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THE INFLUENCE OF RHODIAN LAW ON THE ORIGIN OF THE ACTIO EXERCITORIA

The actio exercitoria formally becomes part of Roman law by an edict of the praetor. However, the question arises as to whether it is an autochthonous Roman institute or whether the inspiration for its emergence was found in Greek maritime law. The author will try to give a possible answer to this controversial question by clarifying the mutual connection and relations between the actio exercitoria and the Rhodes law. Possible connections between those two institutes are gently suggested in literature, through various ideas of Romanists. By questioning various theories, the author will try to answer whether actio exercitoria was exclusively of Roman origin.

Key words: Actiones adiecticiae quailitatis; Actio exercitoria; Lex Rhodia de iactu; Legal transplants; Joined liability.

1. INTRODUCTION

Greek domination of maritime trade began very early, as early as the 9th century BC. This is not surprising given the geographical predisposition of Greece whose shores are lapped by three seas. Thus the Greeks became experienced sailors who, traveling and trading with foreigners, established their colonies on the shores of Asia Minor, in the south of the Apennine Peninsula, and even on the Iberian Peninsula. After the Roman conquest of the Greek settlement in the south of Italy in 272 BC and after the end of the Punic wars, the Romans took over the monopoly in maritime trade in the Mediterranean.

The main trade centers are located in the east[1], and trade domination is in step with the territorial expansion. Greater concentration of the popu-

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[1] Many Romans spent their entire lives abroad (Greece, Asia Minor, Africa, Gaul) in large craft and trade centers from where they concluded contracts for the import of grain to Rome and the export of wine and olive oil from Italy. M. Rostovcev, Istorija staroga sveta, Novi Sad 1990, 358.

lation in Rome leads to increased needs for food supply (annona). Due to the social and economic changes in the lives of the Romans caused by the favorable political situation, the Romans began to develop trade intensively. There is an expansion of the port of Ostia in Rome and the construction of new ports to which grain is delivered from Egypt, ivory from Africa, as well as luxury items from distant parts of the world. A great assessment of Rome at that time is given by Rostovtzeff: "Rome was a large business center and exchange office all over the world".[2]

The development of Roman maritime trade[3] that began in the second century BC creates new relationships that needed legal recognition. The timing of the occurrence of actio exercitoria is largely undisputed in the literature. It is believed that this was at the end of the second century BC or at the very beginning of the first century BC, during the heyday of the Roman economy. On the other hand, historical sources indicate a coincidence in the introduction of these two institutes into the Roman legal system.[4] It is strongly believed that Lex Rhodia de iactu was introduced in the Roman Law at the time of the alliance between Rome and Rhodes and the creation of an anti-Macedonian coalition.[5] That at that time there was a strong Hellenistic influence, which comes on the basis of trade cooperation, is witnessed by the decision of the Roman Senate from 268 BC to abolish the hitherto heavy copper money and replace it with silver denarius.[6] These were some of the measures taken to promote Roman trade and its stronger connection with the eastern Mediterranean market. In addition, it is important to note that the alliance between Rome and Rhodes did not last long because Rhodes stood up for the Macedonians and thus resented the Romans.[7] After that, Delos became a free port and therefore a trade center in the Mediterranean and Rhodes lost its prior significance in maritime trade. Also, after that, the Romans stopped admiring Greek culture and legal heritage, and it is logical to conclude that the takeover of Greek legal solutions was completed.

Having in mind that there is no official introduction of Greek maritime corpus into Roman legal system, this dating could be assumed only as presumption.[8]

[2] *Ibid.*

[3] The primacy of international trade over land trade was achieved due to lower shipping costs and lower prices of imported products.

[4] H. Kreller, "Lex Rhodia, Untersuchungen zur Quellengeschichte des römischen Seerechtes", *Zeitschrift für das gesamte Handelsrecht*, 85, Stuttgart 1921, 264–272.

[5] Polybius, Histories, 30; N. Maškin, *Istorija starog Rima,* Beograd 2005, 149.

[6] F. Papazoglu, *Istorija helenizma, epoha Aleksandra Velikog,* Beograd 1967, 10.

[7] M. Rostovcev, 280.

[8] N. Žiha, "On reception of Greek maritime norms, or how to find a perfect place for a foriegn principle in the Roman legal system", *History of Legal Sources, Changing History of Law*, Beograd 2018, 217.

There is a lot of uncertainty about the institute itself, including place of origin. It is not excluded that Rhodes was only a place of intensive use of this maritime rule due to the volume of overseas trade that took place in this port,[9] and that the rules were created even earlier. It is believed that the unwritten customary law was invented by the Phoenicians, passed on to the Greeks and taken over by the Romans.[10] Also, other ancient civilizations, older then Greek and Romans, such as the Babylonians, had known maritime institutes as well.[11]

The fact that the Greeks paid great attention to maritime affairs and developed it as an economic branch quite early speaks in favor of the general reception of maritime institutes in Greek law. Already in the 7th and 8th centuries B.C. the Athenians had naukraria (naukraria- from naus-ship and kraino- manage).[12] Naukraries were areas or institutions that were obliged to give the state one ship each with a crew and a commander, a naukrar, at the head. Each of the four tribes had twelve naukraria. With such a developed fleet, they were far more experienced sailors than the Romans, who only developed their navy after the Punic Wars.

Compared to Greek maritime law, which developed very early under the auspices of the state[13], the Romans were late. This delay and lag of Roman law behind Greek maritime law, served some authors as an argument to explain the legal transplantation of maritime institutes of maritime law. Prof. Stanojević argues that at the time when the naval loan was in use, the Romans meant too little in the navy to come up with such an institute on their own.[14] This opinion of a distinguished professor is very probable, although it could not be extended by analogy to other maritime institutes.

[9] Rhodes money was in circulation from Asia Minor to the Sea of Marmara. according to Rostovtzeff, the total turnover of the port of Rhodes in the 2nd century amounted to about 50,000,000 drachmas.

[10] O. Stanojevic, *Rimsko pravo*, Beograd 2003, 14.

[11] Articles from 234 to 240 of Hammurabi's Code, M. Višić, *Zakonici drevne Mesopotamije,* Sarajevo 1989, 121.

[12] P. Lisičar, *Grci i Rimljani*, Zagreb 1971, 98

[13] In addition, it must be noted that Greek ships were mostly state-owned, unlike Roman ones which were owned by wealthier citizens. Based on that fact, we can conclude that Roman maritime law is regulated by private law and Greek maritime law is regulated by public law. In addition to private entrepreneurs-shipowners, there were also ships that were owned by the Roman state and transported food for the needs a city from Africa. The grain was transported by ships that sailed in a convoy, in order to reduce the risk from pirate attacks. The exercitor would receive a reward in the form of a fixed amount of money - naulum, or a certain percentage of the grain load. Later, the obligation of sea transport became permanent civic duty. The exercitor could be awarded Roman citizenship either with Ius Latii or he would be exempt from restrictions under August's family law. A. J. M. Meyer-Termeer, Die Haftung der Schiffer im griechnischen und römische Recht, Zutphen 1987, 155.

[14] O. Stanojević, *Zajam i kamata*, Beograd 1966, 124.

The so-called the Rhodian law on jettison is found in Justinian's Digests, in the second title of the fourteenth book, immediately after the actio exercitoria. The same arrangement of the institute is retained in Paul's Sentences, where the Rhodian law (2.VII. Ad legem Rhodiam) follows the actio exercitoria (2.VI). The closeness shared by these two institutes in Digests is quite intriguing. It would be logical to connect the Rhodes law on jettison with the provisions of the contract of carriage (locatio conductio operis), because the compensation for damages was realized through mutual lawsuits from that contract. Therefore, it is strange why Justinian's commission put those two institutes so close together. Although these are two maritime institutes, is there any stronger connection between them?

2. SEIDEL'S THEORY ON THE RECEPTION OF ACTIO EXERCITORIA

Unique opinions on the origin of the actio exercitoria appear in the literature. Erwin Seidel claims that the actio exercitoria was taken from the Rhodes maritime law and subsequently included in the praetorian edict.[15] This bold assumption is supported by previous arguments about the reception of Greek maritime institutes, especially Lex Rhodia de iactu. Although there is no strong evidence about the reception of these Hellenistic maritime customs, many eminent authors, such as Wiacker thought that the institute was most likely received at the time of the late classical jurisprudence.[16] Having in mind all those arguments, it is reasonable to say that Seidel's idea is pretty credible but unsupported by evidence. Whether the Rhodesian law was indeed included in an edict or accepted in Roman law as an institute of customary international law, is difficult to decide. In addition there is no evidence in Greek law of the existence of an actio similar to actio exercitoria. Although this idea about reception of actio exercitoria seems utterly probable and cannot be categorically excluded, the absence of evidence makes it unacceptable. This Seidel thought is openly opposed by Wenger. Wenger considers actiones adiecticiae qualitatis, including actio exercitoria, to be an authentic Roman institute and that there is no similar institute in Greek law.[17]

Another reason for reproaching this theory is found in etymological doubt. However, all legal transplants from Greek Law have preserved the original (Greek) names of the institute. For example, the Romans did not change the names of literal contracts taken from the Greek law, chirographa and syngraphae or the name of the proprietary institute hypotheca. The Ro-

[15] E. Seidl, *Römisches Privatrecht*, Köln, Berlin 1963, 43.

[16] F. Wieacker, "Iactus in tributum nave salva venit D 14.2.2"., *Studi in onore Emilio Albertario I,* Napoli 1953, 513–517.

[17] L.Wenger, *Stellvertretung im Rechte der Papyri*, Leipzig 1906.

mans did not hide the influence that Greek philosophy and culture in general brought to Rome. On the contrary, they were proud of that fact. However, the name actio exercitoria comes from a verb excerno, (-ere, crevi, cretum, 3. conjugation) which has possible meanings separate, keep away, accumulate and proliferate. The verb is derived from the separable preposition ex- out and verb cerno- separate.[18] Following this etymological fact, we can conclude that actio exercitoria has exclusively Latin name and we cannot find traces of Greek law in its etymology.

One of the surviving paragraphs in the Digests testifies that the Rhodesian law was part of the edict, as it was taken from Paul's 34. book of commentaries on the edict.[19] There is no more reliable data on the edictal origin of the Rhodian law. However, even if the Rhodes law was indeed part of the praetorian edict, it does not prove enough that the actio exercitoria was taken over from Greek law and subsequently included in edict.

In addition, in the Digests we find testimonies of the use of Rhodian law at the time of the imperial constitutions. There are some thoughts that was the actual time of reception of this maritime rule, but lack of proves discourages this presumption.[20]

14.2.9 Maecianus ex lege Rhodia, *Aciwsis Eudaimonos Nikomydews pros Antwninon basilea. Kurie basileu Antwnine, naufragion poiysantes en ty Italia diyrpagymen hupo twn dymosiwn twn tas Kukladas nysous oikountwn. Antwninos eipen Eudaimoni. Egw men tou kosmou kurios, ho de nomos tys valassys. Tw nomw twn Hrodiwn krinesvw tw nautikw, en ohis mytis twn hymeterwn autw nomos enantioutai. Touto de auto kai ho veiotatos Augoustos ekrinen.* [Id est: Petitio Eudaemonis Nicomedensis ad imperatorem Antoninum. Domine imperator Antonine, cum naufragium fecissemus in Italia [*immo* in Icaria], direpti sumus a publicis [*immo* a publicanis], qui in Cycladibus insulis habitant. Antoninus dicit Eudaemoni. Ego orbis terrarum dominus sum, lex autem maris, lege Rhodia de re nautica res iudicetur, quatenus nulla lex ex nostris ei contraria est. Idem etiam divus Augustus iudicavit.]

It is presumed to be a paraphrased Greek text of unknown source.[21] In addition, this is the only text in the title devoted to Rhodian law that indicates the actual Greek origin of the institute.

From the text we see that the Rhodesian law applied as a general rule of international law. The ruler refused to resolve the dispute arbitrarily, re-

[18] M. Divković, *Latinsko-Hrvatski rječnik*, Bjelovar 2006, 371.

[19] D.14.2.2.

[20] E. Chevreau, "La Lex Rhodia de iactu. Un exemple de la reception d'une Institution étrangére dans le droit romain", *RHD* 73/2005, 70.

[21] H. Wenger, "Die Lex Rhodia de iactu", *Revue Internationale de droits de l'antiquite* 3/ XLIV, Bruxelles 1997, 359.

ferring the interested party of Greek origin to the rules of the Rhodes Law, noting that navigation at sea is regulated by the Rhodes Law, which is in accordance with Roman regulations (nulla lex ex nostris ei contraria est). Based on this sentence, we see that the Rhodes law was treated as international law and not as domestic Roman law. Rhodes law applies to all disputes arising in the Mediterranean, regardless of the origin of the participants. In addition, August emphasizes as an important fact the harmonization of the Rhodes law with the domestic legislation.

On the other hand, even if we reject this Seidel's assumption of the reception of actio exercitoria in harmony with reception of the Lex Rhodia, we still need to reconsider one fact. Whether it is possible that the Rhodesian law nevertheless exerted a certain influence on the emergence of the actio exercitoria? It is certain that the adoption of the Rhodes Law alone is not in a causal relationship with the occurrence of the actio exercitoria. These are two substantively different institutes, because the Rhodian Law refers only to compensation for damage and risk-sharing in the event of danger to the survival of a ship at sea. The actio exercitoria itself implies a partial division of risks between the ship's captain and the exercitor, because the solidarity relationship between these two persons ensures a stronger position of the third party in terms of easier realization of their claims. In its essence, the actio exercitoria is a depersonalized action used against the holder of power over a person or a person who gives a preposition for business.

By separating the actio exercitoria from the context of actiones adiecticiae qualitatis, it is possible to see the isolated influence that the Rhodes law had on the actio exercitoria. In the general context of actiones adiecticiae qualitatis, mostly all actions arise and develop in a family environment. The specificity of the actio exercitoria is its dislocation to the sea, and therefore the accumulation of the general "adjective" characteristics of the action with the maritime regime. As all maritime affairs were high risk, additional third party interest insurance was required. In addition to the general character of the insurance provided by both institutes, the actio exercitoria provides an additional possibility of insuring the interests of a third party. Rhodesian law protects the master from the eventual complete loss of property due to objective circumstances that may occur at sea. So on, although they are both insurance institutes, they are used by different parties to the contract.

3. LIABILITY OF THE DOMINUS NEGOTTI BASED ON LEX RHODIA DE IACTU

In Roman Law, Lex Rhodia de iactu served only for protection of bilateral relations of rental contracts (locatio conductio operis). Having in

mind that original, Greek version of this maritime rule is unknown; the responsibility of the owner of the rescued goods remains enigmatic to us. On the other hand, Byzantine version preserved in Basilica, known as Nomos Rhodion nautikos permits the formation of a koinoina (société de risqué).[22] Société de risqué served for mutual settlement of claims for those who lost their merchandise. On the other hand, Roman Law rejected the idea of collective responsibility, based on society that mutually insured all the risks of voyage.[23] The owner of sacrificed merchandise had the right to sue the magister navis with actio locati and the magister navis has the right to recourse from the owner of the saved merchandise with actio conducti. If there were several owners of the rescued merchandise, they are all responsible up to the amount of the saved part of the merchandise. Although all the owners of the goods were individually in a contractual relationship with the captain of the ship, no contractual relationship existed between them. Considering these remarks about the differences between text of Justinian codification and Byzantine understanding of Lex Rhodia, we could not come clear which version was most similar to the original. As underlined above, it is certain that the Roman version implied the individual responsibility of the parties without a mutual contractual relationship.

Comparing this Roman variant of Lex Rhodia liability with the liability based on actio exercitoria, it could be noticed a few similarities. The first similarity is the individual responsibility of each owner of the goods, ie the exercitor navis. Each of the owners, ie exercitor navis or generally speaking, the dominus negotti bears the risk independently, up to the amount of the invested part (pro parte). If there are several owners or exercitors, they resolve their mutual relations through the right of recourse and not through a partnership (societas). Through the individual liability of each person which is limited to a certain amount (pro parte), we see the typically Roman upgrade of this institute.

In addition to personal and limited participation in the risk, the economic role of these institutes is similar. Investing in and taking responsibility for a maritime venture that takes place on the high seas is a very important condition for the development of the Roman economy. Although the Roman aristocracy seemingly despised overseas affairs, a significant part of the Roman aristocracy invested in these hazardous affairs. Their appearance in the naval endeavor was subtly performed through their slaves, freedmen and persons in power.[24] With the help of actiones adiecticiae qualitatis Romans

[22] E. Chevreau, 75

[23] P. Dostalik, "Lex Rhodia de iactu and general average", *Gdanskie studia prawnicze* NR 3/2019, 143.

[24] In this way they circumvented the prohibitions prescribed by the SC Claudia de nave senatorum promulgated in 218. BC.

succeeded in carrying on intensive and far-reaching commercial activities without a developed concept of agency.[25]

On the other hand, significant difference between master´s liability based on those two institutes, is in the scope of liability. According to actio exercitoria, exercitor navis as dominus negotti is liable for delictual and contractual acts of magister navis,[26] while according to the Rhodian law it is liable only if the damage is caused by force majeure (storms, pirate attacks). So, actio exercitoria provides for subjective and objective liability and Lex Rhodia de iactu provides only for objective liability. Lex Rhodia de iactu rule will not apply if the damage is made with the fault of magister navis, because in that case, he will be liable to the exercitor(s). Having in mind different scope of liability between those two institutes, we can conclude that their application was supplementary. In an attempt to explain the historical development of those two institutes, it must be observed that parallel use of the institutes indicates equal need for their legal establishment. It is therefore correct to conclude that they experienced their legal recognition at about the same time. If the time of their legal origin is approximately the same, it is unlikely that one institute significantly influenced another.

4. ROMAN COMMERCIAL LAW AS A LINK BETWEEN ACTIO EXERCITORIA AND LEX RHODIA DE IACTU

In addition to its possible origin, actio exercitoria and Rhodian law are connected by another link. Namely, in the literature there are views that the actio exercitoria together with other actiones adiecticiae qualitatis, (especially actio institoria and actio tributoria) and Rhodes law constitutes the so-called Roman commercial law. One of the proponents of this idea is Günter Wesner. Wesner, in his attempt to associate those institutes, claims that the closeness between these institutes in the Digests is reason enough for their connection.[27] This serious argument about classification has already been noted as important. The classification of the Lex Rhodia de iactu and actiones adiecticiae qualitatis under the same title was carried away by Justinian's compilires. As the time of compilation took place several centuries after the reception of the Rhodian law and the emergence of the actio exercitoria, such a systematic classification is not in itself sufficient proof that they were taken together from Greek law. On the other hand, putting those two institutes within the frame-

[25] M. Miškić, "Actiones adiecticiae qualitatis: Master's liability based on praepositio and iussum", *Ius Romanum* 2/2017, *The second International Balkan Conference for Roman Law and Roman Legal Tradition ''The universality of Roman Law",* Niš 2017, 313.

[26] M. Miškić, Tortius liability of the master based on actio exercitoria, Collection of papers "Legal tradition and integration proccesses", I, Kosovska Mitrovica 2020, 341–358.

[27] G.Wesener, "Von der lex Rhodia de iactu zum § 1043 AGBG", *Festschrift Johannes Bärmann*, München 1975, 35.

work of one same title could be otherwise indicative. Wesener argues that compiler's intentions were to establish entity that can be considered as Roman commercial law (Handelsrechtsinstituten).[28] Before rejecting this Wesener's remark in its entirety, it must be emphasized that Roman commercial law as a subsystem of Roman law did not formally exist.[29] Wesener rightly considered that although the state has not officially separated economic norms into one subsystem, it does not mean that such norms do not exist.

His opinion is shared by some other Romanists. Paul Huvelin also believes that the Rhodes law is part of the Roman trade legislation.[30] Although Huvelin's assessment is informal and unsupported by some overly solid evidence, it is very likely that the Lex Rhodia de iactu and foenus nauticum were applied at the same time with the actio exercitoria, ie it can be said that these two institutes constituted its supplementary legislation. Taking into account all the dangers that the naval endeavor brought with it,[31] there is no doubt that the dominus negotii secured its interest against these dangers through mentioned risk-shifting institutes.

It is also interesting to mention Kreller's opinion, which the Lex Rhodia de iactu considers to be a generally recognized custom of commercial law.[32] This Kreller's remark also contains an international sign of commercial law. In spite of the fact that Roman law did not formally recognize commercial law as a separate branch of law and even less international commercial law, in practice, these rules regulated all trade in the Mediterranean. Therefore, we cannot ignore these remarks on the place and significance of the Rhodian law and its connection with the actio exercitoria through belonging to the same set of rules.

Having in mind economic purpose of the actio exercitoria and Lex Rhodia de iactu together with foenus nauticum, (that brought them together), it can be concluded wrongly that these institutes, as used together, were created together. Lex Rhodia de iactu is unquestionably of foreign origin, most likely Greek with possible eastern variants. Origin of fenus nauticum is not entirely certain, but it is highly probable that it was taken from Greek law. It would therefore be wrong actio exercitoria to join this group of institutes taken over from Greek law.

[28] *Ibid*., 34.

[29] T. Chiusi, *Diritto commercial romano? Alcune osservazioni critiche, Fides, humanitas, ius, Studi in onore di Luigi Labruna II*, Napoli 2007, 1030.

[30] P. Huvelin, *Etudes d'histoire du droit commercional romain. Histoire externe – droit maritime,* Paris 1929, 127.

[31] "The ships were small, weather forecast unknown, both coast and sea were rudimentary charted and pirates were constant treat" G. Purpura, "Il naufragio nel diritto romano: problemi giuridici e testimonianza archeologiche" in *Studi Romanistici in Tema di Diritto Commerciale Maritimo*, 1996, 456–476.

[32] H. Kreller, *Römische Rechtgeschichte,* Tübingen 1948, 153.

5. CONCLUSION

Actio exercitoria and Lex Rhodia de iactu are institutes that share many common characteristics. However, question of origin is not one of the common denominator of these two institutes. In order to answer to a question of origin of actio institoria, significant number of Romanists suggested it's the transplatation from Greek law. Seidel's opinion is intriguing due to the fact that the Romans borrowed Greek institutes in some other situations, but in this case without solid evidence to support this original approach, we cannot accept that the actio exercitoria has the Greek origin. The authenticity of the actio exercitoria as a Roman institute lies in undoubted Latin terminology. Besides that, actio exercitoria arose and develop in family environment, as well as others actiones adiecticiae qualitatis. Although its dislocation to the sea seductively points to the lex Rhodia de iactu, their interrelationship has not been proven. Also, scope of liability between those two institutes is different. According to actio exercitoria, exercitor navis as dominus negotti is liable for delictual and contractual acts of magister navis, while according to the Rhodian law it is liable only if the damage is caused by force majeure (storms, pirate attacks). So, actio exercitoria provides for subjective and objective liability and Lex Rhodia de iactu provides only for objective liability. Having in mind economic purpose of the actio exercitoria and Lex Rhodia de iactu together with foenus nauticum, it can be concluded wrongly that these institutes, as used together, were created together.

Summary:

Since it is known that actio exercitoria becomes part of Roman law by an edict of the praetor, their origin should be sought in the field of ius gentium. The results of the research are very uncertain because of the long time distance and lack of the sources, but Romanists managed more or less successfully to establish some theories. First of all, the well known theory about legal transplantation of actio exercitoria. Erwin Seidel claims that the actio exercitoria was taken from the Rhodes maritime law and subsequently included in the praetorian edict. Although this idea about reception of actio exercitoria seems utterly probable and cannot be categorically excluded, the absence of evidence makes it unacceptable. Another reason for reproaching this theory is found in etymological doubt. However, all legal transplants from Greek Law have preserved the original (Greek) names of the institute. For example, the Romans did not change the names of literal contracts taken from the Greek law, chirographa and syngraphae or the name of the proprietary institute hypotheca. However, the name actio exercitoria comes from a verb excerno, (-ere, crevi, cretum, 3. conjugation) which has possible mean-

ings separate, keep away, accumulate and proliferate. The verb is derived from the separable preposition ex- out and verb cerno- separate.

Lex Rhodia de iactu and actio exercitoria are two substantively different institutes, because the Rhodian Law refers only to compensation for damage and risk-sharing in the event of danger to the survival of a ship at sea. By separating the actio exercitoria from the context of actiones adiecticiae qualitatis, it is possible to see the isolated influence that the Rhodes law had on the actio exercitoria. In the general context of actiones adiecticiae qualitatis, mostly all actions arise and develop in a family environment. The specificity of the actio exercitoria is its dislocation to the sea, and therefore the accumulation of the general "adjective" characteristics of the action with the maritime regime. On the other hand, significant difference between master´s liability based on those two institutes, is in the scope of liability. According to actio exercitoria, exercitor navis as dominus negotti is liable for delictual and contractual acts of magister navis,[33] while according to the Rhodian law it is liable only if the damage is caused by force majeure (storms, pirate attacks). So, actio exercitoria provides for subjective and objective liability and Lex Rhodia de iactu provides only for objective liability. In the end, it must be concluded that misconceptions about the origin of actio exercitoria arise due to the wrong connection of these institutes.

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УТИЦАЈ РОДОСКОГ ЗАКОНА О ИЗБАЧЕНИМ СТВАРИМА НА НАСТАНАК ЕКСЕРЦИТОРНЕ ТУЖБЕ

Сажетак

Ексерциторна тужба је формалноправно постала дио римског права едиктом претора. Међутим, да ли је у питању аутохтони римски институт или инспирација за настанак поморске тужбе пронађена у грчком праву је и даље спорно питање. Аутор ће настојати расвијетлити везу и међусобан утицај ова два поморска института, те одбранити римску аутентичност ексерциторне тужбе.

Кључне ријечи: *Actiones adiecticiae qualitatis; Actio exerci-toria; Lex Rhodia de iactu; Рецепција права; Подијељена одговорност*.