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Ulrike Babusiaux, Christian Baldus, Wolfgang Ernst, Franz-Stefan Meissel, Johannes Platschek, Thomas Rüfner (Hrsg.)

Handbuch des Römischen Privatrechts

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In an era characterized by fervent discussions surrounding the integration of artificial intelligence into the realm of education, a strong and influential perspective has emerged from the rich European continental legal tradition. At the outset of 2023, Mohr Siebeck publishing house released a remarkable opus titled *Handbuch des Römischen Privatrechts (Compendium of Roman Private Law)*. This work was curated by eminent scholars specializing in Roman, civil, and comparative law hailing from the universities of Zurich (Ulrike Babusiaux), Oxford and Zurich (Wolfgang Ernst), Heidelberg (Christian Baldus), Vienna (Franz-Stefan Meissel), Munich (Johannes Platschek), and Trier (Thomas Rüfner).

The notable strength of this endeavour lies in its approach to delegate the composition of individual sections of the publication to an international consortium of Roman law scholars. This approach ensured that each topic was not only explored by experts in the respective discipline but, more importantly, by specialists in the specific subject matter. In a concise *Preface*, the Editors expressed their gratitude to this transnational and multi-generational group of as many as 64 Authors. They also extended their appreciation to the numerous colleagues who actively participated in various stages of the editorial process, from the initial concept to manuscript editing and the creation of comprehensive indices. Furthermore, the Editors acknowledged the exceptional support rendered by the Mohr Siebeck publishing house and paid tribute to those Authors and Contributors who regrettably passed away before witnessing the publication's fruition. Unfortunately, the Editors did not disclose the precise duration of this monumental undertaking, which, by all indications, spanned several years. The *Handbuch* consists of three substantial volumes (XCVI+3707 pages in total), complete with meticulously prepared subject index, source index, and literature references (*Register*). In many ways, it is hard not to draw parallels with the three-volume Justinian Codification, even though this compendium does not encapsulate the origins of Roman law but, instead, delves into the extensive body of knowledge that it comprises.

The work maintains a consistent structure in terms of chapter and page numbering throughout its entirety. The substantive volumes are divided into four chapters, which are contained within Volume One, and the fifth chapter, in Volume Two. Volume

three contains the previously mentioned *Register*. This systematic approach distinctly embodies the essence of Roman legal tradition. Many studies and textbooks on ancient Roman law typically follow the 19th-century systematic developed by the Pandectists, which divides the private law into five parts: general part, obligations, property, family, and inheritance law. In contrast, the Editors here have adopted an institutional framework (slightly modified for the purpose of this work) that draws inspiration from Gaius' tripartite subdivision of legal material, categorizing it into the law relating to persons (*personae*), things (*res*), and actions (*actiones*). Consequently, the *Handbuch* comprehensively covers Roman private law and civil procedure, encompassing the earliest legal sources up to the era of Justinian. Furthermore, it sheds light on late republican and imperial jurisprudence within the context and perspective of procedural law. A notable feature of this work is the inclusion of epigraphic and papyrological sources, along with the presentation of provincial laws.

The initial chapter provides introductory discussions and emphasizes the historical development of the sources of Roman private law, ranging from the Roman Republic to the Justinian era, and their distinctive features. This section was authored by (in the order of the issues presented): Michel Humbert, Pierangelo Buongiorno, Emanuele Stolfi, Lorena Atzeri, Peter Pieler †, Ulrike Babusiaux, Detlef Liebs, and José Luis Alonso Rodríguez.

The second chapter, titled *Zivilprozess und Handlungsformen* (*Civil procedure and forms of action*), provides an in-depth examination of Roman trial and the evolution of legal actions. This chapter employs a chronological approach to delve into the various forms of Roman civil procedure, taking into account its phases of transformation. Topics cover the *legis actiones* (§ 9; Mario Varvaro), formula procedure (§ 10-14; Johannes Platschek, Ernest Metzger, Philipp Klausberger, Constantin Willems), as well as the *cognitio* procedure (§ 15; C. Willems). Within the realm of the forms of actions, which encompass legal acts, declarations of intent, and contracts, the following subjects are presented: *in iure cessio* and related (§ 16; Guido Pfeifer), actions effected through a formal conveyance *per aes et libram*, by bronze and scales: *mancipatio*, *nexum*, *solutio per aes et libram* (§ 17; G. Pfeifer), *testamentum per aes et libram* and other forms of disposing of property on death (§ 18; Thomas Rűfner), *confarreatio* and *conventio in manum* (§ 19; Verena Halbwachs), oaths, stipulation (§ 20-21; Thomas Finkenauer), as well as contracts *re*, *litteris*, *consensu* (§ 22-24; Peter Gröschler), and *recepta* (§ 25; J. Platschek).

The third chapter, *Personen* (*personae*), is subdivided into two subchapters: *Person und Handlungsfähigkeit* (*Person and Capacity*) and *Hausverband* (*Familia*). In the former, it encompasses discussions on citizens and peregrines, matters related to enslavement and the right of return, known as *ius postliminii* (§ 26-27; Francesca Lamberti), infamy (§ 28; C. Willems), the legal status of women (§ 29; Evelyn Höbenreich), cases involving limited legal capacity (§ 30; Jakob Fortunat Stagl and Giorgja Maragno), guardianship and curatorship (§ 31; Susanne Hähnenchen), and substitution (§ 32; Bastian Zahn). The second subsection, in turn, comprises the following topics: marriage and other forms of cohabitation (§ 33; V. Halbwachs), *filii familias* (§ 34; F. Lamberti), matrimonial property regime (§ 35; J.F. Stagl), issues regarding slaves (§ 36; Richard Gamauf), and freedmen (§ 37; Carla Masi Doria).

In the fourth chapter, *Vermögensrecht* (*res*), the initial two subsections are dedicated to ownership and possession (*Eigentum und Besitz*) and limited real rights (*Beschränkte dingliche Rechte*), while the third subsection is focused on inheritance law (*Erbschaft und Erbgang*). The first subsection covers ten thematic blocks, including: objects of law and types of things (§ 38; Ralph Backhaus), the concept of property (§ 39; Fabian Klinck), *possessio civilis* (§ 40; F. Klinck), *occupatio* (§ 41; Jean-François Gerkens), *accessio*, *specificatio*, *commixtio*, *confusio* (§ 42; Anna Plisecka), formal forms of conveyance of ownership (*mancipatio*, *in iure cessio*), and informal *traditio* (§ 43; G. Pfeifer), *usucapio* (§ 44; F. Klinck), *causa* as a prerequisite for acquisition (§ 45; G. Pfeifer), *fiducia* (§ 46; Dietmar Schanbacher), and joint ownership (§ 47; Wojciech Dajczak).

The subsection on the *iura in re aliena* discusses the right of pledge in the form of *pignus* and hypothec (§ 48; D. Schanbacher), the right to use another's property (*usufructus*, *usus*, *habitatio* - § 49; Riccardo Cardilli), other servitudes (§ 50; Maria Floriana Cursi), and emphyteusis, surface law, and related rights (§ 51; Federico Battaglia). The last subsection in this chapter covers the capacity to inherit, testate (§ 52-53; T. Rűfner), and intestate succession (§ 54; Markus Wimmer), the complaint of undutiful will (*querela inofficiosi testamenti* - § 55; M. Wimmer), the acceptance, acquisition, and rejection of an inheritance (§ 56; Benedikt Strobel), inheritance under praetorian law (*honorum possessio* - § 57; U. Babusiaux), as well as the heir's liability for inheritance debts (§ 58; Wolfram Buchwitz).

The second volume of the work was devoted exclusively to the law of actions (*actiones*), that last of the Gaian scheme, which is discussed in more than 1,500 pages. Needless to say, this strongly emphasizes the nature of Roman law. The volume is divided into five subsections, within which individual *actiones in rem* - § 59-66 (Ch. Baldus, M. Wimmer, José-Domingo Rodríguez Martín, Johannes Michael Rainer, J. Platschek, Francisco Javier Andrés Santos, Lisa Isola), *actiones* containing *adiudicatio* in the procedural formula - § 67 (Amelia Castresana Herrero), *actiones in personam* - § 68-100, liability of persons in *potestas* of *pater familias* - § 101-105 (Alphonse Bürge, R. Gamauf, M. Pennitz), and finally *exceptiones* and other measures - § 106-112 (J. Platschek, P. Gröschler, Tommaso dalla Massara, Birgit Forgó-Feldner, Hans-Peter Benöhr†, Pascal Pichonnaz). The most extensive, for obvious reasons, Subchapter III is further divided into five smaller editorial units devoted, respectively, to *actio* and *obligatio* (§ 68; Adolfo Wegmann Stockebrand), *condictiones* (§ 69-77; J. Platschek, Iole Fagnoli, M. Varvaro, Philipp Schmieder, T. Finkenauer, T. Rűfner, C. Willems), *bonae fidei iudicia* (§ 78-90; F.-S. Meissel, Anna Novitskaya, W. Ernst, Paul J. du Plessis, Susanne Heinemeyer, U. Babusiaux, Tom Walter, Philipp Scheibelreiter, D. Schanbacher, J.F. Stagl), delictual and quasi-delictual actions (§ 91-96; J. Platschek, Bénédikt Winiger, Martin Pennitz, T. dalla Massara, Alessandro Hirata, P. Klausberger), and protection of inheritance claims (§ 97-100; Sebastian Lohsse, T. Rűfner, David Rűger, D. Schanbacher).

The layout, editorial design, and colour scheme of the volumes bear a striking resemblance to another publication from Mohr Siebeck: *Historisch-kritischer Kommentar zum BGB (Historical-critical Commentary on the BGB)*. Also, both works share an almost identical internal structure. Their fundamental systematic unit consists of paragraphs, each preceded by a comprehensive table of contents and an extensive bibliography. Within individual paragraphs, there are boundary numbers and an extensive apparatus. This similarity carries many advantages. It enables readers to gain a comprehensive understanding of the evolution of private law, from ancient Rome to modern regulations contained in the BGB. Furthermore, they provide a historical and dogmatic legal analysis of the economic, social, and cultural factors that have shaped German civil law. By referencing the tradition of Roman law, both publications reveal the foundations of German private law, thereby delineating the regulations of other European (and not only) legal systems¹.

This context raises questions about the intended audience for this work. The title *Handbuch* may appear somewhat misleading in the given context, especially that translating the title *Handbuch des Römischen Privatrechts* as a *textbook on Roman private law* might be (almost) equally fitting, although the work's scope exceeds that of a traditionally understood position of this kind. Viewed as an academic textbook, the *Handbuch's* ideal audience consists of advanced-level students, such as doctoral students, with a specific interest in Roman law or legal-comparative studies, specializing in legal history. In such cases, the compendium would serve as a crucial source of knowledge, a tool for in-depth exploration of the legal foundations of Western Europe, and an inspiration for advancing discussions in this field. The *Handbuch* serves as an excellent starting point for comparative research, catering to both early-career scholars and more experienced researchers. It not only presents the current state of research, encompassing the vast and expanding literature on the subject, but also serves as a guidepost for exploring a range of research topics, not necessarily limited to antiquity. Consequently, the work's audience extends beyond researchers of Roman law, and includes historians of antiquity, classical philologists, scholars from various humanities and social sciences disciplines, as well as legal scholars in general. In essence, the *Handbuch* can serve as a valuable reference for conducting advanced international research, spanning both Roman law and interdisciplinary studies.

In an era where legal history subjects are gradually being removed from curricula of legal studies, and debates surrounding artificial intelligence are increasingly dominating discussions in the field of law, undertakings like the *Handbuch* carry a profound significance. They represent a steadfast and unwavering message to those who may have lost touch with their cultural roots. It is worth noting that even the choice of language for this publication serves as a reminder. The German language is a perfectly natural choice for discussing legal history, especially Roman law and its impact on Western Europe. It is reassuring that the Authors of this endeavour have resisted the trend that is eroding and diluting national legal languages at an alarming pace, and have chosen not to publish this work in English.

Addressing what has been occupying the thoughts of legal practitioners, theorists, and historians lately: while artificial intelligence is certain to find applications in various aspects of law, such as data analysis or the automation of processes, we should keep in mind that the study of Roman law focuses on an entirely distinct facet. It remains vital for understanding foundational legal principles, the legal-historical context, and, above all, the rich legal heritage of Europe. Hence, as we move forward, we can do so with unwavering confidence, for the pivotal role of Roman law in shaping a modern and enlightened world remains beyond dispute.

Dagmara Skrzywanek-Jaworska, Joanna Kulawiak-Cyrankowska**

¹ A somewhat similar endeavour to reconcile these diverse perspectives has been accomplished by Polish Romanists Dajczak, W. –Giaro, T. – Longchamps de Bérier, F., *Prawo rzymskie. U podstaw prawa prywatnego*, Warszawa, 2014. In this work, the authors skilfully guide readers through a wealth of material pertaining to the history of private law, ranging from Roman law to contemporary European legal systems.

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