal in case of need a certain number of armored soldiers (*cebeli*). If the proprietor disregarded this obligation, he still could not be deprived of his timar. As a sanction for disregard of this obligation the government had the right to take by force the annual revenues from the timar, for the year in which the proprietor failed to fulfill his obligation.⁴

As we can see, at the time of establishment of the Ottoman feudalism and state there were different kinds of mulk estates with more or less rights or obligations of their holders. All these kinds of mulk estates represent, as a matter of fact, transitional categories, temporary and sporadic occurrences, temporary compromise to final consolidation of the main form of land property in the Ottoman state — *erazi miri*.⁵ Complete dominance of governmental land property and the

³ İsmail Hakkı Uzunçarşılı, *Osmanlı Devleti Teşkilâtına Medhal*, İstanbul 1941; Ömer Lütfi Barkan, *Malikâne divani sistemi*, Türk Hukuk ve İktisad Tarihi Mecmuası, cilt II, İstanbul 1939.

⁴ H. Hažibegić, op. cit., p. 186.

⁵ Nedim Filipović, *Pogled na osmanski feudalizam*, Godišnjak Istor. društva BiH, IV 1952, pp. 19–20.

timar system built on its basis were to give later the decisive blow to residues of the earlier epoch in the realm of land relations as well. Different kinds of malikana gradually disappeared, assimilating with the timar system or becoming vakufs.⁶

Only later, towards the end of 17th century there appeared in quite different conditions another malikana with diametrically opposed characteristics. It appeared as a lifelong lease of governmental estates which had been used until then, exactly until 1695, as annual leases (*mukata*).⁷ My paper is devoted to this kind of malikana. I shall deal with the time and reasons of its establishment, with its legal nature and its economic and social consequences.

This kind of malikana was mentioned in passing by some Yugoslav and foreign authors in general works on political and legal history of the Ottoman Empire or in works dealing with other questions.⁸ For all we know this problem has not so far been the subject of a separate treatise. The things that have been said about this kind of malikana are far from being capable to solve all aspects of its demonstrations or to determine its proper place in the economic, social and political life of Turkey at the

⁶ N. Filipović, op. cit., pp. 30–31.

⁷ Until the introduction of the system of malikana the collection of revenues from imperial or governmental *has*, as well as the collection of other state incomes, had been performed in two ways. At first, while the state itself exploited its estates, it committed the collection of its revenues to special officials called *emins*. This function was usually committed to members of sultan's body guards – imperial *spahiyas*. During the rule of Mehmed II a new system of collection of state revenues was established – governmental estates were rented out as one year leases (*iltizām*). The price was fixed in advance and it was paid in money for one year. This amount of money was denoted by the Arab expression *mukata*, which means "something that is cut off", and that is why the estates rented out in this way were simply called *mukata*, for example *mukata filuriye* of the imperial *has*, "mukata of the Gypsy *džiziya*", "mine mukata", etc. The business with mukatas, just as with malikanas later, was controlled by quadis. According to his official duty the quadi was obliged to control business between lessees and emins and to prevent possible abuses in this business. Superior control was carried out by the *defterdar* of the province in which a mukata was situated and in some cases the sultan appointed his special deputies as supreme controllers, so called *mufetish*. This function was most often committed to provincial quadis, usually those of the highest rank (*mula*). The whole mukata system was managed by the supreme state financial body, *maldefterdar*, in Istanbul. He was authorised to determine the way of renting out governmental estates (*mukata*), as well as the way of collection of mukata revenues.

⁸ Muradgea D'Ohsson, *Tableau général de l'empire Othoman*, Paris 1820, pp. 533–534; Joseph von Hammer, *Geschichte des Osmanischen Reiches*, Bd. VI, Pest 1830, p. 597; M. Belin, *Essais sur l'Histoire Economique de la Turquie*, Journal Asiatique, Serie VI, Tom III–V, Paris 1864–1865; Ismail Hakkı Uzunçarşılı, *Osmanlı devletinin Merkez ve Bahriye teşkilatı*, Ankara 1948, pp. 378–9; Novaković Stojan, *Tursko carstvo pred Srpski ustanak 1870–1804*, Beograd 1906, p. 80; Ćiro Truhelka, *Historička podloga agrarnog pitanja u Bosni i Hercegovini*, GZM XXVII, 1915, pp. 148 and further; Dr Branislav Nedeljković, *Istorija baštinske svojine u Novoj Srbiji od kraja XVIII v. do 1931*, Beograd 1936, pp. 115–120; Hamdija Kreševljaković, *Kapetanije u Bosni i Hercegovini*, Sarajevo 1954, pp. 54–55.

time of its regular use. Moreover, we are still to face a number of unsolved problems which are of uttermost importance for the understanding and estimation of the role of this interesting institution.

1. THE ORIGIN OF MALIKANA

There are different opinions when the date of the establishment of malikana is in question. Hammar and Uzunçarşılı support the opinion that malikana was established at the beginning of 1695 by a firman of sultan Ahmed II⁹, while D'Ohson, who also quotes that it was established in the beginning of 1695, connects its origin with an order of sultan Mustafa II.¹⁰

These differences are probably due to the fact that exactly at the time of discussion and adoption of malikana there occurred a change on the throne. It is quite possible that the proposal for the introduction of the malikana system was submitted to sultan Ahmed and that he, having accepted it, suddenly died (February 7th, 1695) without having formally legalized malikana what was accomplished by his successor sultan Mustafa II. This assumption is based on the data of the two oldest firmans about malikana. These are: the firman of 25th cemaziyevvel 1106 (January 1st, 1695) in which malikana is first mentioned and introduced and a firman of 1127 (1714–15) which prescribed repealment of all kinds of malikana except the ones indicated by the first firman.

Incomplete text of the first firman was first published by its contemporary, defterdar Hadži Mehmed-pasha (Damad) in his work *Zubde-i vekāiyāt*.¹¹ A more complete text, taken probably from the original, was published by Rashid.¹² This text was used by Belin.¹³ The French translation of the text was translated into Turkish by M. Ziya Karamursel when translating Belin's *Economic History of Turkey*.¹⁴ The second firman is also to be found in this work. We have used the ones in Karamursel's translation of Belin's work.¹⁵

The first firman is important because it presents almost completely the legal nature of malikana, but its data are insufficient for the determination of the date of its legalization. According to this firman, which has probably been preserved only in the form of a draft, the idea

⁹ Hammer, op. cit., p. 597; Uzunçarşılı, *Merkez ve Bahriye teşkilatı*, p. 378.

¹⁰ D'Ohsson, op. cit., p. 533.

¹¹ Defterdar Hadži Mehmed-pasha (Damad), *Zubde-i vekāiyāt* (the manuscript in the National Library in Vienna), pp. 292–293.

¹² *Tārīh-i Rashid* II, 288.

¹³ M. Belin, op. cit.

¹⁴ M. Ziya (Karamursel), *Türkiye iktisadi tarihi*, Istanbul 1931, pp. 172–174.

¹⁵ M. Ziya, op. cit., pp. 194–196.

to give certain governmental estates as lifelong lease originated from that time defterdar Köse Halil-pasha,¹⁶ who suggested, as the firman cites, to sultan Ahmed II that the governmental mukats (estates) in Sham (Syria), Halep, Dijarbekr, Mardin, Adana, Ajintap and Tokat should be given ("sold")¹⁷ as a lifelong lease (kaydi hayat sartile) – malikana – instead of annual leases.

This firman is dated January 1st 1695. On this day a proposal (layiha) in the form of a firman was submitted to sultan Ahmed II and he accepted it. However, it is difficult to conclude on the basis of this document whether the same sultan promulgated it or did he only hear it and approve it having been prevented by sudden death to promulgate it as well.

This problem is solved by the data from the second firman (from 1715) which indicates that malikana had not been legalized before the time of sultan Mustafa II, for this firman, inter alia, states: "Hudavandigari sabik Sultan Mustafa Han Hazretlerinin zamani saltanatlarında Köse Halil Paşa Defterdar iken Şam ve Halep ve Diyarbekir ve sair ol etraflarda vaki mukataata şurut bağlanip malikane verlimek üzere telhis . . ."¹⁸

After the comparison of the data from the cited firmans it seems most appropriate to conclude that the establishment of malikana was suggested and adopted at the end of the rule of sultan Ahmed II and that it was legalized and practically used by his successor Mustafa II in the first months of 1695.

2. THE REASONS FOR THE IMPOSEMENT OF MALIKANA

It is impossible to overlook the fact that Malikana was introduced during hard and critical moments of the Ottoman history, at the time when the Ottomans were exposed, after the defeat near Vienna in 1683, to strong pressures of Austria, Russia, Venice and other foreign powers. In connection with this, we must ask why it was necessary to impose in this time a measure which was, from the aspect of Turkish state's economic

¹⁶ This defterdan was the deputy in Bosnia in 1698 (S. Bašagić, *Kratka uputa u prošlost Bosne i Hercegovine*, Sarajevo 1900, 180).

¹⁷ The firman says "juruht olup" which literally means "sale". We have translated it as "renouncement" for it seems to us more adequate for the business which occurred in this way. It is interesting that Dubrovnik people, in their letters addressed to Turkish authorities in Hercegovina, when dealing with the acquirement of malikana denoted this relationship by the terms "buying and selling" (cf. Hamdija Kapidžić, *Veze Dubrovnika i Hercegovine u XVIII v.*, Gajret, the calendar for 1939; the same author, *Stolac u XVIII v.*, Gajret, the calendar for 1940).

¹⁸ M. Ziya, op. cit., pp. 194–5.

interests, very unpopular. Many reasons for this have been given in passing and in the form of simple constataions.

As to this question, there are also, generally speaking, two conceptions. D'Ohson and Hammer think that the main motive and reason for the imposition of malikana was caused by central government's wish to prevent renters' abuse of governmental estates given as annual leases and to improve in this way the management of its estates. Truhelka and Uzunçarşılı proceed from the fact that malikana was introduced in the time of hard economic crisis which shattered Turkey towards the end of 17th century and that it was imposed as a means of alleviation of government's financial difficulties.¹⁹

The second opinion takes into consideration historical facts and it is the only possible.

If we consider surveys of the financial state of the Ottoman country given in Belin's and Vefikbey's works, we shall notice the fact that in the first centuries of its existence it had enjoyed considerable financial stability, but that it had been occasionally disturbed since the very beginning. The disturbance of financial balance had become more evident towards the end of 16th ct. and at the turn of 17th century. Since then it had become a constant phenomenon and had reached its critical point at the time of the Turkish campaign to Vienna in 1683.^{19a}

With their defeat near Vienna and offensive pressures of Austria, Russia, Poland and Venice, the Ottomans were to face new difficulties, particularly financial ones which would never be completely eliminated.

The waging of a hard defensive war after the Vienna defeat imposed to the exhausted state treasury new demands which had to be solved without delay. Further tax imposition which had constantly increased during 17th ct. and which represented the main means of solving financial problems in war conditions in the Ottoman state, would have been very risky and it was therefore temporarily avoided only to be used again in the first decades of 18th ct.²¹ In such conditions responsible

¹⁹ Čiro Truhelka, po.cit., po. 148-9; Uzunçarşılı, op. cit., pp. 378-9.

^{19a} On financial circumstances in the Ottoman state and the ways of overcoming financial difficulties before the introduction of malikana, cf. A. Vefik, *Tekalif kavaid* and M. Ziya, op. cit.

²⁰ Forseeing the danger of excessive burdening of subjugated people by extra taxes in the condition of strong offensive of the mentioned powers as well as the danger of massive uprisings of subjugated raya, the Grand Vizier Mustafa-pasha Čuprilić ordered the abolishment of some extra tributes such as "shakka", "sursat", "nefir-i am", "bedel-i nuzul", etc. (cf. M. Ziya, op. cit., p. 167). The same Vizier issued an order in 1690 with the same motifs and forbid temporarily the collection of all taxes for the state from Christians, except for *harač* (Hammer, op. cit., VI, p. 551).

²¹ During 18th ct. the number of extra taxes constantly increased and at the end of the century it amounted to 97. The names of taxes best indicate for what nonsense taxes had to be paid. Besides different taxes taken for military needs and administrative needs in the center and in provinces, they also collected aid for the payment of interests for

Turkish statesmen had to find out all the possible ways in order to acquire necessary resources. The demands for resources constantly increased because of a new way of army mobilization (*nefir-i am*; *miri lewend*)²², mobilization of men and materials for fortress building, etc. Consequently, different measures were taken, some of which had been used before, such as resmelting golden and silver objects from the imperial treasury into money, addressing wealthy social ranks for help²³, forging copper coins²⁴, taking loans from wealthy tradesmen and city leaders known as "imdadiye"²⁵, etc. When all these measures failed to prevent even in slightest ever increasing financial difficulties or to satisfy financial needs caused by permanent war waging, the central government could not avoid making a move which would later have negative consequences, that is to sell as lifelong leases — *malikana*²⁶ some of the estates (*has*) which had until then been exploited as annual leases (*mukat*). In this way the government began to undermine the last mainstay of its former powerful economic foundation, based mostly on revenues from its own domains.

3. LEGAL NATURE OF MALIKANA

The decision to give up governmental estates as lifelong leases — *malikana* — was probably not made without previous thorough consideration. This supposition is indirectly supported by the fact that there were certain delays in the imposition of *malikana*. It seems as if the responsible statesmen had well studied this question before submitting the proposal to the sultan, for they were at least partly aware of its negative consequences. The legal nature of *malikana* itself shows that its authors tried to protect state interests as much as possible by the legal principles on which it was based, that is to preserve for the state the right to take a part of revenues from the "sold" estates. It goes without saying that in such circumstances former *malikanas* could not serve as prototypes for this

state loans, aid for Grand Vizier's *bakshish*, tax for "teeth", which was motivated by the fact that state officials used their teeth when eating in peasant houses on their journeys, and finally three taxes were taken "for air" (*tayyarat*). Cf. A. Vefik, *op.cit.*; *Uzunçarşılı, Merkez ve Bahriye teşkilatı*, pp. 319–323; *Tarihi Rasim III*, 1154–1165; Col. Lamouche, *Histoire de la Turquie*, Paris 1934, pp. 184–185.

²² *Nefir-i am* or *mir-i lewend* are the terms which were used to denote the army gathered by means of mobilization of Moslem people capable to carry arms (*harba zarba kadir olan*). This kind of mobilization began to be used more often at the end of 17th ct. and in the course of 18th ct. it became a regular practice. The term *nefir-i am* was also used with the meaning of a "tribute" for the needs of this army.

²³ M. Ziya, *op.cit.*, p. 164.

²⁴ M. Ziya, *op. cit.*, p. 165 and further; Hammer, *op. cit.*, Bd. VI, pp. 554–5.

²⁵ *Tarihi Rashid I*, p. 496; *Zudbe-i vekaiyat* p. 71–72.

²⁶ M. Ziya, *op. cit.*, pp. 172–174.

new malikana whose authors did not want to put it at full disposal of its future holders. Therefore they found another model which could best suit its purpose and according to the firman of the imposition of malikana from 1695, a form of landlease in Egypt served as a model.²⁷

As it is known, when the Ottomans conquered Egypt (1517) they strengthened the found land property relations and did not impose the regime of *erazi miri* to them nor did they introduce the *timar* system, but they established a lease system according to which lessees had their leases as lifelong properties paying the state a certain amount annually as rental fee.²⁸ Uzunçarşılı states, however, that at the first time of the Islam rule in Egypt the same system of land property as in other regions of the Islam state was in effect and that by the time it had undergone an evolution. He thinks that just like in other regions of the Islam state the system of *ikta'*²⁹ later developed in Egypt. According to this system the revenues from land (*harač* and other taxes) were given to soldiers as their wages while the rest was used for other governmental purposes. During the Umayyad (661–749) and Abbasid (749–1285) dynasties the land in Egypt was given to meritorious commanders according to the *ikta'* system. They would parcel the land out and rent as four year leases. Only during the rule of Mameluks (1250 – 1517) the system of lifelong leases was introduced in Egypt. Lessees were given the rented estates for lifelong enjoyment after they had paid a compensation (which was a sort of price of the renounced estates) and they were also obliged to give the state some amount annually as a tax or rather as the annual rental fee. Such land property relations had been found in Egypt by the Ottomans and they themselves had developed them.³⁰

We cannot go further to deal with the interesting question of the evolution of land property relations in Egypt which even in Islam times must have reflected influences of older civilisations especially the Roman and the Byzantine ones. We shall only point to the indisputable fact that the mentioned rental relations on land in Egypt served as a model for the impositions of new relations on governmental estates (has) given as malikana. This is confirmed by the firman about the imposition of malikana from 1695 in which the main principles of malikana basically coincide with the principles of rental relations in Egypt as they were described in the quoted work by Uzunçarşılı. Both on the estates given as malikana and on the estates in Egypt the lessees had double obligations

²⁷ Ibid.

²⁸ Hammer, op. cit. III, pp. 478–9.

²⁹ About the meaning of the term *ikta'* cf. Tischendorf, *Das Lehnswesen in der moslemischen Staaten insbesondere in Osmanischen Reiche*, Leipzig 1872. About the influence of this system on the Turkish feudal system there is more detail at Đurđević, op. cit.

³⁰ Uzunçarşılı, *Osmanlı devleti teşkilatına Medhal*, pp. 430–431.

towards the state which remained the nominal proprietor of the rented estates. The first obligation consisted of giving an amount of money on the occasion of receiving a rented estate (*nastupnina*). The second obligation consisted of paying regular annual amounts corresponding to the former one year rental fee. Fulfilling these basic and some supplementary obligations introduced later, the lessees acquired the right to enjoy the rented estates for life and without disturbance. Certain rights were guaranteed to their heirs as well. All these rights and obligations were made concrete in various records of the central government³¹ and the presentation of the real legal nature of *malikana* was based on them.

Introducing the system of renouncement of governmental estates (has) for lifelong enjoyment on the principle of land leases in Egypt, the firman from 1695 stated that *mukats* in villages of the imperial estates in Syria, Halep, Diyarbekr Mardin, etc, should be "sold" for lifelong enjoyment (*hayatta oldukça malikaneye mütassarif olmak şartile*) for the price of three annual *mukat* fees. The firman stated further that this amount should be paid in advance and therefore it designated the price by the expression *muadždžela* (*muaccel/* that which is given in advance, *nastupnina*).³²

The same firman obliged the lessees of *malikana* to pay every year a fixed amount for the *mukat* rented as *malikana*. This was in fact the partial or whole price that had earlier been paid for the one year *mukat*. The annual rental fee is designated by the firman from 1695 by the expression *mal-i maktu* (fixed amount of money), while the firman of 1705 referred to it as *mal-i miri* (state money). In bibliography, just as in the case of *vakufi džaretejn*³³, it is denoted by the term *muedžedžele* (*mueccel/* back payment).³⁴ Together with the payment of *muedžedžele* the lessee of *malikana* was obliged by the firman from 1695 to pay an annual amount as a tax for administrative expenses which is called *kalemiya*³⁵ in the firman.

³¹ In this respect, besides the mentioned firmans about *malikana*, a firman from 1767 is especially important and its copy is to be found in Gazi Husrevbey's Library in Sarajevo, *sidžil* No. 5, p. 110 (in further citations GHBb). O. Mušić contributed to its translation as well as that of many other firmans, for what we would like to thank him.

³² M. Ziya, op. cit., p. 173.

³³ *Vakuf idžareteyn* was very similar to our *malikana* as for its legal construction, for it also included double obligations, that is there was a double relationship between the lessee and the one who gave a lease, a *vakuf* in this case. The lessee would take a *vakuf* estate (usually a shop) for lifelong enjoyment instead of an one year lease (*mukata*) with double obligation. Its first part consisted of paying the *vakuf* a certain amount of money in advance (*muadžžela*) just as in the case of *malikana*. The second part of obligation consisted of paying a certain amount every year instead of the former one year rental fee (*muedžžela*). For more detail about *idžareteyn vakuf* cf. Ćiro Truhelka, *Gazi Husrev-beg, njegov život i doba*, Sarajevo 1912, p. 99.

³⁴ D'Ohsson, op.cit., p. 533; M. Ziya, op.cit., p. 173.

³⁵ M. Ziya, *ibid*.

As we have seen the same rental obligations as in Egypt were established on malikana, that is they were constituted as double rental obligation – one part consisted of paying in advance and forever a rental fee similar to a selling price (*muadždžele*) and another consisted of regular annual obligation of back payment (*muedždžela*) which represented the former price (or a part of it) of the mukata given as malikana.

Some other obligations were established by later regulations which had to be paid by malikana lessees, such as licitation tax, *resmi delaliye*³⁷, and a special tax for malikana and mukata revenues called *cebeli resmi*.³⁸

Besides the mentioned general obligations, some malikanas had to give other tributes. There was for example a special tax for the grand vizier paid whenever he approved that a cattle tribute mukata would be given as a malikana.³⁹

These would be all the obligations that malikana lessees had towards the state. As we have seen, they were all material and their amount was sometimes considerable. That is why lessees' rights were also broad. They were meant to ensure their holders complete exploitation of the rented estates. According to the firman about the establishment of malikana as well as to later firmans about malikana, as long as a holder paid *muedždžela* to the state treasury or to those for whom the revenues of malikana⁴⁰ were intended, he had the lifelong right to enjoy the rest of the revenues.

³⁶ Further on in this paper the main two obligations of a lessee are denoted simply by the terms *muadžela* and *muedžela*.

³⁷ This was, in fact, a tribute connected with administrative expenses of the auction. It was taken from the future holder of malikana who had acquired it at the auction, which is shown in a firman from 1835 concerning the malikana of the Gypsy džizija mukata in the Bosnian pashaluk. (Oriental Institute Sarajevo, sidžil No. 23, p. 43. In further citations OIS).

³⁸ Uzunçarşılı, *Merkez ve Bahriye teskilati*, p. 739.

³⁹ Uzunçarşılı, *op. cit.*, p. 164.

⁴⁰ The revenues from mukata, now given as malikana, had been used for wages of some payed branches of service, mostly for the wages of border fortresses' garrisons. The revenues of a certain mukata were strictly aimed for wages (*mevadžib*) of the soldiers (*nefer*) of a particular fortress. In order to prevent the spending of these resources for other purposes and to ensure a number of permanent guards of fortresses and fortifications on borders, the central government had very early begun to apply the *odžakluk* system to these wages – it entitled the guards for lifelong performance of this service and their heirs to inherit the service together with the wages. This practice was used throughout the Empire and in Bosnia and Herzegovina as well. It is difficult to determine the date when the *odžakluk* system was applied to wages of some fortress guards. It seems that this practice spread, at least in the European part of Turkey, after the Vienna defeat in 1683 when the Ottoman Empire had to behave defensively. This assumption is supported by some data given by Hammer who states that the wages of Bosnian soldiers (*nefers*) were converted into *odžakluk* only in 1703, just as the revenues from Vidin and Temishvar estates were converted in 1705 in a similar way into *odžakluk* wages of border guards. (Hammer, *op. cit.* VII, pp. 64–65). Hammer also quotes at the same place that Bosnian border guards were paid, mostly,

Although neither the first firman nor the later ones state all the revenues given to the lessee, he naturally had all the rights that had once belonged to the state, so that he was allowed to collect all the taxes that had until then been collected by the state. This means that a lessee of a *has* was authorized to all taxes (tithe, various tributes) from the settlers so that he enjoyed almost complete immunity⁴¹, the only limitation being his obligation to pay *muedždžela*.

The economic immunity of a malikana lessee was strengthened (completed) by its administrative and police immunity, for malikana, being an imperial *has*, was considered a free estate, *serbest*⁴². This particular characteristic of malikana had been pointed out from the very beginning, from the first firman about malikana on.⁴³

with resources which as the revenues from Bosnian mukatas belonged to the central government. According to him in 1703 the number of paid soldiers in Bosnia amounted to 16.000 men whose wages amounted to 40,810.689 and were settled in this way: revenues from Bosnian leases (mukatas in the provinces) which amounted to 15,466.393 piyasters a year; revenues from customs duties on ferries on Sava — 2,528.848; revenues from the Dubrovnik ferry (customs duty) 1,315.750 piyasters; revenues from *harač* (head tax) in Bosnia 12,039.848 piyasters; a part of the revenues from the mukatas in Skopje 9,409.550 piyasters.

⁴¹ The concept *immunity* was derived from the Latin word *immunitas* which denoted a state without debt. Thence in the history of law a special term "immunity" which denotes the position of a feudal lord on his fief, that is the independence of his fief from the central government. In this sense immunity denoted the state in which the feudal lord, or rather his fief, was exempted from almost all economic tributes for the central government (economic immunity) and from interference of state officials into his management and judiciary (administrative and judiciary immunity) on a particular feud.

In the West, as well as in our countries, at the time of developed feudalism, feudal lords enjoyed extensive immunities — economic, administrative and judiciary. Most of *spahiyas* in the Ottoman Empire did not enjoy such extensive immunities. Most of *spahiyas* (*timarliyas*) enjoyed only limited economic immunity so that their estates were called "not free" (*serbestsiz*) in contrast to free estate (*serbest*) whose owners possessed, in addition to economic immunity, a large share of administrative and police immunity. The owners of *serbest* estates had the right to economic exploitation of *raya* and to perform some administrative and police acts towards the settlers, the *raya* of their estates. That is why they were not only land lords for their *raya*, but also an administrative and police authority. Explicitly, they were authorized to take all tributes from the *raya*, except for the *harač*, extra taxes (*avāriz-i dīvāniye*) and common taxes (*takalif-i örfiye*), both the ones paid for revenues and various taxes (*mladarina*, *čifluk* deed, household deed, *dīmnina* — smoke tribute) and penalties for criminal offenses, punishment having always had its consequence in a fine. Of course, all *serbest* owners were not able to accomplish all these jobs on their own so that they did it by means of special bodies most usually called *voyvodas* or *subashas* (commanders). This was regularly the case with *has* owners.

⁴² Free (*serbest*) feudal estates were also the *timars* of some military and administrative high officials (*čeribaša*, *dizdar*, various officials of provincial administration, etc.) all *zeamet* and *has* estates. (See H. Hadžibegić, *Kanun-nama Sulejmana Zakonodavca*, GZM, new series IV—V, 1950, pp. 320—321).

⁴³ M. Ziya, op. cit., p. 173; GHBb *sidžil* (sicil) No. 5, p. 110; OIS, *sidžil* No. 57.

Enjoying malikana as a *serbest*, the lessee had the right to perform certain administrative acts towards the subjugated peasants except those who belonged to the sanjakbey.⁴⁴ The lessee had the right to collect fines for criminal offenses as well as the tribute known as *baduhava*.⁴⁵ On some estates given as malikana the lessee even had the right to collect some extra taxes. It seems that only the taxes belonging to the province governor were exempted (*imad-i hazariye*, *taksit*⁴⁶ and the taxes which were temporarily collected by the central government as war help — *imad-i seferiye*).

The holder of malikana was granted all the other rights that normally belonged to a land proprietor. So he had the right to approve the trade of land estates (*čifluk*) among dependant peasants and the right to take the transmission deed tributes.⁴⁷ In one word, the holder of malikana enjoyed almost complete economic, administrative and police immunity on the rented estate. He lacked only judiciary immunity which was granted to no feudal category of the Turkish fudal system, for the judiciary was reserved by the central government exclusively for itself.

The right of lifelong enjoyment of malikana had as its consequence the right of the lessee to renounce the rented estate to a third person temporarily or as a permanent property. That is to say he was allowed to rent out malikana, or he could trust its management to a third person

⁴⁴ A sanjakbey had the right to commit severe corporal punishments and capital punishment of all guilty people, no matter on whose estate they lived. Naturally, the sanjakbey did not actually carry out this right of his since he had his special officials for it. It seems that they were the so called "*sanjakbey's men*" as some *kanun-namas* refer to them. Later, the term *siyaset memur* was used for such an official (*siyaset memur* — an official for carrying out of corporal and capital punishments). Cf. Code No. 84 in the Oriental Collection of the Yugoslav Science and Art Academy in Zagreb (in further citations OZ JAZU).

⁴⁵ The duties called *baduhava* were the following: mladarina (youth tribute), wedding tribute, fines for criminal offenses, *čifluk* deed, household deed, tribute for judiciary decisions. (Cf. H. Hadžibegić, *Rasprava Ali Čauša*, p. 186).

⁴⁶ *Imdad-i hazariye* is the term for the taxes which were paid by the population to the sanjak governor (*sanjakbey*, *mutesarraf*). Its literal meaning is "peacetime aid" what indicates that it was collected in times of peace. It seems that it was definitively legalized in 1717 as a regular tribute paid by the population of a province or a sanjak. We have founded this conclusion on the fact that most of the mentioned high officials' *has* estates, with whose revenues they had paid their expenses, were taken away from them exactly in this year (cf. *Uzunçarşılı Merkez ve Bahriye teşkilatı*, p. 203). Even from earlier times the *has*, probably due to their reduction, had become insufficient for the province governor's award, so, during 17th ct., legally or not, imposed extra tributes under different names which the population was to pay to them. See *Evlja Čelebija* by H. Šabanović, Putopis I, Sarajevo 1954, p. 239; GHBb, M. E. Kadić, *Zbornik V*, p. 112.

This tribute was collected on installments and hence its name *taksit*. There were two installments, the Winter one (*taksit-i şitâiye*) and the Summer one (*taksit-i sayfiye*).

⁴⁷ An example of a deed issue by Zulfikar-captain Rizvanbegović was quoted in Ćiro Truhelka's *Historička podloga*, pp. 48—49.

(emanet) or, what is most important, he could completely alienate it, give it as a present or sell it.

The act of giving out malikana as a lease, or further as a sublease, was not explicitly mentioned in the first firman about malikana. This can be explained by the fact that the authors of malikana had not thought it necessary to go into detail about the rights concerning the disposal of malikana, because they had, by an indirect formulation in the firman, encompassed the right of disposal, or, to be more precise, the right of alienation (renunciation — *feragat*).⁴⁸ Recognizing the lessee's right of complete alienation of the rented estate, the firman had anticipated the lessee's right to rent out malikana to a third person, for this was a minor right in comparison with the right of complete alienation. This was in accordance with the fundamental law principle recognized by the Turkish law as well "who can do more, can do less as well". After all, this right of the lessee was immediately confirmed in practice and the renting out of malikanas as leases and subleases spread more and more. This can be seen in the firman from 1715. The introduction of this firman describes in detail various lessees' abuses which could have had the abolishment of malikana as a consequence in some regions of the Empire, which was in fact the main intention of this firman. In connection with this question the firman explicitly stated that lessees of malikanas rented them out to a third person acquiring large profits (interests) and the third person rented them in turn, under similar conditions, as subleases. The consequence was that the state mukatas went from hand to hand without any control causing enormous damage to the imperial treasury.

Since the quoted facts were used as arguments for the proposal of abolishment of malikana in some provinces of the Turkish state⁴⁹, it might seem at first sight that such a practice was, illegal, contrary to the rules and principle intentions of the first firman about malikana. But this was not the case, for the later firmans did not only confirmed the practice of renting out malikanas as leases and subleases, but also prescribed regulations for renting of malikana in order to ensure a certain material interest for the state and to put under control the governmental estates trade so that that should not be completely lost in uncontrolled manipulations of lessees. In this respect the firman from 1767 is very interesting, for it set up the rules and prescribed the procedure for the case of renting out a malikana as well as the procedure with a malikana in case of death of its proprietor.⁵⁰ This firman, confirming the explicit right of a malikana lessee to rent it out or let it be managed by a third person (emanet), ordered that certain formalities would have to be recognized

⁴⁸ M. Ziya, op. cit., p. 173.

⁴⁹ M. Ziya, op. cit., p. 195.

⁵⁰ GHBB, *sidzil* No. 5, p. 110.

when concluding and putting into effect the mentioned affairs. To make it concrete, the firman ordered that the interested party should register all such affairs in the quadi's *sidžil* (court record) of the place in which the proprietor of malikana lived and that a copy of this registration should be submitted to the quadi of the *quadiluk* in which the malikana in question was situated for the sake of registration.

It should not be understood that the establishment of lease and sublease on malikana got its full acknowledgement only in the just mentioned firman. It is necessary to point to the practice of registration of such cases at quadis' long before the appearance of this firman. It was to be found in our regions very early and some of the preserved sources confirm it – for example a note of the quadi of Tešanj from 1744.⁵¹ According to his note the proprietor of malikana on an imperial *has mukat* in Maglaj, Captain Vranduka Husein, gave the Maglaj Captain hadži Mehmed-aga⁵³ revenues from the mukatas of Vlach Tributes from this *has* (filuri, avariz-i divaniye⁵², tapu-i zemin /deed tribute/, baduhava, etc.) as one year rent.

As for the complete alienation of malikana, in contrast to renting which could only be assumed on the basis of regulations given in the firman about the imposition of malikana, it was explicitly foreseen by this firman. Still it did not predict all cases of complete alienation, for example selling and giving as presents. They were only hinted by the general formula of the right of complete renouncement and of an estate to a third person (*feragat*)⁵⁴ that is by the formula of *kasriyed*⁵⁵ as this relation was designated at another place⁵⁶. Exactly owing to this formula, the lessee of malikana could alienate, sell or give it as a present. Another way of alienation was not possible because malikana was established on estates whose nominal owner was still the state which, reserving the right to control trade on its estates, reserved at the same time the formal right to approve legal affairs of alienation. That is why such affairs were not denoted by the private law terms but by the terms in accordance with ownership relations on estates in question, in this case on malikana. Such a terminology was meant to point out that this was a

⁵¹ OIS, *sidžil* No. 21, p. 23.

⁵² This is a direct datum which indicates that some proprietors of malikana enjoyed even some *avariz* on their malikana and therefore some common tributes *tekâlif-i örfiye* as well.

⁵³ This captain was not mentioned by Kreševljaković in his *Kapetanije* (Cf. pp. 177–179).

⁵⁴ M. Ziya, op. cit., p. 173.

⁵⁵ The term *kasriyed* as well as the term *feragat* was used with the meaning of the renouncement of an estate in order to give it up to a third person. This establishment is to be found in the earlier Ottoman legal system as well. Other feudal estates, timars and zeamets, could also be renounced by means of this establishment, which enabled avoidance of strict legal regulations about their inalienability.

⁵⁶ OIS, *sidžil* No. 5, p. 3.

matter of disposal of certain right which issued from malikana, that it the right of lifelong enjoyment of a mukata rented as malikana was in question and not the right of selling a governmental estate as such. That is why this relation was denoted by the terms *renouncement* and *alienation* rather than *sale* and *present*. When dealing with the right of alienation of malikana and using the terms *sale* and *present*, we should bear in mind that this was a matter of selling and giving as a present the rights of malikana, it was not the matter of complete alienation of the estate ownership, for the state remained its exclusive owner. In the alienation of these rights the lessee of a malikana was free, which will become evident when we compare the way of taking malikana directly from the state and the way of taking it from the former lessee.

Both ways of renouncement of malikana were accompanied by certain formalities. The renouncement of a mukata for a malikana by the state (whether for the first time or after it had been given back to the state) was performed in the form of an obligatory licitation (*muzayeda*) governed by the *Porta*, in front of highest financial bodies and under the survey of the highest representatives of spiritual authorities-shejh-ul islam, quadiaskers and nekib-ul eshraf.⁵⁷

The licitated mukata was given as a malikana to the person who offered the largest *muadžela*. The payment of *muadžela* and other tributes meant to be paid in advance, the registration of this state in the *Porta* financial records and the issue of a berat to the lessee represented all the formalities accompanying the state's renouncement of a mukata as a malikana. Their accomplishment made this legal affair perfect.

When renouncing (sale, present) a malikana to a third person by the malikana lessee the procedure was quite different, for the material act of the disposal of malikana completely depended upon the malikana holder, the state having no right to interfere. In case of a renouncement of a malikana in this way, just as in case of renting out a malikana, the state saw to it that in case of complete renouncement certain formalities were recognized in order to protect the interests that it had as the ownership right holder. In this respect, the procedure of renouncement of malikana by its holder was prescribed and it was somewhat different from the procedure of renting it. This will be quite understandable when we take into account the fact that now it was the question of the subjects exchange which needed completely new and different registrations as well as the exchange of diplomas (*berats*), written acts which served as an evidence for the malikana ownership right.

The procedure of alienation itself did not disregard the right of material disposal, but it only obliged its holder to perform it in accordance with the state interests. It began, just as in the case of lease,

⁵⁷ M. Ziya, op. cit., pp. 172-174.

in front of the authorized quadi, who was obliged, without dealing with material relations between the parties, to issue a written decision of renouncement, so called *feragat hudžet*⁵⁸, after receiving malikana holder's request to renounce it for a third person. This *hudžet*, which had to include necessary data about the involved parties, obliged the parties to submit a request to the central government in Istanbul so that it should be informed of their act and, consequently, that the former record in the malikana defter could be erased and the new state recorded. Finally, a *berat* was issued for the new holder of malikana and the old one was no longer in effect. After the approvement of the *feragat hudžet* by authorized controllors (*nazirs*) at Porta, the payment of transmission taxes (*resmi kasriyed*)⁵⁹, the registration of the change in the central defters and the issue of a *berat* for the new holder, the right of the former malikana holder was completely abolished.

As we have seen from this survey, complete renouncement of malikana to a third person was not conditioned by any material obligations of the parties towards the state, except for the new holder's obligation to pay the transmission tax. In the same way, the lessee of malikana did not have any limitations as for the choice of the future holder of malikana, although all firmans about malikana recommended that the material status and moral qualities of the future holder should be taken into account when renouncing a malikana.⁶⁰

Since the right to renounce a malikana belonged exclusively to its holder, the material realization of this right depended wholly on his will. It was not conditioned by auction or new payment of *muadžela* to the state by the new holder of malikana. For if it had been otherwise, the former holder of malikana would have been restricted in his right of complete enjoyment of all rights that belonged to him on the rented estate. Normally, the holder of malikana could transfer only the rights that he himself possessed and this was the right of lifelong enjoyment of the estate which included the right to enjoy a part of the revenues from the *mukata* and the right to renounce it to a third person, temporarily or permanently.

Although the holder of malikana had extensive rights on the rented estate, the state reserved the ownership right of the estate given as malikana since it laid claim to a part of revenues from the *mukata* given

⁵⁸ Ibid.

⁵⁹ According to a firman from 1777 which approved the procedure of joint owners Ahmed and Mehmed on the occasion of constituting a malikana on the Vlach *rusum mukata* in the Fragostina *nahiya* of the Mostar *kadilik*, it seems that the transmission tax amounted to 10% of the former *muadžela* amount (*behar* on *kuruşde bir kuruş hesabınca*) OIS, *sidžil* No. 5, p. 3.

⁶⁰ As to D'Ohsson, the owner of malikana was obliged, when renouncing it to a third person, to take into consideration whether that person was wealthy, humane and polite (D'Ohsson, op. cit., p. 532).

as malikana. This is best demonstrated in the fact that the holder was indeed granted the right to dispose of the rented estate, but only during his life, that is only in business with living persons and not in case of death. This means that the holder of malikana could not include it into his will, nor were his heirs authorized to inherit the malikana automatically.

With the death of its holder malikana was considered a vacant (mahlul) estate and as such it was returned to the state's ownership. If the state did not retain it for its own exploitation, it was once again auctioned off as a mukata in order to constitute a new malikana. The interests of the former holder of malikana, or rather his male descendants, were taken into account. On the occasion of the new auction, on the basis of the firman about the establishment of malikana and later regulations, the descendants were granted the "superior right of buying" the auctioned mukata on condition that they offered the amount of muadzela that the other participants of the auction were ready to offer.⁶¹ Of course, the largest amount offered is in question. The superior right of buying, granted to male descendants of the former malikana holder, enabled one family to retain a malikana in their possession through many generations.

All the described characteristics of malikana as a lifelong lease of state mukatas, regarded as a whole, make this estate almost an independent private estate, with almost complete right of private property similar to a mulk property. It is quite probable that this establishment was exactly for this reason designated by the term "malikana", which in its literal meaning denotes an estate in private property. After all, the holders of malikanas themselves most usually considered themselves as private proprietors, behaving sometimes as real owners of the rented estates which is well shown in some citations of the firman from 1715.

Namely, besides the arguments for the proposals to abolish malikana this firman also points out that malikana was taken by all sorts of people, very often problematic, such as *hamals* (porters)⁶², *kayikciyas*⁶³ and *esnaf cehayas*.⁶⁴ The firman further states that these and other persons enjoyed large state and other (probably vakuf) mukatas as

⁶¹ M. Ziya, op. cit., p. 173.

⁶² The authors certainly did not have in mind *hamals* as common porters in the literal meaning of the word, but wanted to point out some people involved with malikana were as to their social standing, on the level of *hamals*. Since *hamals* were in the bottom of the Ottoman society hierarchy, this name was used in order to humiliate and underrate a person (Cf. Sâmî, *Kâmûs-i Türki*, p. 558, s.v. "hamâl").

⁶³ People who went in for boat building.

⁶⁴ Guild head. For more detail about *esnaf cehayas* see Kreševljaković, *Gradska privreda i esnafi u Bosni i Hercegovini od 1163–1851*, Godišnjak Istor. dr. BiH, 1949, pp. 200–204.

their own mulk, rented them out without control and avoided to fulfill regularly their obligations fixed by malikana towards the state.⁶⁵

This firman as well as the later ones, issued by the central government in order to prevent various misuses on state mukatas given as malikanas, explicitly show the tendency of malikana holders to exploit the rented estates and dispose of them as much as possible without control, that is to say to enjoy them as complete properties. Having such aspirations, the malikana holders, naturally, tried to take full advantage of their immunity rights, especially of the administrative and police immunity right, which was based on the fact that the estates rented in this way being imperial *hases* fell into the category of so called free (serbest) estates. Of course, it is the question of malikanas on agrarian and cattle-breeding mukatas. Taking advantage of this right, some lessees later, especially from the second half of 18th century, tried to gain full economic and political authority in the domain of their malikanas. Self-willed imposition of new taxes and increase of the existing ones done by some malikana proprietors are the best illustration for this.⁶⁶

However, notwithstanding all the mentioned characteristics of malikana which make it resemble a mulk, it would be quite wrong to confound the two establishments let alone identifying the one with the other. Equally wrong would be to identify the malikana with other establishments, muhasilluk or arapluk for example, as some others did.⁶⁷

⁶⁵ M. Ziya, op. cit., p. 195.

⁶⁶ In our regions the Rizvanbegovići, beginning with Zulfikar-captain, are distinguished by self-willed imposition of new taxes, increase of the existing ones and changing of tax forms. Thus, for example, Zulfikar-captain imposed a new tax for the population of his malikana with the name "*harc-i konak*" (lodging expenses) which is mentioned in a petition submitted to the Bosnian Vizier in 1766 by the population of the Ljubinje, Blagaj, Nevesinje and Stolac *kadiluks*. The same captain attempted to increase the amount of *filurija* (annually paid tax) which was taken from the Vlach population on his malikana. (OZ JAZU, *sidzil* No. 165/1, sheet 3). His successors tried to convert *filurija* into tithe (Kreševljaković, *Kapetanije*, pp. 264–265) which was finally accomplished by the most violent among them, Ali-pasha Stočević-Rizvanbegović (OIS, *sidzil* No. pp. 92–95).

⁶⁷ Among our authors Truhelka, for example, in a certain way identified malikana with muhasilluk and arapluk. Nedeljković and Kreševljaković were influenced by him. Dealing with malikana, Truhelka points out that if a person who was given a malikana had the right to collect all taxes on the rented estate for himself, the estate was called a muhasill. If he was authorized for taking only certain taxes such as bee tax, sheep tax, etc., the estate was called arapluk.

It is not clear on what foundation Truhelka made this conclusion, for there is no aspect of its correspondence with malikana. The term *muhasill* itself was used in the Ottoman state to designate an official, usually governmental, who was authorized to collect any kind of revenues for a certain period of time. Hence the derivation *muhasilluk* which designated muhasill's function and the estate whose revenues collection was committed to him. The collection of governmental revenues in such a way was restricted to a definite time and did not necessarily imply the collection of all kinds of revenues from an estate. It could imply the collection of only one kind of revenues, *taksita* for instance

As the legal analysis has shown, this kind of malikana, which appeared towards the end of 17th ct., represent a specific Ottoman economic and legal establishment which can be best defined as a lifelong lease of a state mukata, where the lease did not mean only the lifelong enjoyment of the rented estate, but also the right of temporary and even permanent alienation (disposal among living persons only). We want particularly to emphasise that the state estates (has) were rented out for lifelong use as mukatas, that is to say as former one year leases and not in the form of state *has* as such,⁶⁸ which had earlier been divided into several mukatas as separate economic units.

Extensive authorities of malikana holders indicate that they had great possibilities of exploitation of the rented estate. But since these possibilities are undefined, it is difficult to determine the amount of actual revenues which belonged to the proprietor of a malikana because this fact is completely avoided in the available documents whenever malikana was mentioned. There is only one explanation for this failure —

(A. Vefik, op. cit., pp. 199–201; GHBB, sidžil No, 34. p. 90).

In one word, it is the question of entrusting someone to collect revenues within a fixed time in the name of that who had authorized him, most often the state, for his own profit or for the profit of the one who had given him authority. Since it often happened later that a muhassil collected governmental revenues for himself, this relationship resambled a lease, most often longer than a year but never lifelong as in the case of malikana. In addition to the collection of separate governmental revenues by means of muhassiluk, governmental revenues in provinces were later given in the same way (ber vechi muhassilük) to province governors to be collected, so that muhassiluk represented a kind of reward. Also, the government of provinces in this way was temporary in contrast to the case when whole provinces were given for lifelong enjoyment by means of malikana. (Uzunçarşılı, *Merkez ve Bahriye teşkilatı*, p. 203).

As for arapluk, we can say that, in contrast to malikana and even muhassiluk, had represented a kind of reward from its beginning. The reward consisted of renouncing the right to collect revenues from a governmental estate for one's own account and giving this right to some other person. The sultan most often presented in this way retired, meritorious officials or the members of his family (his wives). In this case arapluk is a kind of pension or rather a sinecure tied for life with its enjoyer. However, certain revenues from governmental estates were sometimes given under the name of arapluk to active officials, mostly higher officials case, as it seems, when the main revenues (from a *has*, for example) were insufficient for the award of such an official. In this case arapluk appears to be a supplementary means of awarding an active governmental official and it was put at his disposal only during the service for which arapluk was awarded. We have an example of such a case in Herzegovina whose sangakbey had received since the beginning of 17th ct some taxes from Herzegovina Vlachs as arapluk (*poljačina* — compensation for a ram and for butterfat — *polačina ve kuç ve yağ*) which had earlier belonged to the imperial *has*. Later, when the position of Herzegovina sangakbey was abolished and the government of this sangak committed to the Bosnian Vizier (middle of 18th ct.), the Bosnian Vezier himself appeared as the holder of arapluk (For more detail see my paper *Mjesto muteselima u lokalnoj upravi u turskoj državi*, *Godišnjak Pravnog fakulteta / Almanac of the Faculty of Law* in Sarajevo for the year 1959).

⁶⁸ Cf. the cited firmans about malikana.

the state was not interested in the lessee's revenue and it was for the most part unpredictable. The state was more interested in the amount that it was to get from the rented estate, therefore the act of the renouncement of the malikana included as a rule the fixed one year revenue for the state (muedžele)⁶⁹. Since this revenue had been used from earlier times for the support of fortress garrisons, the purpose of the muedžela was usually stated in the documents concerning malikana – it was stated explicitly which garrison could claim the revenues from the mukata given as a malikana and also what amount of these revenues could be claimed.⁷⁰

Although it is difficult to determine the value of each malikana, we can suppose on the basis of certain indirect data that they represented a very profitable means of enrichment for its lessee. According to some data from the documents of the State Archives in Dubrovnik, a malikana proprietor had the right to claim a third (terzaria) of the customs duty for salt, which was sold on the Dubrovnik ferry and at the Ston salt-marsh. The malikana proprietor also had the right to collect customs taxes for all other goods that were imported or exported by the Dubrovnik ferry.⁷¹ Bitter conflicts among Turkish leaders and their running after the acquirement of malikanas indicate how profitable a malikana was. Very illustrative examples of this in our regions are represented by some malikanas in Herzegovina, which were bitterly fought for by Herzegovina leaders – the Resulbegovićs, the Šarićs and the Rizvanbegovićs from the very beginning of malikanas.⁷² Some traces about malikana, preserved in folk tradition and recorded by Kreševljaković, remind us of the great importance of the malikana. Reviving the memories of his encounters with older people, Kreševljaković cited that 40 years ago he had heard them saying that “those who wanted very cheaply, or rather without any effort, to get rich, asked for maličana or wished for maličana”⁷³

⁶⁹ Cf. the cited firmans about malikana in Herzegovina

⁷⁰ Ibid.

⁷¹ Državni arhiv (Governmental Archives) in Dubrovnik (DAD, Copie Littere, vol. III fo 125. The right to take customs duties in Dubrovnik, leased as a malikana, was designated in the Dubrovnik acts by the expression “drit” (Copie Lettere, vol. III fo 70). H. Kapidžić, when reviewing this question in his work *Veze Dubrovnik i Hercegovine u XVIII v.* translated incorrectly the expression “drit” as a third, for the documents clearly indicate that “drit” means “law” (Ital. diritto) and not the amount of customs duty which in the case of salt amounted to one third (terzaria).

⁷² OIS, sžil No. 60, p. 68; No. 12, p. 14; No. 57, p. 40; No. 18, p. 1; No. 7, pp. 92–95.

⁷³ H. Kreševljaković, *Kapetanije*, p. 54.

4. SOCIAL AND ECONOMIC CONSEQUENCES OF MALIKANA

The introduction of malikana was reflected in the social and political life of the Ottoman Empire in 18th ct. Its most immediate reflection was in the situation of dependant people (raya), who inhabited the state estates given as malikana, and even more in the consolidation of economic, social and political position of lessees. Furthermore, malikana, which gradually encompassed almost all forms of state revenues, aggravated financial and other difficulties of the Turkish state in 18th ct.

The situation of peasants on state estates before the constitution of malikana was by all means more favorable, just as the economic and legal position of peasants in the Ottoman state was in general more favorable in its beginnings, in the period of establishment and consolidation of the timar system. At first, while the sultans organized the collection of revenues from the estates by their officials (emins, governors, etc.), the position of immediate producers on these estates was bearable in terms in which the status of peasants in general was bearable on other feudal domains – timars, zeamets and vakuf lands.⁷⁴

However, the position of peasants on state estates must have started to aggravate very early, probably as early as the time when a new way of state revenues collection was introduced – the collection by means of renting out state estates as one year leases – mukatas.⁷⁵ In the very beginning, of this establishment, though, with the powerful central government and its strong influence in provinces, lessee's abuses should not have been distinctly manifested.

The crisis of the timar system followed by greater development of goods-money (merchandise) relations at the end of 16th ct. and the beginning of 17th ct., the situation of peasants (immediate producers) started visibly to aggravate, affected by the well-known process of *čifluk* making. Although this process on state estates could have been slower in its final effect – the change of authority over peasants – it could also have had far more expressive on the general sphere in which this process appeared as “the only form of race of all layers and classes in the Empire for the division of product surplus produced by the raja class”.⁷⁶ The greatest race for peasants' surplus of labor occurred on governmental estates from the time when they began to be exploited by means of one year leases – *mukatas*. The ever aggravating peasants' situation on governmental estates was especially urged by the fact that they were most often rented out as leases and subleases to corrupted, unscrupulous

⁷⁴ On the situation of dependant peasants in the Ottoman state at the time of rise and consolidation of the timar system see N. Filipović, *Pogled na osmanski feudalizam*, pp. 67–92.

⁷⁵ See footnote 8a.

⁷⁶ N. Filipović, *Ođzakluk timari u Bosni i Hercegovini*, POF, V, 1954–5, p. 262.

governmental and court apparatus in Istanbul and high governmental officials in provinces. Since these lessees most often lived far from the leased mukatas (in Istanbul and other bigger centers) without being really concerned with them, they usually leased their mukatas as subleases to upper society layers in provinces – to *vilayet ayans*⁷⁷, *voyvodas*⁷⁸, etc. The latter did the same so that a whole hierarchy of leasess and sublessees existed on one imperial estate (mukata) and they were all, with their insatiable appetites, a burden of unprotected peasants.⁷⁹

Such a state on imperial estates made the peasants' situation unbearable for more reasons. Earlier relatively bearable taxes began rapidly to increase for the peasants were obliged to more and more people, from the state to the last lessee. Most of the taxes had to be paid in cash and the peasants, in order to convert their products into cash, had to connect with the undeveloped city markets. Very limited and undeveloped city market in Turkey, in the conditions of increased supply of peasants' products, distimulated and harmed the peasants rather than stimulating them to improve their production. It is quite probable that peasants, unable to get enough money for their products, were forced to get into debt and to become victims of city usurers, tradesmen, craftsmen, etc. who mortgaged peasants' land and converted it into their *čifluk* becoming one of innumerable peasants' exploiters.

Supporting by their bear hands, in the conditions of very low productive forces, the whole hierarchy of lessees, mostly unproductive (parasite) layers of the decaying society, a peasant could not retain for himself the slightest part of labour surplus which would ensure him a simple reproduction. Most usually he lacked necessary means for life and was condemned to constant hunger. There was nothing left for them to

⁷⁷ The term *ajan* is the plural of the Arab word "ajn" and means "a respectable man". In older Turkish historical and other texts it was most often used to denote the upper layers of the Ottoman society. In some cases it indicates the highest governmental and military officials such as *ayan-i devlet* (governmental dignitaries, lords) or *ayan-i asakir* (military chiefs). Used in the expression *ayan-ı vilayet* the term denotes the upper layers of the Ottoman society in provinces, primarily the most prominent representatives of the governing feudal class such as *zaims*, heads of *ulemas*, high officials of the province administration, etc. Towards the end of 17th ct. *vilayet ayans* obtained an important role in the local administration affairs, in collection of extra taxes (*tekâlif-i örfiye, taksit*), in the mobilization of the national army (*nefir-ı am*), in the maintainance of public peace and order in quadiluks, etc, so that in the first half of 18th ct. a special *ayan* function (*ayanlık*) came into being in quadiluks and some *nahiyas* where one man was appointed to *ayan*. Since then the concept *ayan* had had the meaning of an administrative and legal term and had been used to denote the holder of the *ayan* function in quadiluks (*kaza ayan-i*) till the Tanzimat (There will be more detail about *ayans* in our paper "Ayans").

⁷⁸ We do not have in mind the *voyvodas* as administrative and police bodies on imperial hases. For more detail about *voyvodas* see H. Šabanović, *Organizacija turske uprave u Srbiji u XV i XVI v.*, Istoriski glasnik, No. 3–4, Beograd, 1955.

⁷⁹ M. Ziya, op. cit., p. 173.

do but leave their land and become vagabonds and bandits,⁸⁰ or to move somewhere.⁸¹

On the other hand, such an exploitation, in the conditions of primitive Turkish economy and undeveloped market in which the governing form of small capital was a usury one, could not have had positive results for economy improvement for the simple reason that the whole peasants' labour surplus, even more than that, was spent for unproductive purposes – for satisfaction of insatiable personal appetites of lessees, mostly unproductive (parasite) upper layers of the governing class inclined to debauched and dissipated life.

The introduction of malikana did not improve the peasants' situation on imperial estates (has), although its authors explained the idea of its introduction by their ostensible wish to improve the peasants' situation. On the contrary, their situation on malikana, in those conditions when the Ottoman Empire was siezed by anarchy in 18ct., permanently aggravated becoming ever unbearable what is seen in many texts of later firmans and other documents on malikana.

The aggravation of raya's situation on malikanas was caused not only by generally bad life conditions of peasants in Turkey but also by special conditions of peasant exploitation on state estates given as malikana. In comparison with conditions on mukatas, on which the state had at least a theoretical possibility of control, the insight of the central government into these estates lessened as soon as the mukatas were given as malikana. It is quite logical that the settlers of these estates were surrendered self-will of lessees who became almost complete land owners and whose number increased by the system of leases and subleases.

About varied aspects of negative effect of malikana, especially about its grave consequences for the subjugated population in 18ct., a classical testimony was left by one of the most eminent collaborators of the sultan-reformer Selim III, by the Rumelian *kadiasker* Tatardžik Abdullah effendi⁸². In a proposal (layha) for the improvement of the economic and political situation in the state intended for Selim III, Tatardžik pointed in a drastic way to numerous troubles which seized the Ottoman Empire at the end of 18ct., finding with great keenness reasons for such a state and pointing to possibilities of their elimination. In connection with this he mentioned the negative consequences of malikana both for general interests of the state and for its destructive effect on economy and peasant's situation.

⁸⁰ Uzunçarşılı, *Osmanlı tarihi*, III/2, Ankara 1954, pp. 292–3.

⁸¹ M. Zaya, op. cit., p. 173.

⁸² Tatarcik Abdullah Efendi, *Setim-i Salis dervinde nizam-ı devlet hakkında Mutaleat, Tarih-i Osmanî Encümeni mecmuası*, vol. VII and VIII, Istanbul 1332–3 (quoted according to A.F. Miller, *Mustafa pasha Bayraktar*, Moscow-Leningrad 1947, pp. 87–88).

Describing the luxurious and parasite life of Turkish aristocrats in Istanbul and in provinces, Tatarđžik quotes that they maintain such a life owing to an easy way of acquiring wealth by enjoying profitable malikanas, mukatas and zeamets from which they got three or four times as much the amount they paid the governmental treasury for the ransom. In such conditions, Tatarđžik states, peasants were not capable of producing as much as their covetous lords demanded although all members of a peasant family took part in the production – men, women and children, hungry, naked and barefoot. Their incapability of producing as much as it was demanded was, as Tatarđžik quite correctly observed, due to the natural fact that human strength as such could not have produced as much. Surrendered to such exploitation the population of malikanas left their homes and land in despair so that many villages and whole regions were deserted, left without population which fled mostly towards border regions.

Connecting the question of excessive exploitation of subjugated population inhabiting the state estates given as malikanas and mukatas, with the state of agricultural production on them and with the state of farms in general, Tatarđžik very shrewdly observed the fact that lessees did not ruin only the peasants and reduced them to poverty but also obstructed the progress of agricultural production by their lack of initiative which caused suffering to peasants but maybe even more to the governmental treasury. He quoted as an example the state in the production of tobacco which was a part of the lease system. Lessees did not pay any attention to the quality of tobacco processing and, according to Tatarđžik, it would have been more economical to export raw tobacco and import it processed for a higher price unless the exploitation changed by state's subsidizing of the production.⁸³

While malikana, on one hand, had an extremely negative effect on the situation of dependent population and undermined the financial strength of the state, on the other hand it acted a very important role in strengthening economic, social and political positions of certain society layers: high officials of the central government in Istanbul, province governors and the most prominent representatives of the governing class in provinces – ayans and, in Bosnia and Herzegovina especially, captains. This fact is evident in numerous firmans and other documents concerning malikana, from the first firman about malikana on, whose introductory formulas regularly mentioned among the enjoyers of malikana high

⁸³ The solution suggested by Tatarcik is very interesting. In his opinion in such conditions it was necessary for the state to invest a part of its capital (100.000 piyasters) in the foundation of a manufacture for tobacco processing and such enterprises should not be leased as mukatas to ordinary lessees but to *mutemedims* (particularly confidential and reliable persons), who would do their best to improve the production.

officials of the central authorities (rical-i devlet), province governors (valiyas, mirimirans), voyvodas and vilayet ayans (ayan-i vilayet)⁸⁴.

This circumstance points to a very important fact which undoubtedly shows that the governmental estates given as malikana, were used mostly by those society layers who had, besides economic positions, main political positions and main authority positions owing to which they could most easily acquire governmental estates. The possibility of a successful competition for the lease of profitable governmental estates depended on the personality who was, in a certain moment, pulling the main strings of power in provinces and especially in local judiciary and administrative units (quadiluks), just as, on the other hand, the enjoyment of these estates ensured the rise of social respect for their enjoyers, most often feudal lords in provinces.

In the light of these constataions the phenomenon of quick rise of respect and power of some ayan families in Bosnia and Herzegovina becomes more clear. In this respect we should pay attention to the case of the aristocrat Rizvanbegović family in Herzegovina, whose members, beginning with the first prominent one – the Stolac captain Zulfikar⁸⁵, began to enjoy as malikanas most of the mukata filuriye which was taken from Vlachs in Herzegovina⁸⁶. Less characteristic although very important were malikanas on the Gypsy džizya (harač) mukata which were enjoyed through generations by the Zvornik lords, the Fidahićs⁸⁷ or the Zadar

⁸⁴ Cf. the cited firmans about malikana.

⁸⁵ Zulfikar-captain was mentioned as early as 1756 as the lessee of the filuriya in Ljubinje (Kreševljaković, op. cit., p. 143), which he probably enjoyed as a malikana. Eleven years later (1767) he was mentioned in the cited petition of the population of the Ljubinje, Blagaj, Nevesinje and Stolac quadiluks as the *sahibiya* of the mentioned malikana. (OZ JAZU, sidžil No. 165/1, sheet 3). I thank for this datum to H. Hadžibegić. The datum that Zulfikar-captain continued to be the proprietor of this malikana is to be found in a Bosnian Vizier *bujrukdija* from 1776 addressed to the quadis of Mostar, Foča, Stolac, Blagaj, Ljubinje, Nevesinje and Cernica (Gacko) and the Stolac captain Zulfikar-bey. The *bujrukdija* ordered the mentioned officials to carry out the inspection (*teftiş ve refehhus*) the domiciles of all the Herzegovina cattle-breeders who had taken their cattle to Treskavica, Visočica, Kladovo Polje etc., in order to prevent haiduk and jatak doings (OIS, sidžil No. 57, p. 140).

⁸⁶ The Vlach population in Herzegovina included in the imperial mukatas given as malikanas, paid the malikana lessee a so called Vlach tax called filuriya which amounted to 160 akcas from every estate and which had been established earlier (OZ JAZU, the mentioned sidžil).

⁸⁷ So far we have not been able to determine when the Gypsy harac mukata (džizya) in the Bosnian pashaluk became a malikana. Till 1728 it had still been given as a mukata which is confirmed by a firman from 1728. This firman concerns, in fact, the ban and control of abuses done by local authority bodies (voyvodas, muteselims, zabits, etc.) in connection with the collection of the Gypsy džizija and their unauthorized interference with the performance of some administrative and police acts towards the Gypsies, for which the only authorized person was the lessee of a free (serbest) mukata (OIS, sidžil No. 60, p. 71). In 1775 a similar order was issued, showing that this mukata had already been given as a malikana to the Zvornik Fidahićs. Kreševljaković claims that this

ferry malikana owned by the Kulenović bey⁸⁸, etc.

Of all malikanas, which were quite numerous in the area of the Bosnian pashaluk according to a considerable number of bigger or smaller mukatas⁸⁹, the most interesting so far have been the malikanas on the filuriye mukatas of the Herzegovina Vlachs. The essence consisted of the malikana on Vlach taxes mukatas in Nevesinje and its environment, on the estates (has) of Zažabje and its environment, and on the ravine tax mukata (bac-i ubur)⁹⁰ on the passages from Gabela to Gacko (rusum-i Elfakan Nevesin ve tevb'i ve hash-a-i Zažabye ve tevb'i ve bac-i ubur Gabela ile Gacka...")⁹¹.

Till 1140 (1727/8), probably since the imposition of malikana, the mentioned malikana had been owned by a feudal family from Trebinje the Resulbegovićs, whose most prominent representatives Osman-pasha and his son Ibrahim-aga (later Ibrahim-pasha)⁹² were cited as the former enjoyers of malikana in a document from the mentioned year. Because of the alleged treachery (habaset-i zuhur sebeb-ile) of Osman-pasha Resulbegović, the mutesarraf of Trebinje at that time, in March 1728 when he was dismissed from his position, this malikana was taken from him and

malikana had remained the property of the mentioned family till the end of 18th ct. (*Kapetanije*, p.207). It seems to us that it had remained the property of the Fidahićs till the half of the thirties of the 19th ct. which is indirectly indicated by a firman from 1835. This firman describes the auction of a part of this malikana (1/2 an eight and 1/6 of 3 1/2 eighths) which, as alleged, became vacant after the death of the former enjoyers, a Sulejman-bey and a Ahmed-bey, probably Fidahićs. The firman, to be sure, does not cite any data which would point to the origin of these men, but we suppose that they were Fidahićs since the small parts in question had once formed a single malikana owned by the big Fidahić family whose number of joint-owners, just as in the case of the Rizvanbegovićs, must have been great. Since the number of those interested on the occasion of the auction of this malikana was allegedly small (we should bear in mind that these were tumultuous times of the Bosnian history when some of the Fidahićs were, out of favor of the sultan because of their support to Husejin-captain Gradašević's movement) the malikana was given (not accidentally) to Rizvan-bey Rizvanbegović, son of Ali-pasha Stočević, for a muedžela of 3500 groshes (OIS, sidžil No. 23, p. 41).

⁸⁸ Kreševljaković, op. cit., pp. 54, 190.

⁸⁹ In a copy of a certificate from the Bosnian mukatas defter from 1776,58 governmental mukatas are mentioned in the Bosnian pashaluk with the annual revenues od 261.677 groshes (GHBB, sidžil No. 17, pp. 166-7).

⁹⁰ Customs duty for the goods taken at main border crossings or at other places designated for goods transport. The revenue from the mentioned mukatas for the year 1728 amounted to nine loads (100.000 akčas each) and 88.649 akčas, that is totally 988.649 akčas. The most of this sum was aimed for the wages (*mevadžib*) of the Vidoš and Počitelj fortress guards (*nefer*), for this was their *odžakluk*.

⁹¹ OIS, sidžil No. 60, sheet 68.

⁹² Ibrahim Resulbegović was later the captain of Trebinje, the Klis pasha and finally the Zvornik pasha (mutesarraf). Cf. Kapidžić, *Veze Dubrovnika i Hercegovine u XVIII v.*, pp. 6-17.

in the same year given to Ali-aga Šarić.⁹³ Later, so far we are unable to say exactly when but probably at the time when Mehmed-pasha Selmanagić from Pljevlje was appointed the governor of the Klis sanjak⁹⁴, this malikana was supplemented by the one on the Vlach rusum mukatas in Novska Bekija, Risan⁹⁵ and Cernica (Gacko) so that at that time the majority of Vlach taxes mukatas in Herzegovina (as the former imperial has)⁹⁶ was owned by Ali-bey Šarić and his joint owner Mehmed-pasha Selmanagić⁹⁷. So far we have not been able to determine how this joint

⁹³ According to the quoted firman Alija asked that the mentioned mukatas be given to him as a malikana from mere compassion that he felt for the Vidoš and Počitelj fortress guards, for they were, as alleged, withheld by the Stolac captain Mustafa who usurped their wages by use of force and threatening. Although this firman is not clear when describing the former status of the mentioned mukatas it seems to indicate that they had in the meantime (that is between the taking away from the Resulbegovićs and giving them to the Šarićs) become the property of Mustafa-captain, the founder of the Rizvanbegović family. Whether it became his property as a mukata or a malikana it is hard to maintain so far. But it seems more probable that he held it as a mukata rather than a malikana, for if it were otherwise there would be no reason for the omission of his name as an enjoyer of malikana in this firman which mentions as such the Resulbegovićs and the Šarićs. About Alija Šarić see Kapidžić, *Stolac u XVIII v.*, pp. 4–8.

⁹⁴ According to the data published by Kapidžić, Mehmed-pasha Selmanagić became the Klis sanjakkbey and the owner of the Dubrovnik ferry and the Ston salt marsh malikana in the summer 1743. (Kapidžić, *Veze Dubrovnika etc.*, p. 17). Judging by the data in the firman from 1738, where this pasha is mentioned as a joint-owner of a malikana together with Alija Šarić, it seems more probably that this had happened somewhat earlier (OIS, sidžil No. 12, p. 14).

⁹⁵ Cf. S. Bašagić, *Kratka uputa*, p. 81.

⁹⁶ It seems that at the time of the imposition of the Turkish authority the majority of the Vlach population was covered by the has system, in other words the tributes paid by the Vlachs belonged to the imperial has. According to a kanun from 1477 about Vlachs in the Herzegovina sanjak, the Vlachs in Herzegovina were obliged to give each year 1 filurija, this being their main obligation, and one sheep with a lamb or the equivalent value of 12 akčas, and one ram or 15 akčas which represented supplementary givings. Some joint givings were also foreseen (2 rams and 15 Vlach houses). See *Kanun i Kanun-name*, Sarajevo, 1957, p.12. Some other tributes were mentioned later among which *poljačina* as well. (ibid., p. 149). All these tributes were at first probably paid to the state. Later, we do not know exactly when but certainly at the beginning of 17th ct., a part of these tributes (*poljačina*, the equivalent value of a ram and butterfat, introduced perhaps instead of the earlier tribute which had consisted of giving a sheep with a lamb) was paid by the Herzegovina Vlachs on the imperial has to the Herzegovina Sanjakkbey and still later to the Bosnian Vezier, for the sultan used to give these tributes to his high officials as an arapluk (GHBB, M. E. Kadić, Zbornik III, p. 270; OIS, sidžil No. 15, pp. 4,8; No. 16 pp. 1, 13, 77, 93). This means that of the revenues which had earlier belonged to the imperial has only *filuriya* remained and it was given as a mukata and later, after the imposition of malikana, as a malikana. The fact that only this kind of tribute was given as a malikana is confirmed by the note of the cited sidžil in OZ JAZU.

⁹⁷ They enjoyed as joint-owners the malikana on the mukatas of Novi, Risan and the surroundings, while the malikana on the Vlach taxes mukatas of Nevesinje and its surroundings belonged exclusively to Šarić. On the basis of the cited firman it is impossible to judge the situation on other malikanas (Dubrovnik ferry and Ston salt marsh).

ownership came into being and how almost all parts of the former imperial has in Herzegovina became in the form of a malikana the property of the mentioned feudal lords.

Just as we do not know exactly when Šarić and Selmanagić became partners, we do not know either how long they enjoyed these malikanas together. Later documents (which have been available to us) concerning the mentioned malikanas do not mention either one or the other. According to some data from the second half of 18ct. which partly concern these malikanas, it seems that later they fell apart again, even into smaller parts, and a part of Vlach taxes was singled out as a separate mukata and attached to the malikana of the Čajniče mukata⁹⁸. It was held for some time by some Hasan-bey and Husejin-bey, the descendants of Mehmed-pasha Selmanagić.⁹⁹

The majority of Vlach rusum mukatas in east Herzegovina were permanently owned as a malikana by the Rizvanbegovići. This family, as it is well known, in the beginning of the sixth decade of 18ct. pushed the Šarići out and imposed their rule over the Stolac kapetanija¹⁰⁰. It is quite understandable that Zulfikar Captain, a prominent representative of this family, in addition to this kapetanija became the ruler of the majority of the mentioned mukatas which he was given as malikanas.¹⁰¹

The ownership of the mentioned Herzegovina malikanas represented somehow the basis for the acquirement of main positions in the majority of Herzegovina, for the enjoyers of malikanas had, among other things, the administrative and police immunity towards the population of leased mukatas due to the fact that these estates were free (immune to any other authority, serbest). This means that the social and political reputation and, what is more important, political influence, the main positions in an area, depended on the property of the majority of Herzegovina malikanas.

⁹⁸ This mukata (it probably included the iron mine there) in 1777 bore the revenue of 441 groshes (GHBB, sidžil No. 17, pp. 166–167). Perhaps because of its smole revenue it was joined by a part of revenues from the Herzegovina Vlachs' taxes and as such, in the form of a malikana it was leased to local aristocrats.

⁹⁹ According to some firmans from 1779 and 1780, the mentioned Hasan-bey and Husejin-bey, as joint owners, enjoyed the malikana on a mukata in Čajniče and the *resmi tapu-i zemin* (deed tax) on the Vlach mukatas in Nevesinje, Novi, Risan and Cernica. Since their rights were constantly being withheld by the malikana-sahibiyas of the mentioned mukatas, they constantly complained to the Porte and asked for protection of their rights. For this reason two firmans were issued within two years ordering the authorized bodies to establish order. It is hard to say anything definite about the results of these imperial orders. We may only assume, with great probability though, that Hasan-bey and Husejin-bey were eventually forced to give up their malikana because of the pressures of malikana proprietors in Herzegovina mukatas, primarily the Stolac captain Zulfikar.

¹⁰⁰ Kapidžić, *Stolac u XVIII v.*, pp. 13–20.

¹⁰¹ Cf. note 85.

As long as the Resulbegovićs, owing to the enjoyment of malikanas in certain regions of Herzegovina, ruled the majority of raya living on these malikanas, they represented the most prominent chiefs in Herzegovina. Their power in such a wide area began to lessen when the majority of malikanas became the property of a Stolac family, the Šarićs who were the most the most respectable leaders in this part of Herzegovina in the third, fourth and fifth decade of the 18th ct. However, the Šarićs were soon pushed completely aside, unlike the Resulbegovićs whose influence was reduced to the surroundings of Trebinje, under the assault of the aggressive Rizvanbegovićs who became, after the acquirement of the Stolac kapetaniya and most malikanas in Herzegovina, real lords of the largest part of Herzegovina in the second half of the 18th ct. Finally in possession of the Rizvanbegovićs,¹⁰² this malikana became the material basis on which the economic strength and the social and political reputation of this family gradually strengthened and reached its climax in the time of famous Ali-pasha Stočević.

In the strengthening of Rizvanbegovićs' political power in Herzegovina malikana was of double significance. Owing to the enjoyment of malikana for almost hundred years, the collection of Vlach taxes in east Herzegovina and their administrative and police authority over the peasants on their malikana, the Rizvanbegovićs became real feudal lords of

¹⁰² According to a firman from 1819, which, by the way, forbid the conversion of the Vlach filuriye into tithe (ušur) to the proprietor of a 1/4 of a malikana, Hutovo captain Hadži-Mehmed-bey Zulfikarbegović (Rizvanbegović), the scope of the Rizvanbegović malikana, whose part the mentioned Mehmed-bey inherited from his father Zulfikar-bey, coincided with the scope of former Alija Šarić's malikana. According to the strict statements of the firman it covered the area of five quadiluks in Herzegovina including the Vlach taxes mukatas in Nevesinje and its surroundings, mukatas on the has of Zažablje and its surroundings, Rudine and its surroundings and, finally, gorge tax at the crossing between Gabela and Gacko (Kreševljaković, *Kapetanije*, pp. 265–266). The fact that this was a complete malikana, excepting, of course, the malikana on the Vlach taxes mukatas in Novska Bekija known as *Nova ve Risan malikanesi* which later became again the property of Resulbegovićs (OIS, sidžil No. 18, sheet 1), is confirmed among other things by the firman statement that he parts of this malikana were situated in five quadiluks which had also been the case with the former Šarićs' malikana (OIS, sidžil No. 60, sheet 68). The same scope of Rizvanbegović's malikana was preserved later as it is confirmed by a firman from 1833 which is also interesting for the fact that it definitively made legal the collection of tithe (which had probably been collected long ago) instead of filuriya from the Vlachs inhabiting this malikana. This firman also states that the Vlach rusum mukatas in Nevesinje, Rudine, etc., as well as the gorge tax between Gabela and Gacko were enjoyed as a malikana by the Stolac muteselim Alija (Ali-aga Rizvanbegović) and some of his relatives (brothers and nephews who had taken his side in his conflict with his brother Mehmed-bey) and that the imperial filuriya was being converted by the imperial grace into tithe. Furthermore, the firman states that this favor was granted Ali-aga as an award for his positive attitude towards the central government at the time of its conflict with Husejin-captain Gradašević and it was done upon the suggestion of the Vidin muhafiz, former Bosnian Vizier Ali Namik-pasha (OIS, sidžil No. 7, pp. 92–95).

quite a great part of Herzegovina. On the other hand, since they paid by the revenues from their malikana the garrisons of three kapetaniyas in Herzegovina,¹⁰³ most of these guards, especially the ones under their direct command, depended on the Rizvanbegovićs as a matter of fact.

In the light of these facts it seems to us that it will not be overstated if we conclude that the described malikana with all the advantages that its enjoyment brought about represented the material basis which inspired and strengthened with the most prominent members of the Rizvanbegović family the idea of their natural leading role in the political life of Herzegovina and even the whole Bosnia, which had its most evident expression in the outstanding figure of Ali-aga, later Ali-pasha Rizvanbegović Stočević.



The malikana system, established at the end of the 17th ct. as a result of financial needs which troubled the Turkish state at that time, did enable the sultans to improve at least temporarily the state of their treasury by considerable sums acquired from the renounced estates and to eliminate the danger of complete disintegration in those most critical moments, but it failed, however, as a lasting prevention of the ever increasing financial needs of the state. On the contrary, this measure only deepened the long ago started crisis, all the worse for the fact that the acquired resources were spent at once for the same unproductive war purposes again, while the governmental estates became the property of recalcitrant feudal lords unlikely to respect the taken obligations. Having become the property of the richest and the most powerful society layers, the same layers which had earlier begun to undermine in various other ways the foundations of the Empire, malikana almost entirely avoided the governmental control, far more than mukata. The significance of this circumstance could not be disparaged by the fact that the proprietors of malikana still had to pay muadžela, although in some cases it was not insignificant, especially when the revenues from malikanas belonged, partly or completely, to fortress garrisons (for example in the Bosnian pashaluk) who could claim the protection of their rights.

The greatest trouble of the central government was the accomplishment of the malikana obligations which depended, especially later, on the actual relation of powers between the central government and malikana holders. In the course of the 18th ct. this relation developed to central government's disadvantage. That is why many firmans about

¹⁰³ Those of Vidoš (Stolac), Hutovo and Počitelj.

malikana point to the fact that the malikana holders were far less eager to accomplish their obligations than the former mukata lessees and that they tried to convert the leased estates into *mulk* property.

Since the malikana holders began to enjoy the leased estates as their mulks, giving them as leases and subleases without any control and refusing to accomplish their obligations towards the state, the state was threatened by a serious danger — the possibility of being left without any resources. In such circumstances the attempts to abolish malikana occurring in the course of the 18th ct. were not accidental. Such an attempt, probably the most serious, to abolish malikana in all regions which had not been mentioned in the first firman about malikana¹⁰⁴, appeared as early as the second decade of the 18th ct.¹⁰⁵ The attempt to abolish malikana twenty years after its imposition, unambiguously indicate that the central government had soon become aware of the negative consequences of giving governmental mukatas as malikanas, primarily for the governmental finances and otherwise as well. All these attempts to abolish malikana were, however, condemned to failure for the simple reason that the causes which had brought about its appearance had not been eliminated, and could not have been in such circumstances. As a matter of fact, these causes did not disappear during the 18th ct. but became ever more numerous because of constant financial and other problems.

Constant financial difficulties in the 18th ct. forced the helpless sultans to devise various tributes and to increase the existing ones¹⁰⁶ but in this way they could by no means eliminate permanently or even lighten their financial problems. In such conditions the sultans could not help going on with the renouncement of governmental estates for malikanas. When all the possibilities were exhausted, they were eventually forced to renounce the estates (has) deprived from the province and sanjak lords¹⁰⁷ and even the whole provinces for malikanas¹⁰⁸, weakening in this way their influence in provinces and encouraging the half independent position of some province lords — malikana holders. Thus, the malikana system in the course of 18th ct. became the governing form of exploitation of governmental estates since the state itself began to lease all its revenues as malikanas, beginning with the imperial has revenues

¹⁰⁴ Malikana was first established only on the imperial has estates in the east provinces of the Empire: Syria, Haiep, Dijarbekir, Mardin, Adana, Malatya, Ajintap and Tokat (M. Ziya, op. cit., p. 172). Financial difficulties had soon forced the sultans to apply the same system in other regions, so that this establishment was in all provinces of the Empire until the second decade of 18th ct. (M. Ziya, op.cit., p. 194).

¹⁰⁵ M. Ziya, op. cit., p. 194.

¹⁰⁶ See note 21.

¹⁰⁷ GHBB, sidzil No. 31, pp. 52–55.

¹⁰⁸ M. Ziya, op. cit., pp. 223–225.

and mine revenues¹⁰⁹ as well as some extra taxes.¹¹⁰

Weighed down by insurmountable inner and outer difficulties, the Turkish central government, having given its estates as malikana, completely undermined its already weak financial positions, whose negative consequences became particularly effective after the difficult wars waged against Russia and Austria in the second half of 18th ct. In this light the attempts of reform protagonists of sultan Selim III to solve grave economic and political problems, clashing with remnants of the past among which with malikana as well, become more understandable. Looking for the resources for the maintainance of the new army (nizam-icid) and pointing to the obstacles for a successful solution of this serious problem, the most ardent associates of sultan Selim III severely criticised, among other things, the widely spread practice of renouncement of governmental estates for malikanas. In his criticism of such a state the most severe was the mentioned Rumelian quadiasker Tatarđzik Abdullah-effendi who proposed to sultan Selim III to abolish malikanas, that is to stop giving governmental estates as a kind of an initial capitalist lease.¹¹¹ Tatarđzik's proposals, however, although they were not rejected, were too radical for their time to be entirely adopted.

Among numerous measures which sultan Selim had to undertake in seeking the resources for the newly founded treasury (irad-i cedit) meant to pay the expenses of the new army, he made a compromise without evading completely Tatarđzik's suggestion. He decided, as a matter of fact, that beginning with 1792 the vacant (mahlul) malikanas should be returned to the state, that the malikanas whose revenues amounted to 500–15.000 piyasters remained malikanas and that bigger ones whose revenues amounted to more than 15.000 piyasters should be governed by the new treasury.¹¹²

The fate of these ideas of sultan Selim was, probably, similar to the fate of his other reform attempts for which he had to pay with his life¹¹³. This means that the old economic and social system together

with the system of malikana continued its existence in the time of Selim's successor Mahmut II. But this energetic sultan, by his tireless and decisive reforms in the first decades of 19th ct., prepared the ground for the formal abolishment of many old Ottoman establishments based on the

¹⁰⁹ GHBB, sidžil No. 33, pp. 117 and No. 54, p. 47.

¹¹⁰ It is interesting to point out the fact that even such governmental revenues like the revenue from the hare skin customs duty mukata *Cild-i erneb* were leased as malikanas (GHBB, sidžil No. 48, p. 55).

¹¹¹ Miller, op.cit., pp. 91–93.

¹¹² Ibid.

¹¹³ About sultan Selim's efforts to strengthen his empire and his tragic death see the excellent work of Miller, *Mustafa-pasha Bajraktar*.

timar system and malikana among them, which was not actually accomplished until the time of his successor Abd-ul Medžid in the famous *hatisherif* of Gülhana and other legal acts which succeeded it.¹¹⁴

R e z i m e

MĀLIKĀNA

Mālikāna kao doživotni zakup državnih dobara, za razliku od naročitog oblika *mulk* posjeda, predstavlja jednu sasvim novu osmansku pravnu instituciju. Ona je uspostavljena 1695. godine pod neposrednim uticajem finansijske krize u osmanskoj državi s ciljem njenog ublažavanja.

Poslije poraza Turaka pod Bečom (1683. godine) kada je narasla do tada neviđena potreba za novcem, državna dobra su ustupana („prodavana”) u doživotni zakup (*mālikāna*), tj. u specifičnu formu zakupa sa dvostrukim obavezama zakupca koje su se ispoljavale u tome što je prvo, zakupac prilikom prijema *mālikāne* morao da plati njenu cijenu u fiksnom iznosu (*muaccel*) i drugo, što je zakupac morao svake godine da plaća iznos koji se ranije davao na ime jednogodišnjeg zakupa (*mukat'a*) što se zvalo *mueccel*.

Sama država je od *mālikāne* imala više štete nego koristi, jer se davanjem dobara u *mālikānu* zadugo odrekla jednog od svojih glavnih izvora prihoda, a s druge strane jačala materijalnu poziciju onih društvenih snaga koje su svojom pohlepom za materijalnim dobrima i vlašću podrivali i rušili autoritet sultana i države. To je naročito dolazilo do izražaja u onim krajevima Carstva gdje su čitave oblasti (*sancak*) i provincije davani u *mālikānu*. Stoga je centralna vlast počev od druge polovine XVIII stoljeća više puta bezuspješno pokušavala da ukine *mālikānu*, što joj je pošlo za rukom tek zavodenjem Tanzima (1839. godine).

S u m m a r y

MĀLIKĀNA

Mālikāna as a lifelong lease of governmental estates, in contrast to a special form of *mulk* estate, represents one completely new institution of Ottoman law. It was established in 1695 under the direct influence of financial crisis in Ottoman Empire aiming at alleviating it.

¹¹⁴ Abdurrahman Vefik, op. cit., pp. 61–62; Enver Ziya Karal, *Osmanlı Tarihi*, Ankara 1954, V, pp. 146–168.

After the defeat of the Turks (Ottomans) near Viena (in 1683), when an enormous need for money arose, the governmental estates were leased ("sold") as a lifelong lease (*mālikāna*), that is a particular form of lease with doubled liabilities for the lessee which appeared, firstly, in the fact that the lessee had to pay its price as a fixed amount (*muaccel*) at the reception of *mālikāna*, and, secondly, each year the lessee had to pay the amount called *muaccel* which had been given previously as an annual lease (*mukat'a*).

The government itself had more losses than benefits caused by *mālikāna* because by leasing its estates in the form of *mālikāna*, the government renounced one of its main revenue sources for a long period while, on the other hand, it strenghtend the material position of those social classes whose greed for material profit and power was undermining and destroying the authority of the sultan and the government. This became apparent especially in those parts of the Empire where the whole regions (*sancak*) and provinces were given as *mālikāna*. Therefore, from 18th century, onwards, the central government made several futile attempts to repeal the *mālikāna*, but didn't achieve it until imposing the Tanzim (in 1839).