



IUS ROMANUM



Sixth International Conference
of the Balkan Association
of Roman Law and Roman Legal Tradition

Burgas Free University
Sofia University "St. Kliment Ohridski"

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online in Zoom

MARE NOSTRUM





**Sixth International Conference
of the Balkan Association of Roman Law
and Roman Legal tradition
“MARE NOSTRUM”
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LIST OF PARTICIPANTS
(in alphabetical order)

Aleksandar Djordjevic, PhD
Associate professor, University of Nish, Serbia
djole@prafak.ni.ac.rs

(with Prof. Marija Ignjatovic)

RECEPTUM NAUTARUM AS AN INSTRUMENT FOR INSURING GOODS AND PASSENGERS IN MARITIME TRANSPORT

Abstract: In Roman law, the safekeeping of the belongings of passengers on board was treated as a special case of a deposit agreement. The shipowner was obliged to keep the thing entrusted to him during the transport by ship. Failure to comply with this obligation was the basis of the shipowner's liability for the lost item and legal protection was achieved through a lawsuit *actio furti et damni adversus nautas*. However, as shipowners (including barn owners and innkeepers) were notorious for often acting in an organized manner with thieves in order to obtain illicit property gains, the praetor introduced another remedy (*receptum nautarum*) for increased insurance passengers and goods during maritime transport. The *Receptum Nautarum* was an informal agreement by which the shipowner, regardless of guilt, assumed responsibility for the damage caused to the items brought on board. It arose as a result of the need, present even today in the conditions of modern law, to obtain insurance coverage for those risks that the subjects cannot bear on their own. Hence, this type of legal protection, created in Roman law, is seen as a forerunner of modern insurance of goods and passengers of the participants in the maritime enterprise.

Keywords: *receptum nautarum*; *actio furti et damni adversus nautas*; Roman law; insurance of goods and passengers in maritime transport.

Aniello Atorino
Postdoctoral fellow, University of Salento, Italy
aniello.atorino@unisalento.it

LA CONDIZIONE GIURIDICA DEL *LITUS MARIS* TRA L'ETÀ DI NERAZIO E QUELLA DI GAIO

Riassunto: La relazione si concentra sull'analisi del 'rapporto di somiglianza' posto da Nerazio (D. 41.1.14) tra i *litora publica* e gli animali selvaggi; primo passo di tale indagine è il confronto tra il frammento in esame e la figura dell'acquisto del *dominium* sulle *ferae bestiae* e sui pesci, così come elementarmente descritto nelle Istituzioni gaiane (Gai 2.67). Sorprende, infatti, non solo l'assonanza della fraseologia utilizzata per descrivere i due diversi fatti di appropriazione, ma, soprattutto, quella rinvenibile nelle espressioni adoperate per 'disegnare' il 'ritorno' nella condizione giuridica originaria delle *bestiae* in Gaio e dei *litora* in Nerazio.

Parole chiave: *litus; maris; Neratius; Gaius; ferae bestiae; dominium; occupatio.*

THE JURIDICAL CONDITION OF THE *LITUS MARIS* BETWEEN THE AGE OF NERATIUS AND ONE OF THE GAIUS

Abstract: The report focuses on the analysis of the 'relationship of similarity' posed by Neratius (D. 41.1.14) between *litora publica* and wild animals; the first step of this investigation is the comparison between the fragment under examination and the figure of the acquisition of *dominium* over *ferae bestiae* and fish, as elementarily described by Gaius in his Institutions (Gai 2.67). Is surprising both the assonance of the phraseology used to describe the two different facts of appropriation and the expressions used to 'draw' the 'return' to the original juridical condition of the *bestiae* in Gaius and of the *litora* in Nerazio.

Keywords: *litus; maris; Neratius; Gaius; ferae bestiae; dominium; occupatio.*

Antony Dimitrov
Attorney at Law, Sofia, Bulgaria
antoni.dimitrov@gmail.com

FORCE MAJEURE IN THE MARITIME LAW

Abstract: This article deals with matters relating to the force majeure in the maritime law. The doctrine and court practice in the contemporary law relating to these terms are hereby represented. A comparative analysis is made for the term force majeure in the international maritime laws.

Keywords: force majeure; maritime law; hardship; vis major.

Anișoara Băbălău, PhD
Associate professor, University of Craiova, Romania
anisoara.babalau@yahoo.com

ASPECTS REGARDING THE TRADITION OF RECEPTION OF THE ROMAN FISCAL LAW IN THE ROMAN LEGISLATION

Abstract: The article is divided into 5 sections. In the first section, we highlight the main Roman terms that have been transmitted in the modern lexicon of finance: Tax law, fisc, tax fraud, tribute. In section II, we focused on the presentation of tax officials that appear in the epigraphic sources discovered on the current territory of Romania: arcarius, contrascriptor, dispensatores, vicesimarius etc. In the next two sections we approach the reception of the Romanian Fiscal Law in the old Romanian law (Section III) and in the modern and contemporary law (section IV). The last section (section V) is reserved for comments on the lege ferenda proposal, for the introduction into current legislation of the Roman rule in dubio contra fiscum.

Keywords: tax law; fisc; tax fraud; tribute; the epigraphic sources.

Ardian Emini, PhD
Assistant professor, University "Kadri Zeka", Gjilan, Kosovo
ardian.emini@uni-gjilan.net

(with Prof. Berat Aqifi)

MARITIME LAW ROMAN AND ITS INFLUENCE IN THE MARITIME CODE OF ALBANIA

Abstract: The ancient period of slave-owning society is known for the first attempts to codify the law of the sea known since the Rhodes Law of the Sea, and which were not sanctioned by any sovereign authority, with the sole purpose of developing the maritime ties of the time. In these times, trade and maritime relations did not have any great international importance, therefore the need could not have arisen since then to establish freedom of navigation as a legal norm governing the relations of states in the seas. The sea had not yet become a major road that connected all the countries of the world at that time", but, sea connections existed and developed, and were implemented in the Mediterranean region for a long time. During the twentieth century was held the First United Nations Conference on the Law of the Sea (UNCLOS I), known as the 1958 Geneva Conference on the Law of the Sea, which resulted in four conventions: the Convention on the Territorial Sea and the Neighborhood; High Sea Convention; Continental Shelf Convention; Convention on Fisheries and Conservation of Marine Living Resources. Influenced by these conventions in 2004, the Republic of Albania issued the "Maritime Code of the Republic of Albania", which regulates legal, economic and social relations in the field of maritime affairs, establishing rules on the rights and obligations of entities that exercise maritime activities and have legal responsibility over maritime space.

Keywords: Antica Roma; Rhodes Law of the sea; Convention; Maritime Code; Albania.

Berat Aqifi, PhD
Full professor, University "Ukshin Hoti", Prizren, Kosovo
berat.aqifi@uni-prizren.com

MARITIME LAW ROMAN AND ITS INFLUENCE IN THE MARITIME CODE OF ALBANIA

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Keywords: Antica Roma; Rhodes Law of the sea; Convention; Maritime Code; Albania.

Boyan Georgiev, PhD
Assistant professor, Burgas Free University, Bulgaria
boyan_georgiev73@abv.bg

LAW ON SPATIAL PLANNING AND LAW ON SPATIAL PLANNING OF THE BLACK SEA COAST - RATIO OF GENERAL TO SPECIAL LAW?

Abstract: Two structural laws that regulate similar administrative issues in parallel. The relationship between them should be like a special normative act to a general one. Detailed comparisons show that at times the two normative acts appear to be equal in degree. In other cases, they even regulate the same social relations, and sometimes in conflict.

Keywords: *lex generalis*; *lex specialis*; spatial planning; planning and development.

Boyka Cherneva, PhD

Associate professor, Plovdiv University „Paisii Hilendarski“, Bulgaria

boykacherneva@gmail.com

THE LEGAL AREA AND MARITIME TERRITORIES THROUGH THE PRISM OF CONTINENTAL LAW

Abstract: The article discusses the challenges facing continental law regarding the legal regime of maritime territories. The concept of the legal system, whether based on the legal tradition or the nation state, is not able to explain the specific legal space that is differentiated in the maritime territories. It is no coincidence that the Romano-Germanic legal system, although rather intuitive, is called continental law.

Sovereignty theories are not able to fully explain the interaction between different legal systems in maritime territories. The concept of "legal space" provides answers to a number of current issues, including the application of the law in maritime territories.

Keywords: legal space; continental law; maritime territories; sovereignty.

Carmen Lázaro Guillamón, PhD
Full professor, University Jaume I, Castellón, Spain
mclazaro@uji.es

MARE NOSTRUM “AL FEMMINILE”: NEGOTIATRICES E NAVICULARIAE

Riassunto: Una vera attività commerciale delle donne è implicitamente riconosciuta nelle fonti giuridiche, epigrafiche e storico-letterarie romane. Le donne romane dispongono di tutti i meccanismi che l'ordinamento giuridico prevede per la difesa dei diritti derivanti dall'esercizio di determinate attività commerciali. Il presente lavoro di ricerca è diretto a recensire testi letterari, giuridici ed epigrafici che indicano direttamente o indirettamente la partecipazione delle donne romane al commercio ed alla navigazione nel Mediterraneo, anche come prova di una visione più generale del contesto sociale, economico e ideologico prevalente nella cultura romana mediterranea.

Parole chiave: le donne nel Diritto Romano; commercio; navigazione; Diritto Commerciale Romano.

MARE NOSTRUM “IN FEMALE”: NEGOTIATRICES AND NAVICULARIAE

Abstract: A true commercial activity of women is implicitly recognized in Roman legal, epigraphic and historical-literary sources. Roman women have at their disposal all the mechanisms that the legal system provides for the exercise and defense of the rights derived from the practice of certain commercial activities. This research work is directed to review literary, legal and epigraphic texts that directly or indirectly indicate the participation of Roman women in trade and navigation through the Mediterranean Sea, also as proof of a more general vision of the prevailing social, economic and ideological environment in the Roman Mediterranean culture.

Keywords: women in Roman Law; trade; navigation; Roman commercial Law.

Cristina Pop, PhD
Assistant professor, Babes-Bolyai University, Cluj-Napoca, Romania
cristina.pop@law.ubbcluj.ro

WATER IN ROMAN MYTHOLOGY

Abstract: The worship of the water is part of religious practices of all polytheist peoples from Antiquity. It also held a large place in legends and in worship among Romans. For them, the sources of water, rivers and seas were inhabited by deities who were to be pleased with prayers and sacrifices. They were among the indigetes and appear in the indigitamenta of the pontiffs, as in the ritual formulas of the augures. Therefore, Romans, in order to attract their good graces and turn away their anger, addressed prayers to gods of water, offered them sacrifices, built shrines and temples for them.

Keywords: water; Roman gods; Roman religion; mythology.

Daniela Zareva, PhD
Assistant professor, Burgas Free University, Bulgaria
d_zareva@abv.bg

ABOUT THE “PRICE” OF JUSTICE – SHORT HISTORICAL NOTES

Abstract: The research is aiming to study, in historical aspect, the question of how the price of civil claims is formed and, accordingly the execution of the obligation to pay the state fee. It turns out that this question has remained out of the interest of research both in modern times and in the study of the History and development of law.

Of course, the starting point of the study are the sources on Roman private law and specifically - what has been established on the question of the lawsuit in ancient Rome. The next step is the available information on the administration of justice, if any, in Bulgaria until the Liberation and after that, until now.

Keywords: “price” of justice; the price of a civil claim; state fee; liability for expenses.

Delyana Borislavova
Assistant professor, Sofia University „St. Kliment Ohridski“, Bulgaria
delyanaborislavova@abv.bg

SOME ASPECTS OF MARINE INSURANCE FROM ANCIENT ROME TO MODERN TIMES

Abstract: One of the main issues in the study of Marine law are its insurance aspects. In this article I will try to look at different views on the classical notions of the institute of marine insurance from Ancient Rome to Modern Times.

Keywords: marine insurance; insurance; law; indemnity; civil liability.

Emilija Stankovic, PhD
Full professor, retired, University of Kragujevac, Serbia
estankovic@sbb.rs

TRANSPORTATION SERVICES IN LATE ROMAN EMPIRE

Abstract: Thanks to the aspirations of Diocletian to include into his Edict on Prices the prices of all at that time known services and goods, this also included the prices for road and sea transport. It is fascinating how and to what extent the Edict describes the transport of certain types of goods, even the types of transportation means (carts). It separately describes the road transport and the sea transport services. The Edict also comprised the analysis and comparison of these two types of transportation, as well as of all other elements related to the transport of goods in ancient times. In addition, the Edict contains the prices of supporting services, such as the prices of accommodation and food in inns, bank charges related to loans needed for long trips across the sea, etc. A significant role in the transport services was played by collegiums (transporters' association) which unified the transporters and regulated the organization of transport.

Keywords: Diocletian; Edict on prices; road transport; sea transport.

Francesco Fasolino
Full professor, University of Salerno, Italy
ffasolino@unisa.it

ALCUNE CONSIDERAZIONI SU NAUFRAGIO E SOCCORSO IN MARE

Riassunto: Solitamente lo studio del naufragio è stato svolto con esclusivo riferimento al trattamento delle *res*; non altrettanto può affermarsi per la tutela delle persone o dovere di soccorso. Nelle fonti invero si registra un generale disinteresse progressivo per la tutela della vita umana in caso di naufragio: in esse, così come restituiteci, non risulta individuabile un dovere generale di soccorso in mare alle persone. La normazione, che si concretizza essenzialmente nelle *Leges Rhodiae*, è rivolta alla regolamentazione della sorte giuridica delle merci.

Parole chiave: Legge del mare; naufragio; soccorso in mare.

SOME CONSIDERATIONS ON SHIPWRECK AND RESCUE AT SEA

Abstract: Usually the study of the shipwreck was carried out with exclusive reference to the treatment of the *res*; the same cannot be said for the protection of persons or the duty of rescue. Indeed, in the sources there is a general progressive lack of interest in the protection of human life in the event of a shipwreck: in them, as well as returned to us, a general duty to rescue people at sea is not identifiable. Standardization, which essentially takes the form of the *Leges Rhodiae*, is aimed at regulating the juridical fate of goods.

Keywords: sea law; shipwreck; rescue at sea.

Francesco Lucrezi
Full professor, University of Salerno, Italy
flucrezi@unisa.it

L'ADVENTUS DI VESPASIANO COME RIVINCITA DELL'ORIENTE

Riassunto: L'intervento vuole spiegare in che senso l'anarchia militare, seguita alla morte di Nerone, stia a dimostrare la fine del principio di legittimità che fino ad allora aveva permesso la tenuta dell'impero romano. Il principale motivo di questa crisi fu la fine dell'*auctoritas* della *domus Augusta*, l'unica casata ritenuta in grado, per il suo sacro sangue e la sua elezione divina, di governare il mondo. Esattamente un secolo dopo la vittoria di Ottaviano sul suo rivale Antonio, nella battaglia di Azio (31 a.C.), l'elezione dell' "*inopinatus ac novus princeps*" (69 d.C.), al quale "*auctoritas et maiestas... deerat*" (Suet., *Vesp.* 7), in quanto proveniente dalla "*obscura gens Flavia*" (Suet., *Vesp.* 1), può essere vista come una rivincita delle province orientali contro l'Occidente e il potere del Senato. L'impero fu ricostruito su nuove basi giuridiche, ma il primo cambiamento avvenne sul piano religioso, attraverso una nuova concezione dell'investitura divina del *princeps*.

Parole chiave: *Domus Augusta*; *auctoritas principis*; principio di legittimità, *adventus Vespasiani*; investitura divina dell'imperatore.

THE ADVENTUS OF VESPASIAN AS REVENGE OF THE EASTERN WORLD

Abstract: The civil wars after the death of Nero demonstrate that no principle of legitimacy was accepted any more in the Roman Empire. The main reason for this was the destruction of the *Domus Augusta auctoritas*, the only family who was allowed, by its holy blood and divine election, to rule over the world. Exactly one century after the victory of Octavianus on his enemy Antonius, in the battle of Actium (31 B.C.), the election of the new "*inopinatus ac novus princeps*" (69 A.C.), lacking "*auctoritas et maiestas*" (Suet., *Vesp.* 7), as a member of the "*obscura gens Flavia*" (Suet., *Vesp.* 1), could be considered a revenge of the eastern provinces against the western world and the power of the Senate. If the empire assumed a new legal form, the first change happened on the religious field, with a new conception of the relation between emperor and gods.

Keywords: *Domus Augusta*; *auctoritas principis*; principle of legitimacy; *adventus Vespasiani*; divine election of the Emperor.

Gaetana Balestra
PhD student, University of Salento, Italy
gaetana.balestra@unisalento.it

IL MARE NELLA PROSPETTIVA GAIANA E DELLE ISTITUZIONI DI GIUSTINIANO

Riassunto: L'intervento mira ad evidenziare la concezione che del mare viene prospettata nel II secolo dopo Cristo dal giurista Gaio, partendo dall'analisi di un frammento delle *Res cottidianae* contenuto in D.1.8.5pr.: in esso il giurista antonino appare fra l'altro ricondurre il regime giuridico del mare nell'ambito del *ius gentium*. Il testo, dall'andamento non sempre coerente, sarà analizzato in parallelo a una testimonianza delle Istituzioni di Giustiniano (I. 2.1. pr.-5): l'analisi comparativa consentirà di fornire lumi alla prospettiva gaiana delle *ripae fluminis* e del mare, inquadrandola nel dibattito dell'età del giurista antonino.

Parole chiave: Mare; fiumi; Gaio; *ius gentium*; Istituzioni giustiniane.

THE SEA IN THE PERSPECTIVE OF GAIUS AND JUSTINIAN'S INSTITUTES

Abstract: The report aims to highlight the conception of the sea proposed by the second century jurist Gaius, starting from the analysis of a fragment of the *Res cottidianae* contained in D.1.8.5pr.: in it, the Antonine jurist seems, among the others, to connect the legal regime of the sea in the context of the *ius gentium*. The text, which is not always consistent, will be analyzed in parallel with a passage of Justinian's Institutes (I. 2.1pr.-5): the comparative analysis will clarify the perspective of Gaius about *ripae fluminis* and sea, framing it in the debate of the age of the Antonine jurist.

Keywords: sea; rivers; Gaius; *ius gentium*; Justinian's Institutes.

Giovanni Brandi Cordasco Salmena, PhD
Former lecturer, University of Urbino "Carlo Bo", Italy
g.brandicordasco@libero.it

IL TRASPORTO MARITTIMO NEL DIRITTO ROMANO: APPLICAZIONI ATTUALI DEGLI ISTITUTI STORICI

Rassunto: I traffici commerciali della Roma repubblicana e imperiale si incentrarono sui trasporti via mare. I mercanti e gli armatori potevano concordare condizioni contrattuali diverse ma tutte rientrano nello schema generale della *locatio conductio*, l'unico contratto oneroso a lungo termine tra quelli tipici. Poiché le diverse clausole contrattuali spiegarono conseguenze diverse sul regime del rischio e della responsabilità, i giuristi romani discussero sui contorni di ciascuna convenzione e sull'esperienza delle azioni più utili a tutelare le parti nelle situazioni dubbie.

Parole chiave: traffico commerciale; condizioni contrattuali diverse; *locatio-conductio*; contratto oneroso a lungo termine.

THE SEA TRANSPORT IN ROMAN LAW: PRESENT APPLICATIONS OF HISTORICAL INSTITUTES

Abstract: The commercial trade of republican and imperial Rome was centered mostly on carriage by sea. The merchants and the shipowners could agreed on different contractual conditions, but these all fell into the general scheme of *locatio conductio*, which in Roman law was the only onerous long-term contract among the typical contracts. Since the different contractual clauses had consequences on the rules of risk and liability, the Roman jurists discussed about the boundaries of each type, and about the usefulness of actions on the case that could protect the parties in doubtful situations.

Keywords: Commercial trade; different contractual conditions; *locatio conductio*; onerous long-term contract.

Goce Naumovski PhD

Full professor, Ss. Cyril and Methodius University of Skopje, Republic of North Macedonia
gocenaum@gmail.com

ANALYSIS OF CERTAIN INSTITUTES OF ROMAN CONTRACT LAW RELATED TO CONTEMPORARY EUROPEAN PRIVATE MARITIME LAW

Abstract: The concept of Roman law contracts and the relations with the institutes related to the carriage by sea is analyzed. Relevant Roman law sources are elaborated and interpreted through the scope of social and economic circumstances in Roman antiquity. Several contemporary national legislations approaches are presented. Conclusions are derived regarding the importance of Roman law institutes for contemporary European private maritime law.

Keywords: Roman law; European private maritime law; contracts.

Ionela Cuciureanu

Assistant professor, PhD student, Bucharest Academy of Economical Studies, Romania

ionela.cuciureanu@drept.unibuc.ro

UN EXERCICE D'IMAGINATION SUR LE « DROIT ROMAIN DE LA MER » OU COMMENT APPLIQUER LES PRINCIPES ROMAINS AU CAS D'ESPÈCE INTERNATIONAUX CONTEMPORAINES

Résumé: Bien que les Romains n'aient jamais été une puissance navale, on ne peut nier que nous leur devons dans ce domaine également, une série de principes et de concepts juridiques qui sont encore utilisés dans le droit international de la mer de nos jours. Leur héritage dans ce domaine est bien plus considérable que la célèbre Lex Rhodia de lactu, et le présent article se propose d'analyser en profondeur comment les principes qui peuvent être extraits du droit romain pourraient s'appliquer à des cas pratiques du droit contemporain de la mer.

Mots clés: droit Romain de la mer; Lex Rhodia; principes legaux.

AN EXERCISE OF THE IMAGINATION OVER THE “ROMAN LAW OF THE SEA” OR HOW TO APPLY THE ROMAN PRINCIPLES TO CONTEMPORARY INTERNATIONAL PRACTICAL CASES

Abstract: Although the Romans have never been a naval power, it cannot be denied that we owe them in this field too, a series of principles and legal concepts that are still used in nowadays international law of the sea. Their heritage in this field is far more considerable than the famous Lex Rhodia de lactu, and the present paper proposes to analyse in depth how the principles that can be extracted from the Roman law could practically apply to particular cases from the contemporary law of the sea.

Keywords: Roman law of the sea; Lex Rhodia; legal principles.

Iva Pushkarova, PhD

Associate professor, Sofia University „St. Kliment Ohridski“, Bulgaria

iva.pushkarova@gmail.com

MARITIME PIRACY AS AN INTERNATIONAL CRIME. DIFFERENTIATION FROM SIMILAR CRIMES UNDER THE NATIONAL LAW

Abstract: The international crime of piracy often presents a number of complications related to its perpetration in various and continuous forms and together with other crimes and recognition of the applicable law. The article outlines its general legal and criminological characteristic, provides criteria for its legal qualification and differentiation from robbery, maritime crimes, war crimes, terrorism and other crimes and some insights on its development as a criminal phenomenon

Keywords: piracy; international crime; sea crime; robbery; terrorism; war crime.

Ivan Milotic, PhD
Associate professor, University of Zagreb, Croatia
ivan.milotic@pravo.hr

(with Prof. Ivana Jaramaz Reskusic)

ISLANDS OF EXILE IN ROMAN CRIMINAL POLICY

Abstract: In the field of criminal law the Romans invented and institutionally elaborated several types of exile, each with its own legal prerequisites and consequences. Each exile might consist of a banishment to an island while some meant that a person was exclusively banned to an island. This paper will explore the role and rationale of the convict's banishment to a specific island (with specific features) from perspective of the punishment, criminal policies and the criminal goals that the Roman authorities achieved not solely by selection of an island, but also by exposure of the convict to local living conditions.

Keywords: *exilium*; *deportatio*; *relegatio in insulam*; island; criminal law; Roman law.

Ivana Jaramaz Reskusic, PhD
Full professor, University of Zagreb, Croatia
ijaramaz@pravo.hr

(with Assoc. prof. Ivan Milotić)

ISLANDS OF EXILE IN ROMAN CRIMINAL POLICY

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Keywords: *exilium*; *deportatio*; *relegatio in insulam*; island; criminal law; Roman law.

Jasmine Yasin
Student, Sofia University „St. Kliment Ohridski“, Bulgaria
jas9904@abv.bg

MEHMED THE CONQUEROR AND THE DREAM OF DOMINATION OF THE MEDITERRANEAN

Abstract: The article focuses on the aspiration of Mehmed II to dominate the Mediterranean and the chaotic situation of Italy at that time.

Keywords: Mehmed the Conqueror; Mediterranean sea; Rome; Ottoman invasion.

José Luis Zamora Manzano, PhD
Full professor, University of las Palmas de Gran Canaria, Spain
joseluis.zamora@ulpgc.es

ROMANISTIC BASES FOR OWNERSHIP PROTECTION OF SHIPS AND WRECKED OBJECTS FOR A COMPARATIVE STUDY

Abstract: In this study we will analyse the survival of the Roman rule "quod ex naufragio est, usucapi non potest quoniam non est in derelicto, sed in deperdito" in current law, particularly in sec. 373 of the Maritime Navigation Law 14/2014, 24 July, which states that the ownership of ships or other wrecked or sunken goods will not be affected by the mere fact of their wreck or sinking, and their abandonment will only occur by the express will of their owner. The antecedents and historical evolution start from rules such as the one established by Hadrian and Antoninus Pius in Ulpianus 8 of off. Pro., D. 47.9.12: "Licere unicuique naufragium suum impune coligere, constat; idque Imperator Antoninus cum Divo patre suo rescripsit"; on the lawfulness of the removal and recovery of wrecked property.

Keywords: *naufragium*; derelict; occupation; salvage; findings.

Juan B. Canizares-Navarro, Phd
Assistant professor, University of Valencia, Spain
juan.canizares@uv.es

THE LLIBRE DEL CONSOLAT DEL MAR: A MEDIEVAL NORMATIVE BODY IN THE *IUS COMMUNE* SCOPE

Abstract: This study aims to address an always controversial issue, such as the reception of Roman law in the set of local laws and institutions *-iura propria-*. In the case of the *Llibre del Consolat del Mar*, I lay out to determine whether there was a reception of the *Ius commune* or it just contained rules and customs of the sea, and in this case this would determine that *Ius commune* did not always prevail over the own uses of a specific area.

Keywords: llibre del consolat del mar; *Ius commune*; *mare nostrum*; *ratio scripta*; *iura propria*.

Juanita Goicovici, PhD

Asistant professor, University Babeş-Bolyai, Cluj-Napoca, Romania

juanita.goicovici@law.ubbcluj.ro

THE EPITOME OF *ACTIO NOXALIS* AND ITS REVERBERATIONS ON THE CONTEMPORARY CONTOURS OF LIABILITY FOR DEFECTIVE PRODUCTS

Abstract: The study explores the particularities of the *actio noxalis*, in the perimeter of the debtor's alternatives of *noxae dedere* or *litis aestimationem sufferere*, and its reverberations on the contemporary system of injunctive measures applicable to manufacturers' liability for defective products, also facing the challenges brought on this type of liability by the extended use of products based on artificial intelligence and digital components. The study emphasises the contours of the *facultas solutionis* reserved for the debtor under the regulation of *actio noxalis*, both under the *ius civile* and the *ius honorarium* (Gai. Inst. 4,79), since the offender was held liable, marking the two stages of the debt in compensation, as a debt *in obligatione* before the *litis contestatio*, while the payment was conceived as being *in solutione*.

Keywords: *actio noxalis*; defective products; injunctive measures; malevolent intentionality; objective liability.

Laura Tafaro, PhD
Associate professor, University of Bari „Aldo Moro“, Italy
laura.tafaro@uniba.it

MARE NOSTRUM, NAVE SOSTENIBILE ED ECONOMIA CIRCOLARE

Riassunto: Nuove prospettive di rinnovata centralità si dischiudono per il Mare nostrum: la nave sostenibile in navigazione nel Mar Mediterraneo può porsi quale strumento attuativo del principio normativo dello sviluppo sostenibile e consentire la transizione verso l'economia circolare.

Parole chiave: Mare nostrum; nave; economia circolare.

MARE NOSTRUM, SUSTAINABLE SHIP AND CIRCULAR ECONOMY

Abstract: New perspectives of renewed centrality are opening up for the Mare nostrum: the sustainable ship sailing in the Mediterranean Sea can act as an implementing tool for the regulatory principle of sustainable development and allow the transition to the circular economy.

Keywords: Mare nostrum; ship; pirates; circular economy.

Linda de Maddalena
Postdoctoral researcher, University of Bern, Switzerland
linda.demaddalena@roma.unibe.ch

**«VIRGO A PIRATIS CAPTA, EMPTA A LENONE»
QUALCHE RIFLESSIONE SULLA CONDIZIONE GIURIDICA DEI 'CAPTI A PIRATIS'
FRA TESTIMONIANZE LETTERARIE E GIURIDICHE**

Riassunto: Quale era la condizione giuridica di coloro che venivano catturati dai pirati? Certamente non quella servile, come emerge dalle testimonianze di Ulpiano (D.49.15.24) e Paolo (D.49.15.19.2). Tuttavia, il fatto che i prigionieri dei pirati venissero frequentemente venduti come schiavi nei mercati solleva numerosi interrogativi giuridici sul loro effettivo status libertatis. Il deprecabile fenomeno della vendita di uomini liberi capti a piratis è testimoniato anche nelle fonti letterarie ed è alla luce di queste testimonianze che si cercherà di fornire un contributo allo studio della 'schiavitù di fatto' dei prigionieri dei predoni del mare.

Parole chiave: schiavitù; vendita; pirati; prigionia.

**«VIRGO A PIRATIS CAPTA, EMPTA A LENONE»
SOME REMARKS ON THE LEGAL STATUS OF THE 'CAPTI A PIRATIS' BETWEEN
LITERARY AND LEGAL TESTIMONIES**

Abstract: What was the legal status of those who were captured by pirates? Certainly not the servile one, as emerges from the texts of Ulpianus (D.49.15.24) and Paulus (D.49.15.19.2). However, the fact that the prisoners were frequently sold as slaves by pirates in the markets raises numerous legal questions about their actual status libertatis. The deplorable phenomenon of the sale of free men 'capti a piratis' is also in literary sources and it is in the light of these testimonies that I try to provide a contribution to the study of the 'de facto slavery' of prisoners of the marauders of the sea.

Keywords: slavery; sale; pirates; capture.

Malina Novkirishka – Stoyanova, PhD
Full professor, Sofia University „St. Kliment Ohridski“, Bulgaria
malinans@uni-sofia.bg , mnovkirishka@abv.bg

DE L'EXISTENCE DU DROIT MARITIME ROMAIN

Riassunto: Les problèmes de l'existence d'une réglementation spéciale sur le commerce maritime et les problèmes connexes font l'objet de vives discussions dans parmi les romanistes d'aujourd'hui. Les normes particulières du droit romain et la pratique interprétative de la jurisprudence romaine peuvent être envisagées concernant les contrats par lesquels s'effectue le commerce maritime, mais aussi concernant le statut particulier des personnes qui y participent, le statut des navires en tant qu'un objet de propriété, le régime portuaire, la construction sur le littoral, la protection de l'environnement et un certain nombre d'autres questions. On pose les principales questions pour étudier une telle discipline ou un cours spécialisé.

Parole chiave: mer; droit maritime; commerce maritime; littoral maritime; environnement; *nauta*; *exercitor*; *magister navis*.

ON THE EXISTENCE OF ROMAN MARITIME LAW

Abstract: The problems about the existence of a special legal regulation on maritime trade and related problems are the subject of lively discussion in the romanistic science today. The special norms of Roman law and the interpretations of roman jurisprudence can be considered regarding the contracts through which maritime trade takes place, but also regarding the special status of the persons participating in it, the status of ships, the port regime, the construction of the sea coast, the environmental protection and a number of other issues. The main questions for studying such a discipline or a specialized course are asked.

Keywords: sea; maritime law; maritime trade; sea coast; environment; *nauta*; *exercitor*; *magister navis*.

Maria Albu, PhD

Asistant professor, "1 Decembrie 1918" University, Alba Iulia, Romania

maria.albu@uab.ro

THE ROMAN ADMINISTRATION IN DACIA AND THE 13TH LEGION OF GEMINA

Abstract: The administration was and is full of dynamics in time and space, and the period of Roman conquest in Dacia is a very important one for the national history of Romania but also of Europe. Apulum, became in Roman times, the largest city in Dacia, the location being on the place where the city of Alba Iulia is today. Here was established the residence of the general government of the three Dacians and was a strong administrative center but also for the Romanization of the population. Also in Apulum we find the 13th Legion of Gemina, an elite legion, being located here the Roman Camp Apulum.

Keywords: Roman administration; Dacian people; legion; conquest; organization; government.

Maria Casola, PhD
Researcher, University of Bari „Aldo Moro“, Italy
maria.casola@uniba.it

FLOTTE DEL MEDITERRANEO

Rassunto: Si intende rivisitare alcuni profili attinenti all'organizzazione delle flotte militari nell'antico Mediterraneo e, in particolare, alle politiche di integrazione in ambito militare, al loro reclutamento che affondano le radici nell'antichità e, in maniera significativa, nell'esperienza del diritto romano.

Parole chiave: marina militare romana; flotte; classiari; reclutamento.

MEDITERRANEAN FLEET

Abstract: Intend to revisit some profiles relating to the organization of military fleets in the ancient Mediterranean and to integration policies in the military field, to their recruitment which have their roots in antiquity and, significantly, in the experience of Roman law.

Keywords: Roman navy; fleets; classiari; recruitment.

María Etelvina de las Casas León, PhD
Assistant professor, University of La Laguna, Santa Cruz de Tenerife, Spain
ecajas@ull.es

L'INFLUENZA DEL *LITUS MARIS* SULLA LEGISLAZIONE COSTIERA SPAGNOLA

Rassunto: Come sottolinea il prof. Fernández de Buján, dobbiamo fare riferimento alla storia per realizzare una costruzione dogmatica basata sulla scienza. Attraverso questo lavoro si analizza l'influenza del diritto romano sulla regolamentazione del uso delle coste in Spagna. A tal fine si fa riferimento alla distinzione tra *res publica* e *res commune omnium* per intendere la titolarità della *res publicae*: concetto fino ad oggi molto discusso. Dobbiamo prendere in considerazione il concetto di *litus maris* e la sua evoluzione fino ad oggi nella legislazione spagnola, quando siamo di fronte a una possibile modifica legislativa.

Parole chiave: *litus maris*; *res publicae*; *res commune ómnium*; protection of the coasts in the Spanish legal system; administrative concessions.

THE INFLUENCE OF *LITUS MARIS* ON SPANISH COASTAL LEGISLATION

Abstract: As Prof. Fernández de Buján points out, we must refer to history in order to achieve a dogmatic construction based on science. Through this work we analyze the influence of Roman law on the regulation of coasts in Spain. To this end, we refer to the distinction between *res publica* and *res commune omnium* in order to understand the ownership of *res publicae*: a concept much discussed to this day. We have to take into consideration the concept of *litus maris* and its evolution to this day in Spanish legislation, when we are facing a possible legislative modification.

Keywords: *litus maris*; *res publicae*; *res commune omnium*; protection of the coasts in the Spanish legal system; administrative concessions.

María del Pilar Pérez Alvarez
Full professor, Autonomous University of Madrid, Spain
pilar.perez@uam.es

IL CREDITO PRIVILEGIATO A FAVORE DEL CREDITORE CHE HA IMPARATO DENARO PER LA COSTRUZIONE E L'ARMAMENTO DELLA NAVE

Rassunto: I creditori privilegiati sono coloro che hanno il diritto di essere pagati in via preferenziale rispetto ai creditori chirografari. Questa preferenza viene eseguita nel fallimento e consiste in un beneficio concesso per legge a determinati creditori. In epoca classica ne venivano raccolte diverse nel titolo V del libro XLII del Digesto (*De privilegiariis creditoribus*). Tra questi, il *privilegium demanndi* è incluso per coloro che in *navem extruendam vel instruendam* crediti vel etiam emendam nel D. 42.5.26 (Paul. L. LXVI brief. Edit.) e D. 42.5.34 (Marcian. LV regul). Alcuni autori le parole « *vel etiam emendam* » sono interpolate, non ci sarebbe privilegio per chi ha prestato denaro per l'acquisizione di una nave.

Parole chiave: *privilegium exigendi*; fallimento; *navem extruendam*; *navem instruendam*.

THE PRIVILIGED CREDIT IN FAVOR OF THE CREDITOR WHO LENT MONEY FOR THE CONSTRUCTION OR ARMAMENT OF THE SHIP

Abstract: Privileged creditors are those who are entitled to be paid in preference. This preference applies in bankruptcy and consists of benefit granted by law to certain creditors. In classical times there were several collected in the tit. V, Lib. XLII of the Digest (*De privilegiariis creditoribus*). These include the *privilegium exigendi* for those who in *navem extruendam vel instruendam* credit vel etiam emendam in D. 42.5.26, (Paul. I. LXVI brev. edit.) and D. 42.5.34 (Marcian. L. V. regul.). Some authors would not have privilege for those who lent money for the purchase of the ship and consider the interpolated words “ *vel etiam emendam* ”.

Keywords: *privilegium exigendi*; bankruptcy; *navem extruendam*; *navem instruendam*.

Maria Neykova, PhD
Full professor, Burgas Free University, Bulgaria
mneikova@bfu.bg

НЯКОИ АКТУАЛНИ ПРОБЛЕМИ ПО ОПАЗВАНЕ НА КУЛТУРНО- ИСТОРИЧЕСКОТО НАСЛЕДСТВО В КРАЙМОРСКИТЕ ГРАДОВЕ

Резюме: Настоящият доклад разглежда необходимостта от правна регламентация на опазване на културно-историческото наследство и предоставяне на информация за него в крайморските градове, включително и тези в Античността. Представени са някои специфични проблеми и добри законодателни практики за начина за разрешаването им.

Ключови думи: културно- историческо наследство; законодателство; крайморски градове; Античност.

SOME CURRENT ISSUES IN PRESERVING THE CULTURAL AND HISTORICAL HERITAGE IN COASTAL CITIES

Abstract: This report examines the need for legal regulation of the preservation of cultural and historical heritage and the provision of information about it in coastal cities, including those in antiquity. Some specific problems and good legislative practices on how to solve them are presented.

Keywords: cultural and historical heritage; legislation; coastal cities; Antiquity.

Mariateresa Amabile, PhD
Associate professor, University of Salerno, Italy
mamabile@unisa.it

SIMBOLOGIE DELL'ACQUA NELL'ANTICO ISRAELE

Riassunto: L'intervento propone una riflessione intorno ad alcuni aspetti delle molteplici funzioni dell'elemento acqua nell'antico Israele, nell'ottica di sottolineare, con alcune rapide suggestioni, tanto il suo carattere ambivalente, controverso, talvolta caotico, quanto il suo essere strumento di manifestazione della presenza e del volere di Dio. Ci si soffermerà in particolare sull'utilizzo dell'acqua come strumento di purificazione, nei riti ordalici e soprattutto della significativa importanza dei pozzi nella storia dell'antico Israele.

Parole chiave: *Giudaismo; teofania; acqua; antico Israele.*

SYMBOLISM OF WATER IN ANCIENT ISRAEL

Abstract: The paper deals with a reflection on some aspects of the multiple functions of the water element in ancient Israel, with a view to underlining, with some quick suggestions, both its ambivalent, controversial, sometimes chaotic character, as well as its being an instrument of manifestation of God's presence and will. We will focus especially on the use of water as an instrument of purification, in ordeal rites and above all on the significant importance of wells in the history of ancient Israel.

Keywords: *Judaism; water; theophany; ancient Israel.*

Mariateresa Carbone

Associate professor, University Magna Græcia of Catanzaro, Italy

mtcarbone@unicz.it

LA DIFESA DEL *MARE NOSTRUM* IN UNA COSTITUZIONE TEODOSIANA

Riassunto: Il titolo giustiniano *De poenis* punisce drasticamente mediante CJ.9.47.25 i cives romani rei di trasmettere ai barbari informazioni attinenti a costruzioni navali. L'irrogazione dell'*extremum supplicium* colpisce l'incriminato. Il corpus Teodosianum consente di risalire alle cause che hanno determinato la promulgazione del provvedimento. Appare di ulteriore interesse in CTh.9.40.24 il riferimento alla libertà accordata ai prigionieri in attesa dell'*extremum supplicium*. La versione teodosiana pone in evidenza l'eccezionalità dell'indulgenza concessa su istanza episcopale proveniente dai confini dell'impero. L'omissione in CJ.9.47.25 dei riferimenti specifici presenti in CTh.9.40,24 pare ascrivibile non solo alla astrazione giustiniana maggiore rispetto al codice precedente ma ad interdire sollecitazioni ecclesiastiche della pena prevista.

Parole chiave: difesa navale; grazia; *crimen maiestatis*; traditori; tradimento; *extremum supplicium*.

THE DEFENSE OF THE MARE NOSTRUM IN ONE THEODOSIAN CONSTITUTION

Abstract: The justinian title "*De poenis*" drastically punish, through CJ.9.47.25, the cives romani guilty of transmitting to the barbarians informations regarding naval buildings. The imposition of the *extremum supplicium* affect the indicted. The corpus Teodosianum allows tracing the reasons that determined the promulgation of the mesure. It appears the futher interest in CTh.9.40.24 the reference to the guaranteed freedom to the prisoners waiting for the *extremum supplicium*. The theodosian version put in evidence the exceptionality of the indulgence allowed upon episcopal instance coming from the boundaries of the empire. The omission in CJ.9.47.25 of the specific references present in CTh.9.40.24 seems attributable not only to the justinian abstraction major than the previous code but for interdict ecclesiastical sollicitations of the foreseen penalty.

Keywords: naval defense; grace; *crimen maiestatis*; cheaters; cheating; *extremum supplicium*.

Marija Ignjatovic, PhD
Full professor, University of Nish, Serbia
marija@prafak.ni.ac.rs

(with Assoc. prof. Aleksandar Djordjevic)

RECEPTUM NAUTARUM AS AN INSTRUMENT FOR INSURING GOODS AND PASSENGERS IN MARITIME TRANSPORT

Abstract: In Roman law, the safekeeping of the belongings of passengers on board was treated as a special case of a deposit agreement. The shipowner was obliged to keep the thing entrusted to him during the transport by ship. Failure to comply with this obligation was the basis of the shipowner's liability for the lost item and legal protection was achieved through a lawsuit *actio furti et damni adversus nautas*. However, as shipowners (including barn owners and innkeepers) were notorious for often acting in an organized manner with thieves in order to obtain illicit property gains, the praetor introduced another remedy (*receptum nautarum*) for increased insurance passengers and goods during maritime transport. The *Receptum Nautarum* was an informal agreement by which the shipowner, regardless of guilt, assumed responsibility for the damage caused to the items brought on board. It arose as a result of the need, present even today in the conditions of modern law, to obtain insurance coverage for those risks that the subjects cannot bear on their own. Hence, this type of legal protection, created in Roman law, is seen as a forerunner of modern insurance of goods and passengers of the participants in the maritime enterprise.

Keywords: *receptum nautarum*; *actio furti et damni adversus nautas*; Roman law; insurance of goods and passengers in maritime transport.

Martin Matijašević
Assistant professor, "MB" University, Belgrade, Serbia
martin.matijasevic@yahoo.com

(with Prof. Željko Lazić)

NAVIGATION SAFETY IN ROMAN LAW

Abstract: In ancient Rome, sea routes were key to the economic relations of the time, unhindered trade, and the rapid flow of people and goods. From ancient times, sea routes have been the subject of various pirate groups that tried to gain slaves and other values through criminal acts. The paper analyzes criminal acts committed in order to endanger the safety of navigation.

Keywords: Ancient Rome; pirates; law; security; norms; tradition.

Methody Todorov
PhD student, Sofia University „St. Kliment Ohridski“, Bulgaria
methody.todorov@gmail.com

LA CUSTODIA DELLE COSTE MARINE SECONDO IL CODEX THEODOSIANUS (CTh.7.16)

Rassunto : Viene analizzato il contenuto delle tre leggi imperiali nel CTh.7.16 sulla protezione delle coste e delle strade. Fu discusso il problema di includere in in questo libro VII, titolo 16 di Codice Teodosiano solo le costituzioni imperiali, emanate dagli imperatori Onorio e Teodosio in un periodo relativamente breve: 408-420.

Parole chiave: *Codex Theodosianus; custodia litorum et itinerum; Flavio Stilicone.*

THE CUSTODY OF THE SEA COASTS ACCORDING TO THE THEODOSIAN CODE (CTh.7.16)

Abstract: The content of the three imperial laws in the CTh.7.16 on the protection of sea shores and roads is analyzed. The problem of including in this book VII, title 16 of Theodosian Code only imperial constitutions issued by the emperors Honorius and Theodosius in a relatively short period: 408-420, was discussed.

Keywords: *Codex Theodosianus; custodia litorum et itinerum; Flavius Stilicho.*

Milica Sovrlic
Assistant professor, University of Kragujevac, Serbia
msovrlic@jura.kg.ac.rs

TRANSPORTATION SERVICES IN LATE ROMAN EMPIRE

Abstract: Thanks to the aspirations of Diocletian to include into his Edict on Prices the prices of all at that time known services and goods, this also included the prices for road and sea transport. It is fascinating how and to what extent the Edict describes the transport of certain types of goods, even the types of transportation means (carts). It separately describes the road transport and the sea transport services. The Edict also comprised the analysis and comparison of these two types of transportation, as well as of all other elements related to the transport of goods in ancient times. In addition, the Edict contains the prices of supporting services, such as the prices of accommodation and food in inns, bank charges related to loans needed for long trips across the sea, etc. A significant role in the transport services was played by collegiums (transporters' association) which unified the transporters and regulated the organization of transport.

Keywords: Diocletian; Edict on prices; road transport; sea transport.

Nataliya Kiselova, PhD
Associate professor, Sofia University „St. Kliment Ohridski“, Bulgaria
nkiselova@uni-sofia.bg ; nkiselova@gmail.com

OUR SEA AND SOVEREIGNTY

Abstract: From ancient times until today, the sea is a border, but also a connection. The use of marine waters is addressed in international maritime law. However, the issue of sovereignty remains relevant and controversial.

Keywords: sea; sovereignty; Black Sea.

Nebojsa Randjelovic, PhD
Full professor, University of Nish, Serbia
Necer2611@yahoo.com

GLIGORIJE GERŠIĆ - PROFESSOR OF ROMAN LAW

Abstract: Gligorije Geršić (1842-1918), scientist, politician, professor, marked Serbian politics and legislator with his appearance. There are few scientific papers, which show Gligorij Gešić as a professor of Roman law. The aim of this paper is to present Professor Geršić in that light. Primarily as a novelist and author of famous works in this field, of which the most valuable is the "System of Roman Private Law - Institutions" published in 1882.

Keywords: Gligorije Geršić; Roman Law; Institutiones.

Petruț-George Bran, PhD
Independent researcher, Romania
pgbran@yahoo.com

LA RES PUBLICA E LE IMPRESE DI NAVIGAZIONE

Riassunto: Da quanto risulta dalle fonti antiche, l'espressione mare nostrum viene usata nella letteratura latina a partire dal primo secolo a.C. Questa espressione è stata usata secoli prima nella letteratura greca. Anche se l'utilizzo iniziale sembra essere limitato all'ambito geografico, con il passare del tempo l'espressione giunge ad avere anche un significato politico. Inoltre, il contenuto concettuale dell'espressione parte da quello che si chiamerà Mar Mediterraneo fino a comprendere anche il Mar Nero. Nel diritto romano classico le imprese di navigazione sono tenute a osservare anche l'interesse superiore della res publica.

Parole chiave: *res publica; mare nostrum; magister navis; navigation activities.*

RES PUBLICA AND NAVIGATION ACTIVITIES

Abstract: From ancient sources, the phrase mare nostrum has been used in Latin literature starting with 1st century BC. The same phrase had been used a few century before in Greek literature. Even if its initial use seems to have been limited to a certain geographical area, in time its meaning extended and acquired a political sense. Moreover, the conceptual content of the phrase is rooted in what would later be called the Mediterranean, including the Black Sea. In classical Roman law navigation activities have to take into account the higher interest of public affairs (*res publica*), too.

Keywords: *res publica; mare nostrum; magister navis, navigation activities.*

Pietro Paolo Onida, PhD
Associate professor, University of Sassari, Italy
onida@uniss.it

FUNZIONE E NATURA DELLA *PRAEPOSITIO* DEL *MAGISTER NAVIS*

Riassunto: Il contributo prende in esame la funzione della prepositio del magister navis come chiave di lettura della responsabilità del dominus navis.

Parole chiave: *Praepositio; Magister navis.*

FUNCTION AND NATURE OF THE *PRAEPOSITIO* OF THE *MAGISTER NAVIS*

Abstract: The text examines the function of the preposition of the magister navis as a key to understanding the responsibility of the dominus navis.

Keywords: *Praepositio; Magister navis.*

Piotr Sadowski, PhD
Associate professor, University of Opole, Poland
rrii@tlen.pl

LA MER ET LES FRUITS DE MER CHEZ MARCUS GAVIUS APICIUS – ASPECTS HISTORIQUES ET JURIDIQUES

Résumé : Marcus Gavius, surnommé Apicius, né vers 25 av. J.C., auteur présumé de l'œuvre culinaire *De re coquinaria*, a voyagé jusqu'aux côtes d'Afrique pour se procurer de gros crustacés qui surpasseraient ceux qu'il avait connus jusqu'alors. Cette expédition a été enregistrée par le sophiste Athénée de Naucratis (Athenaeus Naucratis) (2^e-3^e siècle ap. J.-C.) dans *Deipnosophistae* 1.7b. Déçu, Apicius n'a cependant pas trouvé les produits culinaires satisfaisants. Dans le Livre IX intitulé «Fruits de mer » « *De re coquinaria* » d'Apicius nous trouvons les recettes pour la préparation de plats à base de divers fruits de mer, tels que : langouste, langouste, raie électrique, calamar, seiche, poulpe, huître , toutes sortes de crustacés, hérisson de mer, palourde, bonite de l'Atlantique, thon, barbotte, poisson salé, poisson-chat, barbillon de mer. Et bien que l'on ne sache pas exactement ce qui est dans les travaux d'Apicius lui-même, et ce qui a été ajouté par un compilateur ultérieur au tournant des 4^e et 5^e siècles ap. J.-C. cependant, il ne fait aucun doute que la mer et les fruits de mer ont joué un grand rôle dans la vie d'Apicius.

Paroles clé: *cocus optimus*; fruits de mer; loi sur la pêche de la Rome antique; économie maritime.

SEA AND SEAFOOD AT MARCUS GAVIUS APICIUS – HISTORICAL AND LEGAL ASPECTS

Abstract: Marcus Gavius, nicknamed Apicius, born around 25 BCE, the author of the culinary work *De re coquinaria*, before his death travelled to the coast of Africa in order to obtain large shellfish that were to surpass those he had known so far. This expedition was recorded by the sophist Athenaeus of Naucratis (Athenaeus Naucratis) (2nd / 3rd century AD) in *Deipnosophistae* 1.7b. Disappointed, Apicius however did not find the satisfactory culinary products. In the Book IX entitled "Seafood" "*De re coquinaria*" of Apicius we find the recipes for the preparation of dishes based on various seafood, such as: spiny lobster, European lobster, eyed electric ray, squid, cuttlefish, octopus, oyster, all kinds of shellfish, sea hedgehog, clam, Atlantic bonito, tuna, bullhead, salted fish, catfish, sea barbel. And although it is not exactly known what in the works is of Apicius himself, and what was added by a later compiler at the turn of the 4th and 5th centuries AD however, there is no doubt that the sea and the seafood played a great role in the life of Apicius.

Keywords: *cocus optimus*; shellfish; ancient Rome fishing law; maritime economy.

Roberta Marini, PhD
Associate professor, University of Rome 'Tor Vergata', Italy
roberta.marini@uniroma2.it

'...MARE COMMUNE OMNIUM EST': IL CARATTERE PUBBLICO DEL MARE NELL'ESPERIENZA GIURIDICA ROMANA

Riassunto: La configurazione giuridica del mare in diritto romano appare strettamente connessa all'elaborazione da parte dei giuristi della categoria delle *res communes omnium*. Tuttavia, già prima della piena 'configurazione' di tale categoria (in particolare con Marciano), la giurisprudenza romana mostra di riflettere sul profilo della 'natura pubblica' del mare da diverse prospettive. Particolarmente interessante per il giurista attuale è il profilo prodromico all'elaborazione della richiamata categoria espresso nella consapevolezza per cui l'*utilitas communis* di certi beni deriva al singolo proprio ed anche in quanto membro della comunità. In una prospettiva, pertanto, differente da quella attuale per cui l'individuo ed i suoi diritti prevalgono spesso su quelli della comunità.

Parole chiave: mare; ambiente marino; natura pubblica; *res communes omnium*; *utilitas communis*.

'... MARE COMMUNE OMNIUM EST': THE PUBLIC CHARACTER OF THE SEA IN THE ROMAN LEGAL EXPERIENCE

Abstract: The juridical classification of the sea in Roman law appears to be strictly connected to the elaboration, by the jurists, of the category of the *res communes omnium*. Nonetheless, even before the full 'configuration' of this category (achieved, in particular, by Marcianus), the Roman jurisprudence dis spend thoughts on the profile of the 'public nature' of the sea from different perspectives. Particularly interesting for the nowadays jurist is the profile, prodromal to the elaboration of the aforementioned category, expressed by the awareness that the *utilitas communis* of certain things is enjoyed by an individual also, and as long as, it is also as a member of the community. The last mentioned perspective is thus different from the current one where the individuals and their rights do often prevail over those of a community.

Keywords: Sea; natural environment; public nature ; *res communes omnium*; *utilitas communis*.

Sabrina Lo Iacono
Research fellow in Roman law, State University of Milan, Italy
sabrina.loiacono@unimi.it

LA NAVE OGGETTO DI LEGATI. CASISTICA GIURISPRUDENZIALE

Riassunto: Il progressivo sviluppo del commercio marittimo che caratterizzò il mondo romano soprattutto a partire dal III sec. a.C. determinò il sorgere di nuovi problemi giuridici connessi alla navigazione, al traffico di merci e alle res che ne costituivano lo strumento. Anche nell'ambito del diritto successorio, i giurisperiti si trovarono ad affrontare taluni dubbi interpretativi scaturenti da legati aventi a oggetto una nave, mezzo privilegiato per il trasporto delle mercanzie. Alcuni passi del Digesto relativi a tale fattispecie e a fattispecie similari presentano interessanti profili interpretativi.

Parole chiave: Diritto successorio; legato; nave; funzione della nave; *res connexa*.

THE SHIP AS CONTENT OF BEQUESTS. CASE LAW.

Abstract: The progressive development of maritime trade that characterized the Roman world especially from the third century B.C. led to the rise of new legal problems connected to navigation, to the shipping of goods and to the res that were used for it. Even in the inheritance law, the jurists faced certain interpretative doubts arising from bequests of a ship, the privileged means for transporting goods. Some passages of the Digest relating to this case and similar cases show interesting interpretative profiles.

Keywords: Inheritance law; bequest; ship; function of the ship; *res connexa*.

Salvador Ruiz Pino, PhD
Full professor, Comillas Pontifical University, Madrid, Spain
sruizp@icade.comillas.edu

THE HISTORICAL ROMAN PRECEDENT OF THE LEGAL PROTECTION OF NATURAL RESOURCES

Abstract: This study discusses certain situations involving the protection of natural resources by the Roman Law, some of them constituting the most remote antecedent of environmental protections that today constitute this branch of administrative law that the doctrine calls environmental law.

Keywords: Roman Law; Roman Administrative Law; Natural Resources; Environment; Interdicts; Popular Action.

Salvatore Puliatti, PhD
Full professor, University of Parma, Italy
salvatore.puliatti@unipr.it

LE PROBLEMATICHE DEI SINISTRI MARITTIMI NEL PENSIERO DI CALLISTRATO

Riassunto: Il contributo si propone di rivolgere particolare attenzione alla riflessione dedicata dal giurista Callistrato nelle sue *Quaestiones* alle problematiche connesse ai sinistri marittimi e in particolare al naufragio, con speciale riguardo ai riflessi giuridici che ne discendevano sia sotto il profilo della ripartizione dei rischi conseguenti sia sotto quello della tutela e salvaguardia dei beni trasportati. Oggetto di analisi saranno in particolare i due frammenti D.14.2.4 (L. 98) e D. 47.9.7 (L. 107).

Parole chiave: Callistrato; Digesto; sinistri marittimi.

CALLISTRATUS AND THE PROBLEMS OF MARITIME ACCIDENTS

Abstract: The contribution aims to pay particular attention to reflection dedicated by the jurist Callistratus in his *Quaestiones* to the problems connected to maritime accidents and in particular to shipwreck, with special regard to legal repercussions which came from it both in terms of the distribution of consequent risks and under that of the protection and safeguarding of transported goods. Object of analysis in particular, the two fragments D.14.2.4 (L. 98) and D. 47.9.7 (L. 107).

Keywords: Callistratus; Digest; maritime accidents.

Sara Mitic
Assistant professor, University of Nish, Serbia
sulja71@gmail.com
sara.mitic@prafak.ni.ac.rs

LIABILITY OF THE SHIP OWNER FOR THE LEGAL AFFAIRS OF THIRD PARTIES

Abstract: Liability of the ship owner for the legal affairs of third parties was not always the same. At the beginning, pater familias was not only a ship owner but also exercitor navis. Pater familias could independently make a deal regarding navigation and bear all costs and benefits. Later on, alieni iuris and slaves were the one who negotiated the affairs but pater familias was still the main party in the contract.

Keywords: Ship owner; liability; legal affairs.

Stefano Porcelli, PhD
Assistant professor, University of Brescia, Italy
Stefano.porcelli@unibs.it

RES COMMUNES OMNIUM E PROPRIETÀ PUBBLICA. DIRITTO ROMANO E DIRITTO CINESE

Riassunto: Nel diritto romano è venuta ad affermarsi nel corso del tempo una categoria nella quale sono state incluse dai giuristi delle cose che si poteva ritenere come appartenenti a tutti gli uomini. Queste cose, tra cui rientrava anche il mare, non erano appartenenti ad alcuna entità specifica, men che meno ad entità astratte, che nel Diritto romano non venivano riconosciute come 'persone'. Il diritto cinese attuale, per una serie di ragioni di cui si darà conto nell'analisi che verrà svolta, non sembra invece aver accolto la categoria delle *res communes omnium*.

Parole chiave: *Res communes omnium*; mare; proprietà pubblica; Diritto romano; Diritto cinese.

RES COMMUNES OMNIUM AND PUBLIC PROPERTY. ROMAN LAW AND CHINESE LAW

Abstract: In Roman law a legal category has emerged over time in which jurists have included things that could be considered as belonging to all men. These things, which did also include the sea, did not belong to any specific entity, let alone to abstract entities, that in the Roman law were not recognized as 'persons'. On the other hand, the nowadays Chinese law, for a number of reasons that will be taken into account in the analysis that will be carried out in this work, does not seem to have accepted the category of *res communes omnium*.

Keywords: *Res communes omnium*; sea; public property; Roman law; Chinese law.

Stoyan Ivanov

Assistant professor, Sofia University „St. Kliment Ohridski“, Bulgaria

stojanpi@uni-sofia.bg

ROMAN POLICY REGARDING COLLECTION OF CUSTOMS DUTIES AND TAXES IN PORTS OF EASTERN PROVINCES

Abstract: Roman policy regarding the collection of customs duties and public revenues was directed to most effectiveness and good profit. The Roman decision for centuries was to engage private companies with that kind of activity. The aim of the speech (article) is to point out the main reasons, the benefits and the disadvantages of the system which was used by the Romans. The author examines the Customs law of Asia and the particular legal rules and procedures reestablished with it during the rule of Emperor Nero for the control of goods imported and exported in the ports of Eastern provinces as the most relevant and well preserved Roman legal source on this topic.

Keywords: Roman law; Eastern provinces; Asia; ports; private companies; *societates publicanorum*; Customs law of Asia.

Tewise Turena Ortega González, PhD
Associate professor, University of Las Palmas de Gran Canaria, Spain
tewise.ortega@ulpgc.es

L'ATTIVITA' DELLO SCAPHARI COME PRECEDENTE ALL'ATTUALE CONTRATTO DI MOVIMENTAZIONE PORTUALE

Riassunto: In questo lavoro intendiamo analizzare sinteticamente il contratto di movimentazione portuale, uno dei contratti che la Legge sulla Navigazione Marittima classifica come "contratti ausiliari di navigazione", cercando di stabilire i collegamenti tra la normativa vigente, e l'attività svolta nei porti dell'antica Roma, l'ordine professionale degli scaphari.

Parole chiave: *scaphari*; caricamento e scaricamento; movimentazione portuale; LNM.

THE ACTIVITY OF THE SCAPHARI AS A PRECEDENT OF THE CURRENT PORT HANDLING CONTRACT

Abstract: In this paper, we intend to briefly analyze the port handling contract, one of the contracts that the Maritime Navigation Law classifies as "contracts auxiliary to navigation", trying to establish the connections between current legislation and the activity carried out in the ports of ancient Rome by the professional staff of the scaphari.

Keywords: *scaphari*; loading or unloading; handling services; LNM.

Tihomir Rachev, PhD
Assistant professor, Sofia University „St. Kliment Ohridski“, Bulgaria
tnrachev@uni-sofia.bg

RELATIONS ENTRE LES CITES-ETATS DE LA MER NOIRE D'OCCIDENT ET ROME EN TEMPS DU HAUT-EMPIRE

Résumé: L'expansion de Rome pendant le Haut-Empire conduit à la création de diverses unions avec les cités-états de la mer Noire. Les relations entre les autorités romaines et les autorités locales sont une question de grande importance pour la compréhension des processus d'intégration dans l'Empire. Un exemple d'une telle union est le Koinon Pontique occidental entre Istrum, Tomis, Callatis, Dionisopolis, Odessos et Mesambria. L'analyse de cette union peut révéler les mécanismes d'intégration et de gouvernement à l'époque classique du droit romain. Cet article vise à examiner les relations entre Rome et les cités-états occidentales de la mer Noire afin de révéler les principes de base de la coopération et de l'intégration de ces villes sous domination romaine.

Mots clé: cités-états de la mer Noire occidentale; Koinon Pontique; relations internationales; droit romain; Haut-Empire.

RELATIONS BETWEEN WESTERN BLACK SEA CITY-STATES AND ROME DURING THE PRINCIPATE

Abstract: The expansion of the Roman Empire during the Principate leads to the creation of various unions between Rome and other state organized cities. The relations between roman and local authorities is a question of great importance for the understanding of the integrational processes in the Empire. One example of such a union is the Western Pontic koinon between Istrum, Tomis, Callatis, Dionisopolis, Odessos and Mesambria. The analysis of this union can reveal the mechanisms of integration and government during the classical period of Roman law. This article aims to examine the relations between Rome and western Black sea city-states in order to reveal the basic principles of cooperation and integration of these cities under roman rule.

Keywords: Western Black sea city-states; Pontic koinon; international relations; Roman law; Principate.

Valerius M. Ciucă, PhD, D.H.C
Full professor, Alexandru Ioan Cuza University, Iași, Romania
Valerius.m.ciuca@gmail.com

LA MER NOIRE, VITRINE DE SYMBOLES JURIDIQUES ET MORAUX DANS L'ANTIQUITÉ ROMAINE

Résumé : La science du droit, étant si jus-naturaliste et métaphysique, représente par définition un ensemble de métaphores et de symboles ayant une signification morale et surtout juridique. La sémiotique du droit constitue avant la lettre un domaine d'excellence dans la mentalité de nombreux juristes, jurisprudents (philosophes du droit) et juges romains, de nombreux autres humanistes (comme Cicéron, Sénèque ou Ulpian, etc.), et une pléthore d'écrivains et de poètes). À cet égard, nous recherchons la manière romaine de symboliser les connotations humaines à partir de la métaphore Mar Nero, d'après les termes grecs, Pontus Axeinos & Pontus Euxeinos.

Paroles clés : Black Sea; *Mar Nero*; *Pontus Axeinos & Euxeinos*; Cicero; Seneca; Ulpian; Ovidius; Vergilius; *Insula Leuce*; *Achille*; *Moesia Inferior*; Boristena; Apollo.

THE BLACK SEA, SHOWCASE OF LEGAL AND MORAL SYMBOLS IN ROMAN ANTIQUITY

Abstract: The science of law, being so jus-naturalistic and metaphysical, represents by definition a collection of metaphors and symbols with a moral and especially a juridical signification. The semiotics of law constitutes avant la lettre a field of excellency in the mentality of many Roman jurists, jurisprudents (philosophers of law) and judges, many others humanists (as Cicero, Seneca or Ulpian, etc.), and a plethora of writers and poets). In this respect, we are searching the Roman manner to symbolize human connotations starting with the metaphor Mar Nero, after the Greek terms, Pontus Axeinos & Pontus Euxeinos.

Keywords: Black Sea; *Mar Nero*; *Pontus Axeinos & Euxeinos*; Cicero; Seneca; Ulpian; Ovidius; Vergilius; *Insula Leuce*; *Achille*; *Moesia Inferior*; Boristena; Apollo.

Vanessa Ponte Arebola, PhD
Full professor, University of Córdoba, Spain
fd1poarv@uco.es

THE ROMAN ARMY AND THE *MARE NOSTRUM*

Abstract: The development of shipbuilding and shipping in antiquity was associated with both trade relations and military affairs. The Roman army from the time of the Republic onwards managed to establish control over the Mediterranean, called MARE NOSTRUM, and thus ensure the peaceful development of trade relations, but also the political dependence of the coastal states on Rome, to ensure the economic prosperity of the whole region. The navy was instrumental in the Roman conquest of the Mediterranean Sea. Special attention can be paid to the creation of warships that meet both the strategic and tactical goals of the Roman army and the technical progress of shipbuilding in the Roman era.

Keywords: Roman navy; development; control of the Mediterranean Sea; lex Gabinia de piratis persequendis, role of the navy.

Vania Stamatova, PhD
Associate professor, Burgas Free University, Bulgaria
vstamatova@bfu.bg

THE SAFE SHIPPING IN THE CONTEXT OF INTERNATIONAL MARITIME LAW, MARITIME SOVEREIGNTY AND THE OPERATION OF MARITIME TRANSPORT

Abstract: This report examines current trends in the controlled limitation of national sovereignty related to globalization processes, in particular in the field of maritime shipping, clarifying the concepts of "safe shipping", "maritime sovereignty" and "maritime jurisdiction".

Keywords: International maritime law; maritime sovereignty; safe shipping.

Velina Stoyanova
Student, Sofia University „St. Kliment Ohridski“, Bulgaria
velinna2000@abv.bg

ROMA CONTRA PIRATES

Abstract: This article examines some of the legal perspectives of Rome's fight against piracy. The main objectives of the study are to touch upon the notion of piracy in Ancient Rome and the actions that were taken by the State against these "sea bandits".

Keywords: Piracy; organized crime; lex Gabinia; bellum piraticum.

Veronika Doychinova
PhD student, Plovdiv University „Paisii Hilendarski“, Bulgaria
veronique.doychinova@gmail.com

PROTECTION OF THE RIGHTS OF MIGRANTS ENTERING EUROPE BY SEA

Abstract: Protecting the rights of migrants entering Europe by sea requires a specific approach. Analyzes of European law and the problems of migrants entering Europe by sea show an extremely imperfect legal framework and a contradictory practice of the responsible institutions. This is noticeable both at the level of EU law and at the level of national law of the Member States. The report focuses on the conclusion that the European legal tradition of human rights protection should be used much more consistently to guarantee the rights of migrants. The conclusion is general, but it is complemented by conclusions and suggestions for improving the protection of the rights of migrants entering by sea. The specific problems of migrants require a specific approach to the protection of their rights. The general idea is that the answer to these questions can be found in the European legal tradition, which in fact turns human rights and the rule of law into principles adopted by states and international organizations in the whole world.

Keywords: migrants; migration by sea; protection of migrants' rights; legal mechanisms; European legal tradition.

Vlad Vieriu, PhD

Assistant professor, University „Alexandru Ioan Cuza“, Iași, Romania

vieriuvlad@gmail.com

THE PROTECTION OF THE UNDERWATER CULTURAL HERITAGE IN THE EUROPEAN MARE NOSTRUM

Abstract: Beneath the surface of our seas, there is another world and an entire page of European history. Despite natural factors, the sea might be one of the best and safest environments for both natural and cultural heritage. New advanced technologies allow us to discover and salvage these ancient treasures in a relatively new suite of efforts. This year we celebrate the 20th anniversary of the Convention on the Protection of the Underwater Cultural Heritage, adopted during the UNESCO's General Conference in 2001, a moment for millennia of our common memory, but also, a remarkable example of common effort in international law.

Keywords: sea; underwater cultural heritage; international law.

Željko Lazić, PhD

Associate professor, Academy for National Security in Belgrade, Serbia

zeljkolaz@gmail.com

(with Martin Matijašević)

NAVIGATION SAFETY IN ROMAN LAW

Abstract: In ancient Rome, sea routes were key to the economic relations of the time, unhindered trade, and the rapid flow of people and goods. From ancient times, sea routes have been the subject of various pirate groups that tried to gain slaves and other values through criminal acts. The paper analyzes criminal acts committed in order to endanger the safety of navigation.

Keywords: Ancient Rome; pirates; law; security; norms; tradition.