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History of Romanian Law

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Content

Chapter I

Thracian tribes and the Thracian state of Burebista _____ 1

1. The organization of Thracian tribes in the area between the Carpathian Mountains, the Black Sea and the Danube in pre-state era _____ 1
 - 1.1. Governing bodies of the Thracians in the pre-state era _____ 2
 - 1.2. Norms of conduct of the Thracians in pre-state era _____ 3
2. Formation of the Thracian states _____ 7
 - 2.1. The emergence of the Thracian state of Burebista _____ 8
 - 2.2. The essence and form of the Thracian state of Burebista _____ 9
 - 2.3. Organization of the Thracian state of Burebista _____ 11
3. Thracian law _____ 12

Chapter II

The Roman Province of Dacia _____ 16

1. Roman Province of Dacia and its stages of organization _____ 16
2. Central governing bodies in the Roman Province of Dacia _____ 18
 - 2.1. Governor _____ 18
 - 2.2. Concilium Provinciae Daciarum Trium _____ 21

3.	Financial organization in the Roman Province of Dacia_____	22
4.	Military organization of the Roman Province of Dacia_____	23
5.	Local organization in the Roman Province of Dacia _____	24
6.	Law in the Roman Province of Dacia _____	28
6.1.	Legal status of the person _____	28
6.2.	Property in the Roman Province of Dacia _____	30
6.2.1.	Quiritary property_____	30
6.2.2.	Provincial property_____	31
6.2.3.	Peregrine property _____	33
6.3.	Marriage, family and successions in the Roman Province of Dacia _____	34
6.4.	Triptychs from Transylvania _____	35
6.4.1.	Loan contracts _____	37
6.4.2.	Employment contracts (<i>locatio operarum</i>)_____	38
6.4.3.	Sale contracts_____	39

Chapter III

Village or territorial communities _____	42
1. Romanian ethnogenesis _____	42
2. The characteristics of village or territorial communities _____	45
3. Organization of village or territorial communities _____	47
4. Norms of conduct within village or territorial communities _____	49

- 5. The emergence of feudal production relations and feudal political structures _____ 52

Chapter IV

Law of the Land – Public law institutions _____ 54

- 1. Law of the Land – Genesis _____ 54
- 2. Law of the land – Public law institutions _____ 57
 - 2.1. The Sovereign _____ 58
 - 2.2. The Royal Council _____ 63
 - 2.3. Central Officials _____ 64
- 3. Organization of the church according to the Law of the Land _____ 66
- 4. Administrative organization of the territory according to the Law of the Land _____ 69

Chapter V

Law of the Land – Private law institutions _____ 74

- 1. *Dominium eminens* _____ 74
- 2. *Feudal immunities* _____ 76
- 3. *Dominium utile* _____ 77
 - 3.1. The princely property _____ 78
 - 3.2. The aristocratic property _____ 78
 - 3.3. The monastic property _____ 79
 - 3.4. Peasant property _____ 80
- 4. Status of persons in the Law of the Land _____ 83
- 5. Kinship and Marriage in the Law of the Land _____ 87
- 6. Inheritance in the Law of the Land _____ 88
- 7. Collective liability provisions _____ 90
- 8. Contracts in the Law of the Land _____ 91

9.	Provisions of the Law of the Land relating to guarantees _____	93
10.	Brotherhood on the estates _____	95
11.	Provisions of the Law of the Land relating to evidence _____	96

Chapter VI

First written regulations _____	100
1. Ecclesiastical regulations _____	100
2. Secular regulations _____	103
3. Written law in the Transylvanian Voivodeship (1176-1541) _____	107
4. Written law in Transylvania during the autonomous principality under Ottoman suzerainty (1541-1683) _____	109
5. Written law in Transylvania during the autonomous principality under Habsburg suzerainty (1683-1848) _____	110

Chapter VII

The Phanariot regime (1711-1821) _____	112
1. Central governing bodies in the first stage of the Phanariot regime _____	112
2. The Reforms of Constantin Mavrocordat _____	115
3. Central governing bodies in the second stage of the Phanariot regime _____	117
4. Financial, military and church organization in the second stage of the Phanariot regime _____	120
5. Territorial and administrative organization in the second stage of the Phanariot regime _____	122

6.	Regulations in the second stage of the Phanariot regime _____	123
6.1.	Classification, authors, sources, structure _____	123
6.2.	Property in the second stage of the Phanariot regime _____	126
6.3.	Persons in the second stage of the Phanariot regime _____	127
6.4.	Kinship and marriage in the second stage of the Phanariot regime _____	128
6.5.	Inheritance in the second stage of the Phanariot regime _____	130
6.6.	Contracts in the second stage of the Phanariot regime _____	131

Chapter VIII

The evolution of Law between 1821 and 1848 _____ 134

1.	The Revolution of 1821 _____	134
2.	The Akkerman Convention _____	135
3.	The peace treaty of Adrianople _____	137
4.	Organic Regulations _____	138
5.	Central governing bodies between 1821-1848 _____	140
5.1.	The Sovereign _____	140
5.2.	Central officials _____	141
5.3.	Administrative Council and Extraordinary Administrative Council _____	141
5.4.	The Royal Divan _____	142
5.5.	Extraordinary Public Assembly _____	142
5.6.	Ordinary Public Assembly _____	142

6. The evolution of law between 1821-1848 ___ 143

Chapter IX

From 1848 to the United Principalities _____ 145

1. The Revolution of 1848 _____ 145
2. Peace Treaty of Paris – 1856 _____ 146
3. The Paris Conference and Convention
of 1858 _____ 148
4. Formation of the modern Romanian
national state (1859-1861) _____ 150
5. Asserting the sovereignty of the United
Principalities at internal and international
level _____ 151

Glossary _____ 153

Bibliography _____ 163

Chapter II

The Roman Province of Dacia

1. Roman Province of Dacia and its stages of organization

The conquest of Dacia by the Romans was possible after two military campaigns carried out by Emperor Trajan^[1] in the years 101-102 and 105-106 AD. At the end of the second war, Sarmizegetusa was conquered by the Roman legions, and the tragic death of King Decebal marked the end of the Geto-Dacian state^[2].

After two long and exhausting wars, part of the Dacian population perished, another part fled from the path of the Romans in today's northern Romania, and a large part remained in the conquered territory, being subjected to a new form of organization.

In 106 AD, Emperor Trajan turned Dacia into a Roman province, occupying only part of the original territory of Decebalus' state. Territorially, the province adjusted its borders during three organizations.

In the first stage, between 106-117 AD, the territories of Northern Transylvania (the historical provinces of Crişana and Maramureş), along with Northern Moldova, were not

^[1] Roman Emperor, at the helm of the Empire in the period 98-117 AD.

^[2] M. Guţan, *op. cit.*, p. 15.

under Roman domination, being inhabited by free Dacians, refugees from the second Roman war.

Southern Moldova and a large part of Muntenia's plain, along with the southeastern corner of Transylvania (the region between the Olt River and the Carpathian Mountains), were incorporated into the province of Moesia Inferior.

The remaining territory of Decebal's former state, namely Transylvania without the Northern part, and without the South-East corner, along with Banat and Oltenia were part of the unitary Province of Dacia Augusta.

The second stage started in 117 AD, the year of Emperor Trajan's death, when the free Dacians from the northern area, together with other conquered populations, tried to remove the Roman administration through repeated attacks. With a view to effective military organization, Emperor Hadrian^[1], divided the province into Dacia Superior, which included the territory of the unitary province, with the exception of Oltenia, and Dacia Inferior, which included the territory of Oltenia, the South-Eastern corner of Transylvania and part of Western Muntenia, the latter two originally being part of the province of Moesia Inferior.

Seven years later, in 124 AD, Emperor Hadrian decided to separate the territories north of the rivers Mureş and Arieş, forming the province of Dacia Porolissensis, a militarized zone, used for defense against attacks from the North.

The third stage began in 168 AD, and lasted until the Aurelian Retreat (271-275 AD). Emperor Marcus-Aurelius^[2] united Dacia Superior and Dacia Inferior, forming Dacia

^[1] The successor of Emperor Trajan, in charge of the Roman Empire in the period 117-138 AD.

^[2] Roman Emperor, at the helm of the empire between 161-180 AD.

Apulensis. In the year 169 AD Oltenia and part of western Muntenia were separated, forming Dacia Malvensis^[1]. Dacia Parolissensis remained within the known limits after the second stage of the organization. In this form, the Roman province preserved its borders until the Aurelian retreat.

2. Central governing bodies in the Roman Province of Dacia

Roman provinces, in the first stage of the Roman Empire, were divided into imperial and senatorial provinces. The classification was made according to their economic and military importance^[2].

Throughout its existence, Dacia was an imperial province, unpacified^[3], being placed under the administration of the Emperor, who was represented by a trustee, who performed the function of Governor.

2.1. Governor

He acted as a representative of the Emperor, bearing the title "*legatus augusti*". The terminology used shows that the

^[1] The location of Dacia Malvensis province is not unanimously accepted by historians. In one opinion it was estimated that it would have been located in the West of Banat (E. Cernea, E. Molcuț, *op. cit.*, p. 24). In another opinion, it was shown that Dacia Malvensis included all of Oltenia (M. Bărbulescu, D. Deletant, K. Hitchins, Ș. Papacostea, P. Teodor, *Istoria României*, Corint Educațional Publishing, Bucharest, 2014, p. 49). We will consider the latter opinion, as it has been seen as most plausible in recent decades.

^[2] M. Guțan, *op. cit.*, p. 17.

^[3] A.J. Andrei, *Istoria statului și a dreptului ... (I)*, *op. cit.*, p. 50.

governor was a deputy of the Emperor in the province, being an executor of the imperial policy. He was a Roman magistrate, which is why he had the right to publish an edict (*jus edicendi*) showing how he would fulfill his duties during the mandate^[1].

In the **unitary province of Dacia Augusta**, the governor was called "*legatus augusti pro praetore*", he was recruited from the senatorial order^[2] and had consular rank^[3]. In terms of military attributions, the governor of consular rank could command several Roman legions, and in terms of administrative and judicial attributions, he had full powers. His prerogatives came from "*imperium pro consulare*" – terminology that designates the attributions and power of the Roman consul.

The capital of the province and the governor's residence were located in *Colonia Ulpia Traiana Augusta Dacica Sarmizegetusa*.

In the province of **Dacia Superior**, the governor continued to bear the title of "*legatus augusti pro praetore*", he was recruited from the senatorial order, but had the rank of praetor^[4]. This title grants the right to command a single Roman legion. The governor had administrative powers, and

^[1] C.I. Murzea, R. Matefi, *op. cit.*, p. 15.

^[2] It designates the social category of Roman aristocrats, respectively members of the Senate and their descendants.

^[3] He had previously served as consul in Rome.

^[4] He had previously served as praetor in Rome. The importance of the praetor, as a Roman magistrate, was inferior to the importance of the consul, who held the highest magistracy that emerged during the Roman Republic (509 BC - 27 BC). During the time of the Principate (27 BC - 284 AD), the republican magistrates lost their importance, but continued to exist.

judicially he was entitled to decide on the application of the death penalty.

The provincial capital remained in Colonia Ulpia Traiana, but the governor's residence was moved to Apulum, where a Roman legion was stationed.

In the province of ***Dacia Inferior***, the governor held the title of "*procurator augusti*" and came from the equestrian order^[1]. His competences in administrative matters were inferior to those exercised by "*legatus augusti*", and in military matters, the governor did not have the right to command Roman legions.

Both the provincial capital and the governor's residence were located in the town of Drobeta.

In the province of ***Dacia Porolissensis***, initially, the management belonged to a "*procurator augusti*", but later, after the stationing of legion V Macedonica in the fortress of Porolissum, the management of the province was taken over by the commander of this legion. Appointing a military commander as head of the administration was due to the province's role in enabling effective defense against attacks from the north. Therefore, Dacia Porolissensis was more important from a military, perspective, rather than a social or economic one.

The capital of the province was initially in the city of Porolissum, but the governor's residence alternated between Porolissum and Napoca.

In ***Dacia Apulensis***, the governor held the title of "*legatus augusti pro praetore Daciae Trium*" (of the three Dacias), came from the senatorial order and had consular rank, the province regaining its importance from the time of

^[1] Specific to the social category of knights, known in ancient Rome.

Emperor Trajan. The governor exercised duties of coordinating the activity in all three provinces.

Colonia Ulpia Traiana acquired the title of "Metropolis Daciarum Trium", being one of the most important cities of the Roman Empire. The governor's residence was established at Apulum.

Dacia Malvensis was led by a "*procurator augusti*", originating from the equestrian order. Since governing the province of Dacia Malvensis was achieved through the centralization of power by the governor of Dacia Apulensis, the remaining attributions were restricted and predominantly of light administrative nature.

Both the provincial capital and the governor's residence were located in the town of Malva.

2.2. Concilium Provinciae Daciarum Trium

It was a consultative organism, composed of representatives from every city of the province. We know that it appeared in the third stage of organization, during the reign of Emperor Marcus-Aurelius.

Its duties concerned all areas of life in the provinces; however, the Council could not take concrete measures. While exercising its functions, it had two possibilities: either approve the measures of the provincial administration, or make complaints against them, to the Emperor^[1].

The main task was to maintain the imperial cult and the cult of Rome as a means of strengthening social cohesion, loyalty and devotion to the Roman leadership.

It met annually in the Augustals Palace situated in Colonia Ulpia Traiana Sarmizegetusa, and the assembly was

^[1] E. Cernea, E. Molcuț, *op. cit.*, p. 25.

presided over by the leader of the Augustals, called "*Sacerdos arae augusti*".

3. Financial organization in the Roman Province of Dacia

It was led by a financial procurator based in Colonia Ulpia Traiana.

In Dacia Augusta, in Dacia Superior and Dacia Apulensis the financial procurator was recruited from the equestrian order and was directly subordinated to the governor. Along with the financial procurator there were officials with specific duties, called "*tabulari*" (accountants in charge of calculating taxes), "*librarii*" (recorders) and "*dispensatores*" (cashiers).

In Dacia Inferior and Dacia Malvenis, the duties of the financial procurator were exercised by the governor, respectively by "*procurator augusti*". The situation was the same, initially, in Dacia Porolissensis. Later, after the government of the province was taken over by the commander of Legion V Macedonica, its financial organization was attributed to a special financial procurator, who had inferior powers to a governor from the equestrian order.

We know that in each province taxes were divided in three categories:

- (i) **Direct taxes**, called *tributum*: the tax on land (*tributum soli* or *stipendium*) and the tax on the head of the inhabitant (*tributum capitis*);
- (ii) **Indirect taxes**, called *vectiglia*: for receiving an inheritance or freeing a slave – 5% of the value; for the sale of a slave – 4% of the value; for the sale of goods – 1% of the value;

- (iii) **Customs duties**, called *portoria*: levied by a customs procurator for the movement of goods and people – 2,5% on the value of goods. They were charged both when crossing the borders of the province and when entering certain cities^[1]. These were initially collected by a tenant of the customs service (called *conductor*), but, after the province's third stage of organization, they were collected by members of the equestrian order^[2]. Customs offices were organized on the territory of Dacia, both at the borders and inside the province. These were run by public slaves (called *servi villici*)^[3]. Dacia, along with Moesia Superior and Moesia Inferior, made up the customs district of Illyricum^[4].

4. Military organization of the Roman Province of Dacia

Dacia was, throughout its existence, an unpacified province. Although several Roman legions passed through its territory, only four were stationed.

^[1] D. Țop, O. Mastacan, *op. cit.*, p. 24.

^[2] E. Cernea, E. Molcuț, *op. cit.*, p. 26.

^[3] The public slaves came, as a rule, from among the populations conquered by the Romans. These were people with a high level of qualification in their country of origin, to whom the Romans offered the opportunity to work in the interest of the state. If they refused, they could be sold in the slave markets as war pray. Unlike ordinary slaves who, according to Roman law, could not own property, public slaves were paid, could acquire property, even other slaves. They had an intermediate status between a free man and a slave.

^[4] E. Cernea, E. Molcuț, *op. cit.*, p. 26.