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THE HARDLY POSSIBLE PEACE: THE TREATY OF LONDON (1359), THE TREATY OF BRÉTIGNY (1360) AND THE TREATY OF TROYES (1420) COMPARED

The article compares some of the legal undertakings of the parties under the Treaty of London (1359), the Treaty of Brétigny (1360) and the Treaty of Troyes (1420), which were the treaties between French and English kings, representing the efforts of peace regulation in course of the 'Hundred Years' War'. Compared are the methods of achieving peace designed by the treaties, the status of the French kings and the character of the alliances meant to be established instead of war to guarantee the treaties' implementation. The conclusion is that all the three treaties compared give the picture of both the reasons and the famous dynastic pretext of the conflict by establishing the conditions on which the peace was to be achieved, being also marked by the specific features of the feudal society and law and giving the historical examples of the limitations on the treaty regulation.

Key words: development of international law, peace treaties, treaty regulation, military alliance, the Treaty of London of 1359, the Treaty of Brétigny, the Treaty of Troyes.

Among the anniversaries seen by the year 2017 is that of 680 years since the outbreak of the 'Hundred Years War'. This renowned series of tragic conflicts united by territorial and dynastic claims and uniting medieval France and England in the antagonism with the participation of many other 'players' of the international relations of the epoch, is traditionally much explored and written about. From the point of view of international law studies, it is famously referred to as demonstrating a crisis of the knightly code of honour and of international law (or its equivalent of the period). At the same time the efforts to finally seal the antagonism with peace, which were taken at various times, gave birth to rather significant treaty practice reflecting the fundamentals of the law and order of the Medieval Europe. In a broader context the same reproach of hypocrisy (a quite inconvenient to comment on, though) may be addressed to the international law in times of the hardest international crises: many efforts to apply it for the solution are produced with the results of application being less efficient than it was expected. The hope for effective legal regulation should always prevail, but the possibility of parallelism fosters the scholarly interest for such a historical theme as the peace treaties of the 'Hundred Years' War'.

These treaties in their historical context were analysed or summarized by numerous authors as N. Basovskaya¹, A. Burne^{2 3}, A. Curry^{4 5 6}, J. Favier⁷, D. Jones⁸, E. Perroy⁹, J. Sumption¹⁰, J. Wagner¹¹ and others.

The aim of this article is to compare some of the legal undertakings of the parties under several treaties between French and English kings, which represent the efforts of peace regulation in course of the 'Hundred Years' War,' namely under the Treaty of London (1359), the Treaty of Brétigny (1360) and the Treaty of Troyes (1420).

¹ Басовская, Н.И. (2007). *Столетняя война: леопард против лилии*. Москва: Астрель: АСТ.

² Бёрн, А. (2004). *Битва при Креси. История Столетней войны с 1337 по 1360 год*. Москва: Центрполиграф.

³ Бёрн, А. (2004). *Битва при Азенкуре. История Столетней войны с 1369 по 1453 год*. Москва: Центрполиграф.

⁴ Curry, A. (2002). *The Hundred Years' War 1337-1453*. Oxford: Osprey Publishing.

⁵ Curry, A. (2008). Two kingdoms, one king: the treaty of Troyes (1420) and the creation of a double monarchy of England and France. In G. Richardson (Ed.), *The Contending Kingdoms: France and England, 1420-1700*, 23 – 41.

⁶ Curry, A. (2015). *Henry V: From Playboy Prince to Warrior King*. London: Penguin Books.

⁷ Фавье, Ж. (2009). *Столетняя война*. – Санкт-Петербург: Евразия.

⁸ Jones D. (2012). *The Plantagenets: The Kings who made England*. London: Harper Press.

⁹ Перруа, Э. (2002). *Столетняя война*. Санкт-Петербург: Евразия.

¹⁰ Sumption, J. (2016). *Edward III: a heroic failure*. London: Penguin Books.

¹¹ Wagner, J. A. (2006). *Encyclopedia of the Hundred Years War*. Westport Connecticut and London: Greenwood Press.

Each of the treaties compared understandingly was a result of the respective set of political circumstances, which changed later on. Apart from representing the necessary historic context, these circumstances are of importance because they make each treaty a 'shot of the moment' in the series of conflicts, which reoccurred and went on, notwithstanding the parties' agreements expressed in the treaties. Aimed at the resolution of the conflict and thus formulating the provisions meant to exclude its renewal, the treaties are in fact the reflections of the changing 'fortunes of war', and their provisions aimed at permanence turned out to be pictures of more short-living situations and of military success, which proved to be subject to hesitation.

The Treaty of London (1359)¹ appeared as a consequence of the English captivity of John II the Good, the King of France (ruled 1350 – 1364), who was seized by the English at the Battle of Poitiers (19 September 1356). This treaty was preceded by another one, also known as the Treaty of London or the Treaty of Windsor, concluded in 1358, and this gives the treaty of 1359 the name of 'the Second Treaty of London'. Both treaties were negotiated between the captive French King John II and his English opponent laying the claim to the throne of France, Edward III (ruled 1327 – 1377). The first London treaty of 1358 was rejected in France by the Estates General, and heavy internal disorder led to the delay in paying the ransom for John II, provided for by the treaty. This critical situation, where Edward III refused any concessions, led to the conclusion of the Second Treaty of London on March 24 1359, with harder conditions for France stipulated.

The Treaty of Brétigny (1360)² resulted from an effort made by Edward III to enforce the Treaty of London (1359) by a military operation and to have himself crowned as the French King at Reims. The effort being unsuccessful, the new treaty negotiated was less humiliating for France but still advantageous for England. The Treaty of Brétigny (sometimes also called the Treaty of Calais) was concluded on 8 May 1360. The full implementation of it was postponed, being dependant on a future event, and as it turned out, because of the clever political steps taken by the new French King Charles V the Wise (ruled 1364 – 1380) and those not so clever by the English King's heir Edward, famously known as the 'Black Prince,' (1330 – 1376) this peaceful regulation was to be broken even in Edward III's lifetime.

The Treaty of Troyes, concluded on 21 May 1420³, was brought about by a number of English victories under King Henry V (ruled 1413 – 1422) profiting by heavy internal disorder and factional hostilities in France under its mentally ill King Charles VI (formally ruled 1380 – 1422) and ultimately by the diplomatic alliance between Henry V and the Duke of Burgundy Philip, later nicknamed the Good (ruled 1419 – 1467). The unexpectedly early death of Henry V, succeeded by a baby son, and the subsequent victories of Charles VII of France (crowned 1429 – ruled until 1461) rendered this treaty ineffectual, despite English efforts to keep control over a part of France and even crowning the boy King of England Henry VI as the King of France as well.

The crucial difference between the undertakings of the parties according to the treaties compared is, generally speaking, the 'price of peace', that is, the method of its achievement. The Treaty of London and the Treaty of Brétigny provided for large territorial concessions to be made by France and for the English King and his successor's renunciation of their claim to the French crown in return. As stated above, under the Treaty of Brétigny the French concessions were to be less. The Treaty of Troyes on the contrary did not demand the territorial concessions from France and left intact the law and order of each of the two kingdoms, but it established the English royal house of Lancaster as reigning in them both since the moment of the demise of Charles VI (a regulation which came to be known as 'the dual monarchy'). While Charles VI lived, Henry V of England was acknowledged by this treaty as his heir in France and entitled to exercise the powers of the ruler there.

The territorial concessions according to the London treaty were to include almost half of France: along with its south-western territories, it was to give in those of Normandy, Anjou and Maine, Touraine, the county of Ponthieu, Calais with its surroundings, the counties of Guînes and Boulogne with all the islands and the islands in the sea, which had belonged to the King of England or his predecessors before the outbreak of the war. The duchy of Bretagne also was to change its vassal allegiance from French

¹ Traité conclu a Londres entre Jean II et Édouard III le 23 Mars 1359. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 3 – 32.

² Traité conclu a Brétigny le 8 May 1360. Ratifié a Calais par Jean II et Édouard III le 24 Octobre 1360. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 39 – 68.

³ Traité conclu a Troyes entre Charles VI et Henri V le 21 Mai 1420. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 100 – 115.

to English. It was in fact the reestablishment of the so-called Angevin Empire of the English King Henry II. The French King also had to recompense to the English King, his successors or representatives the value of the lands in legal connection to those ceded but distant from them and also to recompense the further tenants of the lands without the English King being involved. The territorial concessions under the Treaty of Brétigny amounted to about one third of France, including the duchy of Aquitaine and some lands in the north of the kingdom, Bretagne this time remaining the vassal of France. As far as the treaties provide for the change of control over territories, the scholarly attention becomes attracted by the respective provisions regulating the transition and concerning the status of population. Under both treaties the lands were to be given into the full power of the King of England as they had been in the power of the Kings of France. According to the Treaty of London the inhabitants of the respective lands were to keep all the rights and privileges, which did not contradict the treaty and these rights and privileges were to be reaffirmed by the English King. As to the Treaty of Brétigny, a procedure was established for the change of personal supremacy: the king of France and his eldest son were to proclaim to all the inhabitants of the respective territories that those people now changed their obedience into that before the English King and owed no obedience to the King of France. Those landlords, who kept lands in the territories designated by the treaty to be ceded, were to do their homage to the English King. Again all the lands were to keep their rights and privileges, which were to receive reaffirmation by the two kings and were to be reaffirmed in the future, if the contrary did not follow from the treaty. Any person changing his or her obedience under the terms of the treaty was not to be persecuted for the former deeds and the possessions lost in course of war were to be restored to the position before the outbreak of hostilities. Both treaties included somewhat noteworthy provisions guaranteeing the rights of students, who would regain the pre-war privileges when studying in the territory of the former enemy: in the Treaty of London this concerned the subjects of the English King, who would wish to go to the Paris University, and in the Treaty of Brétigny this concerned both English and French subjects, who would wish to study in either French or English universities.

When concluding the Treaty of Brétigny, the conditions on the French King's renunciation of his power over the territories to be ceded and the conditions of the English King's renunciations of his claim to the French crown were put into a separate document called «C'est Assavoir» ('that is to say') for its opening words, which was only to be ratified after the transition of the territories having been completed or before November 1361; each party wanted to condition its concessions on those of another, although the French party agreed not to exercise its sovereignty over the lands to be ceded until Edward's renunciation of his claim, and that would take place on the completion of the transition of territories. Because of the heavy taxes, imposed by Edward the 'Black Prince,' Charles V the Wise withdrew Aquitaine to his power in 1369 following the judicial procedure and thus cancelling the peace regulation.

The treaty of Troyes, aimed at establishing the single royal power over both kingdoms, provided for the return of Normandy and other French lands conquered by the English King to the jurisdiction of the French crown from the moment of death of the French King Charles VI, when the English King Henry V would inherit the French crown. The war of Henry and his ally, the duke of Burgundy, against the French Dauphin Charles, the effectually disinherited by this treaty future French King Charles VII, and his supporters, was also interpreted by the treaty provisions as the war against rebels, aimed at the renewal of the power of the King Charles VI over the whole of France, which was intended to be later inherited by Henry.

The treaty of Troyes included detailed provisions guaranteeing the preservation of the internal law and order of France and precluding its being subdued to the law and order of England. Among those were the preservation of power of the French courts within the whole of its territory, the preservation of rights and privileges of its cities, communities and persons, the occupation of all the official posts in France according to the French laws and by people working for the good of France, the duty of the heir and future French King Henry to secure peace for the French subjects, protecting them from violence and oppression, etc. The new taxes could be introduced only on the grounds of reasonable necessity, and then they were to be aimed at the benefit of the realm of France, with the French laws and customs being observed.

It should be noted, however, that the treaty empowered the assemblies of states of both kingdoms to adopt on the king's initiative measures designed to prevent the renewal of the hostilities, and this could be used for the reception of laws and the mutual rapprochement of the law and order of France and England.

The status of the French King John II under the London Treaty and the Treaty of Brétigny was that of a captive. He was to be ransomed (in the London Treaty the general sum of the ransom was stated as 4 million ecus and in the Treaty of Brétigny it was 3 million ecus) under the terms specified, and his

compliance with the terms of peace according to both treaties was to be guaranteed by hostages. The status of the French King Charles VI under the Treaty of Troyes was to be that of the respected father-in-law (Henry V married the French King's daughter Catherine). Charles VI retained for life his title of the King of France as well as the revenues due to him, and the official documents were to be published in his name, except the cases when the correspondence was to be carried in the name of Henry. Charles, the son of the French King, was not expressly proclaimed illegitimate by the treaty, but he was accused of numerous crimes (the duke of Burgundy desiring revenge for the murder of his father, committed by the people serving Charles and Henry pursuing his political purposes to conquer France).

It was observed, that Henry, styled in the Treaty of Troyes as 'son' to Charles VI, was given by the treaty the privileges, which in the feudal world were assigned to a son-in-law in the absence of sons¹. It was also observed that although Henry's marriage to Catherine, which took place several days after the conclusion of the treaty, was meant to enhance his position as an heir to the French throne and to reconcile the two realms by producing further heirs from the blood of the two royal families, joined by this family union, the treaty did not say that the English King received his position of the French heir by virtue of this marriage².

Although Henry certainly did have French hostages in England, the main guarantee of the Treaty of Troyes from the French side seems to be, besides the alliance of the parties, also a solemn oath of the subjects of the French King, the contents of which was approved by the treaty. The oath was to be of allegiance to the King of England and to the council that he would appoint to help him in governing France; and the oath included the obligations not to acknowledge other King or ruler of France except Henry or his heirs, not to conspire to do Henry any harm and, if such a conspiracy appeared, to oppose it with all force and to warn the English King of it.

Ironically, though not uncommonly, all the three treaties compared established alliances between the former enemies with the view to guarantee the freshly achieved peace. The general obligations to create an alliance and the specific alliances, meant to be organised against a particular enemy, who was expected to oppose the particular treaty, can be distinguished.

The Treaty of London was meant to create good consent and perpetual peace between the two kings and kingdoms on the condition of all the treaty's provisions being complied with; the non-compliance would render the treaty null and void. There is an opinion that Edward III wanted this provision to enable him to intervene in France anew³. The two kings were also obliged to oppose as allies the person, who was expected to act against their reconciliation, in case this person really did so: it was Charles, the King of Navarre, later on nicknamed the Bad, who was the French King's troublesome son-in-law and who had previously conspired with the English King against his father-in-law. The alliance between the two kings, their subjects and the two kingdoms was also established by the treaty to serve as a guarantee of it.

The treaty of Brétigny, establishing the alliance of the parties, which could not infringe upon the honour of any of them, also created their mutual obligation to cancel those of their alliances, which had been aimed against the other party, and to refrain for the future from entering the alliances, which could be employed this way: thus the French King and his eldest son were to give up their alliance with Scotland and the English King and his eldest son respectively had to give up their alliance with Flanders. In case where the French King or his heirs could not comply with all the provisions of the treaty, or any subjects of the French King would oppose the return of the lands to the English King, performed according to the treaty, either situation could not serve as a pretext for the renewal of the hostilities; both parties undertook to seek together the way to enforce the treaty, and the opposition was to be tackled by the respective king for his own costs. The parties also undertook to address the Pope for the approval of the treaty, so that it could be guaranteed by means of ecclesiastical enforcement as well.

The Treaty of Troyes established the military alliance of the parties against Charles, the Dauphin, who was referred to by the treaty as 'Charles, who calls himself the Dauphin of Viennois'⁴ (thus hinting that Charles did not have the right to the title of the French royal heir from the point of view of the treaty's

¹ Фавье, Ж. (2009). *Столетняя война*. – Санкт-Петербург: Евразия, 440 – 441.

² Curry, A. (2008). Two kingdoms, one king: the treaty of Troyes (1420) and the creation of a double monarchy of England and France. In G. Richardson (Ed.), *The Contending Kingdoms: France and England, 1420-1700*, 24 – 25.

³ Wagner, J. A. (2006). *Encyclopedia of the Hundred Years War*. Westport Connecticut and London: Greenwood Press, 199.

⁴ Traité conclu a Troyes entre Charles VI et Henri V le 21 Mai 1420. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 113.

parties) and his supporters. The English King undertook to do his best to draw all the opposing subjects to the obedience of Charles VI. It was also established by the treaty that no peace or treaty with Charles, the Dauphin, was possible without the mutual agreement of Charles VI, Henry V, the Duke of Burgundy and the three estates of France, assembled for the purpose. Besides and for a longer perspective mutual peace and friendship were established between the parties. This general alliance included three specific undertakings: that of mutual help, advice and support against anyone, who would want to make harm to any of the two allied kingdoms, that of friendly intercourse between them and that of trade with the payment of customs duties, established in each kingdom.

To conclude it may be stated that all the three treaties compared give the picture of the reasons and the famous dynastic pretext of the conflict by establishing the conditions on which the peace was to be achieved. The three treaties are distinct by the basis for the peace regulation: the treaties of London and of Brétigny hold as this basis the satisfaction of territorial demands, which generated the conflict, and the Treaty of Troyes is based on the realization of the war's dynastic pretext, that is, the claims of the English kings to the crown of France. All the three treaties replace the enmity with the alliance of the parties, meant to serve as a guarantee of the peace, which in the Treaty of Troyes also gives the legal form to the power of a single monarch over the two monarchies. All the three treaties, being the pictures of the reasons for the war and marked by the specific features of the feudal society and law with their personal allegiance, also may serve as historical examples of the limitations on the effectiveness of the treaty regulation: in each case the elimination of the conflict's causes with the maximum possible satisfaction of one of the parties was not enough for the secure peace.

References:

1. Basovskaya, N. I. (2007). *Stolyetnyaa voina: leopard protiv lilii*. [The Hundred Year's War: the leopard against the lily]. Moscow: Astrel': AST. [in Russian].
2. Burne, A. (2004). *Bitva pri Kresy. Istorija Stolietniei voyny s 1337 po 1360 god*. [The Crecy War: A Military History of the Hundred Years War from 1337 to the Peace of Bretigny, 1360]. Moscow: Centrpoliigraf [in Russian].
3. Burne, A. (2004). *Bitva pri Azenkure. Istorija Stolietniei voyny s 1369 po 1453 god*. [The Agincourt War: A Military History of the Hundred Years War from 1369 to 1453]. Moscow: Centrpoliigraf [in Russian].
4. Curry, A. (2002). *The Hundred Years' War 1337-1453*. Oxford: Osprey Publishing. [in English].
5. Curry, A. (2008). Two kingdoms, one king: the treaty of Troyes (1420) and the creation of a double monarchy of England and France. In G. Richardson (Ed.), *The Contending Kingdoms: France and England, 1420-1700*, 23 – 41. [in English].
6. Curry, A. (2015). *Henry V: From Playboy Prince to Warrior King*. London: Penguin Books. [in English].
7. Favier, J. (2009). *Stolietnyaa voyna* [The Hundred Years' War]. Saint Petersburg : Eurasia [in Russian].
8. Jones, D. (2012). *The Plantagenets: The Kings who made England*. London: Harper Press. [in English].
9. Perroy, E. (2002). *Stolietnyaa voyna* [The Hundred Years' War]. Saint Petersburg : Eurasia [in Russian].
10. Sumption, J. (2016). *Edward III: a heroic failure*. London: Penguin Books. [in English].
11. Wagner, J. A. (2006). *Encyclopedia of the Hundred Years War*. Westport Connecticut and London: Greenwood Press. [in English].
12. *Traité conclu a Londres entre Jean II et Édouard III le 23 Mars 1359*. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 3 – 32. [in French].
13. *Traité conclu a Brétigny le 8 May 1360. Ratifié a Calais par Jean II et Édouard III le 24 Octobre 1360*. In E.Cosneau (Ed.) (1889), *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 39 – 68. [in French].
14. *Traité conclu a Troyes entre Charles VI et Henri V le 21 Mai 1420*. In E.Cosneau (Ed.) (1889). *Les grands traités de la Guerre de Cent Ans*. Paris: Alphonse Picard, éditeur, 100 – 115. [in French].