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Código e Instituciones. En relación con el método de elaboración del Digesto se auspicia la exploración de las aportaciones individuales de los comisarios, y sobre el tema de las interpolaciones se insiste en la necesidad de «plantearse el problema de la genuinidad de los textos y de su exégesis rigurosa» si se quiere estudiar seriamente la jurisprudencia romana. La publicación de las Instituciones dio paso a la reforma de los estudios jurídicos con base en las tres compilaciones elaboradas. Conservadas en su texto original, Las Novelas permiten conocer el *iter* legislativo y los motivos del legislador.

Las fuentes bizantinas ponen fin a la historia jurídica de la Antigüedad Tardía. Algunos colaboradores de Justiniano, burlando las prohibiciones del emperador, elaboraron *Indices* del Digesto y del Código, Teófilo una paráfrasis de las Instituciones que triplica su extensión. Desde el siglo VIII los emperadores promueven nuevas compilaciones en griego como la *Ecloga*, el *Prochiron* y la *Epanagoge*. La principal son los 60 *Libri Basilicorum* de fines del siglo IX que refunden todo el material del *Corpus* según sistema del *Codex*.

El libro del profesor De Giovanni es una síntesis compacta de una época riquísima en todo tipo de acontecimientos; está sin embargo admirablemente bien hecho y no da en ningún momento la impresión de ser un resumen. Lejos de ello, en sus menos de 200 páginas se citan – y a menudo se comentan con cierto detalle – abundantes fuentes jurídicas, literarias e incluso papirológicas. La narración cronológica no logra quizás evitar la recurrencia de algún tema (por ej., el de las curias y el sistema de las vinculaciones profesionales), pero la redacción agradable y reposada evita toda molestia que pudiera derivarse de ello. Enriquecen la obra numerosas valoraciones y sugerencias como sólo un consumado especialista puede ofrecer. El autor dedica el libro a sus alumnos. También los romanistas y todos los interesados en la Antigüedad debemos agradecerle este valioso instrumento que pone a nuestra disposición.

Francisco Cuenca Boy (Santander)

*Károly Visky and the Scuola di diritto romano e diritti orientali**

1. As a new publication of the Faculty of Law (*Dipartimento di Scienze Giuridiche*) of the University 'La Sapienza' of Rome, edited by Gábor Hamza,

* ROBERTO DE RUGGIERO – SALVATORE RICCOBONO – FILIPPO VASSALLI, *Lezioni 1930-1932. Scuola di Diritto Romano e Diritti Orientali raccolte da Károly Visky* (a cura di Gábor Hamza; introduzione di Oliviero Diliberto; trascrizione e note al testo di Livia Migliardi Zingale), Pubblicazioni del Dipartimento di Scienze Giuridiche, Università degli Studi di Roma 'La Sapienza' vol. 101, Jovene Editore, Napoli 2015, 161 p.

Professor at the 'Eötvös Loránd' University Budapest, ordinary member of the Hungarian Academy of Sciences, appeared in Italian language in 2015, at the prestigious Casa Editrice Jovene di Napoli. The book is based on lectures i.e. courses held in the early 1930's by outstanding Italian romanists (Vassalli, De Ruggiero, and Riccobono) in the frame of the *Scuola di diritto romano e diritti orientali* – the *Scuola* can be regarded as an institution at highest level of postgraduate studies of Roman law. As the basis of the book, containing the materials of these lectures i.e. courses, served the manuscript of Károly Visky, whose scientific *œuvre* made him one of the internationally most esteemed Hungarian romanists (*giusromanisti*).

The introduction of the book is written by Oliviero Diliberto, Professor of the University 'La Sapienza' and director of the *Scuola*. The scientific achievements of Visky are reviewed by Professor Hamza¹. The volume contains the «master's degree work» of Károly Visky, too.

2. This book can be considered as a real treasure-house from more aspects.

On the one hand, materials of lectures of the *Scuola di diritto romano e diritti orientali* (even in a summarized form) became available now at the very first time for the international community of Roman law specialists.

On the other hand, the reader can get acquainted with the materials of these courses through the notes of Károly Visky, who completed the *Scuola* between 1930 and 1932², and who is one of the most qualified and productive Hungarian romanists of the XXth century³. In spite of the international

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¹ Gábor Hamza has already reviewed several times the *œuvre* of Károly Visky. See G. HAMZA, *In memoriam Károly Visky*, *Index* 12 (1983-84), 307-316; IDEM, *Károly Visky* (1908-1984), *RIDA* 31 (1984), 17-26; IDEM, *Visky Károly* (1908-1984), *Jogtudományi Közlöny* 39 (1984), 287 et seq.; IDEM, *In memoriam Károly Visky*, *Annales Budapest* 27 (1985), 307-316; IDEM, *Visky Károly* (1908-1984), in: IDEM (ed.), *Magyar Jogtudósok*, II, (Hungarian Jurists, II.) Budapest 2001, 169-176.

² So, Károly Visky had been a scholar of the *Scuola* during two years; this fact depicts *per se* his qualification. We would like to refer here to Róbert Brósz, the legendary professor of the faculty of law in Budapest, who completed in the academic year of 1940-1941 the course, which was called at that time as *Scuola di Perfezionamento in Diritto Romano* yet (see A. FÖLDI, *Brósz Róbert*, in: G. Hamza [ed.], *Magyar Jogtudósok*, I (Hungarian Jurists, I.), Budapest 1999, 170), but he could spend only one year in Rome, after he returned to Hungary – as he said: «as a perfect romanist» (see A. FÖLDI [ed.], *Flosculi professori Roberto Brósz obliti*, Budapest 1990, 59) – since he had to make military service. As to the present-day Hungarian romanists, Orsolya Péter (in 1989, for four months) and Béla Szabó (in 1994, also for four months) took part in the advanced studies course of the University 'La Sapienza'.

³ From his–also internationally well-known–scientific *œuvre*, we only refer now to his two excellent German language monographies: K. VISKY, *Geistige Arbeit und die «artes liberales» in*

reputation, due to political reasons Visky could unfortunately not participate in the academic education after 1949 and had to work as practicing lawyer⁴. In 1973, he became the president of a panel of the (Hungarian) Supreme Court. It was Gábor Hamza, who succeeded in 1978, in getting permission for Károly Visky to give courses at the Faculty of Law of the 'Eötvös Loránd' University. Two years later, in 1980 he received the title of honorary professor of the same University⁵.

3. In the Introduction of the book Professor Oliviero Diliberto, beside the appraisal of the scientific *œuvre* of Károly Visky, presents the brief history of the *Scuola di diritto romano e diritti orientali* and its role in Roman law advanced studies (1-7). As Diliberto points out, the *Scuola* commenced its work in the academic year of 1919-1920. The name of the course became later *Scuola* (then *Corso*) *di Perfezionamento in Diritto Romano e Diritti dell'Oriente Mediterraneo*. Since 2002, it has been called as *Corso di Alta Formazione in Diritto Romano*⁶. During the time, when Visky completed the course, it was divided into three scientific and structural parts as follows: I. *Diritto romano*; II. *Diritti orientali*; and III. *Diritto romano e diritti orientali*. Beyond passing several exams, in order to get the degree, students had to write and defend a thesis «fondata su ricerche originali». The course also required the knowledge of one of the following languages: Arabic, Syrian, or Hebrew (beside the self-evident knowledge of Latin and classical Greek). The list of subjects and their leading professors are impressive: beyond the general Roman law subjects, students had to get familiar with the *ius commune*, legal epigraphy, legal papyrology, Muslim law, and comparative legal studies as well. Scholars could obtain all of these knowledge from such great professors – beside those, who are «authors» of the book in question – such as Vittorio Scialoja, Pietro De Francisci, Pietro Bonfante, and Emilio Albertario (who taught later Róbert Brósz as well⁷); they are without exception of the greatest Italian romanists of all time.

den Quellen des römischen Rechts, Budapest 1977; IDEM, *Spuren der Wirtschaftskrise der Kaiserzeit in den römischen Rechtsquellen*, Budapest-Bonn 1983.

⁴ See A. FÖLDI – G. HAMZA, *A római jog története és intézményei* [History and Institutes of Roman Law], Budapest 2015²⁰, 147.

⁵ See A. FÖLDI – I. SÁNDOR – I. SIKLÓSI (ed.), *Ad geographiam historico-iuridicam ope iuris Romani colendam. Studia in honorem Gábor Hamza*, Budapest 2015, 11.

⁶ We use mainly the denomination of «Scuola» henceforth.

⁷ Professor BRÓSZ learned from ALBERTARIO the interpolation-critical method, he used later always and with great efficiency, see FÖLDI, *Brósz Róbert* cit. 170.

4. Following the introductory thoughts of Diliberto (which also could be regarded as a proper study), Gábor Hamza presents, analyses, and interprets the multiple scientific *œuvre* of Károly Visky (9-15). As it has also been mentioned, Visky completed the *Scuola* during four semesters between 1930 and 1932 and acquainted his degree in 1932. It cannot be our duty to present his works in detail now; we can fully agree with the interpretation of Professor Hamza, who features Visky as «perfectus consultus iuris Romani».

5. In the central part, the reader can browse in lecture materials of the three above-mentioned Italian romanists of their age: Filippo Vassalli, Roberto De Ruggiero, and Salvatore Riccobono, through the manuscript notes of Károly Visky, which were edited with great diligence by Gábor Hamza and Livia Migliardi Zingale. The transliteration and (when it was possible) the indication of relevant sources is primarily the fruitage of the devoted work of Livia Migliardi Zingale.

The course, called *Diritto Greco-Romano (Bizantino)*, led by Professor Vassalli in the academic year of 1930-1931. The in this respect relevant part of the book (17-36) gives an excellent example for educational methods and approaches of the *Scuola*: the general overview of sources was assured by the first part of the course («external historical approach»), which was followed by the special part («parte speciale») of the course, citing and analysing principally the texts of the Novels of Justinian («internal historical approach»).

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De Ruggiero led the course entitled «Papirologia giuridica» in the academic year of 1931-1932 (37-73). At this time, legal papyrological researches had an important role in postgraduate education of Roman law. As a scientific starting-point, De Ruggiero refers to Ludwig Mitteis and his distinction i.e. classification of *Reichsrecht* and *Volksrecht*. Thereafter, he examines some certain types of contract, emphasising as a proposition, that ancient Egyptians and Greeks had not known such a definition of 'contract', which was developed by Romans, Byzantines, and later the modern jurists. According to De Ruggiero, Greeks had classified legal transactions from a «formal point of view», i.e. from an external and not a substantial aspect.

Among the jurists appearing in this book, probably Riccobono – one of the greatest Italian romanists of all time – is the best-known for modern scholars, since the results of his scientific researches are inevitable even for the romanists of our days. In the academic year of 1931-1932 Riccobono led the course concerning the exegesis of Roman law sources, which has an elementary importance, of course, for all romanists. Visky's notes based on the lectures of Riccobono constitute the most voluminous part of the book (75-134). In the

frames of a brief review, we can only summarize the essence of Riccobono's commentaries shortly. The brief methodological overview is followed by the survey of the different ages of Roman law. Riccobono divided the history of Roman law into three periods as follows: I. «ab Urbe condita» until the Punic wars («diritto nazionale»); II. from the Punic wars until Diocletian («jus gentium»); III. from Constantine to Justinian, which can be regarded, according to Riccobono's interpretation, the period of decadency and codification («decadenza, codificazioni»), and he gives the denomination of «Christian Roman law» («Diritto romano-cristiano») to it. Riccobono gives the exegesis of a number of sources of Roman private law, examining the texts from an interpolation-critical and text-critical point of view, which scientific method fundamentally determined the Roman law researches in Riccobono's time. He analyses most accurately some different important problems of *lex Aquilia* and its application. Nowadays, we have to interpret the sources of classical Roman law in their original context, applying the so-called «presumption of interpolation-freeness» (expressive phrase of András Földi⁸) and, therefore, in modern Roman law researches the «textual criticism» («Textkritik») can only be used as an «ultima ratio»⁹.

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Nevertheless, the construction of Riccobono's lectures, as well as his method of source-analysis (keeping always in mind the *status quaestionis*) can be regarded as a good example for Roman law education even today.

6. In the appendix of the book, the dissertation of Károly Visky can be read, written under the supervision of Professor Vassalli. In the imposing thesis entitled «Il Cristianesimo e il regolamento del divorzio nel diritto delle Novelle» Visky investigates the relation of Christianity and the Justinian regulation concerning the dissolution of marriage by *divortium*. The dissertation consists of – following the overview of the history of *divortium* and of the examination of the Christian approach of it – the detailed analysis of the relevant 22nd, 117th, and 134th Novels. As a result, he emphasises that the Novels of Justinian did not substantially change the content i.e. the classical approach of marriage. The marriage had always been, according to Visky, a state of facts («stato di

⁸ A. FÖLDI, *Kereskedelmi jogintézmények a római jogban* [Commercial Legal Institutions in Roman Law], Budapest 1997, 28.

⁹ «Textkritik ist heute nicht das erste, sondern das letzte Mittel bei der Textauslegung.»; cf. W. KUNKEL – M. J. SCHERMAIER, *Römische Rechtsgeschichte*, Köln-Weimar-Wien 2001¹⁴, 309. This is the paradigm of modern text-critical researches. See, in addition, M. KASER, *Zur Methodologie der römischen Rechtsquellenforschung*, Wien 1972; R. KNÜTEL, *Nicht leichter, aber um so reizvoller. Zum methodologischen Vermächtnis Max Kasers*, ZSS (Rom. Abt.) 115, 1998, 33 et seq.

fatto»¹⁰, based on the *affectio maritalis*; however, the new restrictions on *divortium*, established by Justinian, prepared the way for Christian ideas, which triumphed later in canon law.

7. Naturally, the book can count primarily on the interest of romanists; however, it can be relevant, inter alia, for legal papyrologists as well. The book presents the very first time the essence of the materials of the eminent postgraduate Roman law course, *Scuola di diritto romano e diritti orientali*, as it was taught in the 1930s. It provides particular significance for Hungarian romanists (*giusromanisti*), that it was no other than the outstanding Hungarian romanist, Károly Visky, whose lecture notes made it possible.

Although the commentaries in this book show us the scientific environment of the 1930s, and, therefore, the authors’ explications are, first and foremost, relevant from the point of view of the history of science, they can also be useful nowadays. The lecture materials of Riccobono are especially worth considering regarding several important questions even today. In addition, the method of the education in the frame of the *Scuola* can also serve as a great example for those experts, who teach Roman law in the XXIst century.

We can be grateful for the compilation and publication of this book, and for treating the manuscripts to Gábor Hamza, Oliviero Diliberto, and Livia Migliardi Zingale, but first of all, to Károly Visky, whose notes made it possible to have a knowledge, how amazingly high-level and exemplary was the postgraduate Roman law education of the 1930s in Rome which is one of the centres and citadels of Roman law researches even today.

Iván Siklósi – Péter Deák (Budapest)¹¹

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¹⁰ It is well-known, that (according to the theory developed in the relevant Italian literature) the Roman approach of marriage had not been a legal relationship, but rather a social state, i.e. a state of facts (cf. the expressions *stato di fatto* and *soziale Tatsache*). Regarding this proper nature of marriage, SAVIGNY did not use the word «*Rechtsinstitut*» but «*Rechtsinstitution*» to describe the essence of marriage; see G. HAMZA, *Jogösszehasonlítás és az antik jogrendszerek* [Comparative Law and Legal Systems of the Antiquity], Budapest 1998, 189. It also deserves mentioning, that the great German romanist, LUDWIG MITTEIS, in his famous book entitled *Römisches Privatrecht bis auf die Zeit Diokletians I. Grundbegriffe und Lehre von den juristischen Personen* (Leipzig 1908, 131), described marriage as a «*verwirklichte Lebensgemeinschaft*». Furthermore see e.g. A. BÜRGE, *Römisches Privatrecht. Rechtsdenken und gesellschaftliche Verankerung*, Darmstadt 1999, 161.

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