

SADRŽAJ DOKTORSKOG RADA POD NASLOVOM „BANKARSKI UGOVORI U RIMSKOM PRAVU“ DOKTORANDICE IVANE VLAŠIĆ

Sažetak:

Doktorski rad pod naslovom „Bankarski ugovori u rimskom pravu“ bavi se sustavnom analizom pravne prirode, obilježja i razvoja bankarskih ugovora u rimskom pravu te njihovim značenjem u razvoju rimskog privatnog prava. Polazeći od rimskih pravnih izvora, književnih i epigrafskih vrela te relevantne domaće i strane romanističke literature, istražuju se pravni odnosi nastali djelovanjem rimskih bankara (*argentarii*) i posebna pravna pravila koja su se razvila kao posljedica njihove profesionalne djelatnosti.

Bankarska djelatnost u rimskom pravu dosegla je visok stupanj razvoja, pri čemu su bankari sudjelovali u širokom spektru obveznopравnih i trgovačkih odnosa. Njihova je uloga nadilazila puko posredovanje u financijskom prometu, budući da su upravo kroz njihovu praksu nastali i razvijali se posebni pravni instituti koji su obilježili rimsko bankarsko poslovanje. Analiza pravnog položaja rimskih bankara i njihovih aktivnosti stoga omogućuje bolje razumijevanje nastanka i razvoja pojedinih bankarskih ugovora te njihove povezanosti s razvojem rimskog gospodarstva i pravnog sustava. Polazeći od činjenice da su primanje depozita, odobravanje zajmova, razmjena novca, sudjelovanje na dražbama i drugi financijski poslovi činili temelj bankarske djelatnosti, rad analizira posebne pravne norme kojima je ta djelatnost bila uređena. Primjenom egzegetske, normativne, povijesnopravne i komparativne metode istražuje se njihova pravna priroda, međusobni odnos te mjesto koje zauzimaju u sustavu rimskog obveznog prava. Posebna se pozornost posvećuje suvremenim romanističkim raspravama o postojanju i autonomiji rimskih bankarskih ugovora. Središnji dio rada posvećen je trima najznačajnijim institutima rimskog bankarskog prava: bankarskom zajmu, *receptum argentarii* i *depositum irregulare*. U okviru analize bankarskog zajma razmatraju se njegova pravna priroda, posebna obilježja u odnosu na klasični ugovor o zajmu, forma, ugovaranje kamata, pravna zaštita te gospodarska funkcija ovog kredita. Time se nastoji utvrditi predstavlja li bankarski zajam poseban ugovorni oblik nastao kao posljedica razvoja profesionalnog bankarstva. U radu se nadalje analizira *receptum argentarii* kao pretorski pakt kojim se bankar obvezuje izvršiti isplatu određenog novčanog iznosa za račun druge osobe. Posebna se pozornost posvećuje prijepornim pitanjima njegove pravne prirode, odnosu prema glavnoj obvezi, jamstvenoj funkciji, pravu na regres, objektivnim granicama odgovornosti *ex recepto* te formi njegova sklapanja. Kritičkom analizom rimskih pravnih izvora i suvremene literature nastoje se ponuditi argumentirani odgovori na pitanja koja su i danas predmet romanističkih

rasprava. Treći dio istraživanja posvećen je *depositum irregulare*, institutu koji zbog prijenosa vlasništva na deponiranim stvarima pokazuje određene sličnosti s ugovorom o zajmu, ali se od njega bitno razlikuje svojom pravnom svrhom, gospodarskom funkcijom i sustavom pravne zaštite. U radu se posebno razmatra pravna priroda *depositum irregulare*, njegov odnos prema klasičnom *depositum* i ugovoru *mutuum* te značenje rimskih pravnih izvora za razumijevanje njegova razvoja i pravnog položaja.

Cilj istraživanja jest sustavno analizirati pravnu prirodu, bitna obilježja, funkcije i pravne učinke rimskih bankarskih ugovora te ponuditi odgovore na najvažnija prijeponska pitanja koja su predmet suvremene romanističke znanosti. Posebno se nastoji utvrditi jesu li bankarski ugovori u rimskom pravu predstavljali skup posebnih pravnih instituta oblikovanih potrebama bankarske djelatnosti ili tek primjenu općih pravila rimskog obveznog prava na bankarske odnose. Znanstveni doprinos rada ogleda se u cjelovitom i sustavnom istraživanju rimskih bankarskih ugovora temeljenom na analizi rimskih pravnih izvora, bankarske prakse i relevantne domaće i strane literature. Rad sistematizira dosadašnje spoznaje, kritički razmatra prijeponska pitanja njihove pravne prirode i karakteristika te iznosi argumentirana stajališta o njihovu mjestu u razvoju rimskog privatnog prava. Promatrajući bankarski zajam, *receptum argentarii* i *depositum irregulare* kao međusobno povezane institute jedinstvenog sustava rimskog bankarskog poslovanja, rad pridonosi potpunijem razumijevanju razvoja rimskog bankarskog prava i njegovog utjecaja na oblikovanje suvremenih bankarskih ugovora te predstavlja osnovu za daljnja istraživanja u području romanističke, pravnopovijesne i privatnopravne znanosti.

Ključne riječi: rimsko pravo; rimsko privatno pravo; bankarski ugovori; *argentarii*; bankarski zajam; *mutuum*; *receptum argentarii*; *depositum irregulare*; rimsko obvezno pravo.

**ABSTRACT OF THE DOCTORAL DISSERTATION ENTITLED “BANKING CONTRACTS
IN ROMAN LAW” BY DOCTORAL CANDIDATE IVANA VLAŠIĆ**

Abstract

This doctoral dissertation, entitled "Banking Contracts in Roman Law", provides a systematic analysis of the legal nature, characteristics, and development of banking contracts in Roman law, as well as their significance for the development of Roman private law. Based on Roman legal sources, literary and epigraphic evidence, and the relevant domestic and international Roman law scholarship, the dissertation examines the legal relationships arising from the activities of Roman bankers (argentarii) and the specific legal rules that evolved as a consequence of their professional practice.

Banking activity in Roman law attained a high degree of development, with bankers participating in a wide range of obligations and commercial relationships. Their role extended beyond the mere facilitation of financial transactions, as it was through their professional practice that distinctive legal institutions emerged and developed, leaving a lasting mark on Roman banking. An analysis of the legal status of Roman bankers and their activities therefore provides a better understanding of the origins and development of individual banking contracts and of their connection with the development of the Roman economy and legal system. Proceeding from the fact that the acceptance of deposits, the granting of loans, currency exchange, participation in auctions, and other financial transactions constituted the core of banking activity, the dissertation analyses the specific legal rules governing such activities. By applying exegetical, normative, legal-historical, and comparative methods, it examines their legal nature, their interrelationship, and their place within the system of Roman obligations law. Particular attention is devoted to contemporary Roman law scholarship concerning the existence and autonomy of Roman banking contracts. The central part of the dissertation is devoted to the three most significant legal institutions of Roman banking law: the banker's loan, receptum argentarii, and depositum irregulare. Within the analysis of the banker's loan, the dissertation examines its legal nature, its distinctive characteristics in comparison with the classical contract of mutuum, its form, the stipulation of interest, the legal remedies available to the parties, and the economic function of productive credit. The purpose of this analysis is to determine whether the banker's loan constituted a distinct contractual form that emerged as a consequence of the development of professional banking. The dissertation further examines receptum argentarii as a praetorian pact by which a banker undertook to make payment of a specified sum of money on behalf of another person. Particular attention is devoted to the controversial issues concerning its legal nature, its relationship with the principal obligation, its function as a form of security, the banker's right of recourse, the objective limits of liability ex recepto, and the form required for its conclusion. Through a critical analysis of Roman legal sources and contemporary scholarship, the dissertation seeks to provide well-reasoned answers to questions that continue to be the subject of debate in modern Roman law scholarship. The third part of the research is devoted to depositum irregulare, an institution which, by reason of the transfer of

ownership of the deposited property, displays certain similarities to the contract of mutuum, yet differs from it fundamentally in its legal purpose, economic function, and system of legal protection. Particular attention is devoted to the legal nature of the irregular deposit, its relationship with the classical depositum and the contract of mutuum, as well as to the significance of Roman legal sources for understanding its development and legal status.

The objective of this research is to provide a systematic analysis of the legal nature, essential characteristics, functions, and legal effects of Roman banking contracts and to offer answers to the principal controversial issues that continue to occupy contemporary Roman law scholarship. Particular emphasis is placed on determining whether banking contracts in Roman law constituted a body of distinct legal institutions shaped by the needs of banking practice or merely represented the application of the general principles of Roman obligations law to banking relationships. The scientific contribution of the dissertation lies in its comprehensive and systematic examination of Roman banking contracts based on an analysis of Roman legal sources, banking practice, and the relevant domestic and international scholarship. The dissertation systematises the existing body of knowledge, critically re-examines the controversial issues concerning the legal nature and characteristics of these institutions, and advances reasoned conclusions regarding their place in the development of Roman private law. By examining the banker's loan, receptum argentarii, and depositum irregulare as interrelated institutions forming part of a coherent system of Roman banking practice, the dissertation contributes to a more comprehensive understanding of the development of Roman banking law and its influence on the formation of modern banking contracts. Furthermore, it provides a foundation for future research in the fields of Roman law, legal history, and private law.

Keywords: *Roman law; Roman private law; banking contracts; argentarii; banker's loan; mutuum; receptum argentarii; depositum irregulare; Roman obligations law.*