

# Ius Romanum.

## Beiträge zu Methode und Geschichte des römischen Rechts

Edited by Martin Avenarius, Christian Baldus, Richard Böhr, Wojciech Dajczek, Massimo Miglietta, and José-Domingo Rodríguez Martín

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Contact:

Dr. Julia Caroline Scherpe-Blessing, LL.M. (Cantab)  
Program Director Private Law, Criminal Law, and Procedural Law

ISSN: 2197-8573 - Suggested citation: IusRom

Last updated: 13/03/2024. Prices are subject to change.

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Avenarius, Martin

## Ordo testamenti

### Pflichtendenken, Familienverfassung und Gemeinschaftsbezug im römischen Testamentsrecht

Volume 10  
2024. XIX, 619 pages.  
forthcoming in May

ISBN 9783161632419  
cloth approx. 135,00 €

ISBN 9783161632426  
eBook PDF approx. 135,00 €

The purpose of the pre-classical Roman will was not the free distribution of property, but rather to enable the *pater familias* to transfer his area of responsibility to a successor. It thus had to be oriented towards supra-individual regulatory specifications.

Survey of contents

#### Einleitung

- I. Einführung in das Konzept der Darstellung
- II. Das wissenschaftliche Programm

#### 1. Teil: Jüngerer republikanisches Recht: Ordnung und gesellschaftliche Einbindung der Familie unter dem Einfluss überindividueller Richtigkeitsvorstellungen

- I. Die Zwölf Tafeln und ihre Interpretation als Grundlage des spätrepublikanischen Testamentsrechts
- II. Rechtliche und gesellschaftliche Grundlagen des Testaments in der Wahrnehmung der späten Republik
- III. Das vorklassische Testament und seine rechtliche Regelung

#### 2. Teil: Die Entwicklung in der klassischen Zeit: Das individualistische Testament, seine Einvernahme durch positives Recht und seine Herausbildung als Instrument zur Durchsetzung des Erblasserwillens

- I. Das Vordringen des Individualismus im Recht der frühen klassischen Zeit
- II. Die Einvernahme des Testamentsrechts für Staatsinteressen im augusteischen Prinzipat
- III. Rechtsschulen und Testamentspraxis im Prinzipat des 1. Jahrhunderts
- IV. Die Willentheorie und die Folgen der Schulenkonvergenz für den Testamentsbegriff

Rohdenburg, Philipp

## Die Entwicklung der romanistischen Methode bei Fritz Schulz

Volume 9  
2023. XX, 267 pages.

ISBN 9783161615467  
sewn paper 79,00 €

ISBN 9783161615474  
eBook PDF 79,00 €

As one of the most important exponents of interpolation, which was seen as part of the so-called older working hypothesis, Fritz Schulz made a significant contribution to overcoming this with his own studies and thus paved the way for the studies on the textual stages which was programmatically required by the new working hypothesis. Philipp Rohdenburg traces the various stages of development based on individual fragments of the sources.

Survey of contents

#### A. Einleitung

- I. Gegenstand und Ziel
- II. Zugrundeliegende Materialien

#### B. Fritz Schulz

#### C. Die verschiedenen Phasen der Entwicklung

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- II. Die radikal interpolationskritische Phase
- III. Der Beginn der Entwicklung der Neuen Arbeitshypothese: „Die Epitome Ulpiani des Codex Vaticanus Reginae 1128“ (1926)
- IV. Die weitere Entwicklung der Neuen Arbeitshypothese: „Die Überlieferungsgeschichte der Responsa des Cervidius Scaevola“ (1935) [1933]
- V. Die Durchführung der Neuen Arbeitshypothese: „Die Geschichte der römischen Rechtswissenschaft“ (1961 [1946])
- VI. Die anschließende Entwicklung: Konsolidierung der Neuen Arbeitshypothese

#### D. Zusammenfassung

#### E. Anhang: Verzeichnis der wissenschaftlichen Veröffentlichungen von Fritz Schulz

Empell, Hans-Michael

## In causis vero dissentiamus

### Exegese eines folgenreichen Julian-Fragments (D. 41,1,36). Zugleich ein Plädoyer gegen die Lehre von der solutio als causa

Volume 8  
2020. X, 346 pages.

ISBN 9783161593581  
sewn paper 104,00 €

ISBN 9783161593598  
eBook PDF 104,00 €

Hans-Michael Empell examines the classical Roman jurist Julian's text from the second century A.D. relating to the conditions of an effective transfer of ownership. The author's fresh interpretation results in a better understanding of the famous antinomy between Julian and Ulpian.

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Last updated: 13/03/2024

## Methodenfragen der Romanistik im Wandel

Paul Koschakers Vermächtnis 80 Jahre nach seiner Krisenschrift

Herausgegeben von Tommaso Beggio und Aleksander Grebieniow

Volume 7  
2020. XIV, 236 pages.

ISBN 9783161592751  
sewn paper 69,00 €

ISBN 9783161592768  
eBook PDF 69,00 €

This book offers an overview of the methodological debate that took place in Roman law scholarship at the beginning of the twentieth century. It pays particular attention to the up-dating that was proposed by Paul Koschaker in his »Krisenschrift« in 1938. Koschaker's concern regarded whether Roman law was still practicable in terms of legal dogmatics, or if it was merely a product of history and part of Europe's cultural heritage. The question has never gone away and remains at the heart of the methodological discussion of Roman law scholarship. Indeed, the current crisis of the European project and the emergence of new doctrinal pleas underline its topicality and demonstrate its enormous flexibility over the centuries in different socio-economic environments.

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*Christian Baldus*: Vorwort – *Tommaso Beggio/Aleksander Grebieniow*: Einleitung – *Tommaso Beggio*: Tra Rechtsdogmatik e vergleichende Rechtsgeschichte. Questioni di metodo e studio del diritto romano nell'opera di Paul Koschaker – *Marko Petrak*: Ius europaeum or ius oecumenicum? Koschaker, Schmitt and D'Ors on Roman Law and the Renewal of Legal Scholarship in the Postwar Context – *Filippo Bonin*: La romanistica italiana dinanzi alla crisi tedesca. La Attualisierung degli studi di diritto romano e il patto Betti-Koschaker – *Tomasz Giaro*: Legal Historians and the Eastern Border of Europe – *Aleksander Grebieniow*: Römisches Recht als Vergleichsfaktor: Ignacy Koschembahr-Lyskowski (1864–1945) und die Methodenfrage – *Philipp Bosch*: Seminar- und Diskussionsbericht

Stepan, Sebastian

### Scaevola noster

Schulgut in den 'libri disputationum' des Claudius Tryphoninus?

Volume 6  
2018. XV, 273 pages.

ISBN 9783161556609  
sewn paper 79,00 €

ISBN 9783161562518  
eBook PDF 79,00 €

Law arises when jurists interact. Sebastian Stepan develops a method to examine how Roman law unfolds in relationships of masters and pupils and applies it to selected texts by Q. Cervidius Scaevola and his student Claudius Tryphoninus.

## Gradenwitz, Riccobono und die Entwicklung der Interpolationenkritik / Gradenwitz, Riccobono e gli sviluppi della critica interpolazionistica

Methodentransfer unter europäischen Juristen im späten 19. Jahrhundert / Circolazione di modelli e  
metodi fra giuristi europei nel tardo Ottocento

Hrsg. v. Martin Avenarius, Christian Baldus, Francesca Lamberti u. Mario Varvaro

Volume 5  
2018. VIII, 331 pages.

ISBN 9783161559020  
sewn paper 119,00 €

ISBN 9783161561931  
eBook PDF 119,00 €

The study of interpolations in Roman legal texts, which was particularly prevalent at the end of the nineteenth and beginning of the twentieth century, has attracted renewed interest among scholars of Roman law. This volume deals with historical interpolation research as an object of European scholarly transfer.

Survey of contents

*Martin Avenarius/Christian Baldus/Francesca Lamberti/Mario Varvaro*: Einleitung – *Martin Avenarius/Christian Baldus/Francesca Lamberti/Mario Varvaro*: Introduzione – *Salvatore Marino/Pierangelo Buongiorno*: Intersezioni vs. Interpolationen. La »Nostrifizierung« di Otto Gradenwitz tra Heidelberg e Berlino – *Mario Varvaro*: Circolazione e sviluppo di un modello metodologico. La critica testuale delle fonti giuridiche romane fra Otto Gradenwitz e Salvatore Riccobono – *Stefano Barbat*: Nota minima sulle interpolazioni delle costituzioni imperiali nel pensiero di Gradenwitz – *Tommaso Beggio*: La Interpolationenforschung agli occhi di Paul Koschaker. La critica a Gradenwitz e alla cosiddetta neuhumanistische Richtung e lo sguardo rivolto all'esempio di Salvatore Riccobono – *Stephan Meder/Christoph-Eric Mecke*: Otto Gradenwitz' Berliner Familienrechtsvorlesung von 1892 nach einer Mitschrift von Salvatore Riccobono im Kontext von Spätpandektistik und Familienrechtspolitik am Vorabend des BGB – *Francesca Lamberti*: La storiografia italiana sulla familia tra tardo Ottocento e inizi Novecento. Antropologia, evolucionismo e primi influssi delle teorie interpolazionistiche – *Iole Fagnoli*: Poche ombre sugli entusiasmi coevi. Letture critiche della teoria interpolazionistica di Otto Gradenwitz tra Germania e Italia – *Maria Teresa González-Palenzuela Gallego*: Die Rezeption von Gradenwitz' und Riccobonos Interpolationentheorien in der spanischen Romanistik – *Lorena Atzeri*: Reazioni all'interpolazionismo tra Cambridge e Oxford nella prima metà del Novecento – *Martin Avenarius*: Methodenwandel und Wissenschaftstransfer in der Interpolationenforschung. Neue Quellen und wissenschaftsgeschichtliche Forschungsperspektiven



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Wegmann Stockebrand, Adolfo

## Obligatio re contracta

Ein Beitrag zur sogenannten Kategorie der Realverträge im römischen Recht

Volume 4  
2017. XIII, 329 pages.

ISBN 9783161544941  
sewn paper 79,00 €

ISBN 9783161605062  
eBook PDF 79,00 €

The general view that Roman law's category of *obligatio re contracta* - orreal contract in today's terms - consists of the elements of credits, loans, deposits and bonds is a false retrospective construct. Roman law actually recognised only one reason for setting up such an *obligatio re contracta*: the credit.

Groten, Andreas

## corpus und universitas

Römisches Körperschafts- und Gesellschaftsrecht: zwischen griechischer Philosophie und römischer Politik

Volume 3  
2015. XV, 477 pages.

ISBN 9783161533167  
sewn paper 109,00 €

ISBN 9783161605055  
eBook PDF 109,00 €

Roman society knew a wide variety of public and private corporations. The author traces the development of the legal nature of these corporate entities and the relationship between the entities and their members in Roman law. Special attention is given to the impact of changes in legal thought as well as in the political and economic environment.

Lösch, Susanne

## Die coniunctio in testamentarischen Verfügungen des klassischen römischen Rechts

Volume 2  
2014. XI, 157 pages.

ISBN 9783161526893  
sewn paper 64,00 €

ISBN 9783161605048  
eBook PDF 64,00 €

Susanne Lösch studies the conditions in classical Roman law under which a connection between individual heirs or beneficiaries which was established by the testator by means of a testamentary designation was called *coniunctio*, and she examines the legal consequences this involved.

Seelentag, Anna Margarete

## Ius pontificium cum iure civili coniunctum

Das Recht der Arrogation in klassischer Zeit

Volume 1  
2014. XIX, 444 pages.

ISBN 9783161528705  
sewn paper 104,00 €

ISBN 9783161605031  
eBook PDF 104,00 €

Anna Margarete Seelentag traces the development of *adrogatio* as one of the oldest institutions of Roman law in classical times based on the main idea that it was especially influenced by the interaction between *ius pontificium* and *ius civile*. As a further aspect of this development, she shows the increasing integration of *adrogatio* into private law.

