OBSIGNATIO ET DEPOSITIO OF AN OFFICIALLY OPENED TESTAMENT IN ROMAN LAW

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DOI: 10.26399/iusnovum.v14.2.2020.21/s.kursa

1. INTRODUCTION**

The safety of legal transactions required the opening of testaments to take on an official form. The procedure was a sequence of activities arising from the nature of the process, with a view primarily to probating the document. Its exhaustive but concise description can be found in the *Pauli Sententiae*.

> PS. 4.6.1: *Tabulae testamenti aperiuntur hoc modo, ut testes vel maxima pars eorum adhibeatur, qui signaverint testamentum: ita ut agnitis signis rupto lino aperiatur et recitetur atque ita describendi exempli fiat potestas ac deinde signo publico obsignatum in archivum redigatur, ut, si quando exemplum eius interciderit, sit, unde peti possit.*

Accordingly, the following steps were involved: (1) confirming of the presence of all or a majority of the witnesses of the testament making; (2) verifying of the authenticity of the seal; (3) cutting of the cord; (4) reading out of the testament contents; (5) making of a copy; (6) resealing of the testament and depositing it in the archive.

The next passage of the *Pauli Sententiae* discusses the resealing and identifies the time and place allocated for the opening of testaments.

> PS. 4.6.2: *Testamenta in municipiis coloniis oppidis praefectura vico castello conciliabulo facta in foro vel basilica praesentibus testibus vel honestis viris inter horam secundam et decimam diei aperiri recitarique debebunt, exemploque sublato ab isdem rursus magistratibus obsignari, quorum praesentia constat apertum.*

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** The publication co-funded by the National Science Centre in Poland, project no. 2014/13/B/HS5/00926 carried out by the SWPS University of Social Sciences and Humanities.

Testaments made in cities, in the provinces, in strongholds, at the prefecture, in the countryside, at a castle or the location of popular assemblies were opened during the authorities' office hours in the presence of the competent official at the forum or in the basilica.[1] The nature of those places made it possible for the testament to be read out in public.[2] Opening of a testament elsewhere carried a fine of several thousand sesterces.[3]

The objective of this article is to explain the final stage of the procedure for opening testaments and especially the methods used for protecting the testament once closed again. The activities involved in resealing of the testament will be explained, the official charged with the affixing of the seals (*obsignatio*) and archiving (*depositio*) will be identified and an attempt will be made to determine the location where the resealed testament was archived.[4]

2. CLOSING AND RESEALING OF A TESTAMENT

Fragments concerning the resealing of an opened testament, preserved in PS. 4.6.1–2, mention that after opening and reading testaments were closed again and affixed

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[1] F. Scotti, *Il testamento nel diritto romano. Studi esegetici*, Roma 2012, nn. 36–45, pp. 406–408. To the Romans, the term 'forum' denoted a square around which the life of a city dwellers revolved, where commercial affairs were transacted and above all where justice was administered. Various civil and criminal tribunals officiated at that square, and especially in Rome, where the part of the forum referred to as the *comicium* was the general location of the urban praetor's tribunal until the imperial period; see C. Gioffredi, *s.v. Foro*, [in:] *Novissimo Digesto Italiano*, Vol. 7, Torino 1961, p. 592. Rome's basilicas, on the other hand, were stately buildings, usually containing three aisles and culminating with an apse, housing the palace of justice, banks, commercial spaces, money exchangers and audience halls. They were also constructed in other cities, for similar purposes. Providing shelter from adverse weather conditions, they offered a friendlier space, competing with the forum. Beginning with the emperor Constantine and the taking hold of Christianity, numerous basilicas previously serving as secular buildings were transformed into places of worship, with their internal layout being adapted for the new purpose; see V. Arangio-Ruiz, *s.v. Basilici*, [in:] *Novissimo Digesto Italiano*, Vol. 2, Torino 1958, p. 284; *s.v. Basilica*, [in:] A. Rich, *Dictionnaire des antiquités romaines et grecques*, Paris 2004, p. 77. In the opinion of U.E. Paoli, *Vita romana*, Firenze 1948, pp. 17–18, the public life, whether at the forum or inside the basilicas, reached its apogee around the *hora quinqua*, that is 11 a.m., to decline around the *hora decima*, that is 4 p.m. That was also the activity window of the public offices operating at the forum or the basilica. One of those, starting from the time of Augustus, was the tax office (*statio fisci*). As J. Kamiński notes, [in:] W. Wołodkiewicz (ed.), *Prawo rzymskie. Słownik encyklopedyczny*, Warszawa 1986, p. 143, during the imperial era *stationes fisci* served as territorial branches of the treasury, where income was accounted for and tax was settled. Most probably, they had separate departments holding the *stationes fisci hereditatum et libertatum*, that is for inheritance and emancipations. For accounting transparency, such departments operated in plain public view. That is also where testaments were opened; see B. Biondi, *Successione testamentaria. Donazioni*, Milano 1943, p. 603; R. Levrero, *Il diritto e la giustizia*, Roma 2004, p. 108. Luigi Palumbo identifies the municipal senate as the venue for opening testaments, without, however, citing any source text in support of his assertion; see L. Palumbo, *Testamento romano e testamento longobardo*, Lanciano 1892, p. 150.

[2] For more details, see S. Kursa, *Tempus et locus otwarcia testamentu w prawie rzymskim*, Themis Polska Nova 2, 2018, pp. 5 et seq.

[3] PS. 4.6.2a: *Qui aliter aut alibi, quam ubi lege praecipitur, testamentum aperuerit recitaveritve, poena sestertiorum quinque milium tenetur*.

[4] As for the location of the testament before opening and the duty to disclose the testament, see S. Kursa, *Obligation to Present the Will in the Law of Justinian*, Ius Novum 4, 2017, pp. 15–21.

with the public seal (*ac deinde signo publico obsignatum*) by the same officials in whose presence they were opened (*exemploque sublato ab isdem rursus magistratibus obsignari, quorum praesentia constat apertum*). It can be believed that the seal of the opening magistrate, when affixed to the document after closing it again, corroborated the officiality of its opening.

A special situation concerned opening of a testament in the presence of trustworthy citizens without the attendance of all of the witnesses of its making. According to Gaius, after making a copy and having it authenticated by those present at the opening, the testament was closed again, affixed with seals and thereafter dispatched to the location where the witnesses of its making were staying, for them to recognize and acknowledge their seals.[5] From the words *et post descriptum et recognitum factum ab isdem, quibus intervenientibus apertae sunt, obsignentur* it follows that the testament had to be resealed after closing. The verb *obsignare*, in the plural imperative and separated by commas, could hypothetically refer to the officials before whom the testament was opened, to the citizens present or to both. Any hypothesis that in this extraordinary scenario the duty to affix a seal would have been incumbent only on the magistrate is, however, precluded by the text of the constitution of Valerian and Gallienus of 256 A.D.,[6] which clearly states that a testament opened in the presence of trustworthy men was to be affixed with their seals (*quibus praesentibus aperiantur et ab his rursum obsignentur*).[7] Their seals on the once again closed testament ruled out any arbitrary conduct by the magistrate and confirmed that the testament was opened in extraordinary circumstances. That did not relieve the state official of the necessity of placing his own seal, for his seal, in turn, excluded the possibility of unofficial opening.

Hence, the question arises whether in ordinary circumstances, considering the instructions given in PS. 4.6.1–2, only the magistrate affixed a seal to the newly closed testament. In response, it has to be noted that there is no evidence in any source of law that the testament, after being closed again, was also sealed by those witnesses of its making who were in attendance at the opening, in addition to the public seal.[8] However, that does not appear necessary, as their seals were already present on the testament. Nor does Leo VI's post-Justinian Nov. 82, prescribing a fine of twelve librae for a judge failing to seal a testament opened before him ([…] *Illud porro insuper sancimus, ut si iudicis socordia, ne testamentum denuo obsignaretur factum sit, ipsi in socordiae poenam duodecim librarum mulcta imponatur*). What is problematic is the use of the verb *obsignare* in the passive voice in the phrase *ne*

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[5] D. 29.3.7 (*Gaius libro 7 ad edictum provinciale*): […] *et post descriptum et recognitum factum ab isdem, quibus intervenientibus apertae sunt, obsignentur, tunc deinde eo mittantur, ubi ipsi signatores sint, ad inspicienda sigilla sua*.

[6] C. 6.32.2 (*Valerianus, Gallienus*): *Testamenti tabulas ad hoc tibi a patre datas, ut in patria proferantur, adfirmans potes illic proferre, ut secundum leges moresque locorum insinuentur, ita scilicet, ut testibus non praesentibus adire prius vel pro tribunali vel per libellum rectorem provinciae procures ac permittente eo honestos viros adesse facias, quibus praesentibus aperiantur et ab his rursum obsignentur.*

[7] Similarly, see E. Nisoli, *Die Testamentseröffnung im römischen Recht*, Bern 1949, pp. 50–51; F. Scotti, *supra* n. 2, p. 415.

[8] Cf. M. Amelotti, *Il testamento romano attraverso la prassi documentale. I. Le forme classiche di testamento*, Firenze 1966, p. 187.

testamentum denuo obsignaretur fatum sit ('if it should happen that the testament is not sealed again'), for it does not clearly impose the duty of sealing only on the judge himself, though it is clear that he is the one to be punished if the requirement is not met. Alphonse Berenger translates the last sentence of this novel as follows: *Nous ordonnons en outre, que si le juge néglige d'y apposer un nouveau cachet, il soit condamné, pour sa négligance, à payer douze livres* ('Nonetheless, we ordain that if the judge neglects to affix his seal, he should be punished for his negligence with a fine of twelve librae').[9] His translation, therefore, shows that the practice of affixing only public seals to testaments opened in ordinary circumstances, as highlighted in PS. 4.6.1–2, survived into the rule of the Byzantine emperor Leo VI.

3. PLACEMENT OF THE RESEALED TESTAMENT IN DEPOSIT

After opening, reading, copying and once again closing and sealing, the testament could be deposited in a variety of locations.[10] According to a fragment originating from the nineteenth book of Ulpian's *Libri ad edictum*, the place for keeping the opened and resealed testament was the private archive of the heir[11] or the temple archive.[12]

> D. 10.2.4.3 (*Ulpianus libro 19 ad edictum*): *Sed et tabulas testamenti debebit aut apud eum, qui ex maiore parte heres est, iubere manere aut in aede deponi* […].

Accordingly, while distributing the estate the testament was allotted to the heir with the largest share in the inheritance or deposited in the temple archive (*in aede*). The choice of location belonged to the heir or, if there was a dispute, the magistrate (judge).[13]

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[9] A. Berenger, *Les Novelles de l'Empereur Justinien. Traduites en français par A. Berenger*, Vol. 2, Metz 1810, p. 100.

[10] Archives where the Romans kept public and private documents, including testaments (*tabulae testamentorum*), were called *tabularia*. The term *tabularium* primarily denoted the building containing the state archives at the foot of the Capitol in the north-western part of the Forum Romanum, near the Temple of Concord. That archives building was erected after the fire of Rome in 83 BC. The name was applied, however, to all sorts of archives and collections, for example, to the imperial archive (*tabularium principis*) or the legionary archive in a military camp. Still, those were usually separately designated parts of temples or other public buildings and even individual rooms designated for the purpose. See s.*v. Tabularium*, [in:] J.-L. Lamboley, *Lexique d'histoire et de civilisation romaines*, Paris 1995, pp. 344–345; *s.v. Tabularium*, [in:] A. Rich, *Dictionnaire*, *supra* n. 2, p. 624. *Tabularia* were also the archives created at tax offices and cared for by the *tabularii*, who, apart from archivists, were also scribes and accountants. See G.I. Luzzatto, *s.v. Tabularium*, [in:] *Novissimo Digesto Italiano*, Vol. 18, Torino 1971, Vol. 1021; G. Lafaye, *s.v. Tabularius*, [in:] *Dictionnaire des Antiquités Grecques et Romaines*, Vol. 5, Paris 1919, p. 19. In accordance with the constitution of emperors Arcadius and Honorius of 401 AD, they were to be appointed in every city and province. C. 10.71.3 cf.: (*Arcadius, Honorius*) *Generali lege sancimus, ut, sive solidis provinciis sive singulis civitatibus necessarii fuerint tabularii, liberi homines ordinentur neque ulli deinceps ad hoc officium patescat aditus, qui sit obnoxius servituti.* Cf. C.Th. 8.2.5 (*Arcadius, Honorius*).

[11] Cf. D. 32.92 pr. (*Paulus libro 13 responsorum*).

[12] As suggested by legal and literary sources from the classical period of Roman law; see H. Vidal, *Le dépôt in aede*, Revue Historique de Droit Français et Étranger 43, 1965, pp. 568–569.

[13] In the quoted fragment, Ulpian cites Labeo's opinion that if the inheritance were to be sold, the heir should release a copy of the testament to the buyer and retain the testament himself

Therefore, the question arises what happened to an opened and resealed testament when the co-heirs had equal shares in the estate. Naturally, the magistrate (judge) could make a decision to place the document in the temple archive. Could, however, the testament be entrusted to one of the heirs? It appears that the procedure for this was similar to the one described by Gaius for depositing debt documents referring to the estate's liabilities. In their case, if all co-heirs had equal shares in the inheritance and were unable to agree on which one of them should have the custody of the documents, they could throw lots or select a trusted person (*amicus*), unanimously or by a majority vote, who might agree to keep the deposit.[14]

It must be emphasized that in the case of inheritance disputes or public proceedings relating to testaments,[15] the latter were placed in the *depositum in sequestre*.

> D. 43.5.5 (*Iavolenus libro 13 ex Cassio*): *De tabulis proferendis interdictum competere non oportet, si hereditatis controversia ex his pendet aut si ad publicam quaestionem pertinet: itaque in aede sacra interim deponendae sunt aut apud virum idoneum*.[16]

In that case the magistrate (judge) ordered the testament to be placed, pending litigation, in the temple archive (*in aede sacra*) or with a trustworthy citizen (*apud virum idoneum*). When the judgment became final and no longer appealable, the winning party was entitled to keep the testament.

According to PS. 4.6.1, the testament, sealed by the official before whom it was opened, was placed in the archive (*in archivum*), so that its contents could be inspected if necessary, especially if an interested party did not have a copy.[17] The cited fragment was placed under the title on inheritance tax (*De vicesima*).[18] Perhaps

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or deposit it in the temple archive: […] *Nam et Labeo scribit vendita hereditate tabulas testamenti descriptas deponi oportere: heredem enim exemplum debere dare, tabulas vero authenticas ipsum retinere aut in aede deponere.* H. Vidal, *supra* n. 13, p. 569, demonstrated that the term *aedes*, with reference to a place for depositing documents, including testaments, means the temple archive, even where the noun alone is used rather than the full expression *aedes sacra*.

[14] D. 10.2.5 (*Gaius libro 7 ad edictum provinciale*): *Si quae sunt cautiones hereditariae, eas iudex curare debet ut apud eum maneant, qui maiore ex parte heres sit, ceteri descriptum et recognitum faciant, cautione interposita, ut, cum res exegerit, ipsae exhibeantur. Si omnes isdem ex partibus heredes sint nec inter eos conveniat, apud quem potius esse debeant, sortiri eos oportet: aut ex consensu vel suffragio eligendus est amicus, apud quem deponantur: vel in aede sacra deponi debent.* S. Solazzi, *L'estinzione dell'obbligazione nel diritto romano*, Napoli 1935, pp. 157–158, n. 2, in D. 10.2.4.3 and D. 10.2.5 interpolations consisting in particular in the added passage concerning the deposit *in aede*. On the contrary, see H. Vidal, *supra* n. 13, pp. 568–569.

[15] For example on the basis of *s.c. Silanianum*; see J.C. Naber, *Observatiunculae de iure romano. CXX. Ad edictum de edendo*, Mnemosyne 52, 1924, p. 220.

[16] V. Arangio-Ruiz, *Studii sulla dottrina romana del sequestro*, Archivio Giuridico "Filippo Serafini" 5(76), 1906, pp. 484–485. Concerning interpolations in this text, see also E. Levy, E. Rabel (eds), *Index interpolationum quae in Iustiniani Digestis inesse dicuntur*, Vol. 3, Weimar 1935, col. 28.

[17] B. Biondi, *supra* n. 2, p. 604.

[18] Concerning the *vicesima hereditatum*, see S.J. De Laet, *Note sur l'organisation et la nature juridique de la «vigesima hereditatium»*, L'Antiquité Classique 1(16), 1947, pp. 29–36; L. Rodríguez Alvarez, *Algunas notas en torno a la lex de vicesima hereditatium*, *Revue internationale des droits de l'antiquité* 28, 1981, pp. 213–246; M. Kuryłowicz, *Vicesima hereditatum. Z historii podatku od spadków*, [in:] H. Domański et al. (eds), *W kręgu prawa podatkowego i finansów publicznych. Księga dedykowana Profesorowi Cezaremu Kosikowskiemu w 40-lecie pracy naukowej*, Lublin 2005, pp. 217–223; R. Świrgoń-Skok, *Organizacja służb skarbowych w sprawach podatku od spadków w państwie rzymskim*,

the archive referred to in PS. 4.6.1 was the tax-office archive, as Leonard Piętak[19] and Gian Gualberto Archi[20] believe. However, considering that Justinian's compilation did not include PS. 4.6.1, one cannot exclude this could have been any archive. This is because the fact that the compilers only recorded the pronouncements of Ulpian (D. 10.2.4.3) and Iavolenus (D. 43.5.5) contradicts the idea that public archives were the sole place for keeping opened and resealed ordinary testaments.[21]

4. CONCLUSION

In summary, the conclusion is to be made that, after completing the steps involved in opening a Roman testament, the latter was closed again and affixed with seals. It has been determined that the seal, after closing the testament again, was affixed only by the official responsible for the opening procedure, but when, due to the absence of the witnesses of the testament making, the opening took place in the presence of extraordinary witnesses, then such extraordinary witnesses also affixed their seals. Barring any need for verification by absent witnesses, the testament was immediately deposited with the heir regarded as the owner of the testament or placed in the temple archive or the state archive for safekeeping. The purpose of these activities was to ensure due protection for the officially opened testament, in order to enable the contents to be verified if needed.

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[19] L. Piętak, *Prawo spadkowe rzymskie*, Vol. 1, Lwów 1882, p. 384.

[20] G.G. Archi, *Interesse privato e interesse pubblico nell'apertura e pubblicazione del testamento romano (Storia di una vicenza)*, Iura. Rivista internazionale di diritto romano e antico 20.1, 1969, p. 401.

[21] Similarly, see J.C. Naber, *supra* n. 16, p. 220: *Adeo autem iure genuino publica archiva non videbantur testamentis recipiendis destinata*. Compare P. Voci, *Diritto ereditario romano*, Vol. 2: *Parte speciale. Successione ab intestato. Successione testamentaria*, Milano 1963, p. 108.

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OBSIGNATIO ET DEPOSITIO OF AN OFFICIALLY OPENED TESTAMENT IN ROMAN LAW

Summary

The aim of this article is to explain the final stage of the procedure of opening of a testament, in particular, how the testament was protected once it was closed again. An action related to the resealing of a testament is explained, a person who was responsible for its sealing and

storing is indicated, as well as an attempt is made to determine the location where the resealed testament was archived. It has been established that only the official responsible for carrying out the opening procedure would affix the seal to the once again closed testament, and if the testament was opened with the participation of extraordinary witnesses due to absence of witnesses of the testament making, it was also sealed by them. The resealed testament, if verification by absent witnesses was not needed, was immediately deposited with the heir who was considered the testament owner, or placed in the temple archive or the official archive for safekeeping.

Keywords: testament, opening of a testament, sealing of a testament, storing of a testament, witness, archive, Roman law, *Pauli Sententiae*

OBSIGNATIO ET DEPOSITIO URZĘDOWO OTWARTEGO TESTAMENTU W PRAWIE RZYMSKIM

Streszczenie

Celem niniejszego artykułu jest wyjaśnienie końcowego etapu procedury otwarcia testamentu, w szczególności sposobów zabezpieczenia ponownie zamkniętego testamentu. Została w nim wyjaśniona czynność związana z ponownym opieczętowaniem testamentu, wskazano, na kim spoczywały obowiązki związane z jego opieczętowaniem i przechowaniem, a także podjęto próbę ustalenia miejsca przechowywania ponownie zamkniętego testamentu. Ustalono, że pieczęć na ponownie zamkniętym testamencie przykładał tylko urzędnik odpowiedzialny za przeprowadzenie procedury otwarcia, a gdy z powodu braku świadków sporządzenia testamentu testament został otwarty z udziałem nadzwyczajnych świadków otwarcia, był on pieczętowany także przez nich. Ponownie opieczętowany testament, o ile nie zachodziła potrzeba jego weryfikacji przez nieobecnych świadków, oddawano natychmiast w depozyt dziedzicowi, którego uważano za właściciela testamentu, albo przekazywano na przechowanie w archiwum świątynnym lub urzędowym.

Słowa kluczowe: testament, otwarcie testamentu, opieczętowanie testamentu, przechowanie testamentu, świadek, archiwum, prawo rzymskie, *Pauli Sententiae*

OBSIGNATIO ET DEPOSITIO DEL TESTAMENTO ABIERTO OFICIALMENTE EN EL DERECHO ROMANO

Resumen

El artículo tiene por objetivo explicar la parte final del proceso de apertura del testamento, en particular las formas de asegurar el testamento cerrado de nuevo. Se explica la diligencia de sellar el testamento de nuevo, se indica las personas que tenían la obligación de sellar y depositar, así como se intenta determinar el lugar de depósito de testamento cerrado de nuevo. Se ha determinado que sólo el funcionario responsable del proceso de apertura podía poner el sello en el testamento cerrado de nuevo y si no había testigos a la hora de otorgamiento del testamento, el testamento se abría en la presencia de testigos extraordinarios de la apertura, entonces se sellaba también en su presencia. El testamento sellado de nuevo, siempre que no era necesario verificarlo por parte de testigos ausentes, se entregaba inmediatamente al

heredero a quien se consideraba como el propietario del testamento para su depósito o bien se entregaba al depósito en el archivo sacral o archivo oficial.

Palabras claves: testamento, apertura de testamento, sellar testamento, depósito de testamento, testigo, archivo, derecho romano, *Pauli Sententiae*

OBSIGNATIO ET DEPOSITIO ПРИ ОФИЦИАЛЬНОМ ВСКРЫТИИ ЗАВЕЩАНИЯ В РИМСКОМ ПРАВЕ

Аннотация

Цель данной статьи заключается в разъяснении заключительного этапа процедуры вскрытия завещания, а в особенности – способов повторного запечатывания завещания. Автор описывает процедуру повторного запечатывания завещания, указывает, кто отвечал за запечатывание и хранение завещания, а также делает предположения относительно места хранения повторно запечатанного завещания. Установлено, что печать к повторно запечатываемому завещанию прикладывало только должностное лицо, ответственное за процедуру вскрытия документа. В случае, если завещание вскрывалось в отсутствие свидетелей его составления, а при его вскрытии присутствовали свидетели, назначенные в особом порядке, то печати к документу прикладывали и эти свидетели. Повторно запечатанное завещание, если не возникла необходимость в его проверке отсутствующими свидетелями его составления, немедленно передавалось на хранение наследнику, который считался владельцем завещания, либо передавалось на хранение в храмовый или официальный архив.

Ключевые слова: завещание, вскрытие завещания, запечатывание завещания, хранение завещания, свидетель, архив, римское право, *Pauli Sententiae*

DIE *OBSIGNATIO ET DEPOSITIO* EINES AMTLICH ERÖFFNETEN TESTAMENTS IM RÖMISCHEN RECHT

Zusammenfassung

Der Zweck dieses Artikels ist es, die abschließende Phase des Verfahrens zur Testamentseröffnung und insbesondere, wie ein wiederverschlossenes Testament gesichert werden kann, zu klären. In dem Beitrag wird die Handlung der erneuten Versiegelung eines Testaments beschrieben und es wird erläutert, wer für dessen Versiegelung und Aufbewahrung verantwortlich war. Außerdem wird der Versuch unternommen, den Ort der Aufbewahrung eines wiederverschlossenen Testaments zu bestimmen. Es wurde festgestellt, dass das Siegel eines wiederverschlossenen Testaments nur von dem für die Durchführung der Testamentseröffnung zuständigen Beamten angebracht wurde, und wenn ein Testament aufgrund der Nichtanwesenheit von Zeugen bei der Testamentserrichtung unter Beteiligung von außerordentlichen Zeugen geöffnet und von diesen auch versiegelt wurde. Das wieder versiegelte Testament wurde, sofern es keiner Überprüfung durch abwesende Zeugen bedurfte, zur Verwahrung sofort an den Erben, der als Eigentümer des Testaments betrachtet wurde, oder zur Aufbewahrung im Tempelarchiv oder zur Aufnahme in ein amtliches Archiv übergeben.

Schlüsselwörter: Testament, Testamentseröffnung, Versiegelung des Testaments, Aufbewahrung des Testaments, Zeuge, Archiv, Hinterlegungsstelle, römisches Recht, *Pauli Sententiae*

OBSIGNATIO ET DEPOSITIO D'UN TESTAMENT OFFICIELLEMENT OUVERT EN DROIT ROMAIN

Résumé

Le but de cet article est de clarifier la dernière étape de la procédure d'ouverture d'un testament, notamment comment protéger un testament refermé. Il explique l'acte de refermer le testament, indiquant qui était responsable de son scellement et de son dépôt, ainsi qu'une tentative a été faite pour déterminer le lieu de dépôt du testament refermé. Il a été établi que le sceau du testament refermé n'a été appliqué que par le fonctionnaire chargé de la procédure d'ouverture, et lorsque le testament a été ouvert avec des témoins d'ouverture extraordinaires en raison du manque de témoins pour son établissement, il a également été scellé par eux. Le testament rescellé, à moins qu'il ne soit nécessaire de le vérifier par des témoins absents, a été immédiatement remis à l'héritier qui était considéré comme le propriétaire du testament, ou il a été déposé dans les archives du temple ou officielles.

Mots-clés: testament, ouverture du testament, scellement du testament, dépôt du testament, témoin, archives, droit romain, *Pauli Sententiae*

OBSIGNATIO ET DEPOSITIO UFFICIALE DI UN TESTAMENTO APERTO NEL DIRITTO ROMANO

Sintesi

L'obiettivo del presente articolo è il chiarimento della fase finale della procedura di apertura del testamento, in particolare la modalità di protezione del testamento nuovamente richiuso. Nell'articolo è stata chiarita l'attività legata alla nuova sigillatura del testamento, è stato indicato su chi gravavano gli obblighi legati alla sua sigillatura e conservazione e si è anche tentato si stabilire il luogo di conservazione del testamento nuovamente richiuso. È stato stabilito che il sigillo sul testamento nuovamente richiuso veniva apposto solamente dall'ufficiale responsabile della conduzione della procedura di apertura, e se a motivo della mancanza di testimoni della redazione del testamento, il testamento era stato aperto con la partecipazione di testimoni straordinari dell'apertura, veniva sigillato anche da essi. Il testamento nuovamente sigillato, se non era necessaria la sua verifica da parte dei testimoni non presenti, veniva consegnato immediatamente in deposito all'erede, che veniva ritenuto il proprietario del testamento, o veniva trasmesso in deposito nell'archivio del tempio o nell'archivio ufficiale.

Parole chiave: testamento, apertura del testamento, sigillatura del testamento, conservazione del testamento, testimone, archivio, diritto romano, *Pauli Sententiae*

Cytuj jako:

Kursa S., *Obsignatio et depositio of an officially opened testament in Roman law [Obsignatio et depositio urzędowo otwartego testamentu w prawie rzymskim]*, „Ius Novum" 2020 (14) nr 2, s. 189–199. DOI: 10.26399/iusnovum.v14.2.2020.21/s.kursa

Cite as:

Kursa, S. (2020) '*Obsignatio et depositio* of an officially opened testament in Roman law'. *Ius Novum* (Vol. 14) 2, 189–199. DOI: 10.26399/iusnovum.v14.2.2020.21/s.kursa