

Diplomatic law in ancient rome

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Abstract

This article focuses on the results of the authors' research conducted on primary sources of Roman law, with the aim to examine and evaluate the legal framework of the beginnings of diplomatic norms in the civilisation of Ancient Rome. This article discusses the historical and legal aspects of regulation of ambassador's status, legal practices regarding ambassadors of special task fetiales and procedure for declaration of war and the role of fetiales in concluding international agreements. The authors have conducted the research and analysis of the information contained in the so-called Justinian's codifications, also known as 'Corpus Iuris Civilis', specifically the 'Codex Iustinianus' (Code of Justinian, 529 AD) and 'Digesta seu Pandectae' (Digest or Pandects, 529 AD), as well as in the 'Gaius Institutiones' (Institutes of Gaius, c. 161 AD) and in the opus 'Ab Urbe Condita' (From the Foundation of the City, c. 27–9 BC) of Roman historian Titus Livius (64/59 AD–12/17 AD). The research employs the inductive, deductive and comparative methods.

Keywords

Ancient Rome • diplomacy • Roman law

INTRODUCTION

The study of history offers no manual of instructions that can be applied automatically; history teaches by analogy, shedding light on the likely consequences of comparable situations. However, it is up to each generation to decide for itself which circumstances are in fact comparable. (Kissinger, 1994) Thus, the authors of this article offer a small insight into the results of their research of Roman legal and literary sources regarding the beginnings of diplomatic legal norms in the civilisation of Ancient Rome.

In the context of the study, the authors have researched and analysed the information contained in the so-called Justinian's codifications, also known as 'Corpus Iuris Civilis', specifically 'Codex Iustinianus' (Code of Justinian, 529 AD) (Krueger, 1906) and 'Digesta seu Pandectae' (Digest or Pandects, 529 AD) (Krueger and Mommsen, 1928), as well as in the 'Gaius Institutiones' (Institutes of Gaius, c. 161 AD) (Seckel and Kuebler, 1903) and in the opus 'Ab Urbe Condita' (From the Foundation of the City, c. 27–9 BC) (Livius, 1860) of Roman historian Titus Livius (64/59 AD–12/17 AD). The research employs the inductive, deductive and comparative methods.

RESEARCH RESULTS AND DISCUSSION

Foreign ambassadors in Rome and Roman ambassadors abroad were called legates (*legati*).¹

According to the so-called *Ius legationis* foreign ambassadors in Rome enjoyed special inviolability – they were qualified as 'saints' – *sancti*. The status of inviolability remained even in situations when the country represented by the ambassador was in a state of war with Rome – the country had declared

¹ Not to be confused with the institution of a similar name in Roman inheritance law, where legate (*legatum*) is a deduction from the inheritance (D 30.116. pr.), which, according to the will of the testator, the testamentary heir must remove from the mass of the inheritance bequeathed to him and transfer it to a third person – the legatee (*legatarius*). The object of the legate could be a certain amount of money, some rights or individual things (*res singulae*). If the heir did not willingly release the object of the legate to the legatee after accepting the inheritance, it could be demanded through the court. A legate could be bequeathed only by will and only after the appointment of the heir himself. The legatee is only the recipient of benefits and, unlike the heir himself, is not responsible for the debts accrued to the inheritance. At least ... of the inheritance was to be left free from legates. See more: I 2.20 tit.; D 30.; D 31.; D 32.; D 37.5 tit.; C 6.37 tit.; C 6.43 tit.; see also: (Apsītis, 2020)

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war. The Romans guaranteed this privilege of immunity to foreign ambassadors at home and required Roman ambassadors abroad to enjoy the same status.

In the Roman Republic, the Roman Senate handled international relations, which, among other things, received foreign ambassadors and sent official embassies (*legatio*) to foreign countries. During the empire, the mentioned duties were taken over by the emperor.

Roman ambassadors were used to be sent to fulfil some special tasks, for example, declaring war (so-called *fetiales*), concluding international agreements, resolving disagreements between Rome and the respective country, etc.

Regarding the inviolability of ambassadors, Justinian's *Corpus Iuris Civilis* – the 18th fragment of the 7th chapter of book 50 of *Digesta seu Pandectae* (533 AD), says approximately as follows: 'If someone beats/hurts an ambassador/legate of the enemy, against the law of nations (*ius gentium*), that violation/offense is/{alternat. transl.:} he has committed [the offense], [it is] considered/accepted because ambassadors/legates are held sacred/inviolable'.² (D 50.7.18)

A small comment is needed here about the 'law of nations' (*ius gentium*) mentioned in the passage.

In Ancient Rome, 3 legal systems operated at the same time:

1. *Ius civile* – 'civil law', Roman 'civil rights'. Referred to the citizens of Rome (*cives Romani*). This system was formed by the laws and plebiscites adopted by the people's assemblies, the decisions of the Senate and later, during the empire, also the normative acts issued by the emperors.³ (D 1.1.7. pr., see also Gaius, *inst.* 1.2–5, etc. sources). In addition, the authoritative opinions of the so-called privileged lawyers of the classical period (I–III centuries) regarding the resolution of various legal problem situations were also recognised as belonging to the *Ius civile* system. (D 1.1.7. pr., Gaius, *inst.* 1.2, etc.).⁴ The system regulated matters regarding guaranties of Roman private property rights, contractual

transactions, inheritance, family law institutes – marriage, guardianship, etc. related issues.

2. *Ius praetorium* – 'praetor's law'. It arose during the republic, alongside *Ius civile*, the norms of which were not enough to regulate legal relations in a society that was constantly developing and modernising. The system was based on administrative regulations (edicts, interdicts) issued by Roman magistrates (elected officials), praetors (praetors) and administrative actions in legal proceedings. Without abolishing the norms of *Ius civile*, the praetors allegedly supplemented, applied to relevant life situations, developing new legal norms that participated in parallel with *Ius civile*. 'Praetor's law' bound only the citizens of Rome. (see D 1.1.7.1., Gaius, *inst.* 1.6, etc. sources)
3. *Ius gentium* – 'the law of nations'. Regulated Roman legal relationships with foreigners and relationships between foreigners living in Rome, bonded both Rome's citizens and foreigners. This system was based on the norms of international law of the ancient world – customs, etc.: 'All nations, governed by laws and customs, use partly their special laws, partly the laws common to all men; for the laws which a nation has established for itself are its special laws, ... whereas those which the natural mind has established among all men, all nations equally observe and call the laws of nations, because all nations exercise those laws. In this way, the Roman people use partly their special laws, partly laws which is common to all people...' (Gaius, *inst.* 1.1) (Būmanis, 1938)

All three systems functioned as if in parallel but over time harmonised and actually merged into a single Roman legal system.

It was the 'law of nations' (*ius gentium*) as a unique norm of international law of the ancient world that guaranteed the inviolability of the ambassadors sent even by Rome's enemies and military adversaries: 'And therefore, if, when the ambassadors were with us [from] any nation, when war was declared to them, the answer is – to leave them free, it is truly in accordance with the law of nations.'⁵ (D 50.7.18)

The punishment for violating the ambassador's immunity was quite simple and extremely cruel – according to custom ('[it] is usual'⁶), the violator had to be surrendered to the country represented by the offended ambassador, so that it could deal with the culprit as it saw fit: 'And so he who ambassador/

² *Si quis legatum hostium pulsasset, contra ius gentium id commissum esse existimatur, quia sancti habentur legati.*

³ *...ex legibus, plebis scitis, senatus consultis, decretis principum... venit*

⁴ In the mentioned time period (1st–3rd centuries), the Roman Empire experienced rapid economic growth. As the economic activity increased, many different cases of disputes began to appear, and the conditions contained in the legal norms of the old Republic were no longer sufficient to settle them. To promptly respond to the challenges dictated by daily needs, the emperors began to grant special privileges to outstanding and authoritative lawyers – the right to give answers on specific legal issues. The answers given at the task of the imperators and sanctioned by their authority were obligatory for the court in the specific case and were adhered to in the subsequent judicial practice: "The opinions of the jurists are the judgments and thoughts of those [men] who are allowed the to create rights; if the judgments of all of them matches, then what they so judge has the force of law, if these

judgments do not match, then the judge can follow any judgment at his discretion..." (Gaius, *inst.* 1.7) see Būmanis (1938)

⁵ *Et ideo si, cum legati apud nos essent gentis alicuius, bellum cum eis indictum sit, responsum est liberos eos manere: id enim iuri gentium convenit esse.*

⁶ *solitus est*

legate offended ... I have given to the enemies, whose [those] ambassadors/legates are⁷ (D 50.7.18)

Punishment by surrender to the enemy meant, among other things, the loss of Roman citizenship.

From what can be found in the Justinian's *Corpus Iuris Civilis* – the 18th fragment of the 7th chapter of book 50 of *Digesta seu Pandectae* (533 AD), it follows that there was a discussion among the Roman lawyers in this connection – what to do in a situation where for some reason, the enemies would not accept⁸ the violator of the inviolability of the ambassadors decided to be handed over to them and he would actually remain among the Romans themselves. The question has been raised⁹ whether the violator who is not accepted by the enemy retains his citizen's rights – 'does [he] remain a citizen of Rome'.¹⁰

Some lawyers are said to have supported the opinion that the citizen's rights are preserved, while others adhered to the opposite opinion – if the violator is convicted accordingly, then, even though he has not actually reached the enemies, he has lost his rights as a citizen of Rome ('because [if] the people once ordered to give [someone] away, [he should be considered as] excluded from citizenship'¹¹).

The situation is said to be the same as in the case when someone is rejected from the right to 'water and fire'¹² (D 50.7.18)

It should be noted that 'rejection from water and fire' – *interdicere aqua et igni* meant the complete expulsion of a Roman citizen accused of some serious violations – expulsion from Roman society and going into voluntary or forced exile, thus leaving his community, country, etc. 'rejection from water and fire' was practiced in Rome during the republican period (509 AD–27 AD), in the period of the early empire – Principate (27 AD–284 AD), it was replaced by another similar institution – 'deportation' (*deportatio*).

Rejection, prohibition (*interdicere*), was announced by the Roman Senate or by one of the highest elected officials – magistrates (e.g., consul). The outcast (*interdictus*) was deprived of his Roman citizenship and, in addition, he lost the right to his property. The loss of citizen's rights meant, among other things, a ban on participating in the country's political life – holding positions, participating in official elections, public meetings, etc.

If the outcast (*interdictus*) tried to arbitrarily return from exile, he was 'outside the law' and did not enjoy any legal

protection. The mentioned, among other things, also meant that anyone had the right to kill such a person with impunity, as long as he met him in the territory from which the outcast had been expelled (see D 48.22.tit. *De interdictis et relegatis et deportatis*.)

According to the sources, the fact that a violator of the inviolability of the ambassadors, who was sentenced to be handed over to the enemies, but not accepted by the latter, was considered subject to 'expulsion from water and fire' (*interdicere aqua et igni*), was also confirmed in the case of a certain Hostilius Mancinus and who was rejected by the enemies of Rome – the Numantians.¹³

Regarding the mentioned Hostilius Mancinus, a special law was later adopted¹⁴, by which his citizen's rights were restored – 'so that [he] would be a citizen of Rome'.¹⁵ In addition, Hostilius Mancinus is said to have held a high elected position – become a praetor.¹⁶ (D 50.7.18)

However, in situations where special laws on the restoration of the deprived citizen's rights were not adopted, those convicted of insulting the ambassadors had irrevocably lost their Roman citizen's rights.

In addition to guarantees of personal immunity, foreign diplomats who represented the interests of their nations in ancient international relations with the Roman Empire and its emperor enjoyed other privileges of a quite practical nature. For example, foreign ambassadors were entitled to use the transportation services provided by the Roman 'horse mail' *Cursus publicus* ('public course, route, mail').

In the Justinian's *Corpus Iuris Civilis* – part *Codex Iustinianus* (529/534 AD), there is a norm issued by the emperors Arcadius and Honorius from 397 AD with the following content: 'Only them are given the opportunity to use the public course/route/mail, who [as] ambassadors from different nations/peoples, to our mercy are rushing.'¹⁷ (C 12.50.16) (Apsitis and Dinsberga, 2024).

To paraphrase the great German diplomat and statesman (Bismarck 1898), people tend to think that they could attain through publicist, parliamentary or diplomatic hypocrisies results, which could only be had by war or readiness for it, by fighting or by readiness to fight.

As for the declaration of war and also the conclusion of international treaties, in the early days of Rome, it was dealt with by the previously mentioned ambassadors of special task *fetiales*, who formed a college of 20 priests, which since ancient times were associated not only with the fulfilment of

7 *Itaque eum, qui legatum pulsasset ... dedi hostibus quorum erant legati...*

8 *hostes si non recepissent*

9 *quaesitum est*

10 *an civis Romanus maneret*

11 *quia quem semel populus iussisset dedi, ex civitate expulsisse videretur*

12 *cum aqua et igni interdiceret*

13 *quem Numantini sibi deditum non acceperunt*

14 *tamen lex postea lata est*

15 *ut esset civis Romanus*

16 *praeturam quoque gessisse*

17 *His tantummodo utendi cursus publici facultas concessa est, qui legati de diversis gentibus ad nostram clementiam properare festinant.*

religious tasks but also with the performance of public duties, especially in managing international relationships with various foreign countries (Apsitis and Dinsberga, 2024).

Their duty was to monitor the fulfilment of the terms of international agreements. Also, *fetiales* were involved in the processes of concluding international agreements, handling cases of extradition of citizens, etc. It was them who represented the Roman state in the official declaration of war. In foreign missions, the official title of the head of the *fetiales* delegation was *pater patratus* (Berger, 1953/1991).

If we believe in the Roman historian *Titus Livius* (64/59 AD–12/17 AD) and what is said in Chapter 32 of Book 1 of his opus *Ab Urbe Condita* (Latin., 'From the Foundation of the City') (Livius, 1860), then the religious and legal regulations for declaring war were allegedly established by the 4th legendary ancient Roman king *Ancus Marcius*,¹⁸ who, following the example of his grandfather, the 2nd Roman king *Numa Pompilius*¹⁹ – the founder of peacetime religious rituals, decided to establish religious and legally correct procedure for waging war.

'*Ancus*, a prince so gifted by nature that he could equally avail himself of the methods of peace or war...' (Machiavelli, 1883) The rite of declaration of war is said to have been adopted by *Ancus Marcius* from the ancient nation of the Equiculis (*antiqua gente Aequiculis*), and the *fetiales* still adhered to it even in the time of *Titus Livius* himself.

According to *Livius*, the Roman ambassador (*legatus*) (priest-ambassador *fetialis*) is said to have gone to the geographical borders (*fines*), beyond which lived the people who earned Roman claims. The ambassador's head had to be wrapped with a special wool headdress.

Dressed like this, the ambassador standing on the border called to the Jupiter ('*audi, Iuppiter*' – 'listen Jupiter[!]'), to the border on which he was ('*audite fines*' – 'listen, the borders[!]'), named the nation in question and, invoked justice ('*audiat fas*' – 'listen, the justice!'), announced that he was a public messenger of the Roman people (*publicus nuntius populi Romani*) with legally and religiously approved legate powers and that his words should be trusted (*verbisque...fides sit*).

After such a formal introduction, the presentation of the content of the claim itself followed.

In the end, the ambassador once again turned to Jupiter with a solemn formal declaration that if he unjustly and dishonestly demanded the extradition of the people and things mentioned in the claim, then Jupiter should never again allow him to recover his homeland.

The same ritual formulations are repeated after crossing the border, the same when meeting the first passerby on the road,

the same when crossing the gates of the opponent's city and the same in the forum (market square).

If the messenger-ambassador has not been given what he requested, then, after 33 days prescribed by customs, he has declared war.

Ritual formulations are also pronounced here. Summoning as witnesses Jupiter, Janus, all the gods of heaven, Earth and the underworld, the people who earned the Roman claims were declared dishonest – those who are unjust and do not make just compensation. At the same time, it was announced that in these cases, there will be a consultation with the elders in the fatherland – by what means will the violated rights be acquired.

After completing the mentioned procedures, the messenger – the ambassador returned to Rome – to consult (Livius 1.32.)

After the return of the messenger – ambassador, the Roman king (*rex*), is said to be accustomed to immediately start formal ritual consultations with the Roman elders – fathers of the nation (*patres*), resp. senators.

King, using special oral formulations, informed that in the cause of some disputes,²⁰ the head of the delegation of envoys of the Roman people (*pater patratus populi Romani*) had notified (*condixit*) the head of the delegation²¹ of the opposing people²² and the opposing people themselves²³ about the claims of the Romans and did not expect the said claims to be satisfied ('which things have neither been returned, nor fulfilled, nor done, which things have been requested to be returned, done, fulfilled'²⁴).

King is said to have asked the first person present: 'Tell me what you think?'²⁵

The person then replied that he thinks that the satisfaction of claims can be obtained by a clean and fair fight²⁶ and that is why he agrees to it and votes for it. Next, the others were polled in order of turn, and as soon as the majority of the votes present was reached, an agreement was reached and the issue of the war was considered decided. (Livius 1.32)

After the vote in the Roman Senate approving the declaration of war, the priest-ambassador *fetialis* according to custom carried an 'iron-tipped or bloody spear'²⁷ to the opponent's border and, in the presence of no less than three adults,²⁸ made a ritual oral statement.

20 *quarum rerum litium causarum*

21 *patri patrato*

22 In this particular case, *Livius* describes the process of declaring war on the Latin neighbors of the Romans – *Prisci Latini*

23 In the particular case *Priscis Latinis*

24 *quas res nec dederunt nec solverunt nec facerunt, quas res dari fieri solvi oportuit*

25 *dic, quid censes?*

26 *puro pioque duello*

27 *hastam ferratam aut sanguineam praeustam*

28 *non minus tribus puberibus praesentibus*

18 *Ancus Marcius*, 677–617 BC, reign 642–617 BC.

19 *Numa Pompilius*, 753–673 BC, reign 715–673 BC

Fetialis first pointed out the violations committed by the opposing nation and its people against the Roman people, then referred to the desire of the Roman people to wage war against the opponents and the fact that the Senate of the Roman people evaluated, agreed and judged/determined²⁹ that war should be waged against the opponents and, finally, in his own name and in the name of the people of Rome, has announced the declaration of war against the opposing nation and its people.

After solemnly reciting on the said declaration, *fetialis* took the spear he had brought with him and threw it over the opponent's border.

According to *Titus Livius*, this is how the claims and the declaration of war against the Latin neighbours (*Latinis*) of the Romans took place, and the subsequent generations of the Romans also adhered to the mentioned order (Livius 1.32) (Apsītis and Dinsberga, 2024).

Titus Livius writes about the role of *fetiales* in concluding international agreements in Chapter 24 of Book 1 of his opus *Ab Urbe Condita*. (Livius, 1860) The establishment of the tradition is associated with the foreign political activities of the 3rd legendary Roman king *Tullus Hostilius*.³⁰

'For we may reckon with certainty that if Rome had not had for her third king one who knew how to restore her credit by deeds of valour, she could not, or at any rate not without great difficulty, have afterwards held her ground, nor could ever have achieved the great exploits she did' (Machiavelli, 1883). King *Tullus* is said to have seriously fought with the rival of Rome at that time – the town of *Alba Longa* (~19 km southeast of Rome). After various military diplomatic vicissitudes, the town was successfully conquered, and its inhabitants were relocated – actually deported to Rome, thus increasing the number of inhabitants, economic and military potential of Rome.

By the way, the successful absorption of *Alba Longa* can be considered an early example of the Romans' excellent ability to assimilate and use the resources offered by the conquered territories – the Albians were not destroyed or sold into slavery, but became part of the Roman people, making it bigger and stronger. This whole practice of pragmatic politics, especially in the course of the conquest and takeover of Italy, proved to be of decisive importance in the later creation of the great power of the Mediterranean basin.

During *Alba Longa* campaign, an international treaty was concluded with the participation of *fetiales*, which Livy thinks is the oldest known example of a Roman international treaty concluded in this way ('...nor is there any more ancient [example] of a treaty in memory'³¹). Using approximately the

same procedure, other international agreements were also concluded ('Agreements ... however, all made in the same way'³²). (Livius 1.24)

If we talk about the procedural nuances, *Livius* is actually describing a pagan religious ritual here. Judging by the text, the first thing that happened was the authorisation of Roman diplomats – the confirmation of the authority of the *fetiales* to make a treaty.

The Roman *fetialis* is said to have ceremoniously asked King *Tullus* if he ordered him to make a treaty with the head of the delegation – *pater patratus* of the *Alba* people's envoys?³³

The king gave such an order.

After that, the *fetialis* is said to have asked the king³⁴ for a blessed plant.³⁵

To which the king said: 'take the pure'³⁶

Fetialis is said to have brought a pure plant from the lawn of the fortification rampart³⁷ and once again asked the king if he would appoint him as the royal messenger of the Roman people,³⁸ together with all the baggage and companions.³⁹

The king replied that he appoints them for a task that must be done without harming him and the Roman people. ('For that [task] I appoint which without cheating me and the people of Rome must be done'⁴⁰)

When the king had approved such powers, the *fetialis* (a certain *M. Valerius*) in turn appointed the official head of the Roman delegation, the *pater patratus*. It was said to be a man named *Spurius Fusius*.⁴¹

The appointment of *pater patratus* took place by touching its head and hair – *verbena*⁴² was used for the mentioned purpose, which, judging by the context, was the same pure plant,⁴³ which was taken from the lawn of the fortifications and played an important sacred role throughout the ritual. (Livius 1.24)

According to *Livius*, the task of the Roman *pater patratus* was to confirm⁴⁴ the concluded international agreement with a special oath – *ius iurandum patrarium*, invoking the pagan god Jupiter – if the Romans did not fulfil their obligations, they would risk incurring his wrath. (Livius 1.24)

32 *Foedera ...ceterum eodem modo omnia fiunt*

33 *...cum patre patrato populi Albani foedus ferire?*

34 *te, rex, posco*

35 *sagmina*

36 *puram tollito*

37 *ex arce graminis herbam puram attulit*

38 *regium nuntium populi Romani*

39 *vasa comitesque*

40 *Quod sine fraude mea populi Romani ...fiat, facio*

41 *patrem patrarium Spurium Fusium fecit*

42 *Verbena caput capillosque tangens*

43 It could be assumed that Common Verbena (*Verbena officinalis* L.) is being talked about here, see: <https://plantura.garden/uk/herbs/verbena/common-verbena>

44 *sanciendum fit foedus*

29 *censuit consensit conscivit*

30 *Tullus Hostilius*, reign 673–642 BC.

31 *...nec ullius vetustior foederis memoria est*

As is known, the fear of the wrath of a Higher Power can serve as a very strong motivating element – ‘...no one would despise an oath in fear of God, thus forgetting about the salvation of his own soul, giving preference to any gain...’⁴⁵ (C 9.27.6.1) – thus, after the passage of many centuries, when the Roman Empire had already been taken over by Christianity, the emperors tried to motivate the officials to refrain from corrupt activities.

‘... so that those who have been honoured with the office... while taking an oath [could] declare that they have neither given nor will give anything for entrusting the administration, either by themselves or with the help of an intermediary,⁴⁶ in violation of the law or a person’s oath, or gift, title of sale, or any other basis [when concluding] any contract, and therefore apart from the salary absolutely nothing [else] both while in administration, and after leaving office⁴⁷ [as remuneration] for any benefit granted to [someone] during [their] administration, which is freely due to [someone], will not accept’. (C 9.27.6 pr.)

Christianity, in accordance with its religious and ethical principles, as is well known, condemns bribery and corruption in a very clear way, especially in relation to judicial proceedings: ‘And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous’. (Exodus 23:8)

‘Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous’. (Deuteronomy 16:19) ‘Cursed be he that taketh reward to slay an innocent person...’ (Deuteronomy 27:25)

Returning to *Titus Livius* and the pagan ritual, he described when concluding the international agreement between Rome and the town of Alba Longa. It must be said that the very procedure of approving the agreement – giving the oath *ius iurandum patrandum*, would probably be recognised as quite wild – from the look of modern standards.

Especially in contrast to the perhaps even somewhat romantic empowerment of diplomatic representatives described above through pure plant – verbenā.

Respectively, the procedure, among other things, provided for the sacrifice of an animal – a pig (*porcus*).

It follows from *Livius* that the certified text of the contract agreed on by the parties was written on wax boards – tables.⁴⁸ After reading all the terms of the agreement, the Roman *pater patratus* is said to have invoked Jupiter (‘audi ... Iuppiter’ – ‘listen Jupiter[!]’), solemnly addressed the head of the delegation of envoys from the people of Alba (*audi, pater patratus populi Albani*), the people of Alba themselves (*audi*

tu populus Albanus) and declared that since all the terms of the agreement, from the first to the last,⁴⁹ were read from the said wax tablets in the presence of everyone without false pretences⁵⁰ and were unequivocally understood on this day in the most truthful way,⁵¹ then of these conditions (‘laws’) the Roman people will not be the first to deviate.⁵²

If the Roman people is the first of them to deviate publicly, with an evil trick,⁵³ then let Jupiter beat it as he (resp. the Roman *pater patratus*) beats this pig on this day.⁵⁴ To hit even more and stronger, Jupiter can do it much more and stronger.

Having so declared the Roman *pater patratus* is said to have pierced the pig intended for sacrifice with a flint stone.⁵⁵

Similarly, the Albanians on their part have confirmed the international agreement, using their own oath (*ius iurandum*) form and procedure, under the leadership of their own dictator and priests. (Livius 1.24) (Apsītis and Dinsberga, 2024)

CONCLUSIONS

Foreign ambassadors in Rome and Roman ambassadors abroad were called legates (*legati*). In the Roman Republic, the Roman Senate handled international relations, which, among other things, received foreign ambassadors and sent official embassies (*legatio*) to foreign countries. During the empire, the mentioned duties were taken over by the emperor. Ambassadors of foreign countries in Rome enjoyed special immunity, even in situations when the country represented by the ambassador was in a state of war with Rome. The Romans demanded that Roman ambassadors abroad enjoy the same status. Insulting the ambassador was considered an illegal offence against the so-called law of nations (*ius gentium*) (D 50.7.18)

Ius gentium – ‘the law of nations’ was one of the three (next to *Ius civile* and *Ius praetorium*) parallel functioning legal systems in Ancient Rome, which regulated Roman legal relations with foreigners and relationships between foreigners living in Rome. It bound both Roman citizens and foreigners. This system was based on the norms of international law of the ancient world – customs, etc. (see: Gaius, inst. 1.1)

Punishment for violating the inviolability of the ambassador – the violator was to be surrendered to the country (enemy) represented by the offended ambassador, so that it could deal with the culprit as it sees fit (D 50.7.18)

45 *neminem divini timoris contemnendo iureiurando arbitramur immemorem, ut salutis propriae ullum commodum anteponat*

46 *sive per se sive per interpositam*

47 *post depositum officium*

48 *tabulis cerave*

49 *prima postrema*

50 *sine dolo malo*

51 *rectissime intellecta*

52 *illis legibus populus Romanus prior non deficiet*

53 *publico consilio dolo malo*

54 *hunc porcum hic hodie feriam*

55 *porcum saxo silice percussit*

Punishment by surrendering the perpetrator to the enemy meant the loss of the status of a Roman citizen, even in a situation where the violator of the immunity of the ambassador for some reason was not accepted by the enemies and he actually remained among the Romans themselves. In addition, the perpetrator lost the right to his property.

The situation was likened to cases where someone is excluded from the right to 'water and fire'. (D 50.7.18)

'Expulsion from water and fire' – *interdicere aqua et igni* meant the complete expulsion of a Roman citizen accused of some serious violations – expulsion from Roman society and the latter going into voluntary or forced exile – exile, thus leaving his community, country, etc. If the outcast (*interdictus*) tried to return from exile arbitrarily, he was 'outside the law' and did not enjoy any legal protection. 'Expulsion from water and fire' was practiced in Rome during the republican period (509 AD–27 AD), and in the period of the early empire – Principate (27 AD–284 AD), it was replaced by another similar institute – 'deportation' (*deportatio*). (See D 48.22.tit. *De interdictis et relegatis et deportatis*.)

In addition to guarantees of personal inviolability, foreign ambassadors in Rome enjoyed other privileges of a quite practical nature. For example, it was possible to use the transportation services provided by the Roman 'horse mail' *Cursus publicus* ('public course, route, mail'). (C 12.50.16)

Roman ambassadors were used to be sent to fulfil some special tasks, for example, declaring war, concluding international agreements, resolving disagreements between Rome and the respective country, etc.

In the early days of Rome, in cases of declaration of war, the Roman state was represented by ambassadors *fetiales* with special tasks, who created a college of 20 priests, which was not only related to the fulfilment of religious tasks but also to the performance of public duties, especially in the management of international relations with various foreign countries.

According to the Roman historian *Titus Livius* (64/59 AD–12/17 AD) – his opus *Ab Urbe Condita* (lat., 'From the Foundation of the City'), Book 1, chapter 32, the procedure for declaring war consisted of ritual actions. The priest-ambassador *fetialis* made a statement of claims to the opposing country, which, in the event of a negative reaction from the opponent, was followed by an initial declaration of war and the ambassador's announcement of the return to Rome for consultations. After the ambassador's return, the Roman Senate held formal ritual consultations with a subsequent vote. In case of a favourable vote for the declaration of war, the priest-ambassador *fetialis* went to the border of the opposing country and completed the declaration of war procedure with specific ritual actions. According to *Titus Livius*, this is how claims and declaration of war against the Latin neighbours of the Romans took place,

and subsequent generations of the Romans also adhered to the mentioned order. (Livius 1.32)

Titus Livius describes the role of *fetiales* in the conclusion of international agreements in the Chapter 24 of Book 1 of his opus *Ab Urbe Condita*. First, the powers of the priest-ambassador *fetialis* regarding the conclusion of the treaty were solemnly confirmed, and he in turn appointed the *pater patratus*, the official head of the Roman delegation. During the ritual, a sacred plant – verbenā – played an important role. The task of the *pater patratus* was to confirm the concluded international agreement with a special oath – *ius iurandum patrandum*. The text of the agreement to be confirmed by oath – agreed upon by the parties – was written on wax boards – tables. After reading all the terms of the contract, the Roman *pater patratus* recited specific sacred ritual texts, and the animal – pig (*porcus*) was sacrificed. Similarly, the authorised representatives of the other contracting party have also confirmed the international agreement, using their own *ius iurandum* oath form and procedure. All international agreements were concluded in approximately same order. (Livius 1.24.)

The procedure of the oath *ius iurandum patrandum* would probably be recognised as quite wild by modern standards.

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