

## **Pirate attack as a risk factor in Roman private law**

„Which ships are safer: merchant ships or warships? - The ones that are pulled ashore...” - was one of the most popular jokes of antiquity. In the eyes of the Greeks and Romans, the sea was an extremely dangerous element and sailing always involved great risks. In addition to natural dangers, the Mediterranean was also lurking for pirates. Seneca the Elder wrote of them: *...pirates, (...) men brutalised by every sort of cruel deed, for whom right and wrong are a jest, plunderers by land and sea, whose profession is to attack the property of others, in arms. Such men, cruel even to look at, used to human blood, carrying before them chains and bonds destined to weigh heavily on their captives—could you turn them aside from their desires? Amid so many greater crimes, the deflowering of a virgin is for them an act of innocence* (transl. M. Winterbottom). A characteristic of the pirates was their flexibility. They carried out raids both at sea and on land, in coastal ports and villages. They also had land bases in hard-to-reach places, which made it easier for them to rebuild their power after a possible defeat. They were even described as amphibious, likening them to creatures comfortable in and out of water.

The problem of piracy at sea was of great importance in Roman private law, which considered an attack by pirates to be a case of force majeure. The aim of the project is to study this phenomenon on the basis of legal and literary sources, as well as documents of legal practice. A preliminary analysis points to several important problems. As far as the contract of deposit is concerned, the literary sources contain indications that it was concluded in order to protect goods from being plundered by pirates. In addition, in both the deposit and the comodate, jurists point to the possibility that the party giving up the thing is a pirate, which raises complex legal issues. Also of great importance is the fact that in many cases the parties have decided to include in the contract a clause transferring the risk of force majeure, which is confirmed by legal texts and documents of legal practice, as well as by the valuation of the thing. The question of the status of things looted by pirates, which has not yet been addressed in the literature, also needs to be examined. Issues of exoneration should also be analysed in the context of absence and the calculation of the passage of time in the running of a deadline. The institution of the ransom paid to the pirates in the context of the relationship between the captive and the ransomer, but also the question of the binding force of the promise made to the pirates, also seems to be a very important issue. The source texts point to a very interesting mental construction of *dolus bonus*, or 'good deception', which made it possible to justify the deception of maritime robbers.