

OTKA 1K515

# Project closing final report

## Scientific report

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### Law in action: Legal documents from ancient Puteoli

#### *1. International cooperation*

The current research is part of a large international project founded 7 years ago. Under the title “Legal documents from ancient societies”, 5 widely known scholars from over the world established a new series of congresses / workshops for scrutinizing the development of legal documentary texts from the cuniform tablets to Byzantine or Arab deeds from late antiquity. The steering committee was formed by Sophie Démare-Lafont (Université Panthéon-Assas Paris II, Ecole pratique des hautes études, Paris), Mark Depauw (University of Leuven), Michele Faraguna (Universita degli Studi di Trieste), Uri Yiftach-Firanko (The Hebrew University of Jerusalem) and Eva Jakab (university of Szeged). Some years later, also Dennis Kehoe (Tulane University New Orleans) attended our group. Furthermore, it is from special importance that the group is closely connected with the famous Institute for the Study of the Ancient World, at the New York University; the director of this institute, Professor R. S. Bagnall, is the adviser and regular participant of our research project.

Our first meeting took place 2008 in Rome (Academia Americana, The American School), afterwards we had very encouraging meetings in Washington (2009), Leuven (2010), Trieste (2011).

2012, I organised a conference under title “Sale and Community” in Budapest, with a rather large number of participants. There were also PhD-students invited from Szeged and Vienna (University of Vienna and Austrian Academy of Sciences) for introducing them into the very special methods of dealing with documentary texts.

After Budapest, the workshops went on: in November 2013 we had an interesting meeting in Jerusalem (guardianship) and the next one will be in autumn 2014 in Vienna, about labour contracts.

2012, I established also a website for the research group: [www.ldas-conf.com](http://www.ldas-conf.com)

There one can see also the publications already came out and the whole concept of our coop-

eration.

This research group plays an important role also in my work on the Latin tabulae. The thematically shaped annual meetings encourage me to approach frequently new topics. The “law in action” approach is typical for our working method; I try to establish it more and more for legal history.

## 2. Sources and project

The Archive of the Sulpicii is one of the most important bench of documents from ancient Italy. The wooden tablets were discovered by chance, during the construction works of the highway from Naples to Salerno, at the end of the 50's. However, a lot of years passed before the documents were truly presented. 1967, already C. Giordano and F. Sbordone undertook the first readings; their *editio princeps* includes 159 documents. J. G. Wolf, together with J. A. Crook, commenced a *cura secunda*, correcting a number of readings — but the planned complete edition remained unfinished. Finally in 1999, Giuseppe Camodeca presented a critical new edition of the entire source material: the two volumes (text with commentary, photos and transcriptions) include 95 well-preserved documents and another 31 which are rather fragmented. Camodeca offered also a detailed philological commentary in Italian and a short and not always reliable summary of the legal contents of each document.

The wooden tablets cover a rather short period of 32 years: the first document was issued on 14 July, 29 CE and the last on 22 February, 61 CE.

The find was called the “Archive of the Sulpicii”, because members of this *familia* are represented in most of the documents. That several generations of Sulpicii were bankers is supported by documentary evidence. The documents offer a fascinating variety of everyday legal activities.

The goal of my project was the annotated revision – from a legal historian point of view – of the source material edited by Camodeca. As yet there is no comprehensive juristic and historically based commentary on this group of documents.

Camodeca systematized the documents according to epigraphic criteria and formed 22 chapters. The documents are carefully ordered based on their legal contents and their form.

I departed from Camodeca's division and partly also changed his definition of the legal contents. My research work can be grouped — according to the economic and legal contents of the documents — under following headings: 1) Trade and transport; 2) Banking with the Sulpicii; 3) Women in business in Puteoli; 4) Law and society.

In each bench the material is presented consequently with the method of the so called “law in action.” I tried to attempt to establish the relationship to the Sulpicii bank, which has not yet been entirely clarified in the relevant studies.

## 3. Method of research

The individual documents of the archive are always presented in their historical, social and economic context. For a complex analysis, it is necessary to draw on a wide range of sources. Above all, the wax tablets that have been found throughout the Roman Empire need to be considered. Of the literary sources, legal sources and the so-called non-juristic literature need to be taken into account in order to look for related agreement models and contract forms. In addition, a functional comparison to the Greek papyri from Roman Egypt and from Judaea

(the Babatha Archive) seems always useful.

#### 4. Research already done – a thematic overview

During the four years of research procedure supported by OTKA (Hungarian Research Funds) I tried to start several new topics. For the better dissemination of the ideas and results of my work I attended every year international congresses and looked for contacts to research projects. This approach led to several publications, mostly in German, English and some in Hungarian, too. Let's look at the main results, gathered in four groups (as announced above).

##### 4.1 Trade and transport

The first group of papers discusses contract practices in Puteoli., especially TPSulp. 78, Menelaos's receipt based on a *naulotike*; another receipt in TPSulp. 80; TPSulp. 45-47, about letting storehouses in the Puteoli port.

I already attempted to reconstruct the background of the legal transaction in TPSulp. 78 in a paper ten years ago. The interpretation is problematic, because Menelaos receives thousand *denarii* in a contractual relationship, but he also promises to return them. If the sum were remuneration for his work as a ship's captain, the obligation to return would be completely out of context. In order to arrive at a realistic understanding, I have examined Greek papyri with shipping contracts from Roman Egypt. The comparison with the Graeco-Egyptian law is particularly applicable here, as Menelaos was a *nauta* from Asia Minor and wrote his receipt, although he was in Puteoli, in Greek. In addition, I looked for cases that could have resulted in a similar receipt being issued in the writings of Roman lawyers. The case discussed by Ulpian in D. 19,2,15,6 fits the context surprisingly well: The parties concluded a freight deed, the freightage was paid in advance, but registered as a loan. When contract conditions are not met, this trick makes a refund claim easier, and it inherently assigns who carries the risk. Accordingly, the risk of receiving the shipping fee remains with the ship's captain: if the ship sinks, he receives no freightage. I would like to look in a similar manner at the rental contracts in TPSulp. 45-47 and at the receipts in TPSulp. 80.

TPSulp. 45-47, deeds about letting of storehouses in the Puteoli port, fits very well this context. How did such repositories look like? Also the Digest inform us in some passages of different methods for storing goods. In D. 33,9,3,11 Ulpian describes the usual *instrumentum* (equipment) of *horrea* in an inheritance case. *Vasa, thecae, arculae forte vel sportae* – vessels, casks, boxes, hampers, any other containers ... Grain or wine – which were *res quae pondere, numero, mensura constant* (the so called 'fungible' things) could have been stored individually (separated in sacks, jars, boxes etc.) or mixed, poured together (D. 30,47,1 Ulp.).

Archaeological sites report of *horrea* and *apothecae* everywhere in the Roman Empire. In my lectures and papers to this topic, I asked especially following questions: Why were put so much wheat and legumes into the granaries in the Puteoli port? How long were such goods stored in large repositories? What could have been the possible role played by the Sulpicii in the event? With J.A.C. Thomas we have to distinguish more than one level of *horrearii* in the business: the main contractor leased the ground (or the building) for a lump sum and he let it to subordinated smaller *horrearii*; only they were responsible for every day business.

We can assume a similar structure in the background of TPSulp. 46. Domitia Lepida owned lands, and a prime contractor leased it from her *institor* (or slave) for the sake of building *horrea* there. The repositories were run by small-scaled *horrearii*. It is very likely that our

Nardus or his illiterate master, Publius Annius Seleucus, never met the elegant, wealthy and powerful Domitia Lepida – not even her slaves or freedmen.

Looking at the deed one can not oppress some questions: Why did a banker rent a storage place for so much grain? Where is the grain from? What might have been the intentions of Faustus with storing a huge amount of wheat in Puteoli?

Both deeds were preserved in the archive of the Sulpicii. It is very likely that the bank might have been somehow involved in the transactions. In TPSulp. 45 nobody is mentioned expressly from the *familia* of the Sulpicii (not even as a witness). However TPSulp. 46 fixed Caius Sulpicius Faustus as conductor. In both cases the storage place was hired for grain (or legumes). Only TPSulp. 45 makes mention of a pledge among the parties. In TPSulp. 46 there is not any word about loan or pledge – the *chirographum* summons briefly the main terms of a lease. But it is striking that Faustus acts as a tenant – although he was not a grain merchant, but merely a banker for lending money. We must consider that Puteoli was the most important harbour for Rome at that time. Ships were coming and starting every day from the small, but busy bay. Moreover, since Augustus it was the main destination of the grain transport from Alexandria towards Rome (Ostia was built for bigger ships only by Trajan almost sixty years later). It is very likely that every *naukleros* or *nauta* stressed to empty his ship as soon as possible. The sailing season was extremely short: from the middle of March until the middle of October. In wintertime, bad weather made any transport very risky, therefore almost impossible. It is striking that both *4ocation4* are dated in the sailing season: in March and July. The loan contracts behind TPSulp. 45 were concluded in June and July, too. All these facts strengthen the assumption, that the grain stored came immediately from maritime trade.

#### *Contributions delivered on the topic at conferences:*

- „Handelsspezifische Rechtsinstitute im antiken Mittelmeerraum“ — 2010, draft for a course at the University of Marburg, summer school
- „Vertragstreue und Urkundenpraxis“ — 2010, University of Marburg, lecture at an international seminar
- “Horrea – Letting of Storehouses” — 2012, University of Edinburgh, lecture at an international congress
- “Sale by auction in Ptolemaic Egypt: A social and economic approach” — 2013, Harvard University, Cambridge MA, USA, lecture at an international congress
- „Raktárházak a tengeri kereskedelem szolgálatában“ — 2013, lecture, University of Debrecen, congress
- „Speichermieten in Puteoli“ — 2013, University of Trier, lecture
- „Versteigerungen im ptolemäischen Ägypten – im Kontext“ — 2013, SIHDA international congress, Salzburg, paper
- « Horrea, sûreté et commerce maritime dans les archives des Sulpicii » — 2013, Université de Paris II, lecture

#### *Papers, publications delivered on the topic:*

- « Horrea, sûreté et commerce maritime dans les archives des Sulpicii » — 2014, FS Sirks, Oxford (forthcoming)
- „Speichermieten und Seehandel in Puteoli“ — ZRG RA 2015 (forthcoming)

## 4.2 Banking with the Sulpicii

This part of my work deals with documents which are closely connected to the activities of the bank. Especially following documents belong to this group: TPSulp. 48-49, personal security, TPSulp. 60-65, *nomina arcaria*, TPSulp. 50-59 and 66-69, loans, TPSulp. 70-77, receipts, TPSulp. 79, mortgages, TPSulp. 81-93, auction documents, and TPSulp. 94-95, bills. TPSulp. 48-49 were classified by Camodeca as *mandata*. He follows the interpretation of J. G. Wolf (1993), who, based on the phrase *scripsi me rogasse ... eique mandasse*, considers it a “payment contract.” Ch. Krampe (2003) has already turned from this interpretation, considering it a “credit contract” (*mandatum qualificatum*). In contrary, I attempted to show that the verbs *rogare* and *mandare* were not used here in a technical sense. My argumentation is based on a broad analysis of further documents and similar wordings found in the entire archive. Accordingly, I have come to the conclusion that this is not a *mandatum*; the expression *eique mandasse* is merely a set phrase found in Chirographum forms.

Furthermore TPSulp. 60 was defined as *nomen arcarium* and P. Gröschler equated it with a papyrus bank diagraphé. I do not share this view: although this type of document shows a close relation to certain banking documents, it does not appear to be a *diagraphé*. It is remarkable that TPSulp. 60 and the related texts report women business: the creditors are all women in this type of documents and also the debtors are mostly women.

In my recent works, I scrutinized further deeds (partly in a rather fragmentary condition) to emphasize banking practices of women in ancient Puteoli. I was able to reconstruct some legal transactions that were never considered yet.

### *Contributions delivered on the topic at conferences:*

- „Der Philosoph und die Urkundenpraxis“ — 2011, SIHDA, international congress, Liège
- „Sponsoren und Athleten im antiken Sport: Zur Ausbildungsdarlehen der Athleten“ — 2011, Vienna, paper on an international congress at the Austrian Academy of Sciences
- „Periculum und Weinkauf im Imperium Romanum“ — 2011, University of Tübingen, lecture
- „Vom Kauf im antiken Rom“ — 2012, University of Dresden, lecture
- „Sponsoren und Athleten im antiken Sport (Risiko und Ruhm beim Darlehen der Athleten)“ — 2012, SIHDA, international congress at the Oxford University, lecture
- „Senecas Misstrauen in Brief und Siegel. Zur Notarspraxis in neronischer Zeit“ — 2012, University of Vienna, lecture

### *Papers, publications delivered on the topic:*

- „Geld und Sport. Rezeption griechischer Topoi in der römischen Jurisprudenz?“ — 2013, RIDA
- „Urkunden in Briefform: Chirographum und Epistula im römischen Privatrecht“ — 2013, in *The Letter. Law. Society and Epistolary Format in the Ancient World*. Proceedings of a Colloquium held at the American Academy at Rome, 221-238
- “Introduction, Archives in the Roman Empire” — 2012, in *Archives and Archival Activities in the Ancient World*, hg. von Michele Faraguna, Trieste

— “Financial Transactions by Women in Puteoli“ — 2012, in *New Frontiers. Law and Society in the Roman World*, Edinburgh, 125-150.

### 4.3 *Women in Business in Ancient Puteoli*

This part deals exclusively with documents that concern the contracts and financial transactions of women. Camodeca re-edited 127 tablets in his volume: 39 (41 %) deal with legal procedure or arbitration; 56 (59 %) with legal transactions (loans, receipts, pledges, rents, money transfers). I selected out all together 97 tablets (75 %) for my work in progress, restricted to documents with a text complete enough for the legal perspective. 23 tablets (24 %) record legal transactions performed by women. Already this simple statistics gives a hint to the importance of women in business life of Puteoli. Women as contracting parties are involved in 21 tablets; in two further tablets they are only indirectly concerned. *Serva, liberta, domina*: our protagonists are coming from very different segments of population. Some of them are slaves and objects of contracts, like Fortunata in No. 90-93: Marcia Aucta, her proprietor-lady pledged her for a debt and the creditor put her up for auction after foreclosure. We are well informed of this auction, for it's announcing is recorded in several tablets.

There are also freedwomen contracting in their own business with the Sulpicii. A good example is Patulcia Erotis, a *liberta* in No. 82, acting as *domina auctionis* (owner of the merchandise sold by the auctioneer). Patulcia confirms that she has received 19,500 *sestertii*, the auction price for an unknown article owned by her (the text is incomplete). It can be considered as a significant amount at that time: it could have been the price of 40 tons of grain or 10 to 40 slaves on the market (depending on their quality). A further example for a freedwoman in business is Marcia Fausta in No. 99 taking a loan of 2,000 *sestertii* from the Sulpicii. A free-born lady, Caesia Priscilla (in No. 58, 71), seems to have belonged to the upper-middle class of Puteoli. Her credit with the bank was remarkable: her money transactions (loan, remittance, deposit) run all together up to 24,000 *sestertii*.

Finally, there were also distinguished ladies of high birth involved in Puteoli business. Domitia Lepida and Lolliia Saturnina can be considered as the most prominent of them:

Domitia was the daughter of L. Domitius Ahenobarbus (consul in 16 BC) and the aunt of the Emperor Nero. She was married (as first wife) to the elegant and politically adroit C. Passianus Crispinus (consul in 44) — however, he abandoned her later for Agrippina. Domitia was the happy owner of admired estates, among them her famous *villae* at Baiae and Ravenna with fishponds, and probably the *horti Domitiae* across the Tiber in Rome. All of her property passed after her death in 59 AD to Nero. Domitia owned some *praedia* (plots) in Puteoli, with grain storehouses built by investors. Tablet No. 46 (*location*, rent of place in a storehouse) and 79 (pledging grain in a storehouse) mention her name as the owner of the location. The other lady of high birth is Lolliia Saturnina, the sister of Lolliia Paulina, the wife of the Emperor Gaius (Caligula). One of her freedmen, Marcus Lollius Philippus, acts in No. 73. The tablet contains a receipt: Caius Sulpicius Cinnamus acknowledges that he has received from the freedman of Lolliia Saturnina some cash money (the amount is not preserved). The text is heavily damaged, only the first lines can be read; the financial transaction can not be specified closer.

As we see, the tablets of Puteoli indicate that members of the Emperors's families and of the entourages of a number of senators were investing money through the Sulpicii. It can be sup-

posed that the freedmen acted as intermediaries in these financial transactions. The loans agreed in this way were — as Andreau assumed — simply money investments, because the aristocracy was interested first of all in interest bearing.

My examination is focused on the legal content of Puteoli business transactions, carried out by women. What type of contracts did women conclude with the Sulpicii? What is the typical legal position of women in these contracts? Which are the most convenient legal constructions chosen by women taking part in every day business?

*Contributions delivered on the topic at conferences:*

— „Serva — liberta — domina: Frauen im Rechtsleben“ — Wien, 2010, Faculty of Law, University of Vienna, lecture

— “Women in business in ancient Puteoli” — 2010, SIHDA, international congress, Barcelona

— “Contracts and banking of women in Puteoli” — 2011, Tel Aviv, international congress

— „Frauen und Freigelassene in den *tabulae*“ — 2013, *University of Tübingen, paper at an international congress*

— „Vormundschaft: Lateinische *tabulae* und römisches Recht“ — 2013, The Hebrew University of Jerusalem, paper at an international congress

*Papers, publications delivered on the topic:*

— “Financial Transactions by Women in Puteoli” — 2012, in *New Frontiers. Law and Society in the Roman World*, Edinburgh, 125-150.

— “Neue Rechtsurkunden aus Pompeji. *Tabulae Pompeianae Novae*. Lateinisch und Deutsch. Herausgegeben, eingeleitet und übersetzt von Joseph Georg Wolf“ — 2012, ZRG RA

— „Joseph Georg Wolf, Aus dem neuen pompejanischen Urkundenfund. Gesammelte Aufsätze“ — 2010, ZRGA RA 129

#### *4.4 Law and society*

Dealing with the wooden tablets from Puteoli requires a wider overview over law and life in the ancient world. Throughout my current research I looked for contact with ancient history, juristic papyrology and legal history for a better foundation of my work. During this extended work developed special themes and papers however connected with this research program, too. In the following I just give a hint to this segment of my recent work.

*Contributions on conferences delivered on the topic:*

— „La responsabilita dolosa e colposa nella compravendita in diritto romano“ — Milano, 2010, Università degli Studi di Milano, lecture

— „Freiheit und Sicherheit in Platons *Nomoi*“ — 2010, Szeged, Humboldt-Kolleg, paper

— “Identifiers and Identification Methods in Latin *tabulae* (1<sup>st</sup> cent. BC – 2<sup>nd</sup> cent. AD)” — 2010, University of Leuven, paper

— “Ownership and Control: Property Rights and Institutional Arrangements” — 2011, Bruxelles, paper on a congress about “Exploitation of Natural Resources”

— „Der Kauf im griechischen und römischen Recht“ — 2011, University of Dresden, lecture

- „Angst und Gesetzgebung: Gedanken zu Platons Nomoi“ — University of Graz, abstract for a congress about Emotions
- „An der Donau“ — 2013, lecture, Belgrade, Humboldt-Kolleg
- „Brissonius and his Work ‘*De formulis et solennibus populi Romani verbis*’ — 2013, lecture, international congress, University of Edinburgh
- “Ownership on agrarian land: an unlimited right?” — 2013, Pretoria, lecture at an international congress
- „Konzepte des Eigentums im Wandel der Zeit“ — 2014, University of Bonn, paper at an international congress

*Papers, publications delivered on the topic:*

- „Chirographum in Theorie und Praxis“ — 2011, in Römische Jurisprudenz — Dogmatik, Überlieferung, Rezeption. Festschrift für Detlef Liebs zum 75. Geburtstag, 275-292.
- „Polgári perrendtartás az ókori jogtörténet tükrében“ — 2013, in A polgári peres eljárás történeti fejlődése Magyarországon, Szeged, 119-134.
- Jogtörténet és jogösszehasonlítás — 2014, Studies in honour of Martonyi János, Szeged, forthcoming
- „Földtulajdon és társadalom“ — 2013, Studies in honour of Blazovich László, Szeged, 319-320
- „Das Problem des wachsamem Gesetzes: Eine neue Rechtsfigur im alten Licht“ — 2014, FS Blaho, Trnava
- „Versteigerung und Bodeneigentum im ptolemäischen Ägypten“ — RIDA 2014 (forthcoming)
- “Auctions and Ownership in Ptolemaic Egypt: A social and economic approach” — 2014, chapter in Symposium, Akademie Verlag Vienna (forthcoming)

## 5. Books prepared

Finally I tried to prepare an all over publication of the documents with a detailed legal historical commentary. Based on the lectures and papers cited above, I can show up two manuscripts — although both of them are even now a “work in progress”. It means that both manuscripts are circa 80 % ready but need some further redaction work.

### 5.1 A German manuscript — work in progress

Working on the research I looked for contacts to internationally to scholars interested in similar topics. Fritz Mitthof, professor for Ancient history at the University of Vienna, showed great interest in the Latin *tabulae*. He asked me to held a course at the University of Vienna about my tablets – which I did in the winter term 2012 (Römische Rechtsurkunden I. Urkunden aus den Vesuvstädte).

Discussing the tablets with the Austrian students and PhD-students I put together a selection of the tablets which will serve as a basis for a future publication, planned together with Professor Mitthof.

I do not think it useful to attach all these texts to this final report — but I am able to send them immediately as a separate file if required. Please let me know if you wish to see them. I think now that I will be able to finish the manuscript in summer 2014; the publication is planned in Germany, with a German publisher (very likely in Freiburg i.Br.).

## 5.2 A Hungarian manuscript — work in progress

Publishing frequently about the topic and choosing the subjects dealt with some consequence — it led to a rather complete set of chapters about the wooden tablets from Puteoli. At current stage I could deliver at once a set of documents with a detailed commentary — but I did not think it useful to attach the entire manuscript to this report. If necessary, I can send it any time.

I would like to finish the manuscript in summer 2014 and to apply for some support to the printing costs.

Summing up I would like to thank to the Hungarian Research Funds for supporting my recent work on the topic. The subject is a rather wide one — it was not possible to finish all possible aspects of research during the four years of the current project. It seems very likely that I will be busy with this topic until the end of my life ... I started and prolonged several international cooperation focused on documentary sources in these four years. I hope I can work on them in the future and find new problems and new solutions.

Szeged, February 28, 2014

Eva Jakab