

75th session of the Société Internationale Fernand De Visscher pour l'Histoire des Droits de l'Antiquité – Brussels 2022

The 75th session of the Société Internationale Fernand De Visscher pour l'Histoire des Droits de l'Antiquité took place in Brussels, between the 13th and the 16th September 2022. It was organized by the Law Faculty of the Université Saint-Louis – Bruxelles, with the support of the Research Council, the International Relations Unit of the Université Saint-Louis – Bruxelles, the Centre d'histoire du droit, des Institutions et de la Société (CRHIDI), the Centre de droit privé (CePri), the Ecole des Sciences philosophiques et religieuses (ESPR), the Comité voor Rechtsgeschiedenis Koninklijk Vlaamse Academie van België voor Wetenschappen en Kunsten, la Maison de l'Histoire Européenne, as well as the Fonds de la Recherche Scientifique (F.R.S.-FNRS). The theme of the anniversary session was “Ius and Religio. Law, Ancient Religions and Christianity in Antiquity” and was inspired by the contemporary crisis in both the religious and the social sphere. The aim of the organizing committee was to focus on the concept of “religion” and on its relationships with law, the state, and society.

The opening ceremony was held in the afternoon of the 13th September in the Auditoire 1 of the Université Saint-Louis – Bruxelles. After the opening speeches of Hugues Dumont, president of the Ecole des sciences philosophiques et religieuses, and of Jogchum Vrieling, Vice-Dean of research of the Law Faculty of the Université Saint-Louis – Bruxelles, the floor was given to the organizer Annette Ruelle, co-director of the Centre de Recherches en Histoire du Droit, des Institutions et de la Société (CRHIDI), professor in the Université Saint-Louis – Bruxelles.

The greetings were followed by two inaugural lectures, chaired by Emmanuelle Chevreau, professor at the Université of Paris II Panthéon-Assas and director of the Institute of Legal History. The first one was given by John Scheid, Honorary Professor at the Collège de France and Member of the Académie des inscriptions et belles lettres, who gave a talk on “*Imperium, ius et religiones. Pouvoir, droit et obligations religieuses dans la Rome antique*”, in which he offered important observations on the religious aspects of the Roman obligations, especially of the formulas of the *actiones*. After him, the topic of the intersection between religion and law was continued by Wim Decock, Professor of Roman Law, Comparative Private Law, and History of Law at the Université Catholique de Louvain and at the Université de Liège, who gave a very intense talk on the “*Usus Theologicus Pandectarum* – Theological Transformations of the Civilian Tradition”.

In the evening the participants were invited to a guided tour of the Maison de l'Histoire Européenne, followed by a dinner cocktail.

On the second day of the congress, the 14th September, 31 participants presented their papers in three parallel sessions.

In the early morning session, chaired by Mr. Jeroen M. J. Chorus, Laura Gutiérrez Masson (Universidad Complutense) presented a paper, entitled "Le scelus perfidiae dans la pensée juridico-religieuse de la Rome archaïque". It was dedicated to legal and political aspects of the Roman concept of the *perfidia*, intended as a violation of the *fides*. It was followed by the presentation of Ralph Evêque (Université Paris Nanterre) "Le poids de la piété. L'intégrité corporelle des prêtres romains au sens du *ius sacrum*" in which the author reexamined the problem of the necessity for Roman priests to have complete physical integrity. The last paper in this session was "*Coloni* and the colonate in West-Europe after 506 AD", given by Boudewijn Sirks (University of Oxford). Starting from an analysis of the colonate system as introduced by Diocletian, the author then continued by examining the differences between the development of the phenomenon in the eastern and in the western parts of the Empire in the VI century AD.

In the second early morning session, chaired by Hans-Dieter Spengler, the works were opened by Marlene Peinhopf (Universität Graz). Her paper, "*Sacerdos Martis damnatum liberet. Gedanken zu religiösen und sittlichen Normen in den rhetorischen Corpora*" was dedicated to the rhetoric declamations treating some Roman legal norms, related to religion. The topic of the Roman priests and their importance for law was continued by Nadja El Beheiri (Pázmány Péter Katolikus Egyetem), who gave a paper, entitled "Ein Flamen Dialis im römischen Senat: Gedanken zu Livius 27,8,4–10". The last paper in the session, again dedicated to the jurisdiction of the Roman priests, was presented by Anna Novitskaya (University of Vienna) under the title "Einige Anmerkungen über die Beteiligung der römischen Priester im Gerichtsverfahren der republikanischen Zeit".

The third early session was chaired by Philip Thomas and contained papers with more diverse topics. In his paper "Law, Religion and the Socially Understood" Graeme Cunningham from University of Glasgow focused on the problem of the importance of the social concepts, especially concepts with a religious dimension, for the reasoning of the Roman jurists, arguing that the Roman legal culture was strongly influenced by extra-legal factors. Benet Salway (University College London) presented a paper, entitled "Diocletian and colleagues on the Manichees (Collatio 15.3) revisited", dedicated to the dating of an imperial constitution from the *Collatio Legum Mosaicarum et Romanarum* in relation to the Great Persecution of the Christians. Finally, the paper "Locatio Conductio as a Vehicle for Religious Freedom: Roman Jurisprudence in Context" by Grzegorz J. Blicharz (Uniwersytet Jagielloński) analyzed the public and the private aspects of the Roman lease contracts, and then focused on the religious aspects of the *locatio-conductio*.

After a short coffee break, the conference continued with the first late-morning session, chaired by Carla Masi Doria. It was homogeneously dedicated to problems of terminology, concepts, and definitions. The presentation of Carmen Palomo Pinel (Universidad CEU San Pablo) was entitled "*Vis verborum: de la revelación de un dios al emperador onomaturgo*" and was dedicated to the concept of definition in the Roman law and to the problematic elaboration of definitions by the Roman jurists. Ana Maria Rodríguez

González (Universidad Carlos III de Madrid) gave a paper titled “*Furtum y sacrilegium. Un ejemplo para la diáresis en las fuentes retóricas y jurídicas*” in which the focus was on the contrast between the *crimen sacrilegii* and the *delictum furti* as an illustration for the logical categorization in the rhetoric and legal texts. Finally, Maria Consuelo Carrasco García (Universidad Carlos III de Madrid) presented a linguistic analysis of the concept of *pignus*, especially in the patristic texts, in her paper entitled “*Pignus. De garantía jurídica a promesa de salvación*”.

The parallel late-morning session chaired by Konstantin Tanev, contained papers with various topics. In her paper “Cicero and the reaction of the Sicilian society against Verres” Ayşe Öncül (Istanbul University) reexamines the classical texts of Cicero’s speeches *In Verrem* focusing on the despoliation of the local temples. David Magalhães (University of Coimbra) then gave a talk on “Protection of the unborn and abortion in Roman Law. Some remarks after Dobbs V. Jackson” in which he analyzed the protection of the unborn’s interests in Roman law in relation to the anti-abortion debate in the United States. Finally, Ghenka Mozzuhina (University of National and World Economy, Sofia) presented a paper, entitled “L’importanza della fiducia (*fides*) come fonte di obbligazione nel diritto romano” and dedicated to the historical development of the concept of *fiducia*.

The papers in the third late-morning session, chaired by Jan Hallebeek, were brought together by the focus on the *sacrum*. Paulina Świącicka (Uniwersytet Jagielloński) gave a talk on the “Roman jurist and the sphere of *sacrum*. Moments of irrationality in rational dogmatic argumentation of Roman jurists”, which analyzed the gradual but partial separation between Roman law and religion and the coexistence of rationality and religious convictions in the thought of the later Roman jurists. The influence of religion on the Roman jurists was the topic also of the paper of Łukasz Marzec (Uniwersytet Jagielloński), entitled “*Sacrosanctis Evangeliiis propositis. Sacrum* in the formation of ancient lawyers’ ethical principles”. The author analyzed the ethical aspects of the lawyers’ professional behavior in relation to the sacred sphere. Finally, Javier Rodríguez Diez (Pontificia Universidad Católica de Chile) gave a talk on “Ulpian’s *ius naturale* and the Reign of Saturn”, focused on the concept of slavery introduced by the *ius gentium* in relation to the *ius naturale* and the mythical Golden Age when everyone was born free.

After the lunch break, work was resumed again in three parallel sessions. The first one was chaired by Francesco Musumeci and contained papers related mainly to medieval subjects. The presentation of María José Bravo Bosch (Universidade de Vigo), entitled “Monophysitism, law, politic and religion”, was dedicated to the condemnatory legislation against the monophysitic heresy and the political aspects of the legal and religious persecution against its followers. Claire Laborde-Menjaud (Université Paris Nanterre) gave a talk on “Le repos interrompu. Les exceptions à la protection des tombeaux romains”, focused on the religious aspects of tomb violation in the Roman law and on the later Christian exceptions of the classical prohibition to disturb and exhume the dead. Finally, Federica De Iuliis (Università di Parma) discussed in her paper “Della successione ‘in divino ministerio’ in un antico canone” the problem of the prohibition of the hereditary succession of the episcopal office, as attested in a manuscript from the XI century.

The second early-afternoon session was chaired by David Pugsley and contained papers on very different topics. Firstly, Harry Dondorp (Vrije Universiteit Amsterdam) gave a presentation on “*Usucapio*, Church and Synagoge” in which he analyzed the concept

of *praescriptio longi temporis* both in Roman law and in Canon law and then compared it with the Jewish concept of *hezakah*. Then, in his paper “Aspetti religiosi e civili dello scioglimento del matrimonio nelle fonti giuridiche arcaiche”, Konstantin Tanev (University of National and World Economy, Sofia) focused on Livy’s account of the rape of Lucretia and discussed some problems of the Roman *divortium* and *adulterium*.

Jean-François Gerkens chaired the third early-afternoon session, the first paper in which was “La coutume romaine à la fin de la République: une approche relationnelle” by Emilie Colpaint (Université Saint-Louis – Bruxelles). The author analyzed the concepts of *mos* and *consuetudo* in the end of the Republic, concluding that they expressed different types of social relations. Then, Maëlle Rixhon (Université Saint-Louis – Bruxelles) shifted the attention to the realization of some Roman law phenomena in the contemporary Belgian law in a presentation, entitled “Questions choisies de droit romain au regard de la réforme du Code civil belge”. Finally, Robin Reponow (Universität Heidelberg) gave a talk on “*Ius et religio* dans le nouveau HRP”, dedicated to the presentation of the religious aspects of Roman law in the new Handbuch des Römischen Privatrechts.

After a short coffee break, the first late-afternoon session was chaired by Francesco Lucrezi. Maiko Miyasaka (Kyoto University) presented a paper, entitled “Considerations on the peculiarity of Plautus’ Rudens and fides” and focused on the character of the *leno* and his relationship with the concept of *fides* as a basis of the Roman society. Then, Ionela Cuciureanu (Académie d’Études Économiques de Bucarest – Faculté de Droit) reexamined in her presentation “*Dic mihi si tu Romanus es ? At ille dixit: Etiam*’ – Citoyenneté romaine de l’autre cote du miroir – la perspective des Évangiles” the problem of the Roman citizenship of Saint Paul of Tarsus, confronting the information from the New Testament and the Gnostic Gospels.

Franz-Stefan Meissel chaired the second late-afternoon session in which the paper “Esclavage, stoïcisme et christianisme: trois hypothèses pour comprendre une révolution intellectuelle” by Arnaud Picqué (Université Saint-Louis – Bruxelles) presented an overview of the differences between the attitude of the Stoic jurists towards the slavery and the later Christian concepts about equality between human beings. The Christian theme was continued by Stefan Goltzberg (Université libre de Bruxelles). In his presentation “L’interdiction du prêt à intérêt entre droit et religion” the author examined the prohibition of granting interest loans, regarding both Jews and Christians.

The last late-afternoon session, chaired by Jakob Stagl, contained only the paper of Federica Bertoldi (Università degli Studi di Roma Tre), entitled “La *cretio* nelle fonti romane” and dedicated to the historical development of the acceptance of an inheritance.

After completing the program of the exhausting, but fulfilling working day, the participants had the opportunity to assist a broadcast of Buster Keaton’s silent movie “The Cameraman”, accompanied by Philippe Marion, professor at Université Saint-Louis – Bruxelles, who specializes in improvisation and accompaniment of live performances. The social program of the day ended with a dinner cocktail.

The third day of the congress, 15th September, was busy only in the morning with three parallel sessions with 15 participants.

The first early-morning session was chaired by Benet Salway and contained papers on various topics. Tomislav Karlović (University of Zagreb) gave a talk, entitled “Proving the Consent in Marriage – Postclassical Changes and Medieval Canon Law” in which he

analyzed the dispositions of the postclassical Christian emperors about the proof of marital consent and the views of the medieval canon law jurists on the problem. The postclassical theme was continued by Aleksander Grebieniow (Uniwersytet Warszawski). The author presented a paper on “Justinian’s Edict *De Armeniorum Successione* of AD 535 and the Agreements on Succession” in which he examined a provision by Justinian, mentioning interesting details regarding the regulation of succession. Finally, János Erdödy (Pázmány Péter Katolikus Egyetem) discussed in his presentation “Restrictions on Funeral Luxury in Rome” the provisions against lavish burial ceremonies, contained in the Law of the XII Tables and in a series of sumptuary laws, linking them both to the desire to prevent excessive spending and to the religious concept of *superstitio*.

Maria José Bravo Bosch chaired the second early-morning session, which was dominated by non-Roman topics. The presentation “Sacralità del vincolo e volontà dei coniugi nel trattato Kiddushin del Talmud di Gerusalemme” by Francesco Lucrezi (Università degli studi di Salerno) was dedicated to the institute of marriage in Jewish law and its similarities and differences with the Roman *matrimonium*, focusing mainly on the idea of holiness of the marital bond. Mariagrazia Rizzi (Università degli Studi di Milano) gave a talk, entitled “Autorità di mercato, schiavi pubblici e circolazione della moneta nell’Atene classica” and dedicated to an epigraphically attested Athenian law, treating the public slaves who controlled the coins in the Athenian markets and their relationship with the local authorities and the merchants. Finally, the paper “Planning urban center: historical relationship of religion and law in spatial contexts” by Samuli Simelius (University of Helsinki) brought the attention back to Rome, analyzing the public and private buildings in the City as a landscape of Roman law.

The third early-morning session was chaired by Cosimo Cascione. The first paper was presented by Martin Pennitz (Universität Innsbruck) and was entitled “*Res quae veneat* (Pomp. 9 ad Sab. D. 18.1.8 pr.). Zu Kaufgegenstand und Terminologie bei den klassischen Juristen”. It was dedicated to a text from Pomponius about the *emptio-venditio* and examined the treatment of the *emptio rei speratae*. Then, Stefan Johannes Schmatzberger (Universität Wien) gave a talk on “‘Pyrrhussieg’ *apud iudicem*? – Sachverlust trotz erfolgreicher Klage” in which he analyzed the problem of the fate of the *res litigiosa* in a *rei vindicatio*, asking if the plaintiff could receive the thing itself or only its monetary value and if the defendant could be allowed to keep the thing after losing the lawsuit. Finally, Michael Binder (Universität Wien) presented a paper on “D. 21.2.73: Zur arglistigen Einklagung des eigenen Grundstücks” in which he examined the application of the principle *dolo facit qui petit, quod redditurus est* in a case related to the law of succession.

After a short coffee break, the work was resumed in three shorter late-morning sessions.

The first one, chaired by Martin Pennitz, contained papers with quite different focus points. In his presentation, entitled “On the Religious Roles of Roman Magistrates and their Spatial Separation”, Kaius Tuori (University of Helsinki) analyzed the relationship between the civic and the religious functions of the Roman magistrates, concentrating on the spatial context in which the two types of functions took place. Then, Lorena Atzeri (Università degli Studi di Milano) gave a talk on “The Law of Theodosius II on Church Asylum (431 AD): A New Perspective”, offering a comparative analysis of the Greek and Latin versions of CTh 9.45.4, which regulates the right of the fugitives to take asylum in churches.

The chair of the second late-morning session was Verena Halbwachs. Here, Lorenzo Gagliardi (Università degli Studi di Milano) presented a paper, entitled “Le espulsioni di Latini da Roma (anni 187 e 177 A.C.)”, dedicated to the migrations of *Latini* in Rome and to their expulsion by the authorities, as attested by Livy. It was followed by the presentation of Lyuba Radulova (Università di Sofia) “La τυμβωρυχία in Thracia. Alcune osservazioni epigrafiche”, dedicated to the complex, religious and secular, nature of the crime of tomb violation, and to the means of legal and religious protection of the tomb.

The last late-morning session was chaired by Annette Ruelle and was dedicated to theoretical and methodological considerations. In his paper “How Did the Romans ‘find’ the Law?” Francesco Giglio (University of Surrey) discussed the process of production of legal rules, focusing on Cicero’s passage on the *artes inveniendi* and *iudicandi*. Then, Vesa Heikkinen (University of Helsinki) gave a talk about “Bridging the man and citizen – Republican arguments for civil religion”. The author examined the use of the religious doctrine as a binding element of society, stressing out that the Roman republican thinkers preferred to consider religion as subservient to political considerations.

After lunch, the participants were invited to a guided tour of the monumental maquette of Rome and of the Musées Royaux d’Art et d’Histoire.

The last conference day, 16th September, was divided in two parts. The morning program contained three parallel sessions, in which 15 participants presented their work. The afternoon was dedicated to the anniversary of the Société Internationale Fernand De Visscher pour l’Histoire des Droits de l’Antiquité.

The first early-morning session was chaired by Johannes Michael Rainer. Constantin Willems (Philipps-Universität Marburg) presented a paper, entitled “C.Th. 16.7.2 (383) – erbrechtliche Konsequenzen der Abkehr vom christlichen Glauben” and dedicated to an imperial constitution according to which Christians, involved in pagan worship, were limited in their *testamenti factio activa* and *passiva*. Then, József Zoltán Benke (University of Pécs) gave a talk on „Deregulierung der ‘Hoffnung’ aus den Basilikentexten von riskantem Kauf“ in which he analyzed Roman and Byzantine sources and observed the relation between the Christian concept of “hope” and the risk in cases of *emptio-venditio*. Finally, Philipp Klausberger (Universität Innsbruck) examined in his presentation “*Alteri stipulari nemo potest: eine Frage des ‘aktionenrechtlichen Denkens’?*” the problem of the impossibility to stipulate a contract through third parties in Roman law from the point of view of the *actiones*.

Birgit Forgo-Feldner chaired the second early-morning session which started with Wouter Druwé’s (Katholieke Universiteit Leuven) presentation “*The exceptio non numeratae pecuniae* in the early modern Low Countries”. The author discussed the interpretation of the sixteenth and seventeenth century jurists in the Low Countries of the Roman phenomenon of *exceptio non numeratae pecuniae*. Then, Jacek Wiewiorowski (University of Gdańsk) gave a talk on the “Religious symbolism in the insignia of the *Notitia Dignitatum*”, focusing on the insignia, containing pre-Christian symbols relating to the Imperial cult. Finally, Silvia Schiavo (Università di Ferrara) presented a paper, entitled “*La cautio suscipiendae litis* tra C. 7,39,8 e Nov. 53,4” and focused on the security in case of late appearance of the defendants before the court.

The third early-morning session, chaired by Lorenzo Gagliardi, contained papers related to pagan and Christian cult practices. In his paper “La devozione per i Dioscuri:

problemi giuridici e mutamenti sociali nell'età tardoantica" Maurilio Felici (Lumsa Università) examined the importance of the cult of the Dioscuri in the republican and the imperial age, stressing out the inability of the Christian church to eradicate the cult after the IV century AD. Focusing on the Roman legislation regarding the Jewish religious celebrations, Mariateresa Amabile (Università degli studi di Salerno) gave a talk, entitled "Note sull'osservanza delle feste giudaiche nell'Impero romano". Finally, the presentation "Ultimum supplicium o esilio. Sulla pena irrogata da Teodosio II in caso di reiterazione del battesimo" by Mariateresa Carbone (Università Magna Graecia di Catanzaro) examined the problem of the reiteration of baptism and the imperial regulation directed against it.

The late-morning sessions were again shorter, with only two presentations in each.

Philipp Klausberger was the chair of the first one. Jonatan Gebhardt (Philipps-Universität Marburg) gave a paper on "Christlich motivierte Kalumnieneide? – Studien anhand von Just. C. 2.58.2pr.–1 und § 6–8 (531)", dedicated to the introduction of the obligation for the plaintiff and the defendant to swear an oath before the lawsuit and to the pre-Christian roots of the concept of the fear of the gods. Then, Johannes Michael Rainer (Paris Lodron Universität Salzburg) gave a presentation, entitled "Inklusion und Exklusion dargestellt am Römischen Bürgerrecht vom Beginn der Republik bis zur *Constitutio Antoniniana*" in which he examined the granting of Roman citizenship and the importance of the *Latini* for the process of integration of non-Romans into the *civitas*.

The second late-morning session was chaired by Tammo Wallinga. He gave the floor first to Jakob Stagl (University of Warsaw) who, in his paper "Systematic Composition and Interpretation of the Digest" discussed the possibility to interpret systematically the Digest, stressing out that the text does have a systematic structure. Then, David Pugsley (University of Exeter) presented a paper on "The Problems of Bluhme's Uebersicht", concluding that the Uebersicht of Bluhme's article on the order of the fragments in the titles of the Digest was actually not authored by Bluhme.

The chair-person of the last late-morning session was Silvia Schiavo. Here, Salvatore Sciortino (Università degli Studi di Palermo) presented a study on "La *revocatio in servitutem* del liberto ingrato, tra diritto, morale e cristianesimo", analyzing the ingratitude of the freedmen and the eventual precedents for the constitution of Constantine, which made it possible to take back the freedom, granted to the ungrateful *liberti*. Then, Fabiana Tuccillo (Università degli Studi di Napoli Federico II) gave a paper, entitled "*Bellum iustum*: i fetiales tra diritto e religione", focused on the *ius fetiale* at the limits between law and religion.

At the end of the congress, there was a closing plenary speech by Jean-François Gerkens (Université de Liège), dedicated to the 80th anniversary of the Société Internationale Fernand De Visscher pour l'Histoire des Droits de l'Antiquité and to its 75th international session.

The time after the lunch break was dedicated to the General Assembly of the Société Internationale Fernand De Visscher pour l'Histoire des Droits de l'Antiquité. The assembly decided that the next SIHDA will be held in August 2023 in Helsinki under the organization of Kaius Tuori.

At the end of the congress, the participants were invited to a gala dinner in Cercle Royal Gaulois Artistique et Littéraire.

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