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ONCE AGAIN ON *HOMOLOGIA*: THE PAPYROLOGICAL DOCUMENTATION REVISITED

1. THE PROBLEM

ONE OF THE MOST INTRIGUING ISSUES in the study of ancient Greek law lies in the use of *ὁμολογία* and its role in the creation of legal transactions between individuals. The complexity of the subject revolves around the deferent views and interpretations of scholars, not only about the so-called Athenian law on contracts, preserved primarily with significant formulation inconsistency in forensic orations, but also the content of legal documents in papyri, which is the direct insight that Antiquity has left to us into the textual structure of a legal relationship. Recent research has disclosed many concealed aspects of the riddle of *ὁμολογία* thanks to the meticulous parsing and comparison of related sources. Yet, scholars remain sceptical towards these results, and it seems that the deeper one delves into the intricacies of the subject, the further one veers from reaching a definite solution.

The origin of the aforementioned *status questionis* lies in two opposing theories.¹ The first one proposed that the ancient Greek law of private transactions allowed for the emergence of an obligation out of legally binding agreement between the contracting parties. This agreement was

¹ See also CARAWAN 2006: 340, who proposed the terminology *consensualists* and *realists* to refer to these two opposing parties of research.

expressed through *ὁμολογία* and *ὁμολογῶ*, that is ‘say the same thing’, ‘agree’, ‘promise’. According to this theory the Athenian law on contracts *ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι*² and its various formulations in forensic orations is the proof that *ὁμολογία* as ‘agreement’ is the means through which the contracting parties can establish any obligation as *κύριον* (‘valid’).³

However, the opposing theory articulated by Hans Julius Wolff (Wolff 1957) and followed by his proponents⁴ posits that the obligation did not depend on consent. It is the real act, e. g. the disposition of one’s property for the fulfilment of a determined purpose (*Zweckverfügung*), that creates the obligation in a legal transaction, which must be carried out by the receiver. In a loan transaction, for instance, the debtor’s receipt of a sum of money from the creditor, is what renders him liable to fulfil the obligation (*Zweck*), namely the repayment of the exact amount given, along with the additional interest. According to this theory *ὁμολογία* cannot be understood as agreement that creates liability, but rather as an acknowledgement of the real act’s perpetration, which renders the debtor liable for a certain future performance, the obligation. Proponents of this theory have supported their views not only by interpreting various passages from forensic orations, the most prominent being Hypereides’ *Against Athenogenes* (Thür 2013; Carawan 2006), but also by drawing conclusions through the examination of legal documents, where their theory is corroborated by the usage of *ὁμολογῶ* having chiefly the meaning ‘I acknowledge’.

The aim of this article is to contribute to the discussion by adducing and examining some sources chiefly from the papyrological documentation, but also forensic orations and legal inscriptions. I will argue that *ὁμολογία* in legal deeds and documents of classical Athens and Greco-

² Dem., c. *Dion.* 56.2 (ed. DILTS 2009). For further variations see GAGLIARDI 2015: 378–379.

³ See VINOGRADOFF 1922: 233, who was one of the first scholars that supported this view. See also: COHEN 2006; BARTA 2011: 383–388; BARTA 2021: 34–35. For a comprehensive overview of the bibliography related to this theory see GAGLIARDI 2015: 376 n. 7.

⁴ For a comprehensive overview of the bibliography related to the *Zweckverfügung* theory see GAGLIARDI 2015: 377 n. 8–10.

Roman Egypt is a two-step verbal procedure, that produces mutual consent about past and present facts, but can also establish legally binding agreement for future actions. This is exactly what the wording of the Athenian law on contracts implies (ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι), namely that mutual consent of the parties was the legal element required to create a legal binding agreement (Harris 2020: 22). I therefore offer specific remarks on legal documents that demonstrate the complete alignment of their substance with the Athenian law on contracts. In other words, I argue that this law permeates Greek legal documents preserved in papyri, with their content reflecting the legal deed as per its provisions. The Athenian law on contracts served as the foundation for ancient Greek contract execution and persisted in Egypt as a traditional element in the formulation of legal pacts, thereby preserving the practice of drafting legal instruments with content aligned with its provisions.

2. GREEK LEGAL DOCUMENTS OF EGYPT AND THE ATHENIAN LAW ON CONTRACTS

The law enjoining ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι serves as a central point in the debate between the aforementioned opposing theories. Scholarly examination of this law has largely centred on the interpretation of ὁμολογῶ, as well as the adjectives ἐκὼν and κύριος. However, the complete alignment between the provisions of the Athenian law on contracts and the content of legal documents preserved in papyri has received little serious attention. In my view, this correspondence is both significant and illuminating.

The Athenian law on contracts reflects a Greek tradition in creating legal transactions that must have been shared by other Greek communities as well. It was part of the broader unity of ancient Greek law.⁵ Therefore, the connection between the Athenian law on contracts and legal documents drafted in Ptolemaic Egypt can be supported by Hans Julius Wolff's

⁵ See HARRIS 2020: 21, and, for further discussion on the unity and diversity of Ancient Greek law, HARRIS 2024.

plausible hypothesis that Greek immigrants brought their customary legal practices to the territories newly occupied by Alexander the Great (Wolff 2002: 26). This migration facilitated the survival and continuity of the tradition reflected in the Athenian law on contracts from Greece to Egypt. Although we lack unequivocal evidence, the apparent influence of this law on the content of legal documents suggests that private contractual practices from Greece persisted in Ptolemaic Egypt. Through notarial practice, a tradition in the composition of legal documents was established over time, with some core elements preserved well into late antiquity. Although drafted within a different legal framework and later period, Byzantine legal documents retained traditional features that echo the Athenian law on contracts. As I will argue, this echo is reflected in the verbosity and stylistic redundancy characteristic of Byzantine notaries which provides valuable insights into the meaning and function of traditional legal terms, such as *ὁμολογῶ*, employed during the Roman and Ptolemaic periods.

2.1. ὅσα ἕτερος ἐτέρῳ ὁμολογήσῃ

An important argument put forth by Hans Julius Wolff and his proponents is the association of *ὁμολογία* in *ἀνάκρισις* with its use in legal documents. They argue that, as the origins of *ὁμολογῶ* lie in that procedure, where it conveys the meaning ‘to acknowledge’ or ‘to confess’ in relation to past facts, its use in legal transactions cannot signify ‘to consent’. Instead, as evidenced by the frequent occurrence of the verb in legal documents, ‘it is always a solemn unilateral acknowledgment’ mostly of past facts (Wolff 1946: 77; Soden 1973: 124). *Ὁμολογία* in legal documents, however, can also be combined with future infinitives. Proponents of the *Zweckverfügung* theory do not interpret this usage as evidence supporting a meaning of binding agreement. Hans Albert Rupprecht contends that *ὁμολογῶ* in these cases is a ‘Geständnis (...) einer zukünftigen Tatsache’ (Rupprecht 1971: 65). Hans Julius Wolff makes a simple and cursory reference: ‘it can also be a fact of the future (...) and in this case the *ὁμολογεῖν* indeed becomes tantamount to a promise’ (Wolff 1946: 76). Therefore, the argument put forward by Hans Julius Wolff and his proponents is

based on the assumption that *ὁμολογία* is inherently unilateral and fundamentally pertains to the acknowledgment of past facts. But is *ὁμολογία* essentially a unilateral process?

Among others, Heinz Barta paved the way for the reconsideration and scrutiny of the *Zweckverfügung* theory. He argues that the origins of *ὁμολογία* are not to be found in the judicial process of *ἀνάκρισις*, but in its prior use as agreement (Barta 2021: 172). In his *Graeca non leguntur?* not only he challenges some of the points of the *Zweckverfügung* theory, but also builds on the views of Egon Weiss, who asserts that the Athenian law on contracts *ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι* reflects the bilateral nature (*Zweiseitigkeit*) of the *ὁμολογία* (Barta 2011: 383). Moreover, Egon Weiss relying on the comparison Gaius had made between the verb *ὁμολογῶ* and *spondeo* in his *Institutiones* 3.92–93 (Weiss 1923: 431–432, 432 n. 13; Barta 2011: 383 n. 2310),⁶ contends that the process of *ὁμολογία* is similar to that of *stipulatio*, a further bilateral verbal procedure. What Heinz Barta and Egon Weiss imply with the word *Zweiseitigkeit* – though they do not state it explicitly, as Uri Yiftach-Firanko does briefly – is that *ὁμολογία* in legal transactions is a two-step process analogous to the *interrogatio – responsio* procedure in *stipulatio* (Yiftach 2021: 175; Barta 2011: 383). Just as *stipulatio* creates binding legal obligations through strict verbal formalities that reflect mutual agreement (*spondesne? – spondeo*),⁷ *ὁμολογία* likewise has the capacity to generate valid legal outcomes, as ordained by the Athenian law on contracts (*κύρια εἶναι*). Now, how is the *ὁμολογία* of the Athenian law on contracts, understood as a bilateral verbal process that produces agreement, reflected in legal documents?

To begin exploring this question, it is essential to examine the bilateral nature of *ὁμολογία* in the context of *ἀνάκρισις*, which Hans Julius Wolff and his proponents suggest as its origin. The process of *ἀνάκρισις* is a pre-procedural hearing before the magistrate, during which litigants posed questions to one another. Points of agreement between them were

⁶ Inst. 3.92–93 (ed. MANTHE 2004): *Verbis obligatio fit ex interrogatione et responsione, uelut dari spondes? spondeo, dabis? dabo [...] et quamuis ad Graecam uocem expressae fuerint, uelut hoc modo δώσεις; δώσω, ὁμολογεῖς; ὁμολογῶ [...]*.

⁷ Further information on *stipulatio* as verbal contract, see BERGER 1953: s.v. *Stipulatio*.

referred to as *ὁμολογημένα* (Lausberg 1998: 48 n. 1; Manthe 2003: 238; Soden 1973: 8–10), while disputed matters (*ἀντιλεχθέντα*) required further investigation during the main judicial hearing.⁸ A comparable procedure existed in Rome, where preliminary hearings were conducted before the praetor *in iure*, a process that corresponded to the Athenian *ἀνάκρισις* (Carawan 1983: 211 n. 10). Given that the corresponding Roman procedure provides a standardised framework of terminology, I will adopt it in my analysis to ensure greater clarity and consistency.

For example, in a criminal case examined in a Roman lawcourt, if the legal action is about the *factum* of murder and *reus* consents to the charge of the *auctor* that he has committed the related act, that is a *confessum*, an *ὁμολογία*, and then the case is resolved with the *sententia* of the judge. The charge formulated by the prosecutor according to Roman law is *fecisti* and the answer of the defendant is *feci*. But if the defendant denies having committed the murder (*non feci*), then the investigation comes at play and it leads to a *status coniecturae*, in which the question to be examined is *an fecerit* (Lausberg 1998: §§ 84–88). In this *status* the specific *confessa* (*ὁμολογημένα*) constitute the basis for the judicial discussion, for instance, ‘Yes, I was present at the place of the crime (*ὁμολογημένον*), but I did not kill him (*ἀντιλεχθέν*)’.

The same concept is implied in the content of legal documents, which serve as proofs of legal transactions. In Greek legal documents we find direct or indirect acknowledgment of the act: *ὁμολογῶ πεπρακέναι* or *πέπρακα* etc. Both forms presuppose a prior declaration or an allegation from the other party, a *fecisti*, which is theoretically always implicit; in this case *πέπρακας*. Therefore, even the simple *πέπρακα* is an *ὁμολογία*. The seller ‘says the same thing’ with the buyer, or expresses the exact meaning

⁸ Examples of the questions posed during *ἀνάκρισις* can be found in forensic orations. As Edwin McDonald Carawan observes, these questions were later incorporated into the speeches of litigants, serving as part of their argumentation (CARAWAN 1983: 214–215). See, e.g., Lys., *c. Erat.* 12.25 (ed. CAREY 2007): ἦσθα δ’ ἐν τῷ βουλευτηρίῳ, ὅτε οἱ λόγοι ἐγίνοντο περὶ ἡμῶν; ἦν, ‘were you present in the council when the statements were being made about us? – I was’, and also, And., *de mysteriis* 1.101 (ed. DILTS & MURPHY 2018): εἰπέ μοι, ὦ Ἄνδοκίδη, ἦλθες εἰς Δεκέλειαν, καὶ ἐπετείχισας τῇ πατρίδι τῇ σεαυτοῦ; οὐκ ἔγωγε, ‘tell me, Andocides, did you go to Decelea and built a fort against your own country? – No, I did not’.

of his implicit allegation (πέπρακας).⁹ The contracting parties agree on the fact that a sale has been transacted. The acknowledgement of the act from the side of the seller is the second step in the process of *ὁμολογία*, a *feci*. The first step is the implicit allegation of the buyer, a *fecisti* regarding the fact that the seller sold an asset.

Consequently, even if the parties proceed to trial, the legal act of their transaction is recorded in the document as a *factum*, such as πέπρακα or ὁμολογῶ πέπρακέναι,¹⁰ which both parties have already agreed upon. The document describes this *factum* as ὁμολογημένον, as if the parties had already undergone the ἀνάκρισις procedure. This may explain why the act is typically placed at the beginning of the document. It serves as a preemptive testimony that supports the charge *fecisti*, thereby excluding in advance the emergence of the question *an fecerit*. Should a violation of the transaction occur, everything will be judged according to the document's content, with the acknowledged act regarded as an unequivocal (*nicht-Bestreiten*) fact.¹¹

In light of the above analysis, *ὁμολογία* in legal documents is a two-step process, akin to the question-answer progression in ἀνάκρισις and *stipulatio*. This bilateral procedure, as it is denoted in the Athenian law on contracts by the phrase ἕτερος ἑτέρῳ, serves as the means for achieving agreement.¹² However, the agreement between the contracting parties

⁹ See also MANNZMANN 1962: 110–111.

¹⁰ We should mention that the protocol form, e.g. ἐδάνεισεν, ἐμίσθωσεν, or ὁμολογῇ πεπρακέναι denotes that *ὁμολογία* as process is witnessed by the official scribe.

¹¹ The evidential importance of a legal document becomes apparent in private disputes described in petitions. For example, the petition *P. Diosk.* 8 (Herakleopolites, mid-2nd cent. BCE) and the *enteuxis P. Sorb.* III 112 (Muchis? [Arsinoites], 219 BCE) highlight such cases. In the latter, a dispute arises over the sale of a donkey, specifically whether the sale occurred. The accusation in ll. 7–8 reads ἔφασαν ὄνον πε[πρακέναι] [Λυσί]μαχον Π[ε]τ[ρ]όσιρι (*fecisti*), while the response in l. 8 is ἡμῶν [ἀ]ντιλεγόντων μὴ πεπρακέναι (*non feci*). Consequently, this case requires further investigation to determine *an fecerit*. However, regardless of the unclear background, such a dispute—whether the donkey was sold or not—would not have arisen if a sale document existed to prove the *factum* of the transaction.

¹² However, the biphasic character of *ὁμολογία* in documents is not immediately apparent, as the second step, the *feci*, alone suffices to render the document proof and resolve disputes in case of violation. The bilateral element in legal transactions is also indicated

can pertain not only to past events but also to future obligations. Legal documents contain implicit declarations regarding future actions (*facias*), to which the affirmative response, as outlined in the instrument, constitutes an agreement.

The earliest testimony of *ὁμολογῶ* + future infinitive is found in the ostrakon BGU VI 1463 (Elephantine, 246 BCE), from which only the beginning of the document survives. In this document, nearly all instances of *ὁμολογία* refer to future actions. Particularly noteworthy is the formulation of the first *ὁμολογία* in lines 1–4, which sheds light on the nature of the content in legal documents: *ὁμολογεῖ Φιλωτέρα Φίλωνος Κρήσσα Ἀκεσάνδρῳ Νικάνορος Μακεδόνη. ἐὰν ἐκπηδήσω παρὰ σοῦ ἢ καταλλαγῶ Πέρωνι, ἀποτείσειν Ἀκεσάνδρῳ (δραχμὰς) τεσσαράκοντ[α]*, ‘Philotera, daughter of Philon the Cretian acknowledges to Akesandros, son of Nikanor, the Macedonian; If I flee from you or reconcile with Peron, I will pay Akesandros forty drachmas’. The sanction *ἐὰν ἐκπηδήσω ... ἀποτείσειν* is characterised as an *ὁμολογία*. This supports the claim I analysed above that *ὁμολογία* in legal documents can be expressed directly, without the verb *ὁμολογῶ*, and can refer not only to a real act but also to additional stipulations of the transaction. The shift in grammatical person is self-explanatory: the third-person *ὁμολογεῖ* serves as an introduction, signalling that the following direct declarations in the first person constitute an *ὁμολογία*.

Therefore, the document, as a description of the transaction, encompasses all the *ὁμολογίαι* between the parties. Not only the acknowledgement of the real act, but also declarations about the obligations, the penalties and further *accidentalialia negotii* can be identified with these *ὅσα* of the Athenian law on contracts. For example, in a loan document as *P. Hamb.* II 183 (Takona, 251 BCE) the frequency of the direct form such as *ὡς ἀποδώσω* in line 6 conceals the two-step process of the agreement

by the letter formula in *χειρόγραφον*: *ὁ τὰδε τῷ δέῳνι χαίρειν*. In a *χειρόγραφον* containing the addressor’s *ὁμολογία* a declaration from the side of the addressee is implicit, to which the former answers. Hans Julius Wolff never took this bilateral aspect into account. He was actually emphasising the second step of the process as the starting point of the transaction, while in reality it constitutes the answer of the party, which acknowledges the real act. On that matter see WOLFF 1957: 57; WOLFF 1946: 77.

behind the bare declaration, which actually concludes the *ὁμολογία* and signifies agreement. The declaration by one party regarding the obligation to return, for example, a certain sum of money in a loan transaction, is affirmed either through the direct form *ἀποδώσω* or the indirect form *ὁμολογῶ ἀποδοῦναι/διδόναι*,¹³ the latter of which is primarily attested in Byzantine documents—a point regarding which I will discuss further below. Thus, in a loan transaction the bare declaration *ἀποδώσω* is the second step of the two-step process of *ὁμολογία*, while the first step is the implicit *ἀποδώσεις*. There is a *facias-faciam* interaction very similar to that of *δώσεις; δώσω* in the example of *stipulatio* given by Gaius in his *Institutiones*. This two-step process describes the content of the agreement and *is* agreement. The debtor has *agreed* (*faciam*) to return the sum of money to the creditor. The declaration of future fulfilment of this obligation (*ἀποδώσω*) gives birth to this specific agreement, and it is a *ὁμολογία*, particularly the response that affirms and substantiates the implicit claim of the creditor (*ἀποδώσεις*). That is the reason why in some documents all the infinitives are depended on the verb *ὁμολογῶ* (BGU XI 2042 [Soknopaiu Nesos, 105 CE], ll. 5–13: *ὁμολογεῖ Ὀννώφρις ἔχειν [...] ἀ[ς κ]αὶ [ἀπο]δώσει[ν]*), which commences the main content of the contract. Even if there is not such syntactic dependency in every document, each bare declaration in the document constitutes a *ὁμολογία*, that is the second step of the two-step procedure of agreement. The above analysis applies to every type of legal transaction. Whatever the formulation of the obligation in the legal document, it constitutes a *faciam* declaration, namely the affirmative response to the implicit *facias* of the other party. For example, in the lease document *P. Tebt. I 107* (Tebtynis, 112 BCE) the phrase *ἐκφορίου ἐκάστη[ς] ἀρούρας πυροῦ* (sc. *ἀρτάβας*) *πέντε* (ll. 4–5) describes the *facias-faciam* exchange *ἀποδώσεις ἐκφόριον ἐκάστης ἀρούρας πυροῦ ἀρτάβας πέντε-ἀποδώσω*.

The document describes the actual verbal *ὁμολογία*i, namely the *ὅσα ἔτερος ἐτέρῳ ὁμολογήσῃ*, which can be understood as agreements articulated

¹³ The emergence of additional occurrences of *ὁμολογῶ* + infinitive in legal documents, beyond those signifying the real act, must be attributed, methinks, to the verbosity of Byzantine notaries. For a different view on this matter, see YIFTACH 2022: 473.

through various *facias-faciam* and *fecisti-feci* declarations made between the contracting parties. It is this *ῥσα* of the law on which Athenogenes based his deceitful plan and duped Epicrates with the clause *καὶ εἴ τῳ ἄλλῳ ὀφείλει τι Μίδας* (Hyper., *Ath.* 3.10 [ed. Jensen 1963]), thereby compelling the latter to assume all of Midas' debts owed to everyone. In this additional clause there is an implicit *facias* of Athenogenes to which Epicrates responded affirmatively (*faciam*); he agreed. The fact that the legal deed is not described as a *procès-verbal* in the document limits direct insight into the transaction itself and how it is carried out. To respond affirmatively to declarations regarding the fulfilment of an act in the past, present, or future *is* agreement, as the parties say the same thing; they *ὁμολογοῦσιν*.

Our rationale is supported by the papyrological documentation. In some papyri it is stated that the entire content of the document encompasses *ὁμολογίαι*, as in the *clausula salvatoria* *μηδὲν ἦσσαν τὰ διωμολογημένα μένειν/εἶναι κύρια*, 'the terms agreed upon remain/are valid nonetheless', which lends support to our comparison. In *P. Oxy.* XLIX 3482 (Oxyrhynchos, 73 BCE), a *parachoresis* of catoecic land, the aforementioned formula refers not only to the *ὁμολογία* in the beginning of the document (ll. 3–4: *ὁμολογεῖ ... παρακεχωρηκέναι*), but also to all other declarations: either they are in indirect form depending on *ὁμολογῶ* (l. 5: *μηδὲ κακοτεχνήσῃ* sc. *ὁμολογεῖ*) or in direct form (l. 11: *ἐφ' ᾧ παρέξεται*; l. 14: *καὶ προσαποτεισάτω*). These are actually *ὁμολογίαι*. The same characterisation of the content of the legal document is also found in *sympoliteia* inscriptions. In *I. Milet* I 3, 149 (Miletos, 183? BCE; = *SEG* LI 1608), the content of the document encompasses everything the Milesians and Pidasians have agreed upon (*ὡμολόγησαν*), not what they have acknowledged (ll. 2–51: *τάδε ὡμολόγησαν καὶ συνέθεντο Μιλήσιοι καὶ Πιδασεῖς [...] ἐγδικῆσαι δὲ τὸν δῆμον τὸμ Μιλησίων [...] κατασκευάσαι δὲ Μιλησίους ὁδόν*, 'thus have agreed and contracted the Milesians and Pidasians [...] that the people of the Milesians will be public advocates [...] that Milesians will construct a road'). These are the *ὁμολογίαι* between Milesians and Pidasians. At the end of the text in l. 54 we find the formula *ἐμμενῶ τοῖς ὡμολογημένοις*, 'I will abide by the agreed terms', which refers to the whole content of the *sympoliteia* document comprising the *ὁμολογίαι*.

Formulas in legal documents of Byzantine Egypt point to the same concept, namely that the document contains the agreements between the parties. These formulas are placed either before the main text (*P. Cair. Masp.* I 67032 [Constantinople, 551 CE], ll. 19–20: [ὁμολ]ογοῦ[ντ]ε[ς] ἀλλ[ή]λοις ἐ[πὶ το]ῖς ἐξ[ῆς] δηλουμένοις συμφώνοις, ‘agreeing with each other according to the following declared agreements’), or at the end (ll. 64–65: ἄκον ἐμμένειν πᾶσιν τοῖς προγεγραμμένοις συμφώνοις, ‘unwillingly abiding by all the afore-written agreements’; *P. Lond.* V 1660 [Antaiopolites, 553 CE], ll. 33–35: ἐμμεῖναι τοῖς προδιδόρισθεῖσί μοι παρ’ [ὕμῳ]ν συμφώνοις καὶ ὁμολογήμασιν, ‘to abide by the agreements and agreed terms you defined to me above’). Particularly, *P. Lond.* V 1660 offers additional insight into the meaning of the term ὁμολογία in legal documents. The phrase συμφώνοις καὶ ὁμολογήμασιν is a binomial, a two-term expression, in which two words with related, complementary or synonymous meanings are juxtaposed in order to underscore their sense through this interrelation.¹⁴ In Byzantine legal documents there is an exhaustive use of synonyms and words that are complementary in meaning.¹⁵ Therefore, for the Byzantine scribe ὁμολόγημα is σύμφωνον and vice versa. But can Byzantine documents be relied upon to shed light on ὁμολογία in Ptolemaic Egypt and its connection to the Athenian law on contracts?

At first glance, this connection seems unconvincing due to differences in the legal frameworks of Byzantine, Ptolemaic, and Roman Egypt. Nevertheless, there is general continuity in the law of Egypt. The legal framework evolved but did not entirely change, at least regarding the drafting of legal documents. Traditional legal terms adapted within this new context. The verbosity of Byzantine scribes, along with their tendency to use complementary words in binomials and long-winded formulas, often sheds light on aspects of legal terms from earlier periods that were not explicitly expressed. For example, an ὁμολογία was always required to be

¹⁴ For more information about the binomials and the virtually redundant words in other types of legal texts, see DANET & BOGOCH 1992: 152–153; DAVID 2013: 29.

¹⁵ On this aspect of Byzantine legal documents, see ZILLIACUS 1967: 37–52. In rhetoric this figure is called *figura per adiectionem* and it is discussed briefly in KEENAN, MANNING, & YIFTACH-FIRANKO 2014: 85–86. See also the definition of *figura per adiectionem* in LAUSBERG 1998: §§ 607, 665.

declared without defects both in Roman and Greek Law. The absence of defects is implied in the bare use of *ὁμολογῶ* in the Ptolemaic and Roman periods, even though it is not expressed, as in the Byzantine period by the *δίχα δόλου* formula, which addressed explicitly potential defects that could impair its genuineness.¹⁶ In both cases the verb *ὁμολογῶ* carried the same effect. Additionally, as I argued above, the frequent use of the direct form, such as *ἀποδώσω*, in the Ptolemaic and Roman periods conceals the two-step process of *ὁμολογία* behind the bare declaration. The fact that *ἀποδώσω* is, in reality, an *ὁμολογία* is illuminated by the verbosity of Byzantine notaries, who, beyond merely employing the verb *ὁμολογῶ* to acknowledge the real act, do not hesitate to reuse it for further stipulations, as seen in constructions like *ὁμολογῶ ἀποδοῦναι/διδόναι* (e.g. *PSI* III 239 [Oxyrhynchos, 601 CE], ll. 13–18: *ὁμολογῶ ἐσχηκέναι παρὰ σοῦ [...] ἃ καὶ ὁμολογῶ ἀποδοῦναί σοι*).

Therefore, certain aspects and legal terms in Ptolemaic and Roman legal documents can be elucidated through the verbose style of Byzantine notaries. Could then binomials such as *συμφώνοις καὶ ὁμολογήμασιν* serve as sound evidence that *ὁμολογία* signifies agreement, not only in the Byzantine period but also in classical Athens and legal documents more broadly?

Regardless of whether this question can be answered affirmatively, similar binomials are also attested in legal inscriptions from the Ptolemaic period. In *I. Ilion* 10 (Ilion, 77 BCE; = *SEG* IV 664) we read in l. 1 *σύμφωνον καὶ ὁμόλογον ταῖς πόλεσιν ὑπὲρ τῆς πανηγύρεως*, ‘convention and agreement between the cities on the festive meeting’, and in ll. 4–5 *τάδε ἐποίησαντο ἐν ἑαυτοῖς ὁμόλογα καὶ σύμ[φ]ωνα*, ‘these are the arrangements and agreements they have made among themselves’. Last but not least, great importance to the comparison of the terms *σύμφωνον* and *ὁμόλογον* have the inscriptions *FD* III 4:502B (Delphi, c. 20 CE) and *FD* III 3:209 (Delphi, c. 161 BCE), which contain manumissions of slaves. In *FD* III 3:209

¹⁶ In the *δίχα δόλου* formula the Byzantine scribes usually mention the Roman defects of *dolus* and *metus* first, as exemplified in *P. Cair. Masp.* III 67353 (Antinoopolis, 569 CE) in ll. 5–6 *δίχα παντός δόλο(υ) καὶ φόβο(υ) καὶ βία[s] καὶ ἀνάγκης καὶ ἀπάτης*. For the defects of *βία* and *ἀνάγκη* in Athenian law see Pl., *Lg.* 11.920d.

we read in ll. 5–6 *καθὼς ἐγένετο ὁμολογον Εὐνόω ποτὶ Δεξικράτη τὸν πατέρα αὐτῶν*, ‘as there was an agreement between Eunoos and Dexikrates, their father’, while in ll. 7–8 of *FD III 4:502B* *καθὼς ἦν σύμφωνος πρὸς [τὸν 3–4] κῶτα αὐτῷ Διόδωρον Ὀρέστα*, ‘as he had agreed with [---] Diodorus, son of Orestes’. The phrases *καθὼς ἦν σύμφωνος* and *καθὼς ἐγένετο ὁμολογον* seem to be interchangeable and express the same meaning.

The binomials above attest to a close relationship between *ὁμολογία* and *συμφωνία*, as well as their corresponding derivatives. This supports our argument that *ὁμολογία* should be understood as a process producing agreement. It is possible that an agreement is formed and validated through the two-step procedure of *ὁμολογία*, which involves the affirmation of the other party’s declaration. This can be corroborated by *P. Cair. Masp.* III 67305 (Antinoopolis, 568 CE), in which we read in l. 24 *καὶ εἰς ἀσφάλειαν [τ]ῶν [π]ροδιο[μο]λογηθέντ[ω]ν παρ’ ἐμ[οῦ] συμφ[ών]ων ἐν ταύτῃ τῇ ὁμολογίᾳ*, ‘and in security of the above acknowledged by me agreed terms in this agreement’. From the expression *προδιομολογηθέντων παρ’ ἐμοῦ συμφώνων* it can be deduced that the *σύμφωνον*, as a specific agreement, includes the *ὁμολογία*, the latter giving flesh to the former. Therefore, in binomials *συμφώνοις καὶ ὁμολογήμασιν* and *σύμφωνον καὶ ὁμολογον*, we might infer that the terms *συμφώνοις* and *σύμφωνον* have general meaning, while *ὁμολογήμασιν* and *ὁμολογον* are more specific.¹⁷

2.2. *ἐκών*

The prerequisite of pure will (*ἐκών*) in the Athenian law on contracts, which in some variations is emphasised (*ἐκὼν ἐκόντι/ἐκὼν πρὸς ἐκόντα*),

¹⁷ In the plethora of the binomials and polynomials found in legal documents we find among the juxtaposed terms meaning relationships, in which one word includes the sense of the other. That is the case in the binomial *φόβου καὶ βίας* (*vis ac metus*) in Byzantine documents (see n. 16). In violence and duress there is fear, and fear can be caused through violence and duress. We find also expressions where the whole and its parts are emphasised for the sake of clarity: *πρὸς πάντα καὶ πρὸς ἕκαστον αὐτῶν* (*P. Cair. Masp.* III 67310 [Antinoopolis, 566–573 CE], l. 11) or *μήτε πρὸς τοὺς τρεῖς κοινῇ μήτε πρὸς ἓνα ἰδιαζόντως* (*P. Princ.* II 82 [Lykopolis, 481 CE], ll. 52–53).

is attested in legal documents from the Ptolemaic period until late antiquity. In *P. Grenf.* II 16 (Pathyris, 136 BCE), a sale of *sykaminos*, the phrase *έκόντες συνεγράψαντο* is followed by the *όμολογία* of sale in ll. 1–3: *έκόντες συνεγράψαντο*. *όμολογεί Πατούς Πατούς* (l. *Πατούτος*) *καί Τακμής Πατούτος πεπρακέναι*, ‘they made a contract voluntarily; Patous, son of Patous and Takmeis, daughter of Patous acknowledge that they have sold’. In *BGU VIII* 1733 (Herakleopolis, 80–30 BCE), a *parachoresis* of cleruchic land, we read in l. 22 *καί ή πράξις έστω καθάπερ εκ δίκης, καθότι έκόντες συνε[χ]ώρησαν*, ‘and let the right of execution be possible, as if in accordance with a legal decision, since they have agreed with each other voluntarily’. Here, the voluntary agreement is regarded as a prerequisite and the cause for the validity of the *praxis*-clause. However, it is not a specific agreement giving force to the clause particularly; the voluntary agreement between the contracting parties about the entirety of their transaction and its content is implied. It is meant that the *Zwangsvollstreckung* is justified as a restorative act of the equilibrium between the parties, because they have *agreed voluntarily* about the content of their transaction, which should not be violated. Moreover, *P. Cair. Goodspeed* 6 (Krokodilopolis, 129 BCE), an *όμολογία* as it is characterised, records a deed of land, in which we read at the beginning of the main content in l. 3: *όμολογία ήν εκών κ[α]ι συνχωρήσας έθετο Ήρος Ίμούθου [...]* *καθ’ ήν όμολογεί παρακεχωρηκέναι*, ‘agreement which Horus, son of Imouthes has made voluntarily and having agreed [...] according to which he acknowledges that he has ceded’. Here too the will of the party is underscored as an important feature of the legal act *όμολογίαν τίθημι*.

In all legal transactions recorded in documents the agreement between the contracting parties was made voluntarily, whether the adjective *έκών* was mentioned or not. When the contracting parties agree voluntarily (*όμολογοῦσιν εκόντες*), their will, intrinsic to their *όμολογία*, permeates not only the legal transaction itself but also every stipulation and part of the document describing it. Then in a loan document, for instance, the mere direct declaration *αποδώσω* is an *όμολογία*, as we analysed above, but it is also supposed that it is an *έκουσία όμολογία* free from all defects that can impair its genuineness. The scribe does not need to repeat the verb *όμολογώ* or the prerequisite of will for each obligation, penalty or

fact, as the document is a description and proof of the legal transaction. This applies also for many other traits of the deed, which are presumed and taken into account in the legal transaction, but not included in the document. The legal instrument is a description which can be confined to the absolutely necessary elements of the transaction, while others are left unmentioned but always implicit, even if they are theoretically necessary for the validity of the transaction. This is why I argue that the verbosity of Byzantine documents, driven by a sense of uncertainty (Zilliacus 1956: 161) and providing more detailed descriptions of legal deeds, can reveal additional aspects of the legal transaction. In the Byzantine period we see quite frequently the binomials *ἐκὼν καὶ πεπεισμένος* or *ἐκουσίως καὶ αὐθαιρέτως* following the verb *ὁμολογῶ* (e.g. *P. Cair. Masp.* III 67303 [Aphroditēs Kome, 553 CE], ll. 10–11: *ὁμολογῶ ἐκὼν καὶ πεπεισμένος μεμισθῶ[σθα]ν*). The fact that the adjective *ἐκὼν* is rarely mentioned in Ptolemaic and Roman legal documents does not mean that this prerequisite is absent from the theoretical foundation of a contract in the corresponding periods.

2.3. *κύρια εἶναι*

As I analysed above, the *ὅσα ἕτερος ἐτέρῳ ὁμολογήσῃ* of the law are documented in the legal instrument in the form of direct and indirect declarations and are described in detail. Now let us move on to the next linking element between the Athenian law on contracts and the content of legal documents. At the end of the main text of the document, after the description of all the *ἐκουσίαι ὁμολογίαι* of the contracting parties, we find the *kyria*-clause. Since the content of the document consists of the voluntary agreements of the contracting parties, these are according to law *κύριαι*. The concept is illustrated in *BGU VIII* 1731 (Herakleopolis, 68–67 BCE), where in l. 18 we read *καὶ μηδὲν ἡ[σσο]ν ἢ παραχώρη[σις] κυρία ἔστω [καθότ]ι ἐκόντες σ[υνεχώρησαν]*, ‘and let the cession be valid nonetheless, since they have agreed with each other voluntarily’.

Nevertheless, the question still persists: Is *ὁμολογία* as mutual consent, achieved through the exchange of the same declarations, the ele-

ment that generates liability and the emergence of a binding obligation upon the contracting parties? In the sense of the adjective *κύριος* and its function lies, I believe, the key element that resolves the issue. To translate this word is not a simple task. Manfred Hässler, for instance, devoted entire research on this subject drawing the conclusion that the aforementioned adjective is best translated as *maßgeblich* (Hässler 1960). However, I believe the answer is given by a law that closely resembles the Athenian law on contracts,¹⁸ namely the provision in the *XII Tabulae* 6.1 (ed. Flach 2004): *Cum nexum faciet mancipiumque, uti lingua nuncupasse* <i>t, ita ius esto, ‘When someone makes a contract or transfer, what the tongue has pronounced, so shall be the law’. Heinz Barta and Egon Weiss both associate this Roman provision with the Athenian law on contracts (Barta 2011: 383; Weiss 1923: 431). This association is well-founded. Heinz Barta closely examined a fragment from the Solonian legislation preserved in D. 47.22.4 (Gaius 4 *ad l. xii tab.*),¹⁹ which, according to Gaius, was incorporated by the Romans into the *XII Tabulae*. This law provides that people of the same association *ὅτι ἂν τούτων διαθῶνται πρὸς ἀλλήλους, κύριον εἶναι, εἰ μὴ ἀπαγορεύσῃ δημόσια γράμματα*, ‘whatever they agree with each other, shall be valid, if it is not forbidden by public documents’. Heinz Barta rightly argues that the *κύριον εἶναι* of the Solonian legislation was translated in the *XII Tabulae* as *ita ius esto* (Barta 2021: 23, 115). *Ius* in this context is the *per comparationem* translation²⁰ of the adjective *κύριος*. Given this, *κύριος* is not simply ‘valid’, but rather carries also the meaning of ‘legally binding’. The *clausula salvatoria* *μηδὲν ἡσσον τὰ διωμολογημένα μένειν/εἶναι κύρια* accompanying the penalty clauses in legal documents supports this interpretation. This clause ensures that the fulfilment of a penalty does not absolve the debtor from their obligation (Pierce 1972: 142). In this context, the meaning of the adjective *κύριος* can only be understood as ‘legally binding’, since the purpose of the clause is to clarify

¹⁸ Further discussion on the influence of ancient Greek law, particularly the laws of Solon, on the *XII Tabulae*, see BARTA 2021: 22–23, 115.

¹⁹ This law was published by Eberhard Ruschenbusch as F 76a, see RUSCHENBUSCH 1966: 98–99.

²⁰ On the methods of translating Latin terms into Greek see MAGIE 1905: 2.

that the agreed content of their legal transaction and the obligations deriving from it remain in force and must be fulfilled. The interpretation of κύριος as ‘legally binding’ becomes even clearer in a *clausula salvatoria* variation found at the end of *P. Tor. Choach.* 9 (Thebes, 126 BCE) ll. 27–28, in which the expression κύρια εἶναι is replaced by ἐπάναγκον ποιείτω: καὶ μηθὲν ἦσσον ἐπάναγκον ποιείτω κατὰ τὰ προγεγραμμένα, ‘and let it be no less compulsory that he act according to the afore-written’. Here, the clause underscores that the obligations outlined in the document are binding and remain in effect.

Therefore, the association that Heinz Barta made between the Athenian law on contracts and *XII Tabulae* 6.1 lends support to the argument that the binding nature of obligations stems from the verbal character of ὁμολογία as a procedural act. That ὁμολογία generates liability and the emergence of a binding obligation is particularly inferred from the phrase *ita ius esto*, ‘so shall it be *lawful* / so shall be the *law*’, which resembles the speech act κύριον ἔστω / κύρια εἶναι of the Athenian law on contracts. The formulation of *XII Tabulae* 6.1 makes it unequivocally clear that ‘what the tongue has pronounced’ (*uti lingua nuncupassit*), namely the content of the declaration, is the element that generates a legally binding outcome. Accordingly, the verbal or written *kyria*-clause in legal documents functions as a speech act invoking the Athenian law on contracts.²¹ Through this speech act, the legal transaction – namely ὅσα ἂν τις ἐκὼν ἕτερος ἑτέρῳ ὁμολογήσῃ, the ἐκουσίαι ὁμολογίαι of the parties described in the document – becomes *legally binding*. Thus, the Athenian law on contracts aligns perfectly with the content of legal documents of Graeco-Roman Egypt.

Moreover, it seems hardly coincidental that the *stipulatio*-clause is positioned either before or after the *kyria*-clause. The juxtaposition of these clauses suggests their interrelation in the minds of notaries. The two-step process of ὁμολογία, akin to the question-and-answer formality

²¹ Of course, already since Ptolemaic period the *kyria*-clause seems to have been degenerated and demoted to a set phrase added in the legal document as an element of contractual tradition (on this see WOLFF 1978: 159–160, 162). Despite the degeneration of the clause its traditional character reflects its past validating function deriving from the old Athenian law of contracts, which pervaded legal transactions.

reflected in the phrase ἐπερωτηθεὶς ὁμολόγησα of the *stipulatio*-clause, appears to be what enables the contract to become κύριον. This parallels the directive of the Athenian law of contracts, encapsulated in the phrase ἕτερος ἑτέρῳ. Just as the *stipulatio*-clause applies to the entirety of the document, and operates theoretically as a question-answer process for each part thereof (cf. *P. Michael*. 40 [Aphrodites Kome, 559 CE], ll. 58–59: καὶ πρὸς πάντα τὰ ἐγγεγραμμένα' ἐπερωτηθ(εὶς) ὁμολόγησα),²² thereby validating and enforcing the content of the *stipulatio*, so too does ὁμολογία function in legal deeds as a two-step procedure that renders the legal transaction valid and binding. This process establishes legally binding agreement regarding each obligation and penalty outlined in the transaction and described in the document, thereby rendering them κύρια, in accordance with the provisions of Athenian law on contracts.

Consequently, the above examined alignment of the Athenian law on contracts with legal documents preserved in papyri demonstrates that this law was transferred to Egypt as a customary element in crafting legal agreements, leading to the preservation of the corresponding tradition in document composition. The origins of the scribal practices that produced the partial uniformity in the content of legal documents throughout the Greco-Roman Egyptian era can be traced to the Athenian law on contracts, ὅσα ἂν τις ἐκὼν ἕτερος ἑτέρῳ ὁμολογήσῃ κύρια εἶναι, best translated as ‘whatever one voluntarily *agrees* with another is *legally binding*’.

3. BEFORE THE DRAFTING OF THE LEGAL DOCUMENT

Although the *Zweckverfügung* theory appears *prima facie* plausible, it assumes that the starting point of a legal transaction lies solely in the disposition of a thing, the real act. This perspective focuses narrowly on the exact wording of the legal document while neglecting the broader context

²² The simple form of the *stipulatio*-clause ἐπερωτηθεὶς ὁμολόγησα, used in the Roman period, refers to the entire content of the document and each of its parts, even though this is not explicitly stated, as in its Byzantine counterparts. Once again, the verbosity of Byzantine scribes sheds light on aspects of legal elements that are concealed within the simplicity of the Roman legal style.

of the legal transaction itself, which the written form is designed to merely describe and serve as proof of. As demonstrated above, a legal document contains far more implicit information than what is explicitly stated within it. To understand *ὁμολογία* as a process producing legally binding agreement, it is crucial to consider the events preceding the drafting of the contract and the disposition of an asset. Thus, it will become apparent that a transaction does not commence with the real act but with the agreement, as no one disposes of property without first agreeing on what they will receive in exchange. Moreover, the agreement between the contracting parties extends beyond the mere transfer of an asset, encompassing other critical terms established through *ὁμολογία*, such as the interest rate in a loan or the timeframe for fulfilling the obligations.

This concept becomes evident in the speech of Demosthenes *Against Dionysodorus* (ed. Dilts 2009).

56.6: ἀποκριναμένων δ' ἡμῶν, ὧ ἄνδρες δικασταί, ὅτι οὐκ ἂν δανείσαιμεν εἰς ἕτερον ἐμπόριον οὐδὲν ἄλλ' ἢ εἰς Ἀθήνας, οὕτω προσομολογοῦσι πλεύσεσθαι δεῦρο, καὶ ἐπὶ ταύταις ταῖς ὁμολογίαις δανείζονται παρ' ἡμῶν ἐπὶ τῇ νηὶ τρισχιλίας δραχμὰς ἀμφοτερόπλου, καὶ συγγραφὴν ἐγράψαντο ὑπὲρ τούτων.

After we replied, men of the jury, that we would not lend money for a voyage to any other port than Athens, they agreed to return here, and according to these agreed terms they borrowed from us three thousand drachmae on the security of their ship for the voyage out and home, and they drafted a *syngraphe* about these terms.

56.11: καὶ ἐγκαλοῦντες ὅτι διαρρήδην ἡμῶν διορισμένων ἐν ταῖς συνθήκαις ὅπως ἡ ναὺς μηδαμόσε καταπλεύσεται ἄλλ' ἢ εἰς Ἀθήνας, καὶ ἐπὶ ταύταις ταῖς ὁμολογίαις δανεισάντων τὸ ἀργύριον.

Complaining that although we had expressly specified in the agreement that the ship should sail to no other place than the port of Athens, and had lent the money on these agreed terms.

56.42: οἱ ἐπὶ ταύταις ταῖς ὁμολογίαις δανεισάμενοι, ἐφ' ᾧ τε καταπλεῖν Ἀθήνας.

Those who after borrowing money on these agreed terms, that the ship should return to Athens.

In the above passages *ὁμολογία* is not associated with the act of *δεδανείσθαι* and does not have the meaning of acknowledgement, but it denotes the agreements between the contracting parties (*ἐπὶ ταύταις ταῖς ὁμολογίαις δανείζονται παρ' ἡμῶν*) before the real act takes place. The lenders would not give their money, if the borrowers would not *agree* to carry out specific obligations (*οὐκ ἂν δανείσαιμεν εἰς ἕτερον ἐμπόριον οὐδὲν ἄλλ' ἢ εἰς Ἀθήνας*). The *facias* declaration of the creditors expressed as *ὅπως ἡ ναὺς μηδαμόσε καταπλεύσεται ἄλλ' ἢ εἰς Ἀθήνας*, required an affirmative response (*faciam*) by the debtors – as they deceitfully provided (*οὕτω προσομολογοῦσι πλεύσεσθαι δεῦρο*) – so that the contracting parties can proceed to the real act (*καὶ ἐπὶ ταύταις ταῖς ὁμολογίαις δανείζονται παρ' ἡμῶν*).

Consequently, before the real act there is a legally binding agreement between the parties about every aspect of the transaction. The precontractual phase in a legal transaction is not necessary to be recorded in the legal document. The details of the negotiations, even though necessary for a lawsuit, as they are used in the above forensic oration, they are trivial for the legal document. Only the result of the precontractual phase needs to be proved, the deed *per se* deriving from agreement, namely the obligations, the penalties and the real act.

The fact that a legally binding agreement between the parties takes place before the real act is expressed also in legal documents. The most characteristic example is provided by a lease preserved in *IG II² 2499* (Attica, 306/5 BCE), which Edward M. Harris analyses closely giving emphasis on the fact that the lessee ‘has not yet entered into possession because the term of the lease will not begin until the following archon year’, as it is clearly stated in ll. 42–43 (Harris 2020: 28). In the lease document *P. Mich. IX 562* (Karanis, 119 CE) the verb *ὁμολογῶ* is used for the acknowledgement of the act (l. 4: *ὁμολογῶ μεμισθῶ[κέν]αι σο[ι]*) and in ll. 14–16 we read *κατὰ μὴ[δὲ]ν ἐλαττουμένων τῶν ἐδαφῶν καθ[ό]τι [συν]εφωνήθη*, ‘the estates suffering no loss, as it has been agreed upon’. It is expressed explicitly that there was an agreement specifying the content of the transaction and it took place before the drafting of the document, and most probably before the act of leasing. Moreover, in *P. Cair. Masp. III 67305*, we read in l. 24 *καὶ εἰς ἀσφάλειαν [τ]ῶν [π]ροδιο[μο]λογηθέντ[ω]ν*

παρ' ἐμ[ο(ῦ) συ]μφ[ών]ων ἐν ταύτῃ τῇ ὁμολογία, 'and in security of the above acknowledged by me agreed terms in this agreement'. Here, it can be inferred that τὰ σύμφωνα precede ὁμολογία, and they have to undergo the two-step process of the latter to be κύρια.

In light of these remarks we should understand that the legal document is drafted between the initiation of the transaction and its eventual completion through the fulfilment of obligations; it stands in the middle. In this phase the parties need to prove that the transaction has actually taken place. This is the reason why the majority of legal documents record and place the acknowledgement of the real act at the beginning of their main content, because it serves as a proof that the legal transaction really took place.

4. CONCLUSIONS

According to the above analysis the Athenian law on contracts perfectly aligns with the content of Greek legal documents of Graeco-Roman Egypt. Ὁμολογία is the means by which the contracting parties can control the genuine emergence of legally binding agreement: through the verb ὁμολογῶ the one party's allegation is acknowledged by the other; this is *agreement*. This bilateral two-step performance between the parties creates and controls the content of their agreement but also renders it as valid and legally binding (κύριον) according to the Athenian law on contracts (ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι). The legal document, as the proof of the legal transaction, only describes its content, namely the ὁμολογίαι themselves. Although the acknowledgement of the real act is drafted on the basis of the implicit declaration *fecisti*, the obligations and the penalties are recorded as affirmative responses to the implicit declaration *facias*. In particular, the acknowledgement regarding the occurrence of the real act is one of the ὁμολογίαι, which is placed in most cases at the beginning of the document to play the role of evidence that the legal transaction really took place. This happens, because, in order to serve as a prospective proof of the legal transaction concluded in the past, the document must record an event as occurred. In case of

default this proof will be in definitive favour of the wronged party. The real act is the appropriate element of the transaction to play that role. It is recorded in the document as an *ὁμολογημένον*, a confessed *factum* between the contracting parties through the two-step process of *ὁμολογία*, which resembles the question-answer procedure of *ἀνάκρισις*.

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CONTENTS

Lajos BERKES

Tax issues and riot in the hippodrome over magicians:

A new edition of the Byzantine papyrus letter SB XXVI 16519 1

Abstract: This is a revised edition of the Byzantine papyrus letter SB XXVI 16519 (P. Berol. 25706), which addresses matters pertaining to taxation and a riot that occurred within the context of circus races. The new readings allow for the identification of a cohort of magicians as the cause of the unrest, whom the crowd probably believed to have employed magical incantations with the intention of influencing the outcome of the race.

Keywords: papyrus, letter, Egypt, late antiquity, taxation, magic, law.

Agata DEPTUŁA

The power of words: Insights from two Greek magical ostraca

from the citadel of Dongola 19

Abstract: The article presents the *editio princeps* of two Greek ostraca discovered at Old Dongola during excavations conducted by the Polish archaeological mission of the University of Warsaw. The ostraca were found at the citadel in secondary contexts of a much later date, alongside other pottery fragments. Based on their script and context, they are broadly dated to the late Christian period (11th–14th centuries). Certain characteristic features allowed the identification of these ostraca as amulets. This edition offers a closer examination of the texts and provides insights into magical practices in medieval Nubia.

Keywords: medieval Nubia, ostraca, amulet, magic.

Jean-Luc FOURNET

Une demande de transfert d'imposition (epistalma) à Copenhague 33

Abstract: Édition d'un papyrus de la Bibliothèque royale de Copenhague (P. Copenhagen Royal Library Udst. 32), remarquablement conservé, livrant un *epistalma* (demande de transfert d'imposition à la suite d'une mutation foncière) appartenant au dossier de Flavius Magistôr (Hermopolis, 622). Il présente l'intérêt d'être le dernier *epistalma* connu et, à ce titre, d'éclairer l'évolution formelle et diplomatique qu'a subi ce genre, dont plus de 30 exemples ont survécu. Une liste des *epistalmata* papyrologiques, avec leurs principales caractéristiques diplomatiques et formulaires, est donnée en annexe.

Keywords: *epistalma*, Flavius Magistôr, Hermopolis, monastère de la Méta-noia, fiscalité.

Nikolaos KOLVERIS

Once again on homologia: The papyrological documentation revisited 81

Abstract: This article contributes to the ongoing discussion of the complex issue of *ὁμολογία* in ancient Greek law by examining it as a bilateral process that produces legally binding agreement. I argue that this process is reflected in legal documents preserved in papyri from Graeco-Roman Egypt. Specifically, I demonstrate that the content of these documents aligns fully with the essence of the Athenian law on contracts, *ὅσα ἂν τις ἐκὼν ἕτερος ἐτέρῳ ὁμολογήσῃ κύρια εἶναι*, thereby highlighting the continuity and preservation of this Athenian legal principle in shaping legal transactions in Graeco-Roman Egypt.

Keywords: *homologia*, consensus, legal documents, contracts, papyri, Graeco-Roman Egypt, ancient Greek law.

Lorenzo LIVORSI

A new constitution of Gratian 105

Abstract: The article offers an edition and commentary of a previously unknown constitution of Gratian, discovered on the final folio of Arras, Médiathèque Municipale MS 644 (CGM 572). Although severely abridged and difficult to read, this newly identified document addresses the status of formerly abandoned children (*expositi*) who have been taken in within an ecclesiastical context. It establishes that the biological father – or, in the case of slaves, the original master – can no longer reclaim them. This law is best understood within the broader context of late antique legislation on *expositi*, while early Christian sources illuminate the historical circumstances that may have prompted such legislation. Finally, the hypothesis that this law may have originated from the *Theodosian Code* is examined. An appendix highlights the utility of prose rhythm in establishing the text.

Keywords: Gratian, *expositi*, Church and society, *Theodosian Code*, *Collectio Quyesnelliana*.

Gabriella MESSERI

SB XII 10892, riedizione 139

Abstract: The present article provides a new edition of *SB XII 10892*, a register of the land administration, plausibly from Karanis and presumably dated to 188/9 CE. It contains the description of cadastral parcels numbered in succession, including land 'once belonging to the Jews' and land 'once belonging to the Hellenes', which, having become the property of the State following confiscation, are gradually assigned on a five-year lease to δημόσιοι γεωργοί and to farmers' collectives. The papyrus was edited for the first time by Anna Świderek in 1971, but a series of abbreviations recurring in the record of each parcel remained unresolved, affecting the understanding of the purpose of the register. The administrative registers published in large numbers in the last fifty years allow us to satisfactorily resolve all the abbreviations that remained unclear, gaining full understanding of the contents of the register. The reading of other doubtful or incorrectly deciphered points has also been improved, prompting a re-edition of the entire text. The register is written on the recto, while the back was later used for a wine account which will be published separately in another contribution.

Keywords: Roman Egypt, land administration, Jews, Hellenes, numbered *sphragides*, abbreviation system.

Maria NOWAK

Circulation of imperial legislation in Egypt between 324 and 525:

Catalogue and commentary 177

Abstract: This article offers a list and commentary to imperial laws preserved on papyrus between Constantine the Great and Justinian. The aim of the presented work was to collect both constitutions and secondary witnesses, that is mentions of law, if they could be indeed identified as a piece of legislation. The work is divided into sections grouping the material according to its genre and type. The initial section of the catalogue contains fragments that have been categorised as legal literature, encompassing excerpts from the Theodosian Code, literature pertaining to the Codex Theodosianus, and other compilations of imperial legislation. The second section consists of the documentary papyri, which are divided into three parts: generally binding laws, rescripts, and references.

The collation of a compendium of papyrological witnesses of imperial laws permitted the drawing of some general conclusions regarding the scope of the use of these constitutions in Egypt. One of these is dedicated to the circulation of the Theodosian Code. The recent publication of new fragments

of the Theodosian Code, coupled with analysis of their provenance, has allowed a more optimistic assessment of the Code circulation than was previously proposed.

A further conclusion is reached regarding the process of communicating general laws and obtaining imperial rescripts in the province. The papyrological evidence provides a comprehensive reconstruction of the chain of communication, extending from the emperor to the praetorian prefect, governor, strategos, and lower officials otherwise known thanks to the C.Th. and the Code of Justinian. The rescripts, when collected, reflect the changes undergone between the Tetrarchy and Justinian's reign, demonstrating that there were no discrepancies between the theory and practice of their application. The interpretation of these sources in their respective contexts, such as the archives and scribal traditions to which they belonged, facilitates a more comprehensive understanding of the dissemination of laws among the subjects of Roman emperors.

Keywords: Imperial law, constitutions, late antiquity, Egypt, *Theodosian Code*, papyrology.

Paul SCHUBERT

Greek contracts from Egypt: When do they turn Byzantine?

217

Abstract: This article is focused on the shift from the so-called 'Roman' to the 'Byzantine' period in the perspective of papyrologists: is there a clear sign of a change in the way scribes prepare their documents between the late third and early fourth century? This view is challenged on the basis of a survey of a specific category of documents, namely contracts (Greek deeds of private law). From a typological perspective, there are gradual changes from the third till the early sixth century, but the real change seems to take place in the fifth century, shortly before Justinian's lawyers formalise what could be observed among Greek papyri from Egypt in the preceding centuries..

Keywords: periodisation, Roman Egypt, Byzantine Egypt, typology, Justinian, contract.