

Salinae in Justinian's Digest

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Abstract. *This paper explores the references on the term salinae from Justinian's Digest. Our approach is a semantic analysis of this term in various juridic contexts, such as: allowing permission by the state to constitute corporations for saltworks; the interdiction to alienate a saltpan from a pupillus; collecting the tax on salt-works; establishing the usufruct of inherited saltpans; the recognition of saltworks owners as publicani; the imposition of serving in saltworks as a punishment for a crime; exploring gender issues (the appliance of the same type of penalty to men and women convicted to saltworks labour); the obligation to acknowledge for the census the saltpans; the recognition of the tax on saltworks as a "public" one.*

Rezumat. *Acest articol explorează referințele privind termenul salinae din Digestele lui Iustinian. Abordarea noastră este o analiză semantică a acestui termen în diferite contexte juridice, precum: permisiunea acordată de stat pentru a fonda corporații pentru ocne; interdicția de a înstrăina exploatarea de sare ale unui pupillus; impunerea unei taxe pe ocne; stabilirea uzufructului pentru exploatarea de sare moștenite; recunoașterea proprietarilor exploatărilor de sare ca publicani; impunerea muncii în ocne drept pedeapsă pentru o infracțiune; explorarea problemelor de gen (aplicarea aceluiași tip de pedeapsă bărbaților și femeilor condamnați la muncă silnică în ocne); obligația de a recunoaște fiscal exploatarea de sare; recunoașterea statutului de taxă "publică" asupra exploatărilor de sare.*

Keywords: salinae, Justinian's Digest, semantic analysis.

State of the art

The starting point of this research consists in the idea that even if we do not have archaeological traces of salt mining exploitation in Dacia, "La Dacie est la seule province où il y a des mentions sur les *conductores salinarum* ou *conductores pascui et salinarum*"². The term salinae, reflected in various contexts of literary and epigraphical Latin sources, drawn the attention of specialists from different perspectives, such as: the geographical position of salinae in coastal and inland areas, extraction, exploitation, production techniques,

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² BÎRLIBA 2016, 56.

administrative personal, taxation, administrative control, etc.³ As far as the juridic sources, we must underline the importance of the salinae in the Roman law, since we have from 1743 a book with a chapter entitled *De iure salinarum apud Romanos*⁴. The researches conducted on salt from an anthropological perspective have revealed important linguistic reflexes on different levels (vocabulary, anthroponymy, toponymy, etc.), and lead us to a more detailed investigations. Our paper intends to discuss the semantic field of the term *salinae*, by underlying the variety of lexemes in the framework of this semantic field, with a strong Mediterranean mark. The issue raised by our research concerns the degree in which the semantics of the term *salinae* can be imagined in different juridic aspects in Roman Empire. The ambiguity of this term has only been suggested in the exegesis, without further examination of contexts: “non e facile definire la pertinenza semantica di termini come *salinae*, *salarii*, o *salinatores*. Per le prime, infatti, non e sempre facile capire se si trattasse di saline vere e proprie, miniere di sale o depositi...saline pubbliche (che potevano però anche essere miniere di salemma”⁵.

Etymology and derivatives of sal

The Latin term *sal* is a derivative from the Proto-Indo-European root **sal-*: **sēh₂-l-s* [nom.], **sh₂-él-m* [acc.], **sh₂-l-ós*; **sh₂-l-d-* / **sh₂el-d-* / **seh₂l-d-* = ‘salt’. It is emphasised in many languages, e.g. Greek: ἅλς; Welsh: *halen*; Latvian: *sāls*; = ‘salt’; Old Church Slavonic *solŭ*; Russian: *sol*; German: *Salz*; Serbian-Croatian: *so*; Lithuanian: *Žem. Sólymas* = ‘saltpan’⁶, etc. The Latin term *sal*, *-is*⁷ has developed a various lexical arborescence⁸, among which the terms *salinae*, *-arum*: ‘salt-pans, salterns salt-works; a district of Rome by the porta Trigemina’; *salifodina*, *-ae*: ‘a salt pit’.

³ BATTAGLINI 2005; BELTRÁN COSTA 2007, 899–922; CARUSI 2007, 325–342; 2008, 353–364; GARCÍA VARGAS, MARTÍNEZ MAGANTO 2006, 253–274; GIOVANNINI 1985, 373–386; LAGÓSTENA BARRIOS 2007, 301–323; MEIGGS 1973; MOINIER 1985, 73–103; MORELLI, OLCESE, ZEVI 2005, 43–55; MORÈRE 2008, 365–380; 2010, 1465–1473; 2011, 155–161; NAPOLI 2007, 157–161; TRAINA 1992, 364.

⁴ JUNG 1743.

⁵ TRAINA 1992, 373–374.

⁶ DE VAAN 2008, 535; PORUCIUC 2011, 215.

⁷ ‘common salt (sodium chloride), pl. lumps of salt, as symbol of hospitality; salt water, brine; poetic (the sea); a sort of flaw in precious stones; a quality which gives ‘life’ or ‘character’ to a person or thing; (of speech) wit; pl. examples of wit jokes witticisms’.

⁸ E. g. *salacitas*, *-atis*; *salarium*, *-ii*; *salarius*, *-a*, *-um*; *salarius*, *-ii*; *via salaria*; *salax*, *-acis*; *salacia*, *-ae*; *salgama*, *-orum*; *salgamarius*, *-ii*; *salillum*, *-i*; *salinator*, *-oris*; *salinum*, *-i*; *sal(l)itura*, *-ae*; *saliunca*, *-ae*; *saliva*, *-ae*; *salivarium*, *-ii*; *salivarius*, *-a*, *-um*; *salivatium*, *-i*; *salivo*, *-are*, *-avi*, *-atum*; *salivosus*, *-a*, *-um*; *salmacides*, *-ae*; *salmacidus*, *-a*, *-um*; *salmacis*, *-idis*; *sal(l)io*, *-ire*, *-ivi*, *-tum*; *sallo*, *-ere*, *-sum*; *salsamentarius*, *-a*, *-um*; *salsamentum*, *-i*; *salsarius*, *-a*, *-um*; *salsilago*, *-inis*; *salsipotens*, *-ntis*; *salsitudo*, *-inis*; *salsugo*, *-inis*; *salsura*, *-ae*; *salsus*, *-a*, *-um*.

Juridic evidences⁹

Neque societas neque collegium neque huiusmodi corpus passim omnibus habere conceditur: nam et legibus et senatus consultis et principalibus constitutionibus ea res coercetur. paucis admodum in causis concessa sunt huiusmodi corpora: ut ecce vectigalium publicorum sociis permissum est corpus habere vel aurifodinarum vel argentifodinarum et salinarum¹⁰.

[Associations and guilds and similar corporations are not allowed to be formed by all persons without discrimination; this is a thing which is kept within certain limits by statutes and decrees of the senate and imperial enactments. It is only in very few kinds of cases that such corporate bodies are allowed; for example, the power of constituting a corporation is permitted to partners in government vectigalia, as well as in gold mines, silver mines and salt mines.]¹¹

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Sed et si salinas habeat pupillus, idem erit dicendum¹².

[And the same applies and the pupillus owns a salt pans].¹³

*

Si quis ita heredem instituerit: "Titius qua ex parte mihi socius est in vectigali salinarum, pro ea parte mihi heres esto", quidam putant, si asse descripto id adiectum sit, ut maxime socius fuerit titius, non esse heredem, sed si qua pars vacua relicta fuerit, ex ea heredem esse. quod totum et ineptum et vitiosum est: quid enim vetat asse descripto utiliter titium ex parte fore quarta, ex qua socius erat, heredem institutum esse?¹⁴

[If a person instituted an heir as follows. "let Titius be heir to me in same share as that in which he is partner with me in collecting the tax on salt-works," some authorities think that if this has been added after twelve shares in the inheritance have been set out, however much Titius was a partner, he is not heir, but if any share [of the inheritance] has been left unfilled, he is heir in respect of that. This is wholly inept

⁹ For a recent analytic insight into the *Digest*—the compendium of 50 books of juridical texts—, see HONORÉ 2010. This book addresses a set of issues related to the character and the compilation of Justinian' Digest, the methodology and scope, the organisation of the work itself and the editing, examines the Appendix and the controversy linked to the paternity of Ulpian's texts.

¹⁰ *Dig. 3.4.1.pr.-1 (Gaius 3 ad ed. provinc.).*

¹¹ LIU 2009, 104. The importance of *salinae* is emphasized by the allowance of *corpus habere*, "that is, the legal capacity to hold common property and a common treasury, to be represented by an agent (an *actor* or *syndicus*), and to sue and to be sued as a collective entity".

¹² *Dig. 27.9.5.1 (Ulpianus 35 ad ed.).*

¹³ CARUSI 2007, 337. The Roman authorities had the monopoly on the salt exploitation in Rome, but not in all the provinces of the Empire, where the Roman law stipulates different juridic regulations.

¹⁴ *Dig. 28.5.60.1 (Celsus 16 Dig.).*

and unsound; for what is there to prevent Titius from being effectually instituted heir for, say, the quarter share which he had as partner after twelve shares in the inheritance have been set out?]

*

Uxori usum fructum domuum et omnium rerum, quae in his domibus erant, excepto argento legaverat, item usum fructum fundorum et salinarum: quaesitum est, an lanae cuiusque coloris mercis causa paratae, item purpurae, quae in domibus erat, usus fructus ei deberetur. respondit excepto argento et his, quae mercis causa comparata sunt, ceterorum omnium usum fructum legatariam habere. Idem quaesit, cum in salinis, quarum usus fructus legatus esset, salis inventus sit non minimus modus, an ad uxorem ex causa fideicommissi usus fructus pertineat. respondit de his legandis, quae venalia ibi essent, non sensisse testatorem¹⁵.

[A man had legated to his wife the usufruct of houses and of all the things that were in those houses except the silver, likewise, the usufruct of farms and salt-pans. It was asked whether the usufruct of wool of various colors intended for sale, likewise, of purple which was in the houses, was owed to her. He replied that with the exception of the silver and those things which were intended for sale, the legatee had the usufruct of everything else. The same man asked, when a considerable amount of salt was found in the salt-pans of which the usufruct had been legated, whether the usufruct of it belonged to the wife by the terms of the fideicommissum. He replied that the testator had not intended to legate those things which were there to be sold].¹⁶

*

Sed et hi, qui Salinas et cretifodinas et metalla habent, publicanorum loco sunt¹⁷.

[However, people who have saltworks, chalk-pits, and mines also count as publicani.]¹⁸

*

In ministerium metallicorum feminae in perpetuum vel ad tempus damnari solent. simili modo et in salinas. et si quidem in perpetuum fuerint damnatae, quasi servae poenae constituuntur: si vero ad tempus damnantur, retinent civitatem¹⁹.

[Women are usually sentenced to the service of those working in the mines, for life or for a term, just as is the case with reference to the salt-pits. Where they are sentenced for life, they are considered penal slaves; but if they are sentenced for a prescribed term, they retain their civil rights.]

¹⁵ Dig. 33.2.32.2-3 (Scaevola 15 Dig.).

¹⁶ On the usufructuary in case of a coal mine and not a salt-pans, see FRIER & MCGINN, 2004, 398.

¹⁷ Dig. 39.4.13pr. (Gaius 13 ad ed. provinc.).

¹⁸ About the complex significance of the term *publicanus*, see FLECKNER 2010, 157; FERNÁNDEZ BAQUERO 2012, 172-173.

¹⁹ Dig. 48.19.8.8 (Ulpianus 9 de off. procons.).

*Mulier in opus salinarum ob maleficium data et deinde a latrunculis exterae gentis capta et iure commercii vendita ac redempta in causam suam reccidit. Cocceio autem Firmo centurioni pretium ex fisco reddendum est*²⁰.

[A woman, condemned to the saltworks for a crime, was subsequently captured by petty brigands of a foreign nation and sold under the rules of trade. She was ransomed and reverted to her proper condition. The price paid was to be restored to Cocceius Firmus, a centurion, from the imperial treasury].²¹

*

*Salinae si ^ sie^ quae sunt in praediis, et ipsae in censum deferendae sunt*²².

[If estates possess saltpans, they too must be declared for the census.]

*

*"Publica" vectigalia intellegere debemus, ex quibus vectigal fiscus capit: quale est vectigal portus vel venalium rerum, item salinarum et metallorum et picariarum*²³.

[We must also regard as "public" those taxes from which the imperial treasury derives revenue, such as a harbor tax or a tax on saltworks, mines, and pitch factories.]

Conclusion

The analysis of these juridic sources shows a series of contexts in which the term *salinae*, a polisemantic word (salt-pan or saltwork), appears in the *Digestae* in the following contexts: *allowing permission by the state to constitute corporations for saltworks; the interdiction to alienate a saltpan from a pupillus; collecting the tax on salt-works; establishing the usufruct of inherited saltpans; the recognition of saltworks owners as publicani; the imposition of serving in saltworks as a punishment for a crime; exploring gender issues (the appliance of the same type of penalty to men and women convicted to saltworks labour); the obligation to acknowledge for the census the saltpans; the recognition of the tax on saltworks as a "public" one.*

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²⁰ *Dig. 49.15.6 (Pomponius 1 ex var. lect.).*

²¹ TRIMBLE 2011, 316 — on gender issues, see the discussion about the intentioned use of the word *mulier*, attributed usually to *humiliores*.

²² *Dig. 50.15.4.7 (Ulpianus 3 de cens.).*

²³ *Dig. 50.16.17.1 (Ulpianus 10 ad ed.).*

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