

# **Glossa Iuridica**

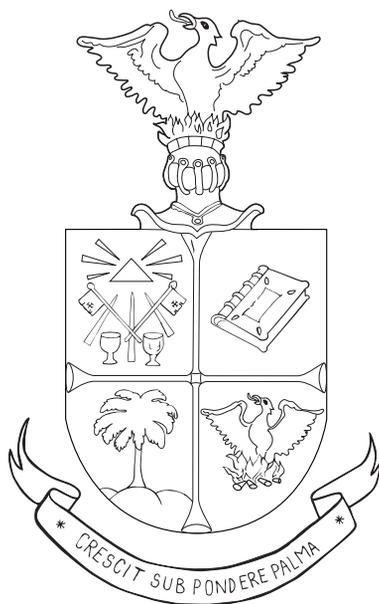
VIII. évfolyam, 3. szám



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# ROMAN DIPLOMACY IN ANCIENT ROME<sup>1</sup>

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## Abstract

The terminus technicus “diplomacy” applies to a number of instruments by which states and nations manage their relations and communicate with each other – including a lot of international mechanisms and institutions the role of which is to facilitate above all peaceful coexistence. There was nothing to assure the existence of most of these institutions in the Roman world, where there were no permanent diplomatic missions or delegations of individual states abroad to protect their geopolitical interests and provide the necessary assistance to citizens in an emergency situation abroad. With a “lack” of permanent diplomatic missions in ancient Rome, ad hoc Roman diplomats were sent abroad et vice versa in order to negotiate specific peace treaties to ensure the undisturbed development of Rome’s economic, trade and cultural relations with surrounding cities, nations or more distant powers.

## Keywords

diplomacy, ius fetiale, international, treaty, diplomatic mission

*“Quod bonum, felix, faustum, fortunatumque sit”*<sup>2</sup> – a well know, longer Roman formula, ceremonially, conservatively and rigidly observed within indisputable historical traditions during many centuries, opening any official act of Roman kings and *pontifices*, from the times of the kingdom trough the solemn acts of higher republican magistrates until the fall of the *res publica*. In the middle of the 2<sup>nd</sup> century B.C., the Greek historian Polybios<sup>3</sup>, combining the admiration, but also the criticism of the Romans, highlighted

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1 „This work was supported by the Slovak Research and Development Agency under the Contract no. APVV-19-0419.“

2 Abbreviated Q.B.F.F.Q.S.: “May the outcome be good, propitious, lucky and successful”.

3 Between c. 200 and c. 188 B.C., he dealt in his works with Roman history in the period of 220–146 B.C., i.e., until the end of the third and last Punic War.

particularly the Roman “constitution”, laws, morals and principles, and the allegiance of the citizens to the leaders of the state. One hundred years later, his ‘colleague’ and successor in the line of Roman historians, Sallustius<sup>4</sup>, who was also a relatively successful person in political life, described the Roman reality, unfortunately, completely differently – the Roman nobility is corrupt<sup>5</sup> and Rome is literally “a city of sale”<sup>6</sup>. The outlined historical trend in the 1<sup>st</sup> century B.C. was ‘underlined’ by Livy<sup>7</sup>, stating that he considered his times to be a period “when we can endure neither our vices nor the remedies to cure them [...]”. The Roman state had the sixth century of its existence behind it, and its proudest era – the period of the republic – began to show inevitable tendencies and effects of decay. However, the particular reasons were complex, and stemmed from the very foundations of the Roman state. While the ‘constitution’ of the republic was referred to by historians as the Rule of Law, during the 2<sup>nd</sup> and 1<sup>st</sup> centuries B.C. it turned into a free play of political forces. The once famous Roman people became indifferent, available to any political adventurer who wanted to use them. The Senate was fragmented into a lot of political cliques and factions that put their selfish interests above the public interest. The impossibility of a flexible administration of the large empire – especially after the successful end of the Punic Wars<sup>8</sup> – and the lack of unity of the central government allowed strong, self-made individuals to grow who, either lawfully or unlawfully, gradually began to establish themselves vigorously in political life. Let us go back and focus primarily on Rome’s foreign policy towards allies, Latins, and foreign powers. Before moving on to the period investigated by us, we will make a short stop with a reference to a historical excursion into the Roman annals concerning the creation of legislation

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4 Full name Gaius Sallustius Crispus (86–35 B.C.), a political member of the popular party, like M. T. Cicero – the so-called *homo novus*.

5 See also the infamous statements of the Numidian king Jugurtha that if he had more money during his stay in Rome, he would buy the entire Senate; or the scandalous accusation of G. Sempronio Gracchus, similarly addressed to the Senate, in the infamous division of the Roman province between Nicomedes, the king of Bithynia, and Mithridates, the king of Pontus – see also BRUNT, Peter, Astbury: *Italian Manpower, 225 B.C.–A.D. 14*, Oxford 1971, 145 *et seq.*

6 See also: FICO, Miroslav: *Vybrané aspekty trestania a jeho a jeho účelu v rímskom a uhorskem práve*. Košice, Univerzita P. J. Šafárika, 2010, 183-191.

7 See the comprehensive works: LIVY, Titus: *Dějiny I–VII.*, Prague, Svoboda, 1971.

8 On slavery question see: DOBROVIČ, Ľuboš: *Otroctvo v rímskom práve*. Košice, 2015, 185-189.

among 'nations'. Historical sources mention that the knowledge of things, divine and human, *divinarum atque humanarum rerum notitia*, was already well known to Numa Pompilius, to some extent the creator of the first Roman laws, although about a hundred years later, during the reign of Servius Tullius, the right to interpret the law in Italy belonged, perhaps paradoxically for someone, to the famous mathematician Pythagoras of Samos<sup>9</sup>. Historically, the first documented Roman treaty between Rome and another Italian city after the founding of the City was concluded during the reign of Tullus Hostilius through a special priestly college of the Fetiales with Alba Longa<sup>10</sup> – “these conditions the people of Rome will not be the first to go back from without a false, malicious intent”, and as also stated by Livy, “however, the memory of no other treaty is older”<sup>11</sup>. Another example of the ancient application of the rules of *ius inter gentes* and in general the rules of natural law – today we could also say the rules of diplomatic law – was the situation that occurred after an obvious, flagrant conspiracy against the Roman Republic by the envoys of the exiled king Tarquinius Superbus from the Italian cities of Veii and Tarquinii, in order to overthrow the newly created republican establishment of Rome. In this context, Livy uses the phrase “there was some hesitation in dealing with the envoys”, and although the envoys had evidently been guilty of a hostile act, the consuls respected the long-held custom that the envoys of a foreign power enjoyed an unassailability even in such a case; however, there was also a possibility, albeit probably theoretical, to request their extradition after their return to the home community/state in order to punish them.<sup>12</sup> In today’s modern world, the term ‘diplomacy’ mostly refers to a number of means by which sovereign states and nations manage their relations and communicate with each other –including a lot of international mechanisms and institutions

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9 See ALONSO, Victor: *War, Peace, and International Law in Ancient Greece*. in: RAAFLAUB, Kurt A. (ed.): *War and Peace in the Ancient World*. Oxford, Wiley-Blackwell, 2007, 212–225. These were speeches near the cities of Heraklion, Croton, and Metapont.

10 Which resulted in the famous battle of the Horatii and Curiatii and the domination of the city of Rome over Alba Longa. Cf. WATSON, Alan: *International Law in Archaic Rome*. Baltimore–London, Johns Hopkins University Press, 1993, 25 *et seq.*

11 Although some historians mention as the oldest peace treaty the one that, according to legends, Romulus concluded with the Italian (formerly Etruscan) city of Veii – mainly because of the trade interests of Rome competing with that of Veii.

12 Cf. the case described in STEIN, Peter: *Roman law in European history*. Cambridge, Cambridge University Press, 1999, 94 *et seq.* It deals with the involvement of a Spanish ambassador in the conspiracy against Elizabeth I, Queen of England.

the role of which is to facilitate peaceful coexistence, cultural exchanges, economy, and trade. Of course, most of these institutions undoubtedly had no parallel in the 'Roman world', where there were no permanent diplomatic missions or delegations of individual states abroad to protect their geopolitical interests and provide the necessary assistance to citizens in an emergency situation abroad. And yet... With a 'lack' of permanent diplomatic missions in ancient Rome, *ad hoc* Roman diplomats were sent abroad *et vice versa* in order to negotiate specific peace treaties to ensure the undisturbed development of Rome's economic, trade and cultural relations with surrounding cities, nations or more distant powers, because without such 'missions' communication between Rome and its foreign partners would not be possible at all. Contemporary scholars, when addressing the topic of relationships between Rome and other ancient communities, have emphasised the Roman perspective. Roman empire has always been considered the leading figure in economic, diplomatic and cultural exchanges in the Mediterranean area; and every kind of relationship that arose in this context has been seen as an expression of the Roman hegemonic plan. If we wish to analyse the alliances and friendship between Rome and other communities we have to examine evidence on treaties entered into between the Romans and other communities concerning military cooperation and good relations. In the earliest period, Rome was a hegemonic power at the helm of the federation of the Italic peoples – Latins (*Latinum nomen*) and Italic *socii* – united in permanent military alliances concerning the supply of troops and ships to allies. This uniformity of alliance relations changed when Rome entered the Mediterranean area. As from the third century B.C., in the treaties concluded between Rome and non-Italic peoples, terms like *amicitia* and *societas* frequently appear. Sometimes the term *amicus*, sometimes *socius*, and sometimes even *socius et amicus* were used to describe the same situation. In the latter case (*socius et amicus*), the meaning of the hendiadys must be examined.<sup>13</sup> The phenomenon has not gone unnoticed: from an initial simplification of *amicitia et societas* to mere „*amicitia*“ in the monumental structure of Mommsen,<sup>14</sup> the more recent scholarly interpretation has come to evaluate the specific meaning of the hendiadys in connection with the political development of Rome. Mommsen, on the

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13 CURSI, Floriana Marina: International relationship in the Ancient World. *Fundamina*, 2014, 20 (1), 186.

14 MOMMSEN, Theodor: *The History of Rome (Volume 2.)*. Cambridge, Cambridge University Press, 2010, 68 et seq.

basis of a formal similarity, examined the two categories of people *amici* and *socii et amici*. Although he introduced a tripartite scheme of international relationships – *amici*, *socii* and *socii et amici* – Mommsen did not explain the nature of this intermediate category between *amici* and *socii*. However, when he draws attention to the affinity between *socii et amici* and *amici*, it permits us to view *societas et amicitia* as a form of collaboration, not a form of subjection. At the beginning of the last century, interest in the topic emerged in two almost contemporary contributions, those of Matthaei<sup>15</sup> and Sands<sup>16</sup>. Matthaei, relying on Mommsen, considers the term *socius et amicus* to be nothing more than an official title bestowed by the Romans on their friends, assuming that when a treaty of friendship was revised, the term *amicus* obliged the Romans to provide their friends with military aid, adding *societas* to *amicitia*. The treaty of *amicitia* and *societas* would be devised as a compromise between the Roman need to establish perpetual relationships (*amicitia*) and the need for foreign peoples, especially the Greeks, to conclude temporary alliances (*societas*). The hendiadys would be used with increasing frequency from the second century BC onwards, in connection with the growth of political and military power of Rome, to highlight the status of inferiority of their friends, until their final transformation to *socii*. This last consideration is based on the power relations in the Mediterranean area. Some authors point to the transformation of the original relation of friendship to one more onerous for foreign people, because it included the duty to cooperate in the military campaigns of the hegemonic power. This last duty, while it did not compromise the sovereignty of the community friend and ally of the Romans, politically placed the people under Roman influence. To sum up, some scholars have denied the specificity of the relation of alliance and friendship, referring to its coincidence with friendship. Others have emphasised the technical character of the hendiadys developed when Rome came to the Mediterranean area and its relationship to its political weight. It is certain, however, that the perspective from which the phenomenon has been studied is Roman: Rome expanded into the Mediterranean area and built relationships with foreigners according to its own patterns that sometimes suited the needs of the people with whom it came into contact. The framework of the relationships

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15 MATTHAEI, Louise Emmanuel: On the Classification of Roman Allies. *Classical Quarterly*, 1907, 1(2–3), 185.

16 SANDS, Percy Cooper: *The Client Princes of the Roman Empire under the Republic*. Cambridge, Cambridge University Press, 1908, 10.

among the people in the Mediterranean area before the coming of Romans seems so uniform that it enables us not only to reconstruct the contents of the Roman treaties of *amicitia et societas*, but also to re-interpret the Roman imperialist approach. From the Roman perspective, the hendiadys *amicitia et societas* used in the treaties with non-Italic people during the third century B.C. is certainly unusual, considering that in its early relations with the Italic people Rome built its hegemony on military alliances by treaties of *societas* (Italic *socii*). But if we shift the perspective from the Romans to the people in the Mediterranean area, we realise that not only was there an intense exchange and sharing of cultural models even before the coming of Rome, but also that such models profoundly influenced the Roman approach in the Mediterranean area, forcing Rome to rethink its scheme of international relations<sup>17</sup>. When Gruen<sup>18</sup> in a revisionist study of Roman imperialism considers the use of the Roman model of Italic *societas* to modify the new relationship with the Greeks, he warned that “we enter slippery terrain” considering that the terms used in the *foedera*, and in particular the *clausula maiestatis*, rarely come to light and that their examination will be conditioned by the dichotomy of *foedus aequum/foedus iniquum* improperly used by scholars to interpret the phenomenon of Roman international relationships. This perplexity about the terms used in the treaties as well as the presence of the *clausula maiestatis* leads Gruen to conclude that Rome could not use the *clausula maiestatis* as a standardised tool of its hegemonic policy, so that Rome did not create politically unequal treaties. Gruen believes rather that the Romans used the flexible tool of *φιλία* or *amicitia* to create “informal associations”, reinterpreting the Hellenistic patterns for their own purposes, leaving aside the treaties that according to Gruen would have played a small role in history of relations between Rome and Greece. In other words, before the third century B.C. *amicitia* was not a diplomatic tool used by the Romans. It was taken from the Greeks, as was the expression *amicitia et societas*. For the Greeks, however, friendship described a relationship lacking the element of power: “*amicitia* was a presumption of cordiality, not an imposition of duties”. Even after the Peace of Apamea in 188 B.C. between Rome and Antiochus III, after the Roman victories at Thermopylae in 191 B.C. and at Magnesia in the following year,

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17 Cf. CURSI, cit.op., 187.

18 GRUEN, Erich Stanley: *The Hellenistic World and the Coming of Rome*. Berkeley–Los Angeles–London, University of California Press, 1984, 25.

Rome would have changed the meaning of the terms *amicitia* and *societas*. Although the heavy defeat of Antiochus had removed any doubt about the superiority of the Roman army, the *amicitia* would still not have involved mutual obligations, while remaining as flexible a tool as ever. During this period, Gruen adds, the authority of Rome in the Mediterranean area started to be undisputed, and many of its friends were actually subservient dependents. Nevertheless, *amicitia* retained its original meaning according to Greek traditional practices. The Romans did not rely on friendship, says Gruen, to justify their wars: Roman propaganda took another form, such as the proclamation of Greek freedom. The hypothesis developed by Gruen is an original one and even if not accepted by all, it opens a new perspective on relationships between people in the Mediterranean area, with friendship viewed as a diplomatic tool pre-existing the arrival of Rome in this area. However, let us take it step by step. There is no doubt that the dichotomy *foedus aequum/foedus iniquum* cannot be applied to the Roman experience. Indeed, the category of *foedus iniquum* did not originate in Roman experience but is based on the contribution of Hugo Grotius who reconsidered the Roman sources on unequal treaties, introducing the notion of *foedus inaequale*, semantically similar to *foedus iniquum*, and contrasted with situations where *summum imperium (foedus aequum)* was fully preserved. This does not mean, however, that the Romans did not conclude treaties based on a range of unequal relationships, tending towards the gradual standardisation to *deditio*. If we want to fix dates, we can note that even before Roman expansion after the Second Punic War, special clauses were inserted that made provision for conditions of inferiority. This was done as from the signing of the Treaty with the Aetolians in 189 B.C. until the insertion of the *clausula maiestatis*, conceived as a general clause that formalised the inferiority of the peoples allied with Rome. But we can go even further and suggest that there was no specific clause, but that the condition of inequality between the parties was made evident by the onerous conditions imposed by Rome, for example about military cooperation. It seems to me that in the light of what has been said above, an analysis of the different types of foedera gives evidence of the growing hegemony of Rome when it came to the political and military standardisation of international relations. Although the dichotomy *foedera aequa/foedera iniqua* was not formalised, the Roman jurists distinguished between various foreign peoples; a factor which we must consider in the relations between Rome and the other peo-

ple in the Mediterranean area. This type of approach is also reflected in the use of the term *amicitia*. In a famous fragment Pomponius<sup>19</sup> describes the criteria for the application of *postliminium* in pace, highlighting how the absence of good relations does not make enemies of people: “*In pace quoque postliminium datum est: nam si cum gente aliqua neque amicitiam neque hospitium, neque foedus amicitiae causa factum habemus: hi hostes quidem non sunt ...*”. Describing these relationships, the jurist distinguishes the ancient *hospitium*, on the one hand, and *amicitia* and *foedus amicitiae causa*, on the other. In the absence of a treaty, *amicitia* could be identified as a state of good relations, probably no different from the Gruen interpretation of the Greek φίλια. Conversely, the *foedus* of friendship might be seen as a Roman adaptation, from the perspective of their ritualization, of the good relations between communities and their effects. Livy informs us about this, in a source that assumes a strongly paradigmatic role<sup>20</sup>. Menippus, the leader of the delegation sent in 193 B.C. by Antiochus III, king of Syria, to the Romans *amicitiam petendam iungendamque societatem*, explains the three forms 47 Pomp. 37 ad Q. Mucium D 49,15,5,2. The root of the distinction is certainly political and military: the war, or rather the ending of the hostilities or failure to do so, is the crux of the classification. Here, the first two cases refer to *foedera* into which two warring people may enter at the end of hostilities. In the first case, when it is clear who the winner and the loser are, the winner imposes his own conditions on the loser: Livy, in fact, writes that the winner has the right to determine what is to be restored to the defeated people and what is to be confiscated from them. However, Livy qualifies this statement by adding: “*dicere leges*”. There is provision for restitution not only where one community defeats another, but even where people have showed the same valour in war: in this case the people ask for restitution on the basis of an agreement, and, if there is any change of ownership as a result of the war, the original positions are

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19 See D 49,15,5,2.

20 Liv. 34.57.8: „Esse autem tria genera foederum quibus inter se paciscerentur amicitias civitates regesque: unum, cum bello victis dicerentur leges; ubi enim omnia ei qui armis plus posset dedita essent, quae ex iis habere victos, quibus multari eos velit, ipsius ius atque arbitrium esse; alterum, cum pares bello aequo foedere in pacem atque amicitiam venirent; tunc enim repeti reddique per conventionem res et, si quarum turbata bello possessio sit, eas aut ex formula iuris antiqui aut ex partis utriusque commodo componi; tertium esse genus cum qui numquam hostes fuerint ad amicitiam sociali foedere inter se iungendam coeant; eos neque dicere nec accipere leges; id enim victoris et victi esse“.

restored according to the ancient law, or according to a formula that benefits them both. This is the second *genus foederum*, in which enemies may conclude a pact of friendship with *reciperatio* following the war. The third kind of treaty is entered into, not after a war, but when the community wishes to enter into a treaty of friendship. The *foedus* is defined as *sociale*, distinguished from *leges* because there are neither winning nor losing parties, but the people wish to conclude a pact of friendship. If we compare the three types of treaties, the first two undoubtedly have a military-political background, unlike the third kind. The main distinction is between *foedera amicitiae causa* concluded after the war and those concluded in the absence of war. The first ones, then, are distinguished by agreements between winners and losers (*leges*) and agreements for the restitution of booty obtained in a war in which there was neither a loser nor a winner. War or its absence therefore affects the form of the treaty, which reflects a precise legal status that is friendship, the objective of the treaty, as evidenced by the Livian source. Now, if we look at the three types of treaties, the *sociale foedus*, which was concluded in the absence of war, recalls the *societas* required for the establishment of *amicitia*. Is this a reference to the treaties of *societas et amicitia*? It is not impossible. Livy certainly emphasises the technical structural aspect of international relationships that support the function of the archetype of the source. In the passage by Livy, there is no evidence to suggest a classification in the development of international relations, unbalanced in favour of Rome. On the contrary, Livy offers a syntax of international relations to better explain the fluidity of the real balances. Unlike Livy, Proculus places Roman hegemony in international relations at the centre of the juridical debate<sup>21</sup>. Proculus provides a concept of freedom of the *populus* that is expressed in two ways: either as the absence of another people's power or as the relationship established by a *foedus*. He distinguishes the *foederati* who have concluded a *foedus aequum* from the *foederati* who must respect the *maiestas* of other people, as clients must respect their patrons. The jurist pays more attention to this last kind of trea-

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21 See D 49,15,7,1: „Liber autem populus est is, qui nullius alterius populi potestati est subiectus, sive is foederatus est: item sive aequo foedere in amicitiam venit, sive foedere comprehensum est, ut is populus alterius populi maiestatem comiter conservaret. hoc enim adicitur, ut intellegatur alterum populum superiorem esse, non ut intellegatur alterum non esse liberum: et quemadmodum clientes nostros intellegimus liberos esse, etiamsi neque auctoritate neque dignitate neque viri boni nobis praesunt, sic eos, qui maiestatem nostram comiter conservare debent, liberos esse intellegendum est“.

ty in order to emphasise that the people who had accepted the *clausula maiestatis* did not appear to be free. And Proculus adds, taking as an example the relationship between patron and client in which the client, while honouring the patron, retains his freedom, that the clause embodied only the obligation to respect the superiority of Rome, which Cicero had already affirmed was the meaning of the *clausula maiestatis* in the treaty between Rome and Cadiz. It seems that Proculus has explained the political criterion of equity or iniquity in international relations, in the perspective of the Roman expansionism. *Amicitia* is the content of the treaty, but its value depends on the political weight of the people with whom Rome established the relationship. This is the best proof of the change in political terms of the Greek concept of friendship – always assuming that Roman *amicitia* is born of the cast of Greek φίλια<sup>22</sup>. One of the Roman religious colleges, the Fetiales, and their powers and competencies could be rightly included in the concept of diplomatic law and diplomatic relations, because it was their task to conclude and submit to the Roman Senate and people's assemblies treaties with or without an international element and ceremonially declare, under a mandate from the Roman Senate, the so-called *bellum iustum* against the enemy of the City<sup>23</sup>. The expansion of diplomatic envoys of Rome and to the centre of the increasingly ambitious empire was evident in the entire range with an increase in the number of Roman provinces. From Roman epigraphic and other sources, we have records of the correspondence of hundreds of "envoys", including Roman historians, such as Polybius, Josephus Flavius, Philon of Alexandria, and Plutarch<sup>24</sup>. Not negligible parts of international negotiations, which were to result in the conclusion of peace or the facilitation of trade relations, included mediation in active war conflicts, settlement of basic disputable issues between two entities – within or beyond the same nation – with the participation of a third, impartial party, respected by the parties to a dispute, a conflict. Rome increasingly participated in these international mediations, whether as an active mediator in or an active party to a conflict. The most important of them are listed below: immediately before the period investigated, the 3<sup>rd</sup> and 2<sup>nd</sup> centuries B.C.:

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22 Cf. CURSI, cit.op. 188 *et seq.*

23 See OGILVIE, Robert Maxwell: *A Commentary on Livy*. Oxford, Clarendon Press, 1965, 110-111.

24 See also BEDERMAN, David Jeremy: *International Law in Antiquity*, Cambridge, Cambridge University Press, 2001. 323.

- a) The siege of the Sicilian city of Syracuse by Rome (212 B.C.), when the representatives of individual Sicilian city states, as mediators, attempted to arrange and convene peace negotiations between the besieged Syracuse and the Roman military leader Marcus Claudius Marcellus – but the subsequent domestic political developments in the city became later the main reason why the peace negotiations failed;
- b) The First Macedonian War (209–207 B.C.), when certain Greek city states attempted to be mediators in the escalating war conflict between Macedonia (Philip V, King of Macedonia) and Rome, supported by the Aetolian League; however, the Roman military leader Publius Sulpicius Galba finally claimed that he (alone) did not have the power to make peace, and in the meantime he sent a secret diplomatic message to the Roman Senate stating that it would be disadvantageous for Rome to make peace at the time of *status quo* and that it would be better to continue the war<sup>25</sup>;
- c) The conclusion of peace in the city of Phoenice in Epirus (205 B.C.); the Greek city of Epirus met Rome's demand to agree a final peace treaty ending the First Macedonian War with the participation of numerous allies on both sides<sup>26</sup>;
- d) The meeting between the Roman consul Titus Quinctius Flaminius and the Macedonian king Philip V in the city of Aous<sup>27</sup> during the Second Macedonian War, initiated by the Epirotes;
- e) The successful intervention of Athens and Achaia in mediating the meeting of the parties to the dispute in the emerging conflict between the Romans and the Boeotian League – their envoys (196 B.C.); the consul Flaminius threatened the Boeotians that Rome would declare *iustum piumque bellum* against them; the decisive argument was the statement of the Achaeans that if the Boeotians did not meet the Roman requirements, the Achaeans – an impartial observer until then – would side with the Romans in the dispute<sup>28</sup>;

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25 See GRUEN, Erich Stanley: *Studies in Greek Culture and Roman Policy* (Cincinnati Classical Studies, new series 7.). Leiden, Brill, 1990.

26 Today, we could say in a historical perspective that it was a kind of 'ancient Versailles peace treaty'.

27 A city located in present-day Albania.

28 Cf. ECKSTEIN, Arthur Maryland.: *Conceptualizing Roman Imperial Expansion under the Republic: An Introduction*. In: ROSENSTEIN, Nathan–MORSTEIN-MARX, Richard (eds.): *A Companion to the Roman Republic*. Oxford, Blackwell Publishing Ltd., 2006, 567-589.

- f) The Athenian mediating intervention (192 B.C.) at the request of the consul Flaminius in the dispute between Rome and the Aetolians, strongly reminding the Aetolians of their *societas* with the Romans and the need to resolve the dispute by peaceful means, and not by a war;
- g) Heraclea Pontica encouraged Rome and the Seleucid king Antiochus III to agree on the spheres of influence in Asia, which resulted in a friendly declaration by the Romans and the signing of a treaty of friendship and cooperation between Rome and the Kingdom of Pontus;
- h) In the dispute between the Romans and the Aetolians (190–189 B.C.), Athens and Rhodes promoted and spoke for the Aetolians before the Roman military leader and the Roman Senate; their effort was successfully completed by a declaration that Rome “does not feel hatred” towards the Aetolians and by the signing of a peace treaty with the Aetolians;
- i) The successful intervention of the city of Troy in favour of the province of Lycia before the Roman Decemviri, again in order to achieve the declaration that Rome “does not feel hatred” towards Lycia due to its previous “desertion” to join the side of the Seleucid king Antiochus III<sup>29</sup>, and the resulting mitigation of its punishment by Rome;

In Roman history, the terms “diplomacy” and “diplomatic” often seem to have been confused; they did not necessarily mean the same thing, but brought very effective results. Of course, everyone immediately imagines the representatives of the states concerned communicating to reconcile their conflicting interests, but someone else imagines diplomacy as a way of cultivated dialogue to avoid an unnecessary outburst of uncontrolled anger and violence – and in this understanding, diplomacy may be useful in any social relationship. The fact that these two terms may not always be identical is best seen in the fact that although a diplomat acts as the official representative and in the service of a state, his own conduct may be highly undiplomatic – whether or not intentionally and knowingly. A typical example of this distinction is the conduct of the Roman ambassador Gaius Popilius Laenas<sup>30</sup> in 168 B.C., when he was sent by the Roman Senate to end peacefully the war conflict – undesirable for Rome – between the Seleucid

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29 The war ended definitively with the conclusion of a peace treaty with the Romans in the city of Apamea, under which the Romans gained the entire territory of *Asia Minor*.

30 A Roman politician, praetor, consul, censor, as stated elsewhere, a consular “colleague” of L. Postumius Albinus.

king Antiochus IV and the Egyptian king Ptolemy; the demand that the former should withdraw from Egypt with his army immediately could be technically described as an act of official “communication” between the representatives of states, powers, and from this point of view as a form of diplomacy, but no one could describe the conduct of the Roman envoy against his counterpart as diplomatic<sup>31</sup>. In the 2<sup>nd</sup> century B.C., a lot of Roman ambassadors, *legati*, travelled to the East, to the territories under the patronage of Rome, and reciprocally, ambassadors travelled from these territories, as well as from ‘allied’ Greek city states, *poleis*, to Rome to ensure undisturbed diplomatic communication of their home states and to present possible requests before the Roman Senate. It may seem strange to someone that diplomatic activities in the Apennine Peninsula between Rome and Italian cities were also subject to these rules. The Italian *socii*, who regularly, as allies, supplied the Roman legions with their heavy and light infantry, could, like all other nations defeated by Rome (*peregrini dediticii*), carry out international communication with the empire only through their envoys. Mommsen<sup>32</sup> considers that these Latin communities did not always have their “permanent diplomatic representations”, but most of the agenda was communicated through official diplomatic letters. A number of official sources<sup>33</sup> inform us of such an official diplomatic letter of 173 B.C. and of its unusual consequences – perhaps we could use the phrase “a diplomatic precedent”; the letter was sent by the consul L. Postumius Albinus<sup>34</sup> to the Campanian city of Praeneste. Following a decision of the Senate, Albinus was to personally oversee the division of newly-gained land into *ager publicum et ager privatum* in Praeneste, since the Senate had evidence that the locals illegally expanded their land to the detriment of state-owned land. In addition, the consul had a grudge against the denizens of Praeneste because he believed that he, as the official representative of Rome, would not be treated both by the public officials and by private individuals at the required, protocol level, upon his arrival in Praeneste (the reason was quite

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31 See also ADCOCK, Frank–MOSLEY, David: *Diplomacy in Ancient Greece, Aspects of Greek and Roman Life*. London, Thames and Hudson, 1975, 68 *et seq.*

32 Cf. MOMMSEN, Theodor: *The History of Rome (Volume 4, translated by Dickson, W. P.)*. Cambridge, Cambridge University Press, 2010, 214 *et seq.*

33 See also BARTON, Carlin Arthur: *The Price of Peace in Ancient Rome*. In: RAAFLAUB, Kurt August (ed.): *War and Peace in the Ancient World*. Oxford, Wiley-Blackwell, 2007, 398. Among Roman historians, e.g., LIVY *op.cit.* 42,1,6-12.

34 He held the consular office together with his colleague M. Popilius Laenas in 173 B.C.

justified); for this reason, before leaving Rome, he sent a letter to the magistrates of Praeneste, a city which numbered among *socii nominis Latini*, containing detailed instructions on his arrival in the city and the provision of material and technical support for his official visit. As mentioned above, the reason was partially justified because shortly before he had visited the city of Praeneste in a private capacity in order to make a sacrifice in the temple of Fortuna and had been treated shabbily both by the public officials and by private individuals of the city. Livy remarks that this was the first incident of this type. To ensure that Roman envoys were not a burden on another community or people, they were provided with sufficient materials and equipment necessary to carry out their diplomatic missions. In terms of Roman customs, it was a clear *faux pas* of the Roman consul – even if the consul had such a right after previous ‘bad’ experience with the denizens of Praeneste, such an indecent, hostile act towards Praeneste had not been customary for diplomats before. Until then, the practice of Roman officials was to burden the treasury as little as possible with their foreign expenses; all their relations were based on the principle of reciprocity – they stayed with their guest-friends in other cities just as their guest-friends stayed with them in Rome. However, as Livy continues, the fearful silence and full acceptance of the consul’s demands by the Praenestines established, as by an approved precedent, the right of the Roman officials to make demands of this sort on their diplomatic missions, which grew more burdensome day by day<sup>35</sup>. In 173 B.C., if we believe Livy, Roman political culture contained, as a minimum (if no legal regulations were established in the sphere of powers assigned to the Senate), diplomatic customs governing the rights and duties of Roman officials going abroad for their diplomatic posts. A few years later, all mutual rights and duties of Roman officials operating abroad, in the provinces, but especially the excesses in their fulfilment – undoubtedly due to the growing number of cases, were regulated by special legislation initiated and adopted at the initiative of the plebeian tribune Lucius Calpurnius Piso<sup>36</sup> (Frugi), on the basis of the *lex Calpurnia de*

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35 On the other hand, an example of the opposite behaviour was the case of Marcus Porcius Cato the Censor, while holding the post of governor in Hispania Citerior (194 B.C.), in order to reduce the state’s expenditure associated with his office, he sold all his slaves in Hispania, to save the state’s expenditure – travel expenses.

36 By the way, Livy’s predecessor, “colleague” in the field of history and historiography, although according to most Roman historians, Piso did not have a credible reputation among them.

*repetundis* of 149 B.C., which established the first standing jury court (*quaestio perpetua*) in order to deal with a new crime, *crimen repetundis* – generally the crime of extortion by Roman officials in the provinces. This legislation became stricter over time, perhaps due to its (intentional) inefficiency and actual unenforceability, and a total of ten laws – the so-called *leges repetundarum* – were adopted, while the most comprehensive and precise law regulating this crime was the law passed by Gaius Julius Caesar (59 B.C.), which was still in force in the Code of Justinian. In this context, it should be noted that several legal Romanists and historians attached great importance in particular to the exalted, superior behaviour of the Romans towards both the Latins and the ethnically close communities and cities in Italy<sup>37</sup>, which resulted in the deterioration of the political situation and climate, culminating in the inevitable outbreak of the so-called war of the allies with Rome’s nearest neighbours. The total enumeration, summary of diplomatic correspondence, exchanges of envoys between Rome and its Italian allies in the 2<sup>nd</sup> century B.C. was not very extensive. If we use credible sources<sup>38</sup> as starting points, at least as regards the presence of foreign envoys “accredited” in the Roman Senate, which is also mentioned by the historian Livy in several occasions, there were three cases of Latin colonies requesting the Senate for reinforcements in the shape of new settlers; two cases of ambassadors of the *socii Latini nominis* demanding the repatriation of their citizens who had settled in Rome or in the Roman territory; a call upon the Senate to decide a boundary dispute between a Roman colony and a foreign community, and a report that the Tiburtines had sent their envoys to apologise to the Senate for something or to clear themselves from some suspicion and that the Senate had ‘mercifully’ accepted such an apology. However, we must also include in the above enumeration the request of the Campanians, who asked the Senate for *ius conubii* in 188 B.C. and got an affirmative Roman answer<sup>39</sup>. However, in the past, the Romans

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37 One of these consequences was the adoption of the *lex Minicia* (90 B.C., just before the outbreak of the war in question, which disqualified Latinos in acquiring Roman citizenship – in the absence of *ius conubii*, children were granted the citizenship of the inferior parent. That law was repealed much later – on the basis of SC Hadriani.

38 See also BADIÁN, Ernst: *Hegemony and Independence: Prolegomena to a Study of the Relations of Rome and the Hellenistic States in the Second Century BC*, in: HARMATTA, János (ed.), Budapest, 1983, 399–411.

39 See also JEHNE, Martin: *Diplomacy in Italy in the Second Century BC*, in: *Diplomats and Diplomacy in the Roman World*, (ed.) Eilers, Claude, Boston 2009, 171 *et seq.*

– as the addressed, requested arbitrators – did not always treat the parties, that had asked them to decide a dispute, in a fair, just manner. Unfortunately, very infamous was their decision on the boundary between the Italian cities of Aricia and Ardea<sup>40</sup>, where they flagrantly violated the fundamental principle of *lex duodecim tabularum* – “*Nemo debet esse iudex in propria*” (no-one should be a judge in his own case), adopted shortly before. Despite the dissenting opinion of the Senate, the people’s assembly decided, paradoxically, that the territory in question should be considered the public property of the Roman people. Livy<sup>41</sup> states that the Senate argued that, by that decision, so much would by no means be acquired by keeping the land, as would be lost by alienating the affections of their allies by injustice; for that the losses of character and of reputation were greater than could be estimated. For “what judge in a private cause ever acted in this way, so as to adjudge to himself the property in dispute”? After a certain time, the envoys of the city of Ardea revisited the Roman Senate with a complaint of wrongdoing, saying that they would maintain their treaty of friendship with Rome, provided that the illegally seized territory was returned to them. The Senate’s response was again legally and politically correct – a judicial decision of the people’s assembly cannot be annulled by a decree of the Senate, as it would be an act of no equivalent or legal justification; according to them, the tribunes of the people, who can almost always be ruled by the crowd, instead of being ruled by themselves ... but if the envoys wait for the right opportunity and entrust the decision to alleviate the injustice to the Senate – the dispute would be settled to their satisfaction, which actually happened... From the end of the Second Punic War until the outbreak of the war with the allies, i.e., especially the Latins, Rome had “wrinkles on its forehead” because of another problem – relatively uncontrollable migration, movement of the Latins to the centre of the empire to look for better economic opportunities. After several diplomatic negotiations with the envoys of the Latin cities and colonies concerned<sup>42</sup> – paradoxically initiated not by Rome but by the Latin allies, in 187 B.C. the Senate authorised the praetor Q. T. Culleo to compare the censuses made in Rome and in Latin cities in or after the censorship of G. Claudius and M. Livius and to forcibly return the Latins who (or their fathers) were also registered outside the city

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40 From 446 B.C.

41 Livy op.cit. 3, 72.

42 Cf. also the interesting paper by RIDLEY, Ronald Timothy: The Extraordinary Commands of the Late Republic: A Matter of Definition. *Historia*, 1981, 30(3), 282–291.

of Rome to their hometowns. The number was relatively high – 12,000 Latins had to leave. In principle, we can state that during that period, complete freedom to change the *domicile* (the so-called *ius migrandi*) existed only in the *coloniae latinae*, on the basis of the rights granted by Rome individually<sup>43</sup>. This involved their reciprocal duties towards Rome – in particular, to provide sufficient auxiliary military corps. The foreign policy of the Latin allies was limited by treaties concluded with Rome and by its power influence. The possibility of enforcing these requirements by military intervention could be expressed *expressis verbis* by a clause in a respective treaty or, in its absence, *via facti*. However, diplomacy was always the most effective tool how to achieve its requirements, while pursuing its geopolitical interests in the first place. From this point of view, it is not surprising to find out that Rome enjoyed its role as an arbitrator in the usual scenario of conflicting territorial claims by its Latin allies. For example, in 168 B.C., the Italian cities of Pisa and Luna sent their ambassadors to Rome to this end. Cicero<sup>44</sup> reports another “curious” case where the consul Q. Fabius Labeo was appointed by the Senate as an arbitrator to settle the boundary dispute between Nola and Naples in 183 B.C. The consul “cleverly” preferred interviewing both parties separately, especially stressing to each of them that they should be ready to make compromises, rather than immediately accepting a confrontational course. After accepting the reduced demands of both parties to the dispute, he allocated the so-called buffer zone – land unclaimed by any of the parties, to Rome. Cicero described the consul’s procedure as cunning, perfidious and bending the law.<sup>45</sup> Similar cases documented from that period, when a Roman magistrate was appointed by a decree of the Senate to decide a boundary dispute between two Italian cities, are a dispute between Ateste and Patavium<sup>46</sup>, decided by a Roman proconsul, between Ateste and Vicetia<sup>47</sup>, also decided by a proconsul, and between Genua and Vitoria Langenses<sup>48</sup>, decided by two commissioners

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43 The opinion is also expressed by the American civil law historian LINTOTT, Andrew, William: *Imperium Romanum: Politics and Administration*. London–New York, Routledge, 1993.

44 CICERO, Marcus, Tullius: *De officiis (Slovak translation)*. Bratislava, Tatran Publisher, 1980. 1. 33.

45 *In fraudem legis*.

46 141 B.C.

47 135 B.C.

48 117 B.C.

appointed by the Senate. In 173 B.C., the Roman censor (*sic!*) Q. Fulvius Flaccus went beyond all bounds of decency and respect for the allies: since during the previous war in Hispania, where he served as a praetor, he promised the gods to build a temple for the goddess Fortuna in Rome for the victory of Roman weapons, shamelessly and sacrilegiously<sup>49</sup> ordered the removal of the marble roof tiles of the temple of Juno<sup>50</sup> Lacinia in Bruttium and taking them to Rome to complete 'his' temple<sup>51</sup>. The authority of Rome's top Republican official and the fear of possible sanctions intimidated the citizens of both Praeneste and Bruttium. After a certain time, however, an investigation into the case before the Roman Senate began in Rome at the instigation of consuls. On the one hand, the outraged Roman senators sharply criticised the censors' reckless conduct, pointing out that neither the king Pyrrhus of Epirus nor the Carthaginian military leader Hannibal had committed such an act against the Bruttian temple in the past, but on the other hand, apart from the obvious, logical *restitutio in integrum* (which was not successfully completed in the end because no one was found in Bruttium to repair the temple roof!), the senators did not punish the censor<sup>52</sup> in any way, nor was there any official apology of the Roman state to Bruttium. Nevertheless, even during this period, it is not possible to generalise any hostile, negative attitude of Rome and the Senate to requests from their Italian allies, as evidenced by the gradual adoption of relevant legislation through *leges repetundarum*, punishing the excesses of individual provincial Roman magistrates. However, it is questionable to what extent the legislation in question removed the reluctance and doubts of the Italian allies in submitting their requests to the Roman Senate. In practical life, however, it could happen that an obstacle to the fulfilment of their requests was not the Roman Senate itself, but a successful lobby to ensure that the matter could be submitted to the "Fathers".

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49 *Sacrilegium* was one of *crimina publica*, which was closely related to the theft of holy, sacred things. Its comprehensive legal regulation was provided in the *lex Iulia peculatus et de sacrilegiis*, which was adopted at the initiative of Augustus and aggravated the sanctions of previous laws punishing the perpetrators of this crime.

50 Roman equivalent of the Greek goddess Hera.

51 In Greek, referred to as Pandosia, today located in the region of Calabria, in the south of Italy.

52 There is no written record in Roman sources confirming this, and no action was brought against the censor after the end of his term of office.