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Reus vel suspectus? On the Status of the Accused and the Suspect in the Roman Criminal Procedure

Reus vel suspectus? O pozycji oskarżonego i podejrzanego w rzymskim procesie karnym

ABSTRACT

This article aims to answer the question whether such a participant who can be described as the suspect was known in the Roman criminal procedure. The analysed procedure, especially of bringing a charge in the proceedings before *quaestiones*, as well as the examples of criminal cases settled within the framework of *cognitio*, quoted in this paper, confirm that the Romans distinguished between the accused and the suspect, even though they did not develop separate terms and definitions to identify these two different procedural roles. An important moment that distinguished the status of the accused person in the Roman criminal procedure was entering his name in the register of the accused (*inscriptio inter reos*), which took place when the indictment was brought against him. From then on, the accused became *reus*, that is a rightful party to the proceedings who was able to use his procedural rights fully.

Keywords: accused; suspect; *quaestiones*; roman criminal procedure; *inscriptio inter reos*; *cognitio*

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INTRODUCTION

The issues concerning the parties to the Roman criminal procedure, especially the accused,[1] as well as the entire judicial proceedings in criminal matters, have not been given particular attention in the Roman law studies in Poland and still remain on the fringes of this scientific discipline.[2] This article aims to answer the questions: Was such a participant who can be referred to as the suspect known in the Roman criminal procedure? Did the Romans distinguish between the procedural status of the accused and of the suspect?

Nowadays, in the Polish literature on criminal procedure the term of the accused is understood – in the strict sense – as a person against whom an indictment has been brought, or a person with respect to whom an application for conviction without a trial or for conditional discontinuance of the proceedings has been lodged.[3] In the contemporary procedure, apart from the accused who has a role of the passive party, there is also the suspect, that is a person with respect to whom a decision to inform about the charges has been issued or who, without such a decision, has been informed about the charges in connection with the fact that this person has been interrogated in the character of the suspect.[4] Furthermore, apart from the suspect, the doctrine of the criminal procedure identifies also the suspected person. According to S. Waltoś, the suspected person should be understood as a person with respect to whom no decision to inform about the charges has been issued yet or who has not been interrogated in the character of the suspect, but the specific procedural actions taken indicate that this person is treated as the suspect.[5]

First of all, it should be noted that, despite the fact that no general theory of the Roman criminal procedure was developed,[6] there were attempts at systematizing the legal material, noticeable both in the actions of particular jurists and of the Roman legislator.[7] Whereas the titles of Book XLVII of the Digest are mostly devoted to delicts and to specific categories of *crimina publica*, that is to the substantive law issues, Book XLVIII begins with the titles: *De iudicis publicis* and *De accusationibus et inscriptionibus*, so those focused on procedural issues. The wording of the

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[1] W. Mossakowski, *Accusator w rzymskich procesach de repetundis w okresie republiki*, Toruń 1994, p. 33.

[2] See A. Chmiel, *Zasada kontradyktoryjności w rzymskim procesie karnym*, „Zeszyty Naukowe Uniwersytetu Rzeszowskiego. Seria Prawnicza. Prawo" 2018, vol. 101(22), p. 42.

[3] S. Waltoś, P. Hofmański, *Proces karny. Zarys systemu*, Warszawa 2018, p. 195.

[4] *Ibidem*.

[5] *Ibidem*.

[6] See W. Litewski, *Rzymski proces karny*, Kraków 2003, p. 8. Cf. A. Chmiel, *Zasada kontradyktoryjności…*, p. 42.

[7] More on the scientific activity of Roman jurists in the area of criminal law, see A. Chmiel, *Dzieła naukowe jurystów rzymskich w zakresie prawa karnego*, „Studia Iuridica Lublinensia" 2016, vol. 25(3), pp. 151–164.

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further titles in Book XLVIII of the Pandects is also characteristic, as they contain the names of particular statutes and not the names of crimes regulated by these legal acts.[8] The criminal statutes referred to in these titles not only contained the definitions of particular *crimina*, but also regulated the proceedings with respect to these prohibited acts before specific courts. Undoubtedly, the discussed order of Book XLVIII of the Digest testifies to the fact that the Romans attached great importance, on the ground of their *ius criminale*, to the broadly understood "procedural law"[9] or, using the Roman terminology, to *iudicis publicis*, that is "judicial proceedings".

Before answering the questions asked at the beginning, it should be mentioned that the Quirites did not formulate separate terms for the accused in the criminal procedure and the defendant in the civil procedure.[10] They both were referred to as *reus*.[11] Interesting information on how the term *reus* was understood can be found in Cicero's account in *De oratore*:

Cic. *De orat.* II, 43, 183: *Reos autem appello non eos modo, qui arguuntur, sed omnis, quorum de re disceptatur; sic enim olim loquebantur*.

According to the Arpinate's definition, *reos* are not only those who have been accused but everyone whose case is "debated" because, as he claims, "it used to be called like that".[12] The orator's claim is quite interesting, as it suggests that the term *reus* had quite a broad meaning. What is characteristic, he first uses the term *reus* referring to people who have been charged, and next he clarifies the notion by including these people whose case is debated. The above description can suggest that in Cicero's times the term *reus* was primarily used to denote a person against whom a charge has been brought but in the criminal procedure. According to A.W. Zumpt, in the earlier period the Romans used the term *reus* to refer both to the accused in the criminal procedure and to the defendant in the civil procedure because these procedures had the same forms.[13] Only later, when two separate procedures developed, the term *reus* was used primarily to denote the accused in the criminal procedure.[14] Such a thesis seems quite convincing when we consider the fact that the Romans first regulated the criminal procedure in statutes and then the procedure

[8] For example, see D. 48.4 (*Ad legem Iuliam maiestatis*), D. 48.5 (*Ad legem Iuliam de adulteriis coercendis*), D. 48.6 (*Ad legem Iuliam de vi publica*), D. 48.7 (*Ad legem Iuliam de vi privata*).

[9] More on the Romans' attitude to judicial proceedings in private cases and particularly to the rules governing these proceedings, see K. Amielańczyk, *U podstaw prawa prywatnego: „Rzymski proces cywilny" i jego zasady*, „Gdańskie Studia Prawnicze" 2010, vol. 24, p. 162 ff.

[10] Cf. A.W. Zumpt, *Der Kriminalprozess der Römischen Republik*, Aalen 1993, p. 141.

[11] W. Litewski, *op. cit.*, p. 78.

[12] Cf. translation of this fragment in: *Pisma krasomówcze i polityczne Marka Tuliusza Cycerona*, transl. E. Rykaczewski, Poznań 1873, p. 125.

[13] A.W. Zumpt, *op. cit.*, p. 158.

[14] *Ibidem*, p. 159.

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in civil matters. Thus, in accordance with Cicero's account, *reos* are perhaps not only those already charged and entered in the register of *inter reos*, but also those whose case is already *disceptatur*, including those who participate in the case even before an indictment is brought against them.

Even though it follows from the Arpinate's description that no separate term for the suspect (*suspectus*) was formulated in his times, on the basis of the cited account it can be inferred that two different procedural situations of *reus* were distinguished. In later sources, both legal and non-legal, such terms as *suspectus*, *suspecti* or *suspicionibus* appear,[15] but it is difficult to find a legal definition of the suspect (*suspectus*) as a party to the proceedings.

Did the Roman procedure differentiate the status of the accused depending on whether or not an indictment was brought against him and whether or not he was entered in the register of the accused? In order to answer this question, we should refer to the procedural practice and discuss in the first place how one of the most important procedural actions, that is filing a charge, looked like, especially as exemplified by the proceedings before *quaestiones*.

THE STATUS OF THE ACCUSED IN PROCEEDINGS BEFORE *QUAESTIONES PERPETUAE*

In the proceedings before the permanent standing courts which emerged in the late Republic period, the discussed action had a quite complicated character. First of all, if someone demanded that a charge should be brought, the so-called *postulatio actionis* took place. This was a procedural action during which the accuser requested the magistracy for permission to make a charge.[16] At that moment the praetor examined whether the accuser was eligible to bring a charge. If there were several candidates to carry out *accusatio*, then the so-called *divinatio* followed, that is the

[15] For example, see D. 48.18.22 (*Paulus libro primo sententiarum*): *Qui sine accusatoribus in custodiam recepti sunt, quaestio de his habenda non est, nisi si aliquibus suspicionibus urgueantur*; D. 48.18.1.1 (*Ulpianus libro octavo de officio proconsulis*): *...Ad tormenta servorum ita demum veniri oportet, cum suspectus est reus et aliis argumentis ita probationi admovetur, ut sola confessio servorum deesse videatur*; D. 48.18.1.27 (*Ulpianus libro octavo de officio proconsulis*): *Prudenter et egregia ratione humanitatis, Saxa carissime, primitivum servum, qui homicidium in se confingere metu ad dominum revertendi suspectus esset…*

[16] B. Santalucia, *Processo penale*, [in:] *Studi di diritto penale romano*, Roma 1994, p. 200; idem, *Le formalità introduttive del processo per quaestiones tardo-repubblicano*, [in:] *La repressione criminale nella Roma repubblicana fra norma e persuasione*, ed. B. Santalucia, Pavia 2009, p. 96; W. Litewski, *op. cit.*, p. 46. Cf. F. Botta, *Legittimazione, interesse ed incapacita all'accusa nei publica iudicia*, Cagliari 1996, p. 53 ff.

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proceedings aimed at selection of the best candidate for *accusator*.[17] *Postulatio* did not produce any other negative legal effects, at least for the accused, if no further steps were taken in the case.[18] At the moment of *postulatio*, the accused still had full civic rights. In the opinion of A.W. Zumpt, as soon as the standing courts were established and various trials were conducted, it frequently happened that one party only threatened to bring charges against another party.[19] *Postulatio* took place, but the proceedings were not continued. *Postulatio* was associated for the accuser only with a certain moral obligation to support the charge he wished to bring. It seems barely probable that there was a legal obligation to carry out *accusatio* or that there was any penalty for withdrawal from it.[20] However, if the accuser appointed in *postulatio* did not make any preparations for bringing a charge, the praetor was most probably authorized to designate another person who declared his readiness. When the praetor granted the accuser the right to file a charge, *nominis delatio* followed.

With considerable simplification or generalization according to some opinions in literature, *nominis delatio* consisted in bringing a charge in the proceedings before *quaestiones*.[21] According to B. Santalucia, the discussed procedural action was extremely complicated and its primary goal was to issue an indictment by a magistracy official.[22] Despite the fact that *nominis delatio* is regarded by some researchers as an act consisting in bringing a charge in the proceedings before *quaestiones*, *delatio* was an act that should not be identified with *accusatio* – on the contrary, it was the opposite of *accusatio*,[23] as it is rightly pointed out in the literature. During

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[17] A.H.J. Greenidge, *The Legal Procedure of Cicero's Time*, New York 1901, p. 459. See H.F. Hitzig, *s.v. divinatio*, "RE" 1903, vol. 5(1), p. 1234; M. Wlassak, *Anklage und Streitbefestigung im Kriminalrecht der Römer*, Wien 1917, p. 8 ff.; U. Brasiello, *s.v. divinatio*, [in:] *Novissimo Digesto Italiano*, eds. A. Azara, E. Eula, vol. 6, Torino 1960, pp. 32–33; A.N. Sherwin-White, *The Date of the Lex Repetundarum and its Consequences*, "JRS" 1972, vol. 62, p. 97 ff.; A.W. Lintott, *The leges de repetundis and Associate Measures Under the Republic*, "ZSS" 1981, vol. 98(1), p. 174 ff.; W. Litewski, *op. cit.*, p. 46.

[18] A.W. Zumpt, *op. cit.*, p. 141.

[19] *Ibidem*, p. 142.

[20] See D. 48.2.3.4 (*Paulus libro tertio de adulteriis*): *Si accusator decesserit aliave quae causa ei impedierit, quo minus accusare possit, et si quid simile, nomen rei aboletur postulante reo: idque et lege Iulia de vi et senatus consulto cautum est, ita ut liceat alii ex integro repetere reum. Sed intra quod tempus, videbimus: et utique triginta dies utiles observandi sunt*.

[21] See M. Bianchini, *Le formalità costitutive del rapporto processuale nel sistema accusatorio romano*, Milano 1964, p. 29; W. Kunkel, *Quaestio*, [in:] *Kleine Schriften. Zum römischen Strafverfahren und zur römischen Verfassungsgeschichte*, Weimar 1974, p. 74; W. Litewski, *op. cit.*, p. 20.

[22] B. Santalucia, *Le formalità…*, p. 104. Cf. idem, *Cicerone e la nominis delatio*, "Labeo" 1997, vol. 43, p. 404 ff.; idem, *Ancora in tema di nomis delatio*, "Labeo" 1998, vol. 44, p. 462 ff.; idem, *Nominis delatio e interrogatio legibus: un'ipotesi*, [in:] *Fides Humanitas Ius. Studii in onore di L. Labruna*, eds. C. Cascione, C.M. Doria, vol. 7, Napoli 2007, p. 4991 ff.; V. Giuffrè, *Nominis delatio e nominis receptio*, "Labeo" 1994, vol. 40, p. 359 ff.

[23] W. Mossakowski, *Accusator…*, p. 37 (footnote 8).

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the Republic period, the term *delatio* meant a denunciation or information about a crime given to a particular magistracy.[24] What is interesting, during the Empire period the term *delatio* also signified a denunciation made to the emperor's official.[25] Such *delatio* was presented to an official by a *delator* who – what should be remembered – was not a party to the criminal procedure.[26] Hence, the term *nominis delatio* ought to be translated literally as "presentation of a denunciation" not by a party to the proceedings yet, that is the accuser, but by a person informing that a crime has been committed (*delator*). Only after *nominis delatio*, that is after the praetor heard the denunciation, he decided on the potential accuser's right to bring a charge. At that stage of the procedure, it was also characteristic that the accused had no influence at all whether the praetor accepted the charge and rendered him – that is *de facto* suspect – *in reatu*.[27] According to W. Mossakowski, any formal charges which the accused had in his own case in the proceedings before *quaestiones* could be brought by him not earlier than at the trial.[28] Thus, in the researcher's opinion, the accused was devoid of any legal means at this stage of the procedure which would enable him to apply for rejection of the case.[29] The only exception, according to the researcher, was perhaps a potential charge: *bis de eadem re ne sit actio* brought at that stage of the proceedings. In such a case the praetor rejected the denunciation. Certainly, the only way to quash an attempt to file a charge was an institution of *iudicium de accusatore*, but it only pertained to the accuser and to undermining not so much his capacity to act in a judicial procedure – this was examined by the praetor during *postulatio actionis* – but his ability to be a party to specific proceedings, that is whether this accuser was an appropriate adversary, e.g., in connection with the fact that he held an influential position in the magistracy.[30] Such a situation is mentioned, e.g., by Cicero in his speech *pro Cluentio*,[31] when

[24] See Lex Acil. L. IV: [--- *sei quis pr(aetori) satis fecerit a rege populoue ceiueue suo se legatu*] *m esse utei peteret, de ea re eius petiti//o nominisque delatio esto…*]. Cf. W. Mossakowski, *Accusator…*, p. 37. The term *delatio* comes from the word *deferre* which means "denounce". See *Słownik łacińsko-polski*, ed. M. Plezia, vol. 2, Warszawa 2007, p. 51; H.F. Hitzig, *s.v. delatio nominis*, "RE" 1901, vol. 4(2), p. 2426.

[25] W. Mossakowski, *Accusator…*, p. 37 (footnote 8).

[26] W. Litewski, *op. cit.*, p. 31, 120. On the denouncer recently in the Polish Roman studies, i.a, see W. Mossakowski, *Delator w rzymskich procesach karnych*, „Studia Iuridica Toruniensia" 2013, vol. 12, pp. 201–219; D. Nowicka, *Quid enim si publica utilitas ex hoc emergit? Kilka uwag o informatorach w rzymskim*, pp. 25–36. Cf. O.F. Robinson, *The Role of Delators*, [in:] *Beyond Dogmatics: Law and Society in the Roman World*, eds. J. Cairns, P. du Plessis, Edinburgh 2007, pp. 206–220.

[27] As in W. Mossakowski, *Accusator…*, p. 39.

[28] *Ibidem*.

[29] Before the formal act of filing a charge, the accuser had to make an oath which was an essential requirement in criminal matters and which had to be fulfilled so that the accuser was able to participate in the proceedings as a party. Cf. A.W. Zumpt, *op. cit.*, p. 153.

[30] See B. Santalucia, *Le formalità…*, p. 99. Por. W. Litewski, *op. cit.*, p. 46.

[31] Cic. *pro Cluentio*, 34.94.

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in 66 B.C. jurors rejected an application for bringing a charge by a tribune of the plebs against Faustus Sulla – son of dictator Cornelius Sulla, claiming that *summa vis potestatis* of the tribune's office would put the accuser in a privileged position towards the accused.[32]

The first part of *nominis delatio* was the so-called *in ius eductio* that is a summons of the accused by the accuser to appear before an official. Such a summons was still used in *lex Tabulae Bembinae*, as well as in the proceedings before *quaestiones* in the last century of the Republic and in the first century A.D.[33] The presence of the accused during *nominis delatio* was not always obligatory, especially when he was correctly summoned by the accuser.[34] Despite the fact that in the Roman criminal procedure it was prohibited to conduct the proceedings when the accused did not appear,[35] his absence did not always impede the proceedings, especially at the time of the Republic.[36] The accused was sometimes brought by force, but the decision on this issue was taken by the chairman of *quaestio*.[37]

If the accused appeared before the magistracy, the accuser brought preliminary charges (*delatio*) which *de facto* consisted in informing – in the presence of an official – what crime he accused the suspect of. He did it by uttering the solemn phrase: *aio te*. We can learn how such a denunciation looked like from an account of Pseudo-Asconius:

> Ps. Ascon. 207: *...aio te Siculos spoliasse*.

The aforementioned statement can be translated as follows: "I claim that you have committed rip-offs to the detriment of the Sicilians".[38] Without doubt, at that

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[32] More broadly, see B. Santalucia, *Fausto Silla e il'iudicium de accusatore*, [in:] *Tradizione romanistica e Costituzione*, eds. M.P. Baccari, C. Cascione, vol. 1, Napoli 2006, p. 761 ff.

[33] See Lex Acil. L. 19: [*de nomine deferundo iudicibusque legundeis. vvv quei ex h(ace) l(ege) pequniam ab al*[*tero ante k(alendas) Sept(embres) petet, is eum, ubei (quadringenti quinquaginta) uirei in e*]*um annum lectei erunt, ad iudicem, in eum annum quei ex h(ace) l(ege)* [*factus*] *erit, in ious educito nomenque eius deferto*]. Cf. Santalucia, *Le formalità…*, p. 103. However, according to C. Venturini (*Studi sul 'crimen repetundarum' nell'età repubblicana*, Milano 1979, p. 136 ff.), *in ius eductio* did not consist in physical bringing of the accused before a magistracy official, but just in notifying the accused formally of the summons.

[34] As in A.W. Zumpt, *op. cit.*, p. 153, 156.

[35] W. Litewski, *op. cit.*, p. 47. More broadly, see K. Amielańczyk, *Postępowanie zaoczne: rzymskie i współczesne dylematy władzy sądowniczej*, „Studia Prawnoustrojowe" 2010, no. 12, p. 19 ff.

[36] The sources mention many cases from that period in which default judgements were given, e.g. the trial of Milon accused of killing Clodius, Caesar's murderers, or Sthenius of Thermae mentioned by Cicero in his speech against Verres. More broadly, see A.W. Zumpt, *op. cit.*, p. 153 ff. Cf. A.H.J. Greenidge, *op. cit.*, p. 473.

[37] Cf. A.W. Zumpt, *op. cit.*, p. 167 ff.

[38] B. Santalucia, *Le formalità…*, p. 104.

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moment the accuser presented a charge of committing a crime to the summoned *de facto* suspect who did not have formally the status of the accused yet.

The subsequent action was *interrogatio legibus* during which the accused was interrogated in connection with the charge presented to him. In the literature on the subject, it is emphasized that during *interrogatio* it was the accuser who put a number of questions to another party. Such conclusions are drawn by some researchers on the basis of an account by the unknown author of *Scholia Bobiensia*:[39]

Schol. Bob. 170: *Interrogationis autem non una species erat, sed variae, ut alia significaret accusationis denuntiationem, qualis illa praescribtio est orationis eius, qua usurus fuit, si eum P. Clodius legibus interrogasset; legibus etenim sic interrogabantur inquirente accusatore, an omnia secundum legum praescripta gesserit is, cui crimen intendebatur*.

As the scholiast informs, *interrogatio legibus* aimed at *denuntiatio accusationis*, that is the solemn notification of the intent to bring charges against a specific person. According to the scholiast's description, during the interrogation (*interrogatio*) the accuser asked this person a number of questions concerning the facts referred to in the accusation. At that moment, through *interrogatio legibus*, a magistracy official was informed about the alleged perpetrator. In the opinion of B. Santalucia, the entire procedural action of *nominis delatio* was carried out exactly through *interrogatio legibus*. Here we should answer the question whether the chairman of *quaestio* was completely passive during *interrogatio legibus*.

At that moment, the praetor learned about the subject matter of the potential accusation, that is the act the proceedings pertained to. It was the praetor who was supposed to continue the actions commenced by the accuser and hence to begin *nominis receptio*, that is to bring a formal indictment against the accused. According to A.W. Zumpt, during *interrogatio* it was the chairman of the tribunal who put questions to the accused.[40] In the researcher's opinion, such a conclusion can be drawn on the basis of Suetonius' account concerning the interrogation of the accused during a patricide trial at the time of Augustus. On the basis of the historian's account, it is not fully clear what the mode of the procedure was: regular before *quaestio de parricidis* or within the framework of *cognitio*. Views on this matter are divided in literature. J.M. Kelly claims that this case was adjudicated before the permanent penal tribunal.[41] Others, such as W. Kunkel,[42] H. Volkmann,[43] L. Fanizza,[44] and M. Jońca[45] argue that the proceedings took place within the

[39] *Ibidem*, p. 106.
[40] A.W. Zumpt, *op. cit.*, pp. 175–176. Cf. B. Santalucia, *Le formalità…*, p. 107.
[41] J.M. Kelly, *Princeps iudex*, Weimar 1957, p. 12 ff.
[42] W. Kunkel, *Das Konsilium im Hausgericht*, [in:] *Kleine Schriften…*, p. 137.
[43] H. Volkmann, *Zur Rechtssprechung im Principat des Augustus*, München 1969, p. 75.
[44] L. Fanizza, *Il parricidio nella sistema della lex Pompeia*, "Labeo" 1979, vol. 25, p. 279.
[45] M. Jońca, *Parricidium w prawie rzymskim*, Lublin 2008, p. 116.

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framework of *cognitio*. According to A.W. Zumpt, the fact that the accused was interrogated by the emperor during *interrogatio* confirms that such a practice was followed also before *quaestiones* during the Republic period.[46] The principal question put to the accused during *interrogatio* was whether he pleaded guilty to the act he was charged with or not. However, in the discussed case, Augustus formulated the question in a very original way:

> Suet, Aug. 33: *...certe patrem tuum non occidisti?*

The above-mentioned question can be translated as follows: "Certainly, you didn't kill your father, did you?".[47] Without examining the reasons for such behaviour of the emperor, who most probably formulated the question like that in order to give the interrogated a chance to deny and thus to improve his position during the proceedings, in such a situation the question should normally be phrased: "Did you kill your father?", but Augustus was at liberty to depart from this rule.[48] If the accused replied *nego*, that is "no", the subsequent stages of the procedure followed.

The following procedural action was *nominis receptio*, that is acceptance of the complaint by the praetor.[49] During the initial stage of the functioning of the standing courts, it was a rule that a complaint was lodged (*nominis delatio*) orally.[50] In such a situation, when the accusation was accepted, the praetor wrote a report with its content. The accuser signed the report and then its content was presented by the chairman to the accused.[51] This report was the proper indictment entered in the official register by the praetor. The act of entering the report, that is the indictment, into the register constituted *inscriptio inter reos* and only from that moment the accused became *reus*.[52] Next, the chairman of *quaestio* set the date on which the accused had to appear before standing criminal court. This was usually the tenth day from *nominis receptio*, but in some statutes establishing *quaestio* it was the thirtieth day.[53] If the accused did not appear before the court on the established day, the proceedings were continued *in absentia rei*.[54] Certainly, as it has already

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[46] A.W. Zumpt, *op. cit.*, p. 176.

[47] Quoted after: Gajusz Swetoniusz Trankwillus, *Żywoty Cezarów*, transl. J. Niemirska-Pliszczyńska, Wrocław–Warszawa–Gdańsk–Kraków 1972, p. 130.

[48] A.W. Zumpt, *op. cit.*, p. 177.

[49] B. Santalucia, *Cicerone e la nominis…*, p. 412. See R. Taubenschlag, *s.v. nomen recipere*, "RE" 1936, vol. 17(1), p. 816.

[50] As in W. Litewski, *op. cit.*, p. 46; similarly A.W. Zumpt, *op. cit.*, p. 147; more in W. Mossakowski, *The Introduction of an Interdiction of Oral Accusation in the Roman Empire*, "RIDA" 1996, vol. 43, pp. 269–281.

[51] A.W. Zumpt, *op. cit.*, p. 147.

[52] *Ibidem*, p. 158. Cf. J. Pfaff, *s.v. inscriptio in crimen*, "RE" 1916, vol. 18, p. 1561; M. Bianchini, *op. cit.*, p. 70 ff.

[53] A.H.J. Greenidge, *op. cit.*, p. 466.

[54] B. Santalucia, *Le formalità…*, p. 111.

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been mentioned, absence of the accused during the *in iure* phase did not stop the further course of the proceedings. In such a case, the chairman of *quaestio*, at the accuser's motion, registered the accused as *inter reos*, and then issued an edict on the basis of which the accused was obliged to appear before the court on the day ordered.[55] If the accused did not obey this order, the proceedings were continued in his absence (*in absentia rei*).[56]

On the basis of the discussed mode of bringing charges in the procedure before *quaestiones*, a thesis can be put forward that the procedural action referred to as *nominis delatio* presented not so much an accusation but rather a denunciation about a crime committed. During *nominis delatio* we did not deal with the accused yet, but with *de facto* suspect. The moment when the suspect was charged with a crime was *delatio*, which directly followed *in ius eductio*, that is a summons to appear before the magistracy. If the suspect did not appear before the praetor, he could even be brought by force,[57] and not – what is worth mentioning – only by *actor* (plaintiff) as in *ordo iudiciorum privatorum*. *Delatio* was followed by *interrogatio legibus*, that is interrogation of the suspect about the charges formulated against him in *delatio*, namely whether he pleads guilty or not. Thus, the whole procedural action of *nominis delatio* did not have the private-law character only, but the private-public law features.

THE STATUS OF THE ACCUSED IN *COGNITIO EXTRA ORDINEM*

In order to find out how the procedural status of the accused looked like in *cognitio extra ordinem*, it is certainly worth mentioning the commonly known trial of Jesus Christ.[58] Unfortunately, the Gospels of Mark, Matthew and Luke do not specify who brought charges in that case.[59] The Gospels mention only the high priests, the elders and the crowd. Certainly, in the Roman criminal procedure based on private prosecution, the law demanded that at least one specific person should have the role of the accuser.[60] Thus, taking into consideration this requirement, we

[55] A.W. Zumpt, *op. cit.*, p. 153.

[56] B. Santalucia, *Le formalità*..., p. 111. More broadly, see M. Ravizza, *Nomin Nominis receptio in absentia rei*, "IURA" 2000, vol. 51, p. 77.

[57] Cf. A.W. Zumpt, *op. cit.*, pp. 165–167.

[58] More on Jesus' trial, see i.a. M. Jońca, *Głośne rzymskie procesy karne*, Wrocław 2009, pp. 184–210; P. Święcicka, *Proces Jezusa w świetle prawa rzymskiego. Studium prawno-historyczne*, Warszawa 2012; G. Agamben, *Pilato e Gesu*, Roma 2013.

[59] M. Jońca, *Głośne rzymskie procesy*..., p. 201.

[60] D. 48.2.16 (*Ulpianus libro secundo de officio consulis*): *Si plures existant, qui eum in publicis iudiciis accusare volunt, iudex eligere debet eum qui accuset, causa scilicet cognita aestimatis accusatorum personis vel de dignitate, vel ex eo quod interest, vel aetate vel moribus vel alia iusta de causa*). Cf. M. Jońca, *Głośne rzymskie procesy*..., p. 201.

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can tentatively draw a conclusion that Jesus' trial was instituted ex officio by Pilate on the basis of *de facto* public denunciation which was most probably presented orally[61] – but can we be sure? Thus, how did the discussed procedure look like?

Without doubt, the first action was *delatio* during which the high priests, the elders and the crowd made charges against Christ, about which we read in the Gospel of Luke (Luke, 23.2): *...ηρξαντο δε κατηγορειν αυτου λεγοντες τουτον ευρομεν διαστρεφοντα το εθνος και κωλυοντα καισαρι φορους διδοναι λεγοντα εαυτον χριστον βασιλεα ειναι*.[62] After these charges were presented, the prefect decided to commence *interrogatio*, that is to interrogate the accused in order to confirm the charges brought against him. Thus, Jesus was taken into *praetorium* and interrogated. According to the Gospel of John, Jesus was asked three times whether he confirmed the charges made against him. What is interesting, the proceedings before Pilate had features of a procedure based on private prosecution in which both parties to the proceedings participated.[63] This can be corroborated by the fact that, as described by Luke the Evangelist, during *interrogatio* Pilate asked three times the high priests and the elders whether they supported the charges (Luke 23.22): *...ο δε τριτον ειπεν προς αυτους τι γαρ κακον εποιησεν ουτος*...[64] And Jesus was asked three times, is he the king of the Jews – according to the Gospel of John.[65]

Jesus did not reply and was treated according to the Republican principle governing the Roman criminal procedure which regarded silence as the act of pleading guilty.[66] If Jesus had denied the charges he would have formally become the accused and the proceedings could go further.

Undoubtedly, the prefect conducted *interrogatio* during the trial of Jesus in a characteristic manner. The accused was asked three times about the charges brought against him. Some opinions repeating the same question thrice during *interrogatio* was a manifestation of the interrogated person's right to defence.[67] From an account of Pliny the Younger, it is known that the same model of inter-

[61] About discussion on the mode in which Jesus' trial was instituted, see P. Święcicka, *op. cit.*, p. 196 ff., especially p. 201.

[62] "We have found this man subverting our nation. He opposes payment of taxes to Caesar and claims to be Messiah, a king".

[63] See P. Święcicka, *op. cit.*, p. 201. Cf. A. Wroe, *Ponc jusz Piłat*, Warszawa 2015, p. 264.

[64] "[…] for the third time he spoke to them: What crime has this man committed […]".

[65] See John 18.33: *εισηλθεν ουν εις το πραιτωριον παλιν ο πιλατος και εφωνησεν τον ιησουν και ειπεν αυτω συ ει ο βασιλευς των ιουδαιων* ("Pilate went into the praetorium again, and calling Jesus he said to him, 'Are you the King of the Jews'?").

[66] More on pleading guilty by the accused, see A. Chmiel, *Przyznanie się oskarżonego do winy w rzymskim procesie karnym*, „Zeszyty Naukowe KUL" 2017, vol. 60(3), p. 465 ff.

[67] Cf. A.N. Sherwin-White, *Roman Society and Roman Law in the New Testament (The Sarum Lectures 1960–61)*, Oxford 1963, p. 25 ff.; P. Święcicka, *op. cit.*, p. 217.

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rogation of the accused was also applied during trials of Christians.[68] Repeating the same question three times during interrogation confirms that the accused had specific procedural rights also at that stage of the proceedings. However, how can we explain the lack of professional counsel for the defence in Christ's trial? In trials, e.g., before *quaestiones* the accused obtained the full procedural rights when the standing court was already formed,[69] that is when the indictment was formally filed against the accused and he was registered as *inter reos*. Jesus was arrested and brought before the prefect.[70] At that stage of the proceedings, he did not formally have the status of the accused but had the role of the suspect who was arrested and brought to court.[71]

Another example illustrating the procedural status of the accused in *cognitio extra ordinem* is the case of Apollonius of Tyana presented by Flavius Philostratus. We can learn from his writings how the cognitional criminal procedure before the emperor's tribunal looked like at the time of Domitian. According to Philostratus' account, Apollonios – a philosopher, a magician, quite an influential statesman, and a friend of emperors from Nero to Nerva – was accused most probably by a professional denunciator who most likely took the role of the accuser in this trial.[72] The proceedings in his case were conducted by Elianus, the prefect of prae-

[68] Plin. Ep. 10.96: *Confitentes iterum ac tertio interrogavi supplicium minatus*. See: M. Jońca, *<In> iis qui ad me tamquam christiani deferebantur, hunc sum secutus modum. Środki dowodowe zastosowane w procesie chrześcijan pontyjskich w relacji Pliniusza Młodszego (Ep. 10,96)*, „Zeszyty Prawnicze UKSW" 2005, no. 5.2, p. 103; M.H. Dyjakowska, *Procesy chrześcijan w świetle korespondencji Pliniusza Młodszego*, [in:] *Cuius regio, eius religio*, eds. G. Górski, L. Ćwikła, M. Lipska, Lublin 2006, p. 36 ff.; M. Jońca, *Pliniusz Młodszy i chrześcijanie: próba oceny*, [in:] A. Dębiński, M. Jońca, I. Leraczyk, A. Łuka, *Korespondencja Pliniusza Młodszego z cesarzem Trajanem*, Lublin 2017, p. 160.

[69] Cf. W. Mossakowski, *Accusator*..., p. 39.

[70] In literature there are divided views whether the Roman soldiers participated in arresting Jesus or not. Some researchers conclude that they were present, on the basis of a fragment from the Gospel of John: "Then the detachment of soldiers with its commander and the Jewish officials arrested Jesus and bound him" (John 18.12). More broadly, see M. Sobczyk, *Proces Jezusa oczami historyka i prawnika*, „Studia Iuridica Toruniensia" 2013, vol. 12, p. 235.

[71] It is worth mentioning here that according to the Polish Criminal Procedure Code the right to be silent has been granted both to the suspect and to the accused, but not to the arrested person. The Polish legislator has not granted *expressis verbis* this right to the arrested person, even though such a person also has the right to defence (see K.T. Boratyńska, *Podejrzany*, [in:] *System Prawa Karnego Procesowego*, vol. 6: *Strony i inni uczestnicy procesu karnego*, ed. C. Kulesza, Warszawa 2016, p. 726). Moreover, nowadays the suspect is entitled to demand to be interrogated in the presence of the counsel for the defence, even though the absence of defence counsel during interrogation does not halt it (Article 301 of the Criminal Procedure Code). See K. Zgryzek, *Zasada prawa do obrony oskarżonego*, [in:] R. Koper, K. Marszał (ed.), J. Zagrodnik (ed.), K. Zgryzek, *Proces karny*, Warszawa 2017, p. 139.

[72] S. Ruciński, *Etapy postępowania w procesie Apolloniosa z Tyany przed trybanałem cesarskim Domicjana*, [in:] *Studia Flaviana II*, ed. L. Mrozewicz, Poznań 2012, p. 185.

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torians, who – according to Philostratus – made quite an interesting statement on the discussed case:

> Philostr. *Apoll.* VII, 17: The accuser wanted to say something more inappropriate, but Elianus stopped him with the words: "Let me set the date of trial and interrogate him one-on-one, without your participation. If he pleads guilty, the judicial proceedings will be shortened and you will leave in peace, but if he denies everything, the case shall be adjudicated by the emperor".[73]

On the basis of the above-mentioned account, it is noticeable that the scheme applied towards the accused within *cognitio extra ordinem* was similar before various judicial bodies. First, the accuser presented his *delatio*, that is the potential charge in the proceedings. The accused was summoned by an official or brought by force and then *interrogatio* took place. In the case of Apollonius, perhaps due to the gravity of the offence (the subject matter was most probably *crimen laesae maiestatis*), *interrogatio* was conducted without participation of the public and was secret. An official of the emperor interrogated the accused about the charges. If the accused denied, a formal indictment was filed against him, and then he was entered in the register of the accused (*inscriptio inter reos*), thus obtaining the status of a party to the proceedings, while the procedure was continued. No wonder then that at this stage of the trial of the accused Apollonius, there was no counsel for the defence. As we can see, the Roman criminal procedure was governed by its own rules, quite strict in comparison to our realities.

A very interesting account, in which the term *suspecti* (suspects) appears, is given by Ammianus Marcellinus. It is worth quoting it here:

> Amm. *Res gestae*, XXVIII, 1.8–9: *8. …Chilo ex vicario et coniux eius Maxima nomine, questi apud Olybrium ea tempestate urbi praefectum, vitamque suam venenis petitam adseverantes inpetrarunt ut hi, quos suspectati sunt, ilico rapti conpingerentur in vincula, organarius Sericus et Asbolius palaestrita et aruspex Campensis. 9. …verum negotio tepescente propter diuturnam morborum asperitatem, qua tenebatur Olybrius, morarum inpatientes hi, qui rem detulerunt, libello petiverunt oblato, ut examinandum iurgium praefecto mandaretur annonae, idque studio celeritatis concessum est*.

According to this account, Chilon – a former official of the emperor and a vicar – and his wife Maxima accused Sericus – an organist, Asbolius – a wrestler, and Campensis – a haruspex, before Olybrius – the city's prefect, of an attempt to poison them. As a result of their actions, the above-mentioned suspects (*suspecti*) were quickly arrested and thrown into prison. Due to the prolonged illness of Olybrius, the case was not settled. Finally, the married couple, impatient about this situation, made a request to entrust this case to the praefectus annonae. Their application was granted owing to the intent to speed up the proceedings.

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[73] Translation: Flawiusz Filostartos, *Żywot Apollonisa z Tyany*, translation, introduction and comments M. Szarmach, Toruń 2000, quoted after: S. Ruciński, *op. cit.*, p. 194.

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The historian's account is quite interesting. His description does not offer many details of the case, but it is important that *suspecti* – as he refers to the perpetrators of the attempt to poison Chilon and his wife – became *ilico rapti conpingerentur in vincula*, that is immediately, promptly arrested and thrown into prison, most probably as soon as *questi* were brought against them. The historian's account does not provide any information which procedural actions were undertaken between the moment the charges were brought by Chilon and his wife and the apprehension of potential culprits: Whether they were interrogated by the city prefect in connection with the charges presented to them. However, it can be inferred from the historian's description that such actions were probably not taken, because the official only managed to issue an order to arrest them, while further actions, such as *interrogatio*, were prevented by his disease. Hence, it seems that Ammianus rightly and consciously referred to the perpetrators as *suspecti*, being aware of their procedural status.

The fact that obtaining the status of the accused in the Roman criminal procedure was associated with specific procedural actions and constituted a certain process as a result of which the accused became *reus*, is best corroborated by the wording of particular titles in Justinian's Digest, the Codex Justinianeus and the Codex Theodosianus. For instance, the second title of Book XLVIII of Justinian's Digest is *De accusationibus et inscriptionibus*, that is *On accusations and on entering them in the court's register of trials*.[74] The same titles are used in the Codex Theodosianus and the Codex Justinianeus, in the first and second title of Book IX of these legal acts respectively: C.Th. 9.1 (*De accusationibus et inscriptionibus*), C. 9.2 (*De accusationibus et inscriptionibus*). As regards the wording of the above-mentioned titles, it is characteristic that two separate procedural actions are distinguished in them, namely: *accusatio* – connected with bringing a charge; *inscriptio* – pertaining to entry in the register of the accused.

The phrasing of some provisions pertaining to the accused in these legal acts is also quite interesting. For instance, in Justinian's Digest we can encounter a statement: *Is qui reus factus est…* ("Who became the accused…").[75] As can be seen, obtaining the status of the accused in a trial was connected with a certain procedure which led to the accused becoming *reus*.

[74] See *Digesta Iustiniani. Digesta Justyniańskie. Tekst i przekład*, ed. T. Palmirski, vol. 7, part 2, Kraków 2017, p. 13. Cf. M. Kuryłowicz, *Librii terribiles. Z historii rzymskiego prawa karnego*, [in:] *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci Profesora Andrzeja Wąska*, eds. E. Skrętowicz, Z. Hołda, L. Leszczyński, Lublin 2005, p. 751.

[75] D. 48.1.5 pr. (*Ulpianus libro octavo disputationum*): *Is qui reus factus est purgare se debet nec ante potest accusare, quam fuerit excusatus: constitutionibus enim observatur, ut non relatione criminum, sed innocentia reus purgetur*. See *Digesta Iustiniani…*, p. 9.

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CONCLUSION

This discussion enables us to put forward a thesis that such participants as the suspect and the accused were known in the Roman procedural practice, despite the fact that neither the Roman legislator nor jurisprudence developed separate terms or definitions to indicate their different procedural status. The key moment that distinguished the status of the accused was a formal act of lodging the indictment against him and entering his name in the register of the accused (*inter reos*). From that moment the accused became *reus*, that is a rightful party to the proceedings who was able to use his procedural rights fully.

REFERENCES

Agamben G., *Pilato e Gesu*, Roma 2013.

Amielańczyk K., *Postępowanie zaoczne: rzymskie i współczesne dylematy władzy sądowniczej*, „Studia Prawnoustrojowe" 2010, no. 12.

Amielańczyk K., *U podstaw prawa prywatnego: „Rzymski proces cywilny" i jego zasady*, „Gdańskie Studia Prawnicze" 2010, vol. 24.

Bianchini M., *Le formalità costitutive del rapporto processuale nel sistema accusatorio romano*, Milano 1964.

Boratyńska K., *Podejrzany*, [in:] *System Prawa Karnego Procesowego*, vol. 6: *Strony i inni uczestnicy procesu karnego*, ed. C. Kulesza, Warszawa 2016.

Botta F., *Legittimazione, interesse ed incapacita all'accusa nei publica iudicia*, Cagliari 1996.

Brasiello U., *s.v. divinatio*, [in:] *Novissimo Digesto Italiano*, eds. A. Azara, E. Eula, vol. 6, Torino 1960.

Chmiel A., *Dzieła naukowe jurystów rzymskich w zakresie prawa karnego*, „Studia Iuridica Lublinensia" 2016, vol. 25(3), **DOI: https://doi.org/10.17951/sil.2016.25.3.151**.

Chmiel A., *Przyznanie się oskarżonego do winy w rzymskim procesie karnym*, „Zeszyty Naukowe KUL" 2017, vol. 60(3).

Chmiel A., *Zasada kontradyktoryjności w rzymskim procesie karnym*, „Zeszyty Naukowe Uniwersytetu Rzeszowskiego. Seria Prawnicza. Prawo" 2018, vol. 101(22), **DOI: https://doi.org/10.15584/znurprawo.2018.22.3**.

Digesta Iustiniani. Digesta Justyniańskie. Tekst i przekład, ed. T. Palmirski, vol. 7, part 2, Kraków 2017.

Dyjakowska M.H., *Procesy chrześcijan w świetle korespondencji Pliniusza Młodszego*, [in:] *Cuius regio, eius religio*, eds. G. Górski, L. Ćwikła, M. Lipska, Lublin 2006.

Fanizza L., *Il parricidio nella sistema della lex Pompeia*, "Labeo" 1979, vol. 25.

Flawiusz Filostartos, *Żywot Apollonisa z Tyany*, translation, introduction and comments M. Szarmach, Toruń 2000.

Gajusz Swetoniusz Trankwillus, *Żywoty Cezarów*, transl. J. Niemirska-Pliszczyńska, Wrocław–Warszawa–Gdańsk–Kraków 1972.

Giuffrè V., *Nominis delatio e nominis receptio*, "Labeo" 1994, vol. 40.

Greenidge A.H.J., *The Legal Procedure of Cicero's Time*, New York 1901.

Hitzig H.F., *s.v. delatio nominis*, "RE" 1901, vol. 4(2).

Hitzig H.F., *s.v. divinatio*, "RE" 1903, vol. 5(1).

Jońca M., *Głośne rzymskie procesy karne*, Wrocław 2009.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 22/11/2026 10:53:18

Jońca M., *<In> iis qui ad me tamquam christiani deferebantur, hunc sum secutus modum. Środki dowodowe zastosowane w procesie chrześcijan pontyjskich w relacji Pliniusza Młodszego (Ep. 10,96)*, „Zeszyty Prawnicze UKSW" 2005, no. 5.2, **DOI: https://doi.org/10.21697/zp.2005.5.2.05**.

Jońca M., *Parricidium w prawie rzymskim*, Lublin 2008.

Jońca M., *Pliniusz Młodszy i chrześcijanie: próba oceny*, [in:] A. Dębiński, M. Jońca, I. Leraczyk, A. Łuka, *Korespondencja Pliniusza Młodszego z cesarzem Trajanem*, Lublin 2017.

Kelly J.M., *Princeps iudex*, Weimar 1957.

Kunkel W., *Das Konsilium im Hausgericht*, [in:] *Kleine Schriften. Zum römischen Strafverfahren und zur römischen Verfassungsgeschichte*, Weimar 1974.

Kunkel W., *Quaestio*, [in:] *Kleine Schriften. Zum römischen Strafverfahren und zur römischen Verfassungsgeschichte*, Weimar 1974.

Kuryłowicz M., *Librii terribiles. Z historii rzymskiego prawa karnego*, [in:] *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci Profesora Andrzeja Wąska*, eds. E. Skrętowicz, Z. Hołda, L. Leszczyński, Lublin 2005.

Lintott A.W., *The leges de repetundis and Associate Measures Under the Republic*, "ZSS" 1981, vol. 98(1), **DOI: https://doi.org/10.7767/zrgra.1981.98.1.162**.

Litewski W., *Rzymski proces karny*, Kraków 2003.

Mossakowski W., *Accusator w rzymskich procesach de repetundis w okresie republiki*, Toruń 1994.

Mossakowski W., *Delator w rzymskich procesach karnych*, „Studia Iuridica Toruniensia" 2013, vol. 12, **DOI: https://doi.org/10.12775/SIT.2013.010**.

Mossakowski W., *The Introduction of an Interdiction of Oral Accusation in the Roman Empire*, "RIDA" 1996, vol. 43.

Nowicka D., *Quid enim si publica utilitas ex hoc emergit? Kilka uwag o informatorach w rzymskim prawie karnym*, [in:] *Pro publico bono – idee i działalność*, eds. M. Marszał, J. Przygodzki, Wrocław 2016.

Pfaff J., *s.v. inscriptio in crimen*, "RE" 1916, vol. 18.

Pisma krasomówcze i polityczne Marka Tuliusza Cycerona, transl. E. Rykaczewski, Poznań 1873.

Ravizza M., *Nominis receptio in absentia rei*, "IURA" 2000, vol. 51.

Robinson O., *The Role of Delators*, [in:] *Beyond Dogmatics: Law and Society in the Roman World*, eds. J. Cairns, P. du Plessis, Edinburgh 2007.

Ruciński S., *Etapy postępowania w procesie Apolloniosa z Tyany przed trybanałem cesarskim Domicjana*, [in:] *Studia Flaviana II*, ed. L. Mrozewicz, Poznań 2012.

Santalucia B., *Ancora in tema di nomis delatio*, "Labeo" 1998, vol. 44.

Santalucia B., *Cicerone e la nominis delatio*, "Labeo" 1997, vol. 43.

Santalucia B., *Fausto Silla e il'iudicium de accusatore*, [in:] *Tradizione romanistica e Costituzione*, eds. M.P. Baccari, C. Cascione, vol. 1, Napoli 2006.

Santalucia B., *Le formalità introduttive del processo per quaestiones tardo-repubblicano*, [in:] *La repressione criminale nella Roma repubblicana fra norma e persuasione*, ed. B. Santalucia, Pavia 2009.

Santalucia B., *Nominis delatio e interrogatio legibus: un'ipotesi*, [in:] *Fides Humanitas Ius. Studii in onore di L. Labruna*, eds. C. Cascione, C.M. Doria, vol. 7, Napoli 2007.

Santalucia B., *Processo penale*, [in:] *Studi di diritto penale romano*, Roma 1994.

Sherwin-White A.N., *Roman Society and Roman Law in the New Testament (The Sarum Lectures 1960–61)*, Oxford 1963.

Sherwin-White A.N., *The Date of the Lex Repetundarum and its Consequences*, "JRS" 1972, vol. 62, **DOI: https://doi.org/10.2307/298929**.

Słownik łacińsko-polski, ed. M. Plezia, vol. 2, Warszawa 2007.

Sobczyk M., *Proces Jezusa oczami historyka i prawnika*, „Studia Iuridica Toruniensia" 2013, vol. 12, **DOI: https://doi.org/10.12775/SIT.2013.011**.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 22/11/2026 10:53:18

Święcicka P., *Proces Jezusa w świetle prawa rzymskiego. Studium prawno-historyczne*, Warszawa 2012.
Taubenschlag R., *s.v. nomen recipere*, "RE" 1936, vol. 17(1).
Venturini C., *Studi sul 'crimen repetundarum' nell'età repubblicana*, Milano 1979.
Volkmann H., *Zur Rechtssprechung im Principat des Augustus*, München 1969.
Waltoś S., Hofmański P., *Proces karny. Zarys systemu*, Warszawa 2018.
Wlassak M., *Anklage und Streitbefestigung im Kriminalrecht der Römer*, Wien 1917.
Wroe A., *Ponc jusz Piłat*, Warszawa 2015.
Zgryzek K., *Zasada prawa do obrony oskarżonego*, [in:] R. Koper, K. Marszał (ed.), J. Zagrodnik (ed.), K. Zgryzek, *Proces karny*, Warszawa 2017.
Zumpt A.W., *Der Kriminalprozess der Römischen Republik*, Aalen 1993.

ABSTRAKT

Niniejszy artykuł został poświęcony próbie udzielenia odpowiedzi na pytanie, czy rzymski proces karny znał takiego uczestnika, jak podejrzany. Zarówno przeanalizowana procedura, zwłaszcza wnoszenia oskarżenia w postępowaniu przed *quaestiones*, jak i przywołane przykłady spraw karnych rozstrzyganych w ramach *cognitio* potwierdzają, iż Rzymianie różnicowali pozycję oskarżonego i podejrzanego pomimo tego, że nie wypracowali oddzielnych pojęć i definicji na określenie dwóch różnych ról procesowych, w których występowali w procesie. Istotnym momentem w rzymskim procesie karnym, który różnicował pozycję oskarżonego, było wpisanie jego nazwiska na listę oskarżonych (*inscriptio inter reos*), co następowało dopiero wówczas, kiedy został przeciwko niemu wniesiony akt oskarżenia. Dopiero od tej chwili oskarżony stawał się *reus*, czyli pełnoprawną stroną procesową, która mogła korzystać w pełni ze swoich praw procesowych.

Słowa kluczowe: oskarżony; podejrzany; *quaestiones*; rzymski proces karny; *inscriptio inter reos*; *cognitio*