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Summary

Biblical and Roman origins of the legal rule: testis unus testis nullus

The work is an attempt to prove the thesis that the legal rule *testis unus testis nullus* is rooted in the Biblical and Roman Law sources. It presents a detailed genesis and development of the rule under those two separate, though affecting each other, legal orders.

The work aimed to show the origins of the *testis unus testis nullus* rule and to overview its evolution in the Biblical sources as well as in the sources of classical and post-classical Roman Law. It was also important to highlight the process of reception of that rule into ecclesiastical judiciary in the first centuries of Christianity. In this context, it was necessary to compare the standards of its application under the two legal orders and to point at differences.

The undertaken research problem was presented in three chapters preceded by the introduction and finished with conclusions. Each chapter begins with an introduction to the issues analyzed later and ends up with a summary.

Chapter One deals with the number and the role of witnesses in the sources of *the Old Testament* as well as in some selected rabbinical commentaries. Chapter Two provides an analysis of the sources of the New Testament – also in the context of the required number of witnesses and the value of their consistent statements. In the analysis of Biblical and Roman origins of the *testis unus testis nullus* rule, it seems symptomatic that a few centuries before its announcement by the Emperor Constantine the Great, the old Hebrew community and legislation clearly underlines the need for at least two or three witnesses to establish the truth in the legal proceedings. A single statement in the case was considered insufficient. One may assume that the idea of evidence based on witnesses' statements in the Law of Moses proved to be independent and original. In the understanding of the Old Testament, evidence had undeniably a legal and religious status and it was inextricably connected with the need for at least two or three witnesses who also performed a role of the prosecutors. Therefore, it should be assumed that the structure of evidence based on the witnesses' statements in the Law of Moses was considerably different from the tradition typical of the Western Greco-Roman world. The concept derived from the Law of Moses, proven by the teaching of Christ and His apostles was a binding and constant source of inspiration for Church, while formulating canons and creating rules of the ancient Church trial, in particular.

Chapter Three presents the origins and evolution of the *testis unus testis nullus* rule in the sources of classical and post-classical Roman Law, especially with the Constitution of the

Emperor Constantine the Great from the year 334. In the last part of the work, the used sources are compiled, their study as well as the subject literature were presented.

The issue of a number of witnesses, in the sources of classical and post-classical law, was one of relevant criteria – first of reliability, and then of the admissibility of evidence from witnesses' statements in Roman litigation. In the times of the Principate, there were created two imperial constitutions included in *the Justinian Code*. The first was issued in 223 by the emperor Alexander Severus. The other regulation from 283 is attributed to three emperors: Carus, Carinus and Numerian. Value of evidence, in the context of a number and social status of witnesses was also a subject of interest for Roman rhetoricians, and then for some representatives of Roman jurisprudence who lived and worked especially in the time of the Principate. The commentaries of the latter related to the area of evidence were included in *the Digest of Justinian*. Some of them contain essential and valuable references to the rescripts issued in the Principate, in particular those by the emperor Hadrian.

In the context of searching for the origins of the *testis unus testis nullus* rule, two constitutions from the time of Dominate appear extremely valuable, issued by Constantine the Great at approximately the same period of time. The first one from the year 333, i.e. *the Simordian Constitution*, opened a set of 16 imperial constitutions governing religious issues. The other, issued in 334, is commonly recognized as a document that formally introduced the legal requirement of *testis unus testis nullus* into the imperial legal order.

It needs to be emphasized that the influence of the Old Testament tradition, regarding the number of witnesses, on Roman Law was not direct. It was the Christian doctrine which served as a bridge and which, basing on the biblical sources, gave inspiration for the Roman world in the early centuries. Thus, it became some kind of connection between the two ancient legal traditions, especially in respect of the requirement underlying the necessity of two or three witnesses.

The introduction of the *testis unus testis nullus rule* into Roman Law resulted more or less from the influence of the Jewish and Christian tradition on Constantine the Great – the first Christian emperor. His role in establishing the requirement for double and consistent evidence in Roman Law is not to be questioned.