

## *Contracts Similar to Locatio-Conductio of Work and Services in Graeco-Roman Egypt\**

### Abstract

In the papyri various leases and rents were designated by the collective term *misthosis*, which includes so-called *locatio conductio rei*, as well as *l.c. operarum* and *l.c. operis*. In Egyptian legal practice leases had an informal character. Free persons were leased out by their relatives. The papyri contain a variety of agreements which can be considered to be more closely equivalent to *locatio conductio operarum*. They are conducted by free people, who let out their services. We also know of employment agreements shaped in a manner similar to those relevant to manual labor in which people of relatively high social standing were engaged as professionals. Use of a written form was beneficial to an employee, as it prompted him to give greater consideration to contractual provisions. Although there was no jurisprudence in the Greek system, the complex economy of Graeco-Roman Egypt functioned adequately, and the experience of notaries allowed parties to satisfy their interests.

**Key words:** history of labour law, law of contracts, ancient economy, Hellenistic law and society, law and papyri.

**Słowa kluczowe:** historia prawa zatrudnienia, prawo umów, gospodarka starożytna, prawo i społeczeństwo hellenistyczne, prawo i papirusy.

### I. General remarks

The purpose of this paper is to demonstrate the practical functioning of various employment contracts as they were used in Graeco-Roman Egypt. I try to take into account legal issues as well as economic realities.<sup>1</sup> Remarks relating to contracts with the managers of

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<sup>1</sup> Cf. P.J. Du Plessis' remarks about the "context based analysis" of the law in *Letting and hiring in Roman Legal Thought 27 BCE–284 CE*, Leiden Boston 2012, p. 5 and J. Banaji, *Agrarian change in late antiquity: gold, labour, and aristocratic dominance*, Oxford 2007, p. 197. The understanding of *misthosis* and *locatio-conductio* as a set of abstract rules, standing apart from the social background is incorrect (Cf. P.J.

agricultural estates should serve to better elucidate their terminology and content relative to the operation of large economic complexes such as the *domus gloriosa* of the Apiones family. I also draw attention to the ambiguity and problems of interpretation of certain words used in the papyri.

In his monumental work *The Law of Greco-Roman Egypt in the Light of the papyri*<sup>2</sup> the eminent Polish scholar Rafał Taubenschlag characterized the Graeco-Egyptian lease contract as a consensual contract.<sup>3</sup> Still, one should remember that written documentation played an important role in almost every law of the ancient Middle East, thus it seems probable that the majority of employment contracts, even with low-paid labourers, were prepared as written instruments. Roman *locatio conductio*, as such, was a consensual contract, thus, it was sufficient to establish one agreement for both parties.<sup>4</sup> The preparation of a written instrument was not obligatory. However, conserved documents show that the tendency to record statements of the contract in the so-called *lex locationis* was common from the late classical epoch of Roman law and thereafter.<sup>5</sup> The Roman jurisprudence also focused on the interpretation of those clauses which resumed the *lex privata* of the parties.<sup>6</sup> Thus, the adaptation to requirements of the economy, together with a Hellenistic influence, had their effect on Roman practice.

To avoid an anachronistic approach one should remember that the so-called “principle of personality of law” was applied as a rule. Roman provincial legal practice was, however, quite widely influenced by local customs. On the other hand Roman influence on local law was never strong, not even after the *Constitutio Antoniniana*.<sup>7</sup>

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Du Plessis, *Letting...*, p. 5–6). The “civilian trichotomy” (division of employment agreements into categories of contracts aimed at *opus facere*, or the rendering of services-*operae*) is also discussed (see: P.J. Du Plessis, *Letting...*, p. 53). Fiori accepts one wide category of *operae*. P.J. Du Plessis, *Letting...*, p. 6, 54, 191, referring to Fiori’s book *La definizione della ‘locatio conductio’: giurisprudenza romana e tradizione romanistica*, Napoli 1999. This applies to the law discussed here as well.

<sup>2</sup> Warsaw 1955.

<sup>3</sup> The consensual character of the lease in Graeco-Egyptian law was already disputed in Taubenschlag’s times, see H.J. Wolff, *Consensual contracts in the papyri?*, “Journal of Juristic Papyrology” (hereafter JJP) 1946, Vol. 1, *passim*.

<sup>4</sup> See D.19.2.1; *Epitome Gai*, ed. J. Baviera, *Fontes iuris Romani antejustiniani, II*, Firenze 1968, p. 229–257, 2.19.5; *Inst. Gai*, 3.135–138; P.J. Du Plessis, *Letting...*, p. 1, 70–74.

<sup>5</sup> Du Plessis P.J., *Between Theory and Practice: New Perspectives on the Roman Law of Letting and Hiring*, “Cambridge Law Journal” 2006, Vol. 65 (2), p. 425–436.

<sup>6</sup> Cf. D.19.2.25.3–4; D.19.2.11.1; D.19.2.29; D.19.2.30.4. On the use of written documents see however S. v. Reden [in:] *Law and Legal Practice in Egypt from Alexander to the Arab Conquest*, eds. J.G. Keenan et al., Cambridge 2014, p. 402–405; A. Jördens, *Roman and Byzantine...*, p. 410–411.

<sup>7</sup> See R. Taubenschlag, *Geschichte der Rezeption des Römischen Privatrechts in Aegypten* [in:] *Studi in onore di P. Bonfante*, Vol. I, Milano 1930, p. 367–440; *idem*, *Opera Minora*, Bd. I, Warszawa 1959, p. 181–290. In his *The Roman authorities and the local law in Egypt before and after the C.A.*, JJP V (1951), p. 121–141, esp. p. 132–133. R. Taubenschlag points out that Roman authorities before the *Constitutio Antoniniana* applied neither only Roman law nor only the local law. Exceptions from the “principle of personality”, were not frequent. Cf. application of Roman law in *Tebtunis Papyri*, ed. B.P. Grenfell et al., London–New York, Vol. I, 1902, Vol. II, 1907, Vol. III, pt. 1, 1933, pt. 2, eds. A.S. Hunt et al.; University of California Press, London 1938 (hereafter: Tebt.) II 286 = L. Mitteis, U. Wilcken, *Grundzüge und Chrestomathie der Papyruskunde*, II Bd. *Juristischer Teil*, II Hälfte Chrestomathie, Leipzig–Berlin 1912 (hereafter: M.Chrest.) 83 (121–138 A.D.); Tebt. II 488 (121–122 A.D.); *Oxyrhynchus Papyri*, eds. B.P. Grenfell, A.S. Hunt, London 1898– (hereafter: Oxy.) 1408 (210–214 A.D.); *Berliner griechische Urkunden*, Berlin 1895– (hereafter: BGU) 1085 II (170 A.D.). These examples are given by R. Taubenschlag, in: *The Roman authorities...*, *pas-*

In the papyri all kinds of leases and rents are referred to by the collective term *misthosis*, which includes contracts traditionally classified as *locatio-conductio rei*, as well as *l.-c. operarum* and *l.-c. operis*, no matter how different their conditions may have been.<sup>8</sup> Egyptian leases were, according to Taubenschlag, informal agreements and as such they required neither redaction of any written instrument nor any special act of execution before the authorities.<sup>9</sup>

The so-called *locatio-conductio liberarum personarum earumque operarum* (the letting and the hiring of free persons and their workforce) should be seen as bearing certain similarity to *l.-c. rei*.<sup>10</sup> A characteristic feature of this type of contract is that free people were leased out by their relatives who had authority over them (*patria potestas*, the so-called *materna potestas*). An Egyptian *ostrakon* of the 3<sup>rd</sup> century B.C.<sup>11</sup> gives information about a mother hiring out her son as a farmhand at harvest time. A father who let his son out for services or for providing manual labour was mentioned in papyrus BGU 1258 (154–132 B.C. l. 17.). Moreover, a promise that the son would remain with the lessor in a status of *paramone* – a kind of temporary serfdom in the master’s household – was added.<sup>12</sup>

Contracts of a similar character were used among Egyptian Greeks. Several papyri contain agreements in which parents deliver their children to entrepreneurs or artisans in order to provide manual labor for them for a fixed term.<sup>13</sup> One of those agreements –

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*sim*). Wherever in this paper Roman legal notions are used it is done only for the sake of convenience and systematization.

<sup>8</sup> Cf. H.G. Müller, *Untersuchungen zur Misthosis von Gebäuden im Recht der gräko-ägyptischen Papyri* (Cologne–Berlin–Bonn 1985, p. 303–304), after P.J. Du Plessis, *Letting...*, p. 7. There was no conceptual difference between *misthosis* and nominations for public offices. S. von Reden, *Ptolemaic (Greek) labor contracts* [in:] *Law and Legal Practice...*, p. 403.

<sup>9</sup> R. Taubenschlag, *Law...*, p. 354; H.J. Wolff (*Consensua...*, p. 68 ff.) argued that leases were closer to the Roman idea of *contractus re* than to *contractus consensu*. Still, rigid forms of the Greek law began to be less strictly observed, maybe under Roman influence. R. Taubenschlag, *Law...*, p. 355, cf. H.J. Wolff, *Faktoren der Rechtsbildung im hellenistisch-römischen Ägypten*, “Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Römische Abteilung” (hereafter ZRG RA) 1953, Bd. LXX, p. 57. Leopold Wenger saw the Graeco-Egyptian lease as a consensual contract. *Die Quellen des römischen Rechts*, Wien 1953, p. 783 ff. S.C. Todd (*The Shape of Athenian Law*, Oxford 1993, p. 255–257, 264–268) considered attempts to discern any kind of “Greek doctrine of contract” unfounded. Real character of sale was common in Oriental laws. F. Pringsheim stated (*L’origine des contrats consensuels* [in:] *Gesammelte Abhandlungen*, Bd. II, Heidelberg 1961, p. 175–193, esp. 186) that an institution similar to consensual contract appeared in Greek law with the advent of a written form. Cf. E. Cohen [in:] E. Cohen, M. Gagarin, *Cambridge companion to ancient Greek law*, Cambridge 2005, p. 290–302; R. Westbrook, G.M. Beckman, *A History of Ancient Near Eastern Law*, Boston–Leiden 2003, p. 846. The remarks and literature in this note are based mainly on E. Carawan, *The Athenian Law of Agreement*, “Greek, Roman, and Byzantine Studies” 2006, Vol. 46, p. 339–374.

<sup>10</sup> R. Taubenschlag, *Law...*, p. 371; E. Costa, *Potesta paterna e potesta padronale nei documenti greco-egizi attinenti il tricinio industriale*, Mem. Acc. di Bologna, Postille papirologiche 1923, p. 168 ff.

<sup>11</sup> *Die demotischen Denkmäler. III. Demotische Inschriften und Papyri*, ed. W. Spiegelberg, Berlin 1932, No. 50.092, <https://archive.org/details/SpiegelbergIII> (access: 31.01.2016).

<sup>12</sup> On *paramone* in Ptolemaic times: S. von Reden, *Ptolemaic (Greek) labor contracts* [in:] *Law...*, p. 402–404. 3<sup>rd</sup> century B.C. Demotic contracts in which a third party provides warranties for specific work were also related to *paramone*. S. von Reden, *Ptolemaic (Greek) labor contracts* [in:] *Law...*, p. 403.

<sup>13</sup> *Editionen und Aufsätze von Mitglidern des heidelberger Instituts für Papyrologie zwischen 1982 und 2004*, eds. J.M.S. Cowey, B. Kramer, Munich–Leipzig 2004 (hereafter: Par.) 22, l. 24–25 = U. Wilcken, *Urkunden der Ptolemäerzeit: I. Papyri aus Unterägypten*, Berlin–Leipzig 1922; II. *Papyri aus Oberägypten*, 1935– (hereafter: UPZ) 19 (163 B.C.); Oxy. 322 descr. 36 B.C., cf. R. Taubenschlag, *Die materna potestas im*

Oxy. 725 (183 A.D.) – has a “dual nature”, as it begins as a contract of apprenticeship and after some time transforms into a *misthosis*.<sup>14</sup> We are also aware of a similar document concerning a slave.<sup>15</sup> The formulas used in contracts of letting out free persons and their services are similar to those concerning slaves. The characteristic ἐκδιδόναι (lit. giving out something or somebody, letting something for hire) clause was used, and arrangements were made for the provision of attire and remuneration, and for the violation of the contract.<sup>16</sup> Egyptian Romans were already using contracts of a similar character in the 1<sup>st</sup> century A.D.,<sup>17</sup> i.e. soon after the conquest of Egypt by Augustus. This practice continued in the later empire, also after Justinian’s epoch.<sup>18</sup> For example in the papyrus Wess. Stud. XX 219 of the 7<sup>th</sup> cent. A.D. a certain woman lets out her son remaining under her *materna potestas* as a σταβλίτης (official in the posting service) for a determined rent – μισθός – and a settled term. She stipulates not to take the son back before the end of the term,<sup>19</sup> otherwise a penalty is to be paid.

The papyri that are known to us contain a variety of agreements which can be seen as closer to the so-called *l.-c. operarum*.<sup>20</sup> They were, as far as we know, arranged by free people who let out their physical labour or other services,<sup>21</sup> often of rather menial character. We know about *l.-c. operarum* with artists, with servants,<sup>22</sup> with overseers of animals, with oil porters, with weavers, barbers, muleteers, and other kinds of workforce. Sometimes it is unclear what kind of service is considered.<sup>23</sup>

No matter how diversified these arrangements may be from the point of view of the economy, as a rule, they contain rather detailed, sometimes casuistic, provisions

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*gräko-ägyptischen Recht*, ZRG RA, 1929, Bd. 49, p. 115 ff.; *Papyri from Tebtunis*, Part I, ed. A.E.R. Boak, Ann Arbor 1933 (hereafter: Mich.) II 121 recto II, VIII (42 A.D.); Tebt. 385 (117 A.D.), BGU 1647 (129 A.D.).

<sup>14</sup> Cf. S. Cugia, *Profili del tirocinio industriale*, Napoli 1922, p. 30 ff.; W.L. Westermann, *Paramone...*, p. 13–16, 29–36, 40–41; Oxy. 275 (66 A.D.); A. Berger, *Die Strafklauseln in den Papyrusurkunden*, Leipzig–Berlin 1911, p. 42, 166 ff.; B. Adams, *Paramoné und verwandte Texte*, Berlin 1964, p. 142, 183, 188; J.H. van Soden, *Untersuchungen zur Homologie in den griechischen Papyri Ägyptens bis Diokletian*, Köln–Wien 1973, p. 66, 92–94; H.J. Wolff, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemaeer und des Prinzipats*, Vol. II, München 1978, p. 124; Oxy. 2971 (66 A.D.); M. Manca Masciadri, O. Montevecchi, *I contratti di balatico*, Milano 1984, p. 6.

<sup>15</sup> R. Taubenschlag, *Law...*, p. 372, note 3.

<sup>16</sup> *Ibidem*, p. 372.

<sup>17</sup> *Les Papyrus Fouad I*, eds. A. Bataille et al., Cairo 1939 (hereafter: Fouad) 37 (48 A.D.), example given by R. Taubenschlag, *Law...*, p. 372, n. 4.

<sup>18</sup> *Papiri greci e latini*, Firenze 1912– (hereafter: PSI) IV 287 (37 A.D.), BGU 1124 (p. 7, l.12); Cf. R. Taubenschlag, *Die materna potestas...*, p. 118 ff.; papyrus *Studien zur Palaeographie und Papyruskunde*, ed. C. Wessely, Leipzig 1901–1924, 219 (604 A.D.).

<sup>19</sup> Cf. H. Lewald, *Personalexekution in Recht der Papyri*, Leipzig 1910, p. 14; V. Arangio-Ruiz, *Lineamenti del sistema contrattuale nel diritto dei papiri*, Milano 1930, p. 56. Example is given from R. Taubenschlag, *Law...*, p. 373.

<sup>20</sup> Cf. A.C. Johnson, L.C. West, *Byzantine Egypt*, London 1949, p. 135 ff.; W.K. Westermann, *Paramone...*, p. 9 ff.; O. Montevecchi, *I contratti di lavoro e di servizionell’ Egittoromano e bizantino*, Milano 1950; W.C. Till, *Koptische Parallellurkunden*, Studi Arangio-Ruiz, IV 1953, p. 197–208.

<sup>21</sup> R. Taubenschlag (*Law...*, p. 373) understood such agreements as similar to *l.c. rei*.

<sup>22</sup> Personal services were hired, e.g. daily labor in the service of a monastery – BGU 310, in Arabic, VII cent. A.D.

<sup>23</sup> Examples: R. Taubenschlag, *Law...*, p. 373–374 n. 1 ff. Mich II 123 recto XVII l. 17 is interesting as it mentions only unspecified “work”, see on that W.L. Westermann, *Paramone...*, p. 24–25, Mich. II 123 recto VIII 36, IV 5 and Mich. II 123 recto IV 3.

concerning the type of service to be rendered, as well as concerning the time in which the wages are to be paid, whether monthly or daily, whether in money, in species, or in other compensation specified as to their kind, and whether with any extra endowments or not.<sup>24</sup> Partial payments in advance are infrequent.<sup>25</sup> It is possible, that the employer had a kind of moral or customary obligation to provide his employee with legal assistance and financial support if necessary.<sup>26</sup>

From time to time unusual provisions occur. For example, an agreement with dancers mentions the obligation for the hiring party to insure the performers against the loss of their professional equipment, which was probably of substantial monetary value,<sup>27</sup> and to make arrangements for the delivery and return of the artists.<sup>28</sup> Due to its special provisions Oxy. 1893 (535 A.D.) is worthy of attention. In lines 14–15 the employer guaranteed certain shipbuilders (l. 7: ναυπηγοῖ) that the authorities would not interfere with their work: καὶ ἀνενοχλητον ὑμᾶς εἶναι | ἐκ τοῦ δημοσίουτῆς [τ]έχνης. Therefore, it is a private obligation to prevent the unwanted or illegal intrusions of public law authorities. Certain provisions in the contracts with physical labourers employed in an oil press required them to perform all the duties of a supplier until the entire manufacturing process is completed.<sup>29</sup> The agreements with a weaver and with an oil mill worker have penalty clauses inserted. In the latter case the employee agrees to pay the double amount of the sum received in advance in case of improper performance or lack thereof.<sup>30</sup> It is however unclear what kind of responsibility is meant – whether for *casus* or just for negligence.<sup>31</sup>

The performance of a contract as such should correspond with its content. However, the determination of proper action could be complicated. For example in Oxy. 138, an employee obliged himself in a very vague way to administer a stable in such a way as to “fulfill all the needs of the owner”<sup>32</sup> (l. 22: πάσας γεουχικὰς χρείας). Still it is quite probable that the intentions of the parties would not be taken into consideration in case of a court dispute. Only the formulation of a document and literal interpretation would be

<sup>24</sup> E.g. 36 *drachmae* per day, and a kind of σιτομετρία: 30 double loaves of bread and 4 small loaves (the old edition of papyrus) or cups of olive oil (new edition) – *Papiri Fiorentini, documenti pubblici e privati dell'età romana e bizantina*: I ed. G. Vitelli, Milano 1906; II ed. D. Comparetti, 1908–1911; III ed. G. Vitelli, 1915 (hereafter: Flor.) 74 (181 A.D.).

<sup>25</sup> Cf. B.P. Grenfell *et al.*, *Fayūm Towns and their Papyri*, London 1900 (hereafter: Fay.) 91 (99 A.D.). See: J. Banaji, *Agrarian...*, p. 197. SB XII 11239 (418 A.D.) provided, that the worker would be able to leave freely if he repaid the advance money.

<sup>26</sup> S. von Reden, *Ptolemaic (Greek)... [in:] Law...*, p. 402–405.

<sup>27</sup> Corn. 9 (206 A.D.), lines 14–15: ὄσα]δὲ ἐὰν κατενέγκηται ἰμά[τ]ια ἢ χρυσᾶ κόσμια, ταῦτασ[ῶ]α παραφυλάξομεν.

<sup>28</sup> E.g. *A Family Archive from Tebtunis*, ed. B.A. van Groningen, Leiden 1950 (hereafter: Fam. Tebt.) 54 (219 or 223 A.D.) l. 17–18: καὶ δώσω ὑμῖν ὑπ[ὲρ] ἀν[α]βάσεως καὶ καταβάσ[εως] δραχμᾶ]ς δύο.

<sup>29</sup> E.g. Fay. 91 (99 A.D.) l. 21–22: μέχρη ἐγβάσεως πάσης ἐλαιουργίας. This kind of clause may signify an attempt to prevent sudden abandonment of work.

<sup>30</sup> PSI 902 (ca. 48–56 A.D.), l. 15–17, Fay. 91 (99 A.D.), l. 27–30.

<sup>31</sup> Cf. R. Zimmermann, *The Law of Obligations: Roman Foundations of the Civilian Tradition*, Oxford 1996, p. 385–386; M. Kaser, *Das römische Privatrecht*, Bd. I, München 1971, Bd. II, 1975, Bd. I, p. 570; T. Mayer-Maly, *Locatio conductio*, Wien 1956, p. 182.

<sup>32</sup> Translation used here and discussion: P. Sarris, *Economy and society in the age of Justinian*, Cambridge UK–New York 2006, p. 56–57.

relevant.<sup>33</sup> Since the courts used to apply a standard interpretation of contractual clauses, the level of formalism in the drafting of contracts was high.<sup>34</sup>

Among Roman citizens the self-hire of free people for services<sup>35</sup> is worth mentioning.<sup>36</sup> Those who let themselves out refer to themselves as *paramonarioi*<sup>37</sup> or *katadouloi*.<sup>38</sup> Those workers enter the hirer's household and become his *familiares*.<sup>39</sup> They are obliged to *paramone*<sup>40</sup> and to obey all the employer's orders. Like in the agreements discussed earlier, employees' obligations were strengthened by penal clauses.<sup>41</sup>

In a number of contracts of local Roman legal practice Lond. 1796 (VI cent. A.D.) has some acquaintance with *paramone* documents. This agreement establishes a kind of voluntary serfdom.<sup>42</sup> The small landowner let his land to a patron and pledged to cultivate it for him for remuneration. In a manner similar to a medieval *commendatio*, the petty holder transferred access to the land in return for protection and becoming *colonus adscripticius*. The document contains an example of a transaction where a fictitious legal transfer serves as a way to establish a patronage relationship. The duration of some contracts could last for as long as the lord wanted,<sup>43</sup> even to the end of the farmer's life.<sup>44</sup> Therefore the balance of interests of the parties is compromised and the more powerful person has a very strong position. The declaration of a total or partial payment in advance is quite frequent.<sup>45</sup>

In Byzantine times obligations of the employer were from time to time specified under the influence of Justinian's legislation.<sup>46</sup> In Cair. Masp. 67.001 (514 A.D.) one could

<sup>33</sup> H.J. Wolff, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemaer und des Prinziats*, Bd. 2, *Organisation und Kontrolle des privaten Rechtsverkehrs*, Munich 1978, p. 146–154.

<sup>34</sup> H.J. Wolff, *Das Justizwesen der Ptolemäer*, 2<sup>nd</sup> ed., Munich 1970, p. 81–85. Similarities of the content and ideas in contract formulas throughout antiquity were already investigated by E. Rabel, *Die Haftung des Verkäufers*, Leipzig 1902, p. 34–41.

<sup>35</sup> Cf. R. Taubenschlag, *Das babylonische Recht*, JJP, 1954, Vol. 7–8, p. 182 ff., also mentions an affinity with Mesopotamian documents.

<sup>36</sup> SB 4490, BGU 310 (663 A.D.?) l. 7: [ὁ]μολογῶ μεμισθωκέναι σοι ἐμαυτὸν ἐκτελ(οῦν)τα. Cf. this with Latin wording *se locare* in D.35.2.2. In the papyrus *Griechische Papyrus der kaiserlichen Universitäts- und Landesbibliothek zu Strassburg*, ed. F. Preisigke, 2 vols., Strassburg–Leipzig 1906–1920 (hereafter: Strassb.) 40 (569 A.D.), l. 34–35, words ἄποστῆναι τῆς δουλικῆς ἀ[ὐ]τοῦ προστασί[ας], similar to *se locat*, were used. R. Taubenschlag, *Law...*, p. 375.

<sup>37</sup> SB 4490, 7<sup>th</sup> cent. (656?, 641?) A.D. l. 5–6, 8–9: Θεόδωρος παραμονά[ριος] πρεσβύ[τερος] [...] ὁμολογῶ ἐκου[σίᾳ] γνῶ[μη] μ[ε]μισθωκέναι ἐμαυτὸν; Cf. PSI 1344, 6<sup>th</sup> cent. A.D., l. 1 v.

<sup>38</sup> Strassb. 40 l. 24, PSI 1344 l. 1 r. is worth noticing: ἔσχον εἰς παραμονήν τινα δοῦλον, where both expressions are combined (R. Taubenschlag, *Law...*, p. 375, n. 19), perhaps to avoid any dispute.

<sup>39</sup> Strassb. 40 l. 11; on Babylonian law: P. Koschaker's review of L. Oppenheim, *Untersuchungen zum babylonischen Mietrecht*, in: ZRG RA, 1937, Bd. 57, p. 383–401; see also: F. Kudlien, *Loco Servorum: Statusbegriff*, „Hermes” 1996, Bd. 124, H. 3, p. 355–366.

<sup>40</sup> Oxy. 1122 (407 A.D.) ll. 9 ff., Strassb. 40 (569 A.D.), l. 30, 34, SB 4490 (7<sup>th</sup> cent. A.D.); Cf. R. Taubenschlag, *Law...*, p. 374–375.

<sup>41</sup> E.g. SB 4490 l. 25–29; A. Berger, *Strafklauseln...*, p. 175, n. 5.

<sup>42</sup> R. Taubenschlag, *Law...*, p. 379–380. On dependent labour of farmers in the Apionic estates: B. Haug, *Dependent labor: the case of the enapographoi georgoi* [in:] *Law and Legal Practice...*, p. 430–441.

<sup>43</sup> SB III 6266 = SB 3 6704, 6<sup>th</sup> cent. A.D., l. 10: [...] πρὸς ὃν βο(ύ)λειται χρόνον ὁ λαμπρότατος γεοῦχος.

<sup>44</sup> *Papyrus grecs d'époque byzantine, Catalogue général des antiquités égyptiennes du Musée du Caire*, ed. J. Maspero, Cairo 1911–1916 (hereafter: Cair. Masp.) 67.001 (514 A.D.), l. 20: ἐπὶ τὸν χρόνον τῆς ἡμῶν ζωῆς [...].

<sup>45</sup> Examples: R. Taubenschlag, *Law...*, p. 380.

<sup>46</sup> *Ibidem*.

construe from the form in which the watchmen undertake their obligation that the Greek paraphrase of D.19.2.40 Gaius *libro quinto ad edictum provinciale* preserved in the Basilica served as an inspiration for the drafter.<sup>47</sup> The person *qui mercedem accepit pro custodia alicuius rei* is burdened with *periculum custodiae*. According to Taubenschlag the rule for the *misthosis* of the custody (παραφυλακή) is evidently applied here. Such regulation was employed from the late 2<sup>nd</sup> century A.D. on. Moreover, penalties in case of breach of contract are not as frequent as in Graeco-Egyptian law.<sup>48</sup>

## II. Examples of contracts of professionals

The aforementioned documents concern mainly manual labour, at least partially analogous to the Roman understanding of *operae*. However, we also know of employment agreements prepared in a manner similar to physical labor or craft agreements, in which people of relatively high social position were engaged as professional employees with managerial duties.<sup>49</sup>

Thus, I would like to focus on selected contracts preserved as a part of the so-called Apion Archive, which was a collection of documents relevant to the day-to-day operation of large agricultural complexes in Egypt in the 6<sup>th</sup> through 7<sup>th</sup> centuries A.D.<sup>50</sup> The estates comprised the following types of properties: (a) *epoikia* – properties located in or around villages – *komai*); (b) *ktemata* – landholdings, centered on *epoikia*; and (c). land held and cultivated ‘in-hand’ – *autourgia*. The terms on which the managers of the estates – *pronoetai* – were employed was recorded in two contracts: Oxy. 136 (583 A.D.) and Oxy. 3952 (609/610 A.D.).<sup>51</sup> These functionaries took care of the accounting, the control of expenditure, and the collection of revenue.

The contract conserved in Oxy. 136 declares (l. 11 and ff. ὁμολογῶ ἐγὼ [...] ἔκουσία γνώμη καὶ ἀθαιρέτῳ προαιρέσει συντεθεῖσθαί με πρὸς τὴν ὑμῶν ὑπερφύειαν [...]) that a certain Serenus, a deacon (l. 7: Σερῆνος διάκονος τῆς ἀγίας ἐκκλησίας), made a rather formal and stereotyped declaration of being employed through “his own free will and deliberate choice”. The functionary was employed as a “supervisor” or “receiver”. His task was to manage a holding, the possessions in villages, and the so-called “*exotikoi topoi*” of the Apiones’ *domus* (see lines 11–17). Moreover the *pronoetes* was obliged to cooperate in this management with the land-laborers of the *ktema* and the villages and *exotikoi topoi* “who were responsible”. This cooperation was to take place on the basis of the register or the schedule of demands. Serenus had to collect the revenue and then

<sup>47</sup> *Ibidem*. Cf. P.J. Du Plessis, *Between Theory...*, p. 426–427.

<sup>48</sup> *Ibidem*, p. 380–381.

<sup>49</sup> Cf. *ibidem*, p. 376 ff.; Oxy. 1894 (593 A.D.), Cair. Masp. 67.304 (Byz. times).

<sup>50</sup> Cf. T.M. Hickey, *Aristocratic landholding and the economy of Byzantine Egypt* [in:] *Egypt in the Byzantine World, 300–700*, ed. R.S. Bagnall, Cambridge 2007, p. 302–304.

<sup>51</sup> P. Sarris, *Economy and society in the age of Justinian*, Cambridge UK–New York 2006, p. 50–51. The following remarks and translations are based on this book if not stated otherwise.

pay due amounts of money to the employer or his representatives. This was to be done according to the receipts issued by Serenus to all the rural workers subordinated to him.<sup>52</sup>

A few remarks should be made.<sup>53</sup> First, the supervisor belonged to quite a respectable social stratum. He was employed for a single year, probably to ensure efficiency and honesty through the lucrative prospect of future contracts. Secondly, he was provided with a schedule of demands – *apaitesimon* – given by *chartularioi* – the “keepers of archives”. According to our knowledge of ancient accounting techniques, such registers would be rather unsophisticated. Thirdly, the *pronoetes* was obliged to issue receipts – *entagia* – to the rural workforce. Those receipts documented the received sums.

Three categories of land, that is the *ktemata*; the land within villages (*komai*); and *exotikoi topoi* were recorded in the initial section of the discussed papyrus. Those types of estates belonged to two wider categories or “divisions of land” – *ktemata* and *exotikoi topoi*.<sup>54</sup> The administrative regime of each of them was different. In case of any “short fall on the *ktemata*” the *pronoetes* was “to make it good” to the employer and the sum was to be credited into his own account. Revenues from the *exotikoi topoi* were to be fully transferred by the manager after he collected all the due payments.<sup>55</sup> Economic circumstances were taken into consideration, as Serenus had a certain margin to maneuver in relation to the financial circulation in the *ktemata* and the village domains.<sup>56</sup> Limited arrears of the manager were also allowed. The administrative regime of *exotikoi topoi* seems to be more rigid. The text of Oxy. 136 allows one to deduce, that the revenues from the *exotikoi topoi* were to be entered into a separate register – “the landowner’s account” – *geouchikos logos*<sup>57</sup> – and that no leeway was provided.<sup>58</sup>

The term “*exotikoi topoi*” is discussed in the juristic papyrology. The literal meaning of the term, a reference to which seems to be the simplest solution, is “outlying places”. According to the estate registers and accounting books two types of property could have been considered as “*exotikoi topoi*” in the *ktemata* and the village holdings: the estate *epoikion* settlements and the *autourgia*.<sup>59</sup>

In the accounts *epoikion* and *ktemata* revenues are treated in the same manner. Peter Sarris argues, that understanding them as different categories is not justified.<sup>60</sup> The *exotikoi topoi* addressed in Oxy. 136 could be the *autourgiai* belonging to the Apiones’ *domus*. They were associated with the *epoikia* supervised by the manager. Two argu-

<sup>52</sup> L. 17–24; Cf. P. Sarris, *Economy...*, p. 51–54.

<sup>53</sup> P. Sarris, *Economy...*, p. 52–53.

<sup>54</sup> *Ibidem*, p. 53.

<sup>55</sup> L. 24–27; trans. and discussion: P. Sarris, *Economy...*, p. 53.

<sup>56</sup> *Ibidem*.

<sup>57</sup> *Ibidem*.

<sup>58</sup> *Ibidem*.

<sup>59</sup> *Ibidem*. According to Sarris the *αὐτουργία* were directly managed. The terms ἐξωτικαὶ ἄρουραι/ἐξωτικὴ γῆ, however, may have different meaning as we know of papyri in which those estates were rented. This is contrary to Sarris’ argument that *αὐτουργία* were cultivated directly by the estates’ workforce. A. Benaissa, *An estate overseer’s Work contract and the meaning of Exotikoi Topoi*, “Bulletin of the American Society of Papyrologists” 2007, 44, p. 83–84; T.M. Hickey (*Aristocratic...*, p. 289, n. 8) considers Sarris’ conception of the *autourgia* as expounded in an earlier paper (P. Sarris, *The origins of manorial economy: New Insights from Late Antiquity*, “English Historical Review” 2004, Vol. 119, p. 279–311) to be “egregiously unsupported”.

<sup>60</sup> P. Sarris, *Economy...*, p. 53.



ments may support this proposition. First, the *autourgia* revenues were not included in the general estate accounts, nor, according to Oxy. 136, were those of the *exotikoi topoi*. Second, the income from the *autourgia* could be more important for the landowner than that from the *ktemata*. If the terms *exotikoi topoi* and *autourgia* were synonymous, it would explain the determination of the owners, reflected in the document at hand, to collect completely the sums owed by the *exotikoi topoi*.<sup>61</sup>

If we are dealing with synonyms, one may ask an obvious question: why was the *autourgia* described as an *exotikos topos*? Sarris attempts to answer this question with a linguistic argument. He argues that: verbosity<sup>62</sup> in the vocabulary used in the papyrus, is relevant here. He mentions, that it was a usual practice of the epoch to call “a spade a shovel”, and a shovel an “earth-turning implement”.<sup>63</sup> This figure of speech, *circumlocutio* or *periphrasis*, was a part of a standard rhetorical curriculum, thus, according to Sarris, it should not be surprising that it entered also notaries’ practice.

Moreover, Sarris argues, that “in the sixth century, the word *exotikos* carried clear legal connotations. It was used in the Justinianic law to describe an entity or subject that stood outside of or distinct from a particular legal relationship”.<sup>64</sup> This statement is founded on the text of J.Nov. 48.1.7 and J.Nov. 22.20.2. These two laws use the term “ἔξωτικός”, but as a synonym for the Latin word “*extraneus*” in the context of inheritance law. Combining such specific use of the word “ἔξωτικός” with the papyrus discussed here, which has nothing to do with inheritance law, is unfounded.

Sarris also maintains, that the records let us suppose that the *autourgia* was under the direct control of the estate officials, but the *ktemata* were leased out to the inhabitants of the *epoikia*.<sup>65</sup> If the *ktemata* were to be leased and the *autourgia* was managed by the staff of the household, the two types of real estate would have had a different legal status. Therefore, in Sarris’ opinion, calling the *autourgia* an *exotikos topos* with respect to the *ktemata* would have been technically appropriate.<sup>66</sup>

Benaïssa, however, remarks, that the expression “ἔξωτικοὶ τόποι” has a different meaning.<sup>67</sup> In the papyrus analyzed by Benaïssa the issues of the arrears originating from the management of the *ktemata* and *exotikoi topoi* are addressed in one clause. Still their counterparts in Oxy. 136.1.24–25 and Oxy. 395.1.26–27 mention only *ktemata*. *Exotikoi topoi* are treated in separate clauses.<sup>68</sup>

<sup>61</sup> *Ibidem*, p. 54.

<sup>62</sup> J.G. Keenan, T.M. Hickey (*A Labor Contract for a pronotes (P. Lond. inv. 2219)* [in:] *Papyrological Texts in Honor of Roger S. Bagnall*, eds. R. Ast et al., Durham NC 2012, p. 144) notice interesting wording in the papyrus: οἱ ἐγγυηταὶ μανδύτορες. Was it used to keep the legal distinction, or is this just a πλεονασμός? A notary could use such formulas to avoid controversy. Cf. also: P. Sijpesteijn, *The Meanings of ἦτοι in the Papyri*, ZPE, 1992, Vol. 90, p. 241–247.

<sup>63</sup> P. Sarris, *Economy...*, p. 54.

<sup>64</sup> *Ibidem*.

<sup>65</sup> Cf. Oxy. 4615, a contract of lease, in which a peasant took a one-year lease on a field in the possession of his *ktema*.

<sup>66</sup> P. Sarris, *Economy...*, p. 53–54.

<sup>67</sup> A. Benaïssa, *An estate...*, p. 76.

<sup>68</sup> *Ibidem*, p. 75–76, 80.

The *communis opinio* understands *exotikoi topoi* simply as “outlying places”. However, in 1909 M. Gelzer<sup>69</sup> already argued, that the *exotikoi topoi* of Oxy. 136.1.19 mean “hörige [...], die in vici publici, freien Dorfgemeinden, wohnen.” Ulrich Wilken (W. Chr. 383 introd.) however, pointed that in Oxy. 136.26 “*exotikoi topoi*” were characterized as *belonging to your excellency*. He supported simple translation: *Also sind auswärtige Besitzungen gemeint*.<sup>70</sup> Benaissa argues, that Apiones’ estate archive demonstrates, that *exotikoi topoi* were just another type of farm, the term does not have juridical meaning.<sup>71</sup> Moreover, Benaissa<sup>72</sup> noticed that *exotika* (*neutrum pluralis*) refers to the revenue from the *exotikoi topoi*.<sup>73</sup> Such wording supports the simplest interpretation – “external revenue”, not “revenue of a distinct legal category”. Considering the above arguments, the claim that *periphrasis* was used by the drafter and that we are dealing with technical terms borrowed from CIC is unfounded.

Still, a certain degree of practical legal knowledge and attention to the detail of the notarial practice can be noticed in the drafts discussed in this section. In the closing paragraph of Oxy. 136, the manager and his guarantor – Victor (l. 34: Βίktor ὁ ἐγ’γρητής) *renounced the privilege of sureties, contrary to the new imperial law on sureties and warrantors*.<sup>74</sup> In considering such a clause one may argue that agreements were aimed at avoiding the application of imperial regulation.<sup>75</sup>

Oxy. 136 does not seem to be an isolated case. The reference to *ius mandatoris* in line 4 of P. Lond inv. 2219 (496 A.D.) also may concern the *mandator*’s competence to renounce his mandate together with his guarantee. This is, as the Authors remark, permitted by D.17.1.22.11 (*Paulus 32 ad Edictum*). Therefore this clause may also serve as indirect evidence of the use of Roman juristic writing in Egyptian legal practice, at least in the upper classes.<sup>76</sup>

In Oxy. 3952 (610 A.D.), which illustrates circumstances similar to those of Oxy. 136, the employee, Phoebammon, was a priest, and his guarantor was a teacher or schoolmaster (l. 6–7: Φοιβάμμων[πρε(σβύτερος) τῆς ἀγίας ἐκκλησίας]; l. 11: [γραμματοδι] δασκάλου τοῦ Νοτίνου Σχολίου). Therefore, they were both of a similar social standing

<sup>69</sup> M. Gelzer, *Studien zur byzantinischen Verwaltung Ägyptens*, Leipzig 1909, p. 88; after A. Benaissa, *An estate...*, p. 80.

<sup>70</sup> *Ibidem*, after A. Benaissa, *An estate...*, p. 81. R. Mazza (Review of *Economy and Society in the Age of Justinian*, by Peter Sarris, “Journal of Agrarian Change” 2008, Vol. 8, No. 1, January, p. 144–167, 153) also supports the simplest solution: *exotikoi topoi* were scattered plots of land, located outside the villages or *epoikia*.

<sup>71</sup> A. Benaissa, *An estate...*, p. 84–85; J. Banaji, *Agrarian...*, p. 173–174.

<sup>72</sup> A. Benaissa, *An estate...*, p. 82.

<sup>73</sup> Oxy. 136.9, 16, Oxy. 3952 l. 19; cf. Oxy. 136 l. 18–19; A. Benaissa, *An estate...*, p. 80.

<sup>74</sup> L. 37–39 – reference to an unknown imperial law described as [...] τῇ νεαρᾷ διατάξει τῇ περὶ ἐγ’γρητῶν καὶ ἀντιφωνητῶν.

<sup>75</sup> P. Sarris, *Economy...*, p. 54. Cf. D.1.3.29, 30; C.1.14.5; H. Honsell, “*In fraudem legis agere*” [in:] *Festschrift für Max Kaser*, eds. D. Medicus, H.H. Seiler, München 1976, p. 111.

<sup>76</sup> J.G. Keenan, T.M. Hickey, *A Labor Contract...*, p. 144. Cf. about the enforcement of Justinian’s law in Egypt: J. Beaucamp, *Byzantine Egypt and imperial law* [in:] *Egypt in the Byzantine World, 300–700*, ed. R.S. Bagnall, Cambridge 2007, p. 271–288, esp. 280–282; rejecting the opinion of A. Schiller that Justinian’s law in Egypt remained ineffective cf. A. Schiller, *The Fate of Imperial Legislation in Late Byzantine Egypt* [in:] *Legal thought in the United States of America under Contemporary pressures*, eds. J.N. Hazard, W.J. Wagner, Brussels 1970, p. 41–60, also his, *The Courts Are No More* [in:] *Stud in onore di Edoardo Volterra*, Vol. I, Milano 1971, p. 496–502.

and background like the aforementioned Serenus – they belonged to the stratum of well-educated lower clergy. As in Oxy. 136, the manager and his warrantor were fully liable for the revenues to be collected. The imperial novel was excluded, just like in the papyrus discussed above (l. 40–45, esp. 44: ἀποτατ'όμενος τῆ νεαρᾷ διατάξει). The agreement had a duration of a year, for the same reason as in Oxy. 136. The employee was to handle the stewardship of the estates in two villages and certain *exotikoi topoi*. Proper financial policies were to be controlled by comparing the sums received with receipts (l. 41–43). Also in this contract the overseer enjoyed a certain margin for maneuver in the *ktemata*: arrears could be paid later.<sup>77</sup>

Thanks to Oxy. 3958 (614 A.D.) various details of the administration of the Apion family's urban properties are known. This papyrus is analyzed here because it is a contract concluded with certain Joseph, a member of the estate staff called *enoikologos*. His social standing is similar, if not identical, to that of the people encountered above, as he was a *psaltes* – a psalmist (l. 11–12: ἐγὼ Ἰωσήφ ψάλτης [...] τοῦἀγί(ου) Θεοδώρουκαὶἐνοικιολόγος). Just like in Oxy. 136 and Oxy. 3952, he was employed for one year. The one year term seems to be typical in the agreements with estates' managers (l. 16–17). Joseph was to act as *enoikologos* for all the real property (including buildings) belonging to the Apiones in Oxyrhynchus. He also agreed to collect the earnings from the premises belonging to the *domus* pertaining to his “collectorship”;<sup>78</sup> to pay to the employer 125 *solidi* and the “small denomination coins” supplied by him to the people attached to the Apiones household in accordance with the *pittakia* (l. 23–27). Moreover, he agreed to distribute olive oil to the estate staff and to perform other tasks (l. 27–34).

Two additional contracts from Apiones' archive are worth mentioning: Oxy. 138 (610–611 A.D.), which contains the terms of employment of a contractor for both the racing or riding area, and the riding stable (l. 9–10: πακτάριος τοῦ ὀξέως δρόμου [...] καὶ τοῦ βαδιστικοῦ στάβλου), and Oxy. 3641 concerning a millstone cutter. Papyrus' Oxy. 138<sup>79</sup> composition is similar to the structure of the contracts of the *pronoetai* and the *enoikologos* discussed above.<sup>80</sup> The principal party to the contract, John (Ἰωάννης), took charge of the management of the horse breeding facilities belonging to the *domus* of the Apiones for one year (see l. 9–10). The vague way in which his duties were specified has already been discussed above. Apart from the very general clause about “all the needs of the owner”, more precise wording is also used, as John was obliged to provide “mounts for the noble administrators and the most illustrious secretaries and the slaves departing on whatever estate business”.<sup>81</sup>

<sup>77</sup> L. 26–28, P. Sarris, *Economy...*, p. 54–55.

<sup>78</sup> L. 20–21: [...] ἀπὸ τε οἰκιῶν καὶ ἀποστάσεων καὶ ἄλλων προσηκόντων[ν τῶ] ἐνδόξω ὑμῶν οἴκῳ καὶ ἀνηκόντων τῆ ἐνοικιολογία.

<sup>79</sup> Cf. Oxy. 140 (550 A.D.) with *paramone* clause in l. 24–26. In 1906 G. Viteli (in Flor. I 44, note to l. 19) argued that the verb *paramenein* was a euphemism to express the establishment of a service relation, so also: W.L. Westermann, *Paramone...*, p. 13–14, 25–27; see: L. Wenger, *Die Stellvertretung im Rechte der Papyri*, Leipzig 1906, p. 265 ff.; R. Taubenschlag, *Law...*, p. 376 ff.

<sup>80</sup> P. Sarris, *Economy...*, p. 56.

<sup>81</sup> L. 21–24: ὁμολογῶ ὑπέισελθεῖν τοῦτο καὶ εἰς τὰς ἀνακυπτούσας πάσας γεουχικὰς χρείας, καὶ στρῶσαι τοῖς τε περιβλέπτοις διοικηταῖς καὶ λαμπροτάτοις χαρτουλαρίοις καὶ παισὶν ἀπερχομένοις εἰς οἰανδήποτε γεουχικὴν χρείαν, transl. P. Sarris, *Economy...*, p. 56–57.

The stable manager was expected to receive the sum of “one pound” of gold from the employer following the Alexandrian standard “on account of the *pakton*” (l. 26–28: καὶ δέξασθαι με παρ’ αὐτῆς λόγωπάκτου τῆς αὐτῆς χρείας τοῦ αὐτοῦ ἐνιαυτοῦ χρυσοῦ λίτραν μίαν ζυγῶ Ἀλεξανδρ(εῖας)). As one pound – λίτρα – of gold was of substantial value, it is almost impossible that it was transferred as the contractor’s remuneration.<sup>82</sup> The description of the paid sum is instructive here. The wording corresponds with that used in the Oxy. 3958, in which it would have represented the sum which Joseph – the *enoikologos* – had agreed to pay to his employer.<sup>83</sup> The hypothesis that prominent landowners like the Apiones outsourced the management of at least some of their properties in return for a lump sum<sup>84</sup> is probable. This policy with respect to the estate facilities sheds some light on the proper understanding of the term *pakton* used in Oxy. 138. John – σὺν θεῶ πακτάριος (l. 8–9) – was going to run the horse breeding enterprise with his own workers, as the contract was signed not only by him but also by his “hireling”, a kind of assistant or secretary (l. 45–47: Φοιβάμμων μίσθιος αὐτοῦ [...] ἔγραψα ὑπὲρ αὐτοῦ). The prominent landowner provided the contractor, usually of “middle class” social standing, with a lump sum (the so-called “*pakton*”) for the costs of managing the enterprise and for the remuneration.<sup>85</sup> This “*pakton*” served as a stimulus for the fair and efficient administration and limited the need for additional financial control etc.<sup>86</sup> Stable manager John is in a position similar to a contractor referred to as *ergolabos*.<sup>87</sup>

The maintenance of large estates’ agricultural enterprises, however, required also the services of qualified artisans, whose skills and expertise may have been rare. It was to the employer’s advantage to retain them on a longtime basis.<sup>88</sup> Thus in Oxy. 3641 (544 A.D.) – an agreement between the Apiones and a millstone cutter – the services of the specialist are hired for his lifetime.<sup>89</sup> According to the contract, a certain Aurelius Serenus,

<sup>82</sup> P. Sarris, *Economy...*, p. 57.

<sup>83</sup> *Ibidem*. Oxy. 3958 l, p. 23–24.

<sup>84</sup> P. Sarris, *Economy...*, p. 57. Could such ‘outsourcing’ cause exploitation of the workforce? The working conditions in the fields could be harsh. J. Banaji quotes John Chrysostom’s, *Hom. in Matt.* 61, where the preacher criticizes abuses committed by certain Syrian landowners (*Agrarian...*, p. 197). Stipulations limiting employee’s freedom of movement could serve to make his status similar to serfdom and thus ensure the exploitation. However, it is doubtful whether such conduct was frequent. Cf. Johannes Moschos, *Patrologia Graeca*, Vol. 87.3, col. 3021–23; P. Coll. Youtie II 92; J. Banaji, *Agrarian...*, p. 205, n. 97; A. Jordens, *Roman and Byzantine labor contracts* [in:] *Law and Legal Practice...*, p. 417–419.

<sup>85</sup> P. Sarris, *Economy...*, p. 57. Cf. also: Oxy. 134 (569 A.D.), being a contract and an acknowledgement given to Flavius Apion by John, chief of the stonemasons (l. 15–16): Ἰωάννης κεφαλ(ῆ) τῶν λαοτόμων, for the receipt of one solidus. The manager agreed to transport 200 stone blocks (l. 26: λίθους μεγάλους) to a cistern on the employer’s estate. See e.g.: O. Montevecchi, *I contratti di lavoro e di servizio nell’Egitto greco-romano e bizantino*, Roma 1950, p. 75; H.J. Wolff, *Der byzantinische Urkundenstil Ägyptens im Lichte der Funde von Nessana und Dura*, Revue internationale des droits de l’antiquité (hereafter: RIDA), 1961, Vol. 8, p. 118; A. Jordens, *Vertragliche Regelungen von Arbeiten im späten griechischsprachigen Ägypten*, Heidelberg 1990, p. 149–153, 313; R. Mazza, *L’Archivio degli Apioni: Terra, lavoro e proprietà senatoria nell’Egitto tardoantico*, Bari 2001, p. 26, 61. Larger projects (irrigation, construction) were farmed out to chief contractors who sub-employed the workforce already in the Ptolemaic era. S. von Reden, *Ptolemaic (Greek) labor contracts* [in:] *Law and Legal Practice...*

<sup>86</sup> P. Sarris, *Economy...*, p. 57.

<sup>87</sup> Cf. S. von Reden, *Money in Ptolemaic Egypt*, Cambridge–New York 2007, p. 144.

<sup>88</sup> P. Sarris, *Economy...*, p. 58.

<sup>89</sup> Cf. *ibidem*, p. 59–65. On estates’ costly investments: E. Tacoma, *Replacement parts for an irrigation machine of the divine house at Oxyrhynchus*, ZPE, 1998, Bd. 120, p. 123–130.

professional millstone cutter – *μυλοκόπος*<sup>90</sup> – shall make special stone mill-parts termed *strobili*<sup>91</sup> and *calathi*<sup>92</sup> at the rate of 2 *solidi*, either each or per pair (l. 13–14), “for the rest of his life” (l. 8: ἐπὶ τὸν τῆς ζωῆς μ[ο]ν χρόνον). These were to be furnished in various places belonging to the latifundium like bakeries, the oil-presses and in “*all the ktemata*” (l. 9–10: ἐν ἐκάστ[τῶ] τόπῳ τῆς ὑμετέρας οὐσίας ἐν τε κριβανείῳ τε καὶ πᾶσιν τοῖς κτήμασιν καὶ ἐν ἐλαι[ου]ργείοις). If the craftsman broke the contract for any reason other than illness he would be liable to a fine of 24 *solidi* (l. 15–17<sup>93</sup>). The employer was likewise obliged to pay him the same amount if he wished to terminate the agreement without reason (l. 17–19). This seems to be fair, however the sum of 24 *solidi* could be rather low for the prosperous estate owners, like Apiones, and extremely high for a craftsman, even a well-paid one.

### III. Conclusions

In Roman law the transition in labour from servant or bondsman status to a contract of free parties occurred, at least partially, in republican times.<sup>94</sup> A similar process can be seen in the documents from Graeco-Roman Egypt where a contractual basis for workforce recruitment and management was employed in much the same manner. This is an important achievement in human resources management.<sup>95</sup>

Implementation of a contractual basis for employment created mutual claims and duties. It is also worth mentioning that payments in advance could serve as an incentive to make the proposed work more attractive.<sup>96</sup> Still, many contracts, especially those concerning the *paramone* status,<sup>97</sup> established a kind of subjection, either temporarily or for a long period, therefore they may be regarded as – to some degree – impeding free movement of the workforce.

The use of written documents was beneficial and useful for the employee, especially when he was of lower social standing. It allowed him to think of the conditions of contract<sup>98</sup> and to recall employment conditions, wages, and duties. The use of a written form and signatures also served to deceive the hired person harder. Moreover, the written

<sup>90</sup> Papyrus recto has in l. 6: [μυλοκόπος τὴν τέχνην]; verso l. 1: Σερή]νο[υ] μ[υ]λ[ο]κόπου τὴν τέχνην.

<sup>91</sup> The word ‘στροβίλος’ means here a rotating shaft. Oxy. 1704 (298 A.D.) l. 11 says about μοῦλ[αίου] ἀλετικού σὺν στροβίλῳ καὶ λίθῳ.

<sup>92</sup> Generally speaking, the non-technical meaning of the word κάλαθος is “a basket narrow at the base”. The parts to be provided by Serenus had similar shape and were aligned with *strobili*.

<sup>93</sup> Cf. the clause establishing a lien on the assets of the craftsman in l. 19–21 of the document.

<sup>94</sup> See H. Kaufmann, *Altrömische Miete*, Böhlau 1964, *passim*.

<sup>95</sup> See S. von Reden [in:] *Law and Legal Practice*..., p. 402–410.

<sup>96</sup> W.L. Westermann, *Paramone*..., p. 23.

<sup>97</sup> See e.g. Fuad 37 (48 A.D.); Oxy. 725 (183 A.D.); W.L. Westermann, *Paramone*..., p. 28–29. J. Banaji, *Agrarian*..., p. 190–192, notices, that the prominent landowners safeguarded availability of the workforce through contractual clauses excluding employment of an agricultural worker (termed as a “farmer for lease” – γεωργός μίσθιος) in somebody’s else estate.

<sup>98</sup> Since he was often illiterate he was necessarily assisted by the person who could read. Legal papyri frequently declare that the party is illiterate, see O. Montevecchi, *La papirologia*, Milano 1988, p. 399–401.

document played an essential role in court proceedings. Evidence from a document was decisive in case of a dispute over a contract's provisions.<sup>99</sup> The content of an agreement was preserved in the public register of contracts – *ἀναγραφή*.<sup>100</sup> Usually the standard clauses, derived from Greek or Egyptian notaries' practice, were used. Judges had to be well versed in their common interpretation.<sup>101</sup>

The contents of the contracts with overseers analyzed in section II support, at least indirectly, the thesis, that intellectual work was not considered as legally incompatible with employment contracts.<sup>102</sup> *Artes liberales* were not a legal category, there was no juridical exclusion of such services from the area of the law of obligations. A similar situation is reflected in the papyri discussed here.<sup>103</sup>

Local customary and legal practice was strong and the influence of Roman law in the analyzed documents is quite weak.<sup>104</sup> Therefore one may conclude that although there was no Greek jurisprudence, the complex economy of Graeco-Roman Egypt functioned well enough and the experience of notaries allowed parties to satisfy their interests. The influence of Hellenistic commercial customs on Roman law and legal practice is another question requiring further research in large areas.

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<sup>99</sup> H.J. Wolff, *Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemaer und des Prinzi-pats*, Vol. 2, *Organisation und Kontrolle des privaten Rechtsverkehrs*, Munich 1978, p. 146–154.

<sup>100</sup> Cf. *Law and Legal Practice...*, p. 32–42.

<sup>101</sup> H.J. Wolff, *Das Justizwesen der Ptolemäer*, Munich 1970, p. 37–53.

<sup>102</sup> Cf. P.J. Du Plessis, *Letting...*, p. 94; J. Macqueron, *Réflexions sur la locatio operarum et le mercen-narius*, “Revue Historique de Droit Français et Étranger” 1959, Vol. 35, p. 600–616.

<sup>103</sup> Cf. P.J. Du Plessis, *Letting...*, p. 95; G. Coppola, *Cultura e potere il lavoro intellettuale nel mondo romano*, Milano 1994, quoted after P.J. Du Plessis, *Letting...*, p. 95–96.

<sup>104</sup> Cf. A. Jordens *Roman and Byzantine labor contracts* [in:] *Law and Legal Practice...*, p. 411.

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