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The legislation of emperor Justinian (527–565) and its reception in the Carpathian-Danubian-Pontic space

In Romanian literature – of legal, historical, cultural content etc. – there is the erroneous customary statement according to which we “can speak [...] about a true science of law [...] only starting from the twelfth century (or, at most, from the last years of the previous century). This is due to the legal school of Bologna, whose promoter was Irnerio (Irnerius, 1055–1125), erudite glosser and teacher, whose teachings were followed by a large number of disciples.”¹ Or, “the Law science” has had a universal recognition since Roman times, being also illustrated by the prestigious names of some Roman juriconsults, such as, for example, Cels, Gaius, Ulpianus etc., whose works of jurisprudential content were known as *Jus* or *Jus antiquum*.

In terms of importance, this classical jurisprudential doctrine – made up of “utterances” and “definitions” by famous Roman jurists about Law and its nature, about Law and Justice, Law and Equity etc.² – was preceded in “the late era”

¹ O. Drimba, *Istoria culturii și civilizației (History of Culture and Civilization)*, vol. 6, București 2007, p. 92.

² See N. V. Dură, *Despre Drept și natura sa (About Law and its nature)*, “Revista de Teologie Sfântul Apostol Andrei (St. Andrew Journal of Theology)” 6 (2002) no. 1, p. 60–64; N. V. Dură, “Dreptatea (*Justitia*)” și “Echitatea (*Aequitas*)” în percepția lui Lactanțiu (†325) (“Justice (*Justice*)” and “Equity (*Aequitas*)” at Lactantius († 325)), [in:] *Tradiție și continuitate în teologia tomitană. Două decenii de învățământ teologic universitar la Constanța (1992–2012) (International symposium. Tradition and continuity in Tomis theology. Two decades of theological university teaching at Constanta (1992–2012))*, Constanta 2012, p. 257–272; N. V. Dură, *Despre “Jus naturale* .

of the Roman Empire by the Emperors' Constitutions, which became "the most important source of positive law, and, therefore, they were called «laws» (*leges*)."³

The works of famous Roman jurists could reach the Carpathian-Danubian-Pontic space since 127 BC, i.e. with the official annexation of the province "Scythia Minor"⁴ (later known as Dobrogea) to the Roman administrative system.

The conquest of Dacia from the north of the Danube by Emperor Trajan, in 107 AD, would facilitate the reception of this Roman jurisprudential doctrine throughout the entire Carpathian-Danubian-Pontic space.

From ninth and tenth centuries, the Collections of Roman laws, accompanied by the Comments of famous Roman jurists, circulated in Carpathian-Danubian-Pontic space also through the Greek abbreviated versions; afterwards, most of them were drawn up in Slavonic,⁵ enjoying a wide circulation in the north of the Danube, since the fourteenth century.⁶

In the East, until Justinian's age⁷ (527–565) – the last Roman emperor and the first "Autocrat" of the Byzantine Empire – the customary law took precedence to the Roman law, as also attested by the Code of Roman-Syrian laws from the fifth century.⁸

Contribuții filosofico-juridice (About "Jus naturale . Philosophical-legal contributions), "Revista de Teologie Sfântul Apostol Andrei (St. Andrew Journal of Theology)" 18 (2014) no. 1, p. 39–52; C. Mititelu, *Internal (material) sources of Orthodox Canonical Law*, "Philosophical-Theological Reviewer" 2011, no. 1, p. 111–120.

³ *Justiniani Institutiones (Instituțiile lui Justinian) (The Institutions of Justinian)*, trans. and introduction V. Hanga, Bucharest 2002, p. 4.

⁴ See N. V. Dură, "Scythia Mynor" (Dobrogea) și Biserica ei apostolică. Scaunul arhiepiscopal și mitropolitan al Tomisului (sec. IV–XIV) ("Scythia Minor" (Dobrogea) and her apostolic Church. The archbishopric and metropolitan see of Tomis (fourth-fourteenth century)), Bucharest 2006; N. V. Dură, *Religion and culture in Scythia Minor*, "Annals of the Academy of Romanian Scientists, Series on Philosophy, Psychology and Theology" 1 (2009) no. 2, p. 67–78.

⁵ See V. N. Benesevici, *Drevne-Slavianskaia Kormciaia XIV titulov bez tolkovanie [...]* (*Syntagma XIV titularum sine scholiis secundum versionem palaeo-slovenicam, adjecto textu graeco e vetustissimis Codicibus Manuscriptis exarato*), St. Petersburg 1906.

⁶ For more information see C. Mititelu, *Dreptul bizantin și receptarea lui în Pravilele tipărite, în Țările Române, din secolul al XVII-lea (The Byzantine Law and its Reception in the Nomocanons printed in the Romanian Principalities in the seventeenth century)*, Bucharest 2014; N. V. Dură, C. Mititelu, *Legislația canonică și instituțiile juridico-canonicе, europene, din primul mileniu (Canonical legislation and the European legal-canonical institutions from the first millennium)*, Bucharest 2014.

⁷ Regarding his life and activity see Ch. Diehl, *Justinien et la civilization byzantine*, Paris 1901.

⁸ See N. V. Dură, *Originile nomocanonului "Fetha Nagast". Identificarea canoanelor zise ale împăraților (Origins of the "Fetha Nagast" Nomocanon. Identifying the so-called Emperors' canons)*,

With the advent of Emperor Justinian's Corpus of laws⁹ – made up of *Codex*, *Digestae*, *Institutiones* and *Novellae* – the Roman positive law would be applied throughout the entire Christian East also by the Nomocanonical legislation.¹⁰

The first nomocanonical Collection was published by a Christian jurist in Syria, i.e. John the Scholastic,¹¹ who became Patriarch of Constantinople (565–577). Another nomocanonical Collection was the Nomocanon of the Egyptian Ibn al-Assal, known in Ethiopia as “Fetha Nagast” (The Emperors’ Code of Laws),¹² where there are excerpts from both the Roman laws and from the Byzantine ones; however, both have been interpreted and applied in accordance with the customary law.

Regarding the content of the Syro-Roman Law Book, the specialized researchers noticed that this one “[...] has Roman law as its basis, but contains a number of legal decisions which are either not to be found in the Roman Law or which directly contradict it.”¹³

The same researchers found that the legal rules that can not be identified in the Roman law come from the Code of Hammurabi¹⁴ and from the customary law of the land,¹⁵ i.e. the Assyrian-Babylonian lands. Otherwise, this consuetudinary law had precedence to the Roman law not only in terms of time, but also in terms of the importance for the residents of the respective geographic area, i.e. the Asyro-Babylonian one.

“Studii Teologice (Theological Studies)” 28 (1976) no. 1–2, p. 162–183.

⁹ C. Mititelu, “*Corpus Juris Civilis*” and “*Corpus Juris Canonici*”. *Legal and Canonical Considerations*, “Teologia” 18 (2014) no. 4 (61), p. 127–137.

¹⁰ N. V. Dură, *The Byzantine Nomocanons, fundamental sources of old Romanian Law*, “Exploration, Education and Progress in the third Millennium” 1 (2011) no. 3, p. 25–48.

¹¹ V. N. Benesevici, *Mss: Sinagoga vi 50 titulov i drughie iuridiceskie zborniki Ioana Scholastika* (*Mss: La Synagoga en 50 titres et autres recueils juridiques de Jean le Scolastique*), St. Petersburg 1914.

¹² N. V. Dură, *Nomocanonul “Fetha Nagast” in lumina cercetărilor istoricilor și canoniștilor etiopieni și europeni* (*The “Fetha Nagast” Nomocanon in light of the research of Ethiopian and European historians and canonists*), “Studii Teologice (Theological Studies)” 27 (1975) no. 1–2, p. 96–118; N. V. Dură, *Cele mai vechi izvoare scrise ale Dreptului ecleziastic etiopian* (*The oldest written sources of Ethiopian ecclesiastical law*), “Biserica Ortodoxă Română (Romanian Orthodox Church)” 100 (1982) no. 5–6, p. 572–586.

¹³ V. Aptowitz, *The controversy over the syro-roman code*, “The Jewish Quarterly Review” 2 (1911) no. 1, p. 56.

¹⁴ V. Aptowitz, *Hammurabi and Syrian-Roman Law*, “The Jewish Quarterly Review” 19 (1907) no. 3, p. 606–614.

¹⁵ See A. Vööbus, *New light on the textual history of the Syro-Roman Law Book*, “Labeo” 19 (1973), p. 156–160.

We encounter the same reality in the Carpathian-Danubian-Pontic space, where the customary law took precedence over both the laws of the Roman Empire, and the jurisprudential law, i.e. *Jus antiquum* consisting of utterances by famous Roman jurists about Law and its nature etc., that we find in the Nomocanons of the Land.¹⁶

This reality is peremptorily confirmed both by the Law of the Land¹⁷ – stating explicitly the preeminence of the “elders’ custom” to written Law, of Roman or Byzantine origin – and in the nomocanonical Byzantine Legislation, also applied in the Romanian Principalities.¹⁸

Among other things, in the Preface to one of his legal works, Emperor Justinian held to demonstrate that the “imperial power” must be not only “victorious by weapons,” but also armed with laws (*sed etiam legibus oportet esse armatum*). Thus, both in times of war and peace, the “imperial power” is properly guided, and the Roman Emperor (*princeps Romanus*) is able to win not only the battles with his enemies, but also, stepping on lawful paths, he can remove the injustice of those who blame others unfairly (*calumniantium iniquitates expellens*), becoming “the most devoted supporter of the law (*et fiat juris religiosissimus triumphator*).”¹⁹

¹⁶ See N. V. Dură, *350 de ani de la tipărirea Pravilei de la Govora. Contribuții privind identificarea izvoarelor sale (350 years since the printing of the Nomocanon of Govora. Contributions to the identification of its sources)*, “Altarul Banatului (Banat Shrine)” 1 (1990) no. 3–4, p. 58–79; N. V. Dură, *Dreptul pravilnic (nomocanonic) și Colecțiile nomocanonice (The nomocanonical Law and the nomocanonical Collections)*, “Revista de Teologie Sfântul Apostol Andrei (St. Andrew Journal of Theology)” 9 (2005) no. 1, p. 7–15; C. Mititelu, *Cartea românească de învățătură (Iași, 1646). Izvoarele și conținutul său juridic (Romanian Teaching Book (Iasi, 1646). Origins and legal content)*, “Revista de Teologie Sfântul Apostol Andrei (St. Andrew Journal of Theology)” 9 (2005) no. 1, p. 196–207; C. Mititelu, *The Byzantine Law and its Reception in the Romanian Principalities*, “Philosophical-Theological Reviewer” 2014, no. 4, p. 33–43.

¹⁷ N. V. Dură, “*Lex terrae*” în percepția unor juriști și istorici ai vechiului Drept românesc. Evaluări și precizări (“*Lex terrae*” in the perception of jurists and historians of the ancient Romanian law. Reviews and clarifications), “Revista de Teologie Sfântul Apostol Andrei (St. Andrew Journal of Theology)” 14 (2010) no. 1, p. 18–42; C. Mititelu, *Considerații privind Legea Țării și instituțiile ei (Considerations regarding the Law of the land and its institutions)*, “Analele Universității OVIDIUS Constanța / Seria Drept și Științe Administrative” 2007, no. 1, p. 291–312.

¹⁸ C. Mititelu, *Elements of Penal Law in the Romanian Nomocanons printed in the XVII-th century*, “Dionysiana” 2010, no. 1, p. 419–430; C. Mititelu, *Internal (material) sources...*, op. cit., p. 111–120.

¹⁹ *Justiniani Institutiones...*, op. cit. See also the translation by Prof. V. Hanga (Instituțiile lui Justinian (Institutions of Justinian), Bucharest 2002, p. 7).

In Justinian's perspective, a leader of a people or of more nations is thus obliged to guide them in the spirit of the "law" (*leges*).

Justinian proved to be aware that a nation or an empire should be "guided" towards "lawful paths" (*legitimos tramites*) and the achievement of this goal requires the elimination of the "injustice" (*iniquitates*) produced by those who denounce (*calumniantium*) others unjustly.

The same Emperor "believed that God has ordained emperors to legislate and interpret laws"²⁰ and that "the emperor should be a legislator" who legislates *in nomine Domini* (in the name of God). It is noteworthy that Emperor Justinian began his work of legislator *in nomine Domini nostri Iesu Christi* (in the name of our Lord Jesus Christ).

By invoking this name, i.e. God, Emperor Justinian wanted to actually demonstrate that both his legislative work and the measures taken in order to eradicate the lawlessness arising from the injustices caused by those who blame their peers unfairly are the expression of *Voluntas Dei* (Divine Will). He made in fact express reference to *Voluntas Dei in Jus antiquum* (the old Law), i.e. the Roman common law, whose connoisseur of exception proved to be the very first Byzantine Emperor. It is noteworthy that the collections *Digestae* and *Institutiones* were drawn up at his command.

The first collection, entitled *Digestae* – published in 533 – concentrates the Roman legal thought, "systematically exposed as utterances by Roman jurists," who regulated "both several principles of law, [...] and certain practical or even detailed matters."²¹

Emperor Justinian's second Collection – which incorporated into its text those "case laws," i.e. "wise utterances"²² by the Roman jurists who created *Jus antiquum* – was published in 534 under the title of *Institutiones*.²³

In the consciousness of humanity, Justinian remained not only as one of the greatest legislators of the ancient world but also as the greatest encoder of Roman law. Indeed, due to his initiative and material support, the Roman laws have been merged into a *Codex*, which was to bear his name, i.e. *Codex Justinianus*, published in two editions, namely, the first in 529 and the second in 533.

²⁰ A. A. Vasiliev, *Istoria Imperiului bizantin (History of the Byzantine Empire)*, trans. I. A. Tudorie et al., Iași 2010, p. 174.

²¹ I. N. Floca, *Drept canonic ortodox. Legislație și administrație bisericească (Orthodox canonical Law. Legislation and Church administration)*, vol. 1, Bucharest 1990, p. 101–102.

²² *Ibidem*, p. 102.

²³ *Ibidem*, p. 103.

Also, due to Justinian, the laws subsequent to the promulgation of his Code were gathered into a collection entitled *Novellae*, i.e. “New Laws.” Most of these laws were written “in Greek,”²⁴ which was imposed as the official language of the Eastern Roman Empire of his time.

In its legislative and coding work, Emperor Justinian – of Dacian-Roman origin – was helped by a famous jurist, i.e. Tribonian, “the superintendent of the Sacred Palace.”

Justinian’s legislative work – remarkable not only by its content and by “its magnitude,”²⁵ but also by the positive results of his concrete action of codifying the Roman legislation – was known, perceived and applied in the Carpathian-Danubian-Pontic space.

This reality is confirmed both by the fact that, for a certain period, part of the territory from the north of the Danube was under Emperor Justinian’s reign and also by the nomocanonical Collections, which circulated in the north-Danubian area, first in Greek, then in Slavonic, subsequently serving the authors of the “Pravila” (Nomocanons) written in Romanian language (in manuscript and then printed).²⁶

The fact that, during Justinian’s era, part of today’s Romania was under the dominion of the Eastern Roman Empire is also certified by *Corpus Juris Civilis*. Indeed, *inter alia*, Justinian’s Collection of Laws reveals “some information referring to Dobrogea’s territory [...] Such are, for instance, the bans from selling to «barbarians» the unwrought gold or iron, placing – exceptionally – the churches from Scythia Minor under the jurisdiction of the archbishop of Tomis, displacement – as punishment – of the military units that did not help the financial authorities to raise taxes to guard the north of the Danube. The last provision also reveals, along with other documents, – concluded the historian Dumitru Protase – the

²⁴ M. Kaplan, *Bizanț (Byzantium)*, trans. I. D. Brana, Bucharest 2010, p. 19.

²⁵ A. A. Vasiliev, *Istoria Imperiului...*, op. cit., p. 174.

²⁶ See C. Mititelu, *Pravilele românești, tipărite, din secolul al XVII-lea. Infrafracțiuni și pedepse (The Romanian Nomocanons printed in the seventeenth century. Crimes & Sanctions)*, Bucharest 2012; C. Mititelu, *Vechi instituții europene prevăzute de legislația nomocanonică din secolul al XVII-lea (Pravila de la Iași și Pravila de la Târgoviște) (Old European institutions foreseen by the nomocanonical Legislation of the seventeenth century (The Nomocanon of Iasi and The Nomocanon of Targoviste))*, Bucharest 2014; C. Mititelu, *The Nomocanons (Pravilele) printed in the Romanian countries, in the seventeenth century, and their provisions of criminal law, “Religion”* 2014, no. 3, p. 41–57.

existence of an empire's territory at the north of the river, defended by Roman troops."²⁷

Emperor Justinian's *Novellae XI* (May 535) also testifies that "certain *civitates* from the left bank of the Danube (Recidava, Litterata etc.) were part of the Eastern Empire not only in political and military terms, but and in administrative and religious ones."²⁸

The historical records of Justinian's era also confirm that "in 536, the province Scythia passes under the military command of *Justinian exercituus quaestor*, position designed to protect an area stretched from the Lower Danube to the Aegean archipelago."²⁹

The same historical sources reveal that Emperor Justinian refused the request of the Avars – led by Hagan Baian – to "be accepted into the empire, respectively in Scythia Minor, where they asked for lands."³⁰

As for "Scythia Minor," we have already emphasized that it came under Roman rule in 27 BC and that, since Emperor Diocletian's era (284–305), – who structured and organized the Roman Empire into administrative units called *provincia/ae*, i.e. provinces (eparchies in Greek) – this territory also became a Roman province. Following the provision of the principle stipulated by the Fathers of the first Ecumenical Council (Nicaea, 325), in the geographical area of any Roman province, there was also established an ecclesiastical "province," which the Greeks called "diocese" (ἡ ἐπαρχία-ᾶς) (see Can. 4, 6, 7 of the First Ecumenical Council), word which was naturalized and used in the ecclesiastical language of the Eastern Orthodox Church to this day.

Therefore, since the era of the First Ecumenical Council, Scythia Minor turned into an ecclesiastical province, i.e. a "diocese," whose *Primate* (Archbishop) was established in the political metropolis of the nation, i.e. Tomis, hence his title of τοῦ ἔθνους μητρόπολις (metropolite of the nation), *recte* of the Geto-Dacian-Romans of the time, as confirmed by the Law of Emperor Zenon, in 480.³¹ However, the text of this law was not perceived and interpreted cor-

²⁷ D. Protase, *Izvoarele Istoriei vechi a României (secolele II–VI) (The sources of the ancient history of Romania (second-fourth centuries))*, [in:] *Istoria Românilor (The history of Romanians)*, vol. 2, Bucharest 2010, p. 10.

²⁸ *Ibidem*.

²⁹ A. Rădulescu, *Stăpânirea romano-bizantină în Dobrogea (Roman-Byzantine dominion in Dobrogea)*, [in:] *Istoria Românilor...*, op. cit., p. 513.

³⁰ *Ibidem*.

³¹ See its text in *Codex Justinianus*, 1, 3, 35 (36). (For the Romanian translation of the text see *Fontes Historiae Daco-Romaniae*, vol. 1, p. 373).

rectly by historians, because they lacked the necessary and adequate training both in Roman administrative law and in the canonical Law of the Eastern Church from the first millennium.³²

Among others, one of these historians – whose statements were taken tale-quale by his disciples, church historians, – wrote that Tomis acquired “the metropolitan rank” barely during Anastasius I’s reign (491–518), rank that would be kept “until at least the late sixth century.”³³ Or, even the Engolpions from the tenth-eleventh centuries – discovered in the Museum of Istanbul not a long time ago – come to peremptorily testify that, at Tomis – i.e. the metropolis of the Geto-Dacian-Roman nation – there was an autocephalous metropolitan See, even since the age of the First Ecumenical Council (Nicaea, 325 AD). Moreover, despite all the adversities of those times – which triggered the temporary transfer of the See within the province of Scythia Minor – it existed until mid-fourteenth century, when it actually disappeared through the establishment of the metropolitan See in the capital of Wallachia, i.e. Curtea de Arges.³⁴

The fact that, during Justinian (527–565), the area from the north of the Danube, inhabited by Proto-Romanians, was under the dominion of the Eastern Roman Empire, is also attested by other firsthand historical and legal evidence. For example, the documentary information provided by the Byzantine historian Procopius, in his work, *De aedificiis*,³⁵ written between 558 and 560, and by Justinian’s *Novella XI* reveal that “both Danubian regions were populated by cities,” and both Viminacium and Recidiva, “situated beyond the Danube” were subject to the empire. The archaeological discoveries made in the last days revealed Paleo-Byzantine fortifications on island Sapaja, at Transdiana (Ban Island), Drobeta and Sucidava. None of these was built again; they are old and restored fortifications. The most important findings were provided by Sucidava. First, we should recall the Christian Church rebuilt under the program initiated by Justinian in order to spread Christianity in the regions of the former

³² About this law and its content, its phases of collection etc., see N. V. Dură, *Le Régime de la synodalité selon la législation canonique, conciliaire, oecuménique, du Ier millénaire*, Bucharest 1999, p. 287–382.

³³ E. Popescu, *Organizarea Bisericii în secolele IV–VI (Church organization in fourth-sixth centuries)*, [in:] *Istoria Românilor...*, op. cit., p. 568.

³⁴ About historical evidence, in conjunction with the Canonical ones, regarding the Metropolitan See of Tomis, see the work of prof. N. V. Dură, “*Scythia Mynor*”..., op. cit., p. 12–267.

³⁵ See G. Popa-Lisseanu, *Izvoarele istoriei românilor (The sources of Romanian history)*, vol. 16, Bucharest 1988..

Roman Dacia. Sucidava was and remained an important economic center, a gate wherefrom the products from the south of the Danube were passing to former Dacia. As far as Drobeta is concerned, here there were discovered brooches from the sixth century, made by the casting technique. Some of them were not finished, which proves that at Drobeta – which, during Justinian's times, was named Theodora, after the emperor's wife – the fortifications were reconstructed.³⁶ Moreover, archaeological excavations proved that “the fortress from Drobeta was rebuilt and fortified.”³⁷

Regarding *Novellae XI*, from 535, it is noteworthy that, among others, Emperor Justinian also specified the dependence of cities Viminacium, Recidiva and Litterata – which were on the left bank of the Danube – to *Justiniana Prima* (today Caričin Grad, near Nis/Serbia). In this city – by his command – the Justinian prefecture of Thessaloniki had been transferred,³⁸ and also an autocephalous Archdiocese, i.e. *Justiniana Prima*, had been established,³⁹ which became, in one way, the heir of the canonical status of the apostolic Vicariate of Thessaloniki.

Edict XIII (ch. XXI), issued by the same Byzantine Emperor, i.e. Justinian, also reveals “that then, at north of the Danube, there were cities and a limited geographical area, directly controlled by the Byzantine army.”⁴⁰

Regarding the Roman-Byzantine dominion from the north of the Danube, it must be also mentioned the fact that – during Emperor Justinian's times – even the city of Turris⁴¹ (Akkerman) was in its jurisdictional area.

Therefore, in Justinian's times, a good part of the Romanian area from north of the Danube was under the Byzantine-Roman dominion. However, this reality facilitated the circulation, reception and enforcement of Justinian's legislation, which – mostly – was originally written in Latin this language being claimed by the Dacian-Roman people – the inhabitants of this Proto-Romanian area – as their own language, in their relations with the Roman world.

³⁶ G. Papilian, *Stăpânirea romano-bizantină la nordul Dunării (The Roman-Byzantine dominion at the north of the Danube)*, [in:] *Istoria Românilor...*, op. cit., p. 726.

³⁷ Ibidem.

³⁸ Ibidem.

³⁹ See A. Munteanu, *Arhiepiscopia Justiniana Prima și jurisdicția ei (Archdiocese Justiniana Prima and its jurisdiction)*, “Studii Teologice (Theological Studies)” 14 (1962) no. 7–8, p. 441–470.

⁴⁰ G. Papilian, *Stăpânirea romano-bizantină...*, op. cit., p. 728.

⁴¹ See D. Tudor, *Slavii la Nordul Dunării de Jos în secolele VI–VII (The Slavs from the north of the Danube in the sixth-seventh centuries)*, [in:] *Istoria Românilor (The history of Romanians)*, vol. 2, Bucharest 2010, p. 862.

About the Latin language – whereby Justinian’s law was transmitted in the Carpathian-Danubian-Pontic space – contemporary prestigious linguists state that “Latin was not anyone’s language; it was the language which everybody used in order to understand each other.”⁴² The same European linguists wrote that “the Dacian and the Latin languages were related and both came from a common language, i.e. Thracian. Knowing that groups of Thracians settled in Latium, the central region of the Italian peninsula, and that the Dacians and the Getae were Thracian nations who spoke the same language, it results that the two nations would have a common origin.”⁴³

Therefore, the perception of Justinian’s law – in the area from the north of the Danube – was encouraged by the fact that the native Geto-Dacian population – located “in *illo tempore*,” in a strong Romanization process – were speaking a language related to the groups of Thracians who once had occupied the central region of the Italian Peninsula. As such, the Geto-Dacian language itself was the main vehicle that facilitated this reception, i.e. of the old *Jus romanum* and of Justinian’s law.

Subsequently, Justinian’s legislation – written mostly in Latin – was incorporated in the Byzantine Nomocanonical Collections of Greek language, enjoying a wide circulation in the Romanian Principalities, through the Nomocanons written in Greek and Slavonic.

The presence of Emperor Justinian’s legal provisions in the text of the whole “Corpus” of Byzantine laws, arisen after his era, is, indeed, attested by the fact that this legislation enjoyed a wide reception in the Nomocanons (Pravile) written in Greek, Slavonic and Romanian, copied or published in the Romanian Principalities. However, through these Nomocanons⁴⁴ – constituent part of the old Romanian positive Law⁴⁵ – the Byzantine rules – established by Emperor Justinian – had been applied in the state and in the ecclesiastical life from the Carpathian-Danubian-Pontic space until Alexandru Ioan Cuza’

⁴² C. J. Huertas, *Nu venim din latină (We do not come from Latin)*, trans. M. Aldea, Bucharest 2016, p. 31.

⁴³ *Ibidem*, p. 72.

⁴⁴ See N. V. Dură, C. Mititelu, *Istoria Dreptului românesc. Contribuții și evaluări cu conținut istorico-juridico-canonic (History of Romanian Law. Contributions and assessments of legal-historical-canonical content)*, Bucharest 2014.

⁴⁵ These Nomocanons came not only from Constantinople and Mount Athos, but also from the southern Danube, of Latin and Slavic expression. See N. V. Dură, *Les relations canoniques de l’Église roumaine nord-danubienne avec les principaux Sièges épiscopaux du Sud du Danube*, “Revue Roumaine d’Histoire” 40–41 (2001–2002), p. 5–20.

age (1862–1866). At that time, they were replaced by “Romania’s modern laws (Constitutions, different codes, special laws etc.),”⁴⁶ whose content was and remained alien to the spirit of the “Law of the Land,” consisting both of norms of customary law, Roman law and Byzantine law, whose founder was no other than Emperor Justinian, when he started a new stage in the process of transmitting the Roman Legislation in the Carpathian-Danubian-Pontic space.

ABSTRACT

The legislation of emperor Justinian (527–565) and its reception in the Carpathian-Danubian-Pontic space

From this study, the reader will find out that the reception of the Roman Law, and especially of the old Roman Law (*ius antiquum*) – consisting of the utterances of Roman jurists about Law and its nature etc. – in the Carpathian-Danubian-Pontic space, went through a new phase during Justinian (527–565), who actually managed to master a part of the north-Danubian territory. Both the old “Law of the Land” and the “Nomocanons” (*Pravila*), which contain elements of Roman and Byzantine Law, and also of customary law, confirm that Justinian’s legislation – accompanied by comments by the great jurists of the time – was also disseminated in the Carpathian-Danubian-Pontic space.

KEYWORDS

Roman Law, Byzantine Law, Comments of the Roman jurists, Justinian (527–565)

ABSTRAKT

Prawodawstwo cesarza Justyniana (527–565) i jego recepcja w rejonie karpacko-najdunajsko-pontyckim

Niniejszy artykuł dostarcza czytelnikowi wiadomości dotyczących recepcji prawa rzymskiego w rejonie karpacko-najdunajsko-pontyckim, a dokładnie mówiąc – dawnego prawa rzymskiego (*ius antiquum*), na podstawie wypowiedzi rzymskich jurystów o prawie, jego charakterze itp. Recepcja ta weszła w nową fazę podczas panowania Justyniana (527–565), któremu udało się opanować część terytorium na północ od Dunaju. Zarówno stare „Prawo ziemi”, jak i „nomokanony” (*Pravila*), które zawierają elementy prawa rzymskiego i bizantyjskiego, a także prawa zwyczajowe, potwierdzają, że ustawodawstwo Justyniana oraz towarzyszące mu komentarze

⁴⁶ I. N. Floca, *Drept canonic ortodox...*, vol. 1, op. cit., p. 145.

wielkich prawników tamtego czasu były również rozpowszechniane w rejonie karpacko-najdunajsko-pontyckim.

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prawo rzymskie, prawo bizantyjskie, komentarze jurystów, Justynian (527–565)

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