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## THE PTOLEMAIC *DIKASTERION*

In Ptolemaic Egypt, *dikasteria* are attested just as anywhere in the Greek world, but in Egypt, they were obviously only one form of courts among many. The *chrematistai* and *laokritai*, and broadly speaking also the *strategoï* and the *komogrammatoi*, the assembly of the Jewish elders and many more institutions and persons traditionally summarized under special jurisdiction,<sup>1</sup> all these institutions and persons administered justice, too. Often people living in Egypt could appeal to many of them to have right restored.

Hans Julius Wolff's "Justizwesen der Ptolemäer" brought order into this jurisdictional chaos of Hellenistic Egypt.<sup>2</sup> Thirty years ago, Josèph Mèlèze looked back at Wolff's masterpiece from 1962. Mèlèze found that its results were still valid. He judged that no new papyri gave reason to alter any of Wolff's conclusions.<sup>3</sup> However, Wolff concentrated on the status of these tribunals. He left out many other interesting questions. In the past few years, several papyri were published that reveal many new details concerning procedure,<sup>4</sup> one of the questions with that Wolff was not overly concerned.<sup>5</sup> Thus for the purposes of this paper I will concentrate on the problem of procedure in Ptolemaic *dikasteria*. More precisely, my question is how to bring a lawsuit in the Ptolemaic *dikasterion*.

Compared to the other courts in Hellenistic Egypt, the *dikasterion* is of course a Greek type of court: it had a bigger number of judges than any other judicial

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<sup>1</sup> Recent overviews: Lippert (2008), p. 179–183 and Manning (2003); fundamental: Wolff (1970a); about special jurisdictions still: Berneker (1935); *politeuma*: Cowey and Maresch (2001), p. 10–18.

<sup>2</sup> Wolff (1970a).

<sup>3</sup> Mèlèze-Modrzejewski (1988). Nevertheless, it may be asked how to combine Wolff's overall theses of the king's supreme jurisdiction ('Justizhoheit') with the more recent concepts of Hellenistic monarchy proposed e.g. by Gehrke (1982), for an overview: Ma (2007).

<sup>4</sup> Schubert (1996) n. 126 and 136; Kaltsas (2001); Hagedorn and Kramer (2010).

<sup>5</sup> For questions of procedure, there are older studies which definitively need a revision. No one has tried so far to answer the question how to characterize the Egyptian institutions in the light of contemporary political theory (Wolff (1970a), p. 7), as the attempts to write a 'Hellenistisches Staatsrecht' were abandoned in the 1970s, Braunert (1968); Mooren (1983). Gehrke (1998) denies influences from philosophy on the political praxis.

authority in Egypt at that time or before, and its judges were appointed by lot.<sup>6</sup> However, did the Ptolemaic *dikasteria* significantly differ from their counterparts in the rest of the Greek world? The characteristics of the Greek population in Egypt and the remaining institutional environment suggest that this was indeed so.<sup>7</sup> First, the most influential people living in Egypt came from Macedon, a very specific part of Greece. Furthermore, a substantial part of the Greek population in Ptolemaic Egypt had a military background. Finally, *dikasteria* in Ptolemaic Egypt did not exist alongside other *polis* institutions. For example, the Egyptian countryside did not know *boulai*, that is, civic assemblies. In my paper, I will thus also outline some differences between a court called *dikasterion* in Egypt and a *dikasterion* in an ordinary Greek city-state at the same time.

What should be the basis for comparison though? A comparison between classical Athens and Egypt would be erroneous for many reasons as Athens itself is special. Nevertheless, several studies based on epigraphical evidence bring together many facts about the jurisdiction in Hellenistic cities. I am thinking of Gerhard Thür's work on the inscriptions of Arcadia, Aude Cassayre's recently published thesis, which is useful regardless of obvious shortcomings, and Victor Walser's article on Hellenistic *dikasteria* in an edited volume on democracy in Hellenistic times.<sup>8</sup> These works shall be the comparanda to highlight the specifics of the Egyptian *dikasteria* more precisely. Maybe we can imagine how the procedures that developed in the context of cities—which implies a certain closeness—were changed in the vast valley of the Nile River and its bordering regions, where it took days to travel from one center of settlement to the other.

Another aspect should not be omitted: It has been suggested for a long time that the *dikasterion* in Egypt was similar to the institution of foreign judges attested mainly in Hellenistic inscriptions.<sup>9</sup> I will argue that foreign judges were not a model for the Ptolemaic *dikasterion*. At the same time I would like to point out that as often as two cities invited foreigners to resolve outstanding disputes between them, they also completely transferred the case to a third city. In these third cities, probably the ordinary civic procedures or something similar then took place. These transferred trials and the courts that decided them seem to have more in common with the Ptolemaic *dikasteria* than the institution of foreign judges.

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<sup>6</sup> Now well attested by P. Heid. VIII 412; about Egyptian courts and the thirty judges mentioned in Diod. I 75–76: Lippert (2008), p. 28, 44f., 77–79; Westbrook (2003), p. 105–108, 264–266, 302–307 (R. Jasnow).

<sup>7</sup> Greater distances alone should not have been a reason for differences as the Fayoum (today 1827 km<sup>2</sup>) is significantly smaller than Attika (today 3804 km<sup>2</sup>).

<sup>8</sup> Thür and Tauber (1994); Cassayre (2010), which should be used together with Cassayre (2009); Walser (2012).

<sup>9</sup> Thür (2003), p. 222, more general Méléze-Modrzejewski (1988), p. 173.

### I. Starting a Lawsuit

One of the most characteristic differences between the procedures at a *dikasterion* in any Greek city and at a *dikasterion* in Egypt is the absence of the part called *anakrasis*. As far as I see, it is generally agreed that in Greek *poleis* the hearing took place only if there had been an *anakrasis*, an examination of the case by an official before the hearing. Even if not everyone would describe the ordinary Greek trial as a two-phase procedure, this part is missing in no overview treatment.<sup>10</sup> Indeed, trials that did not require an *anakrasis* are thought to be special and exceptional.

According to the prevailing reconstruction of the procedures at the Ptolemaic *dikasterion*, one of the first things a plaintiff had to do was to go to the clerk of the *dikasterion* and hand in a piece of papyrus called *enklema*. This *enklema* took the form of a letter to the defendant. Recently, such a document was published from the collection at the University of Trier.<sup>11</sup> It is a letter from Aniketos, a Persian of the troop of Automedon to another member of the same troop called Ptolemaios. Aniketos wrote, omitting all the details:

*“As you borrowed 2000 drachmae from me ... and did not pay it back, therefore I sue you at the dikasterion in Herakleopolis on behalf of this loan. ... You are summoned and I gave you the enklema in person on the fifth Audnaios of the 22<sup>nd</sup> year.”*<sup>12</sup>

A second hand wrote the same date on the back, and then “*enkl(ema)* of Aniketos vs. Ptolemaios for 4160 dr.”<sup>13</sup> Due to interests and fines, the sum in dispute is much higher than the original loan.

This is the first direct evidence for an *enklema* as a separate papyrus. The others known before were part of a list of *enklemata* found in El Hiba (P. Hib. I 30a–d) or were cited within the proceedings of a session as in the proceedings from Krokodilopolis (M.Chr. 21, 12–35 = P. Gur. 2, 12–35; M.Chr. 28, 1–14).<sup>14</sup> Therefore, it is not surprising that this is the only *enklema* where a physical description of the witnesses of the summons as well as a physical description of the

<sup>10</sup> Two-phase model: Thür (2003); preliminary proceedings: MacDowell (1978), p. 240–242; a special point: Harrison (1998), p. 94–105 and Lipsius (1905 (reprint 1984)) p. 829–844; for *anakrasis* and *diaitetai*: Ruschenbusch (1989).

<sup>11</sup> Hagedorn and Kramer (2010).

<sup>12</sup> Hagedorn and Kramer (2010) (Herakleopolis, 183 B.C.) l. 5–7: [...]. ὅτι τοῦ κ (ἔτους) Π[ανήμου] Ι[.].ε...[.δα]νειςάμενος παρ' ἐμοῦ χαλκου Ιγ[ο]μίξμα[τος] ὀφθαλμοφανοῦς (δρ) Β [details about the contract and the unwillingness of the defendant] l. 18–20 οὐ[κ ἀποδ]έδωκάς μ[οι] δι' ὅ σοι δικάζομαι ἐν τῶι ἐν Ἡρακ[λέυ]ς πόλει τῆι ὑπὲρ Μέμφιν κληρωτῶι δικαστερίωι κατὰ τὴν τοῦ δανείου συγγρα[φῆν], [details and date] l.34–35 κέκλησαι δὲ καὶ τὸ ἔγκλημα δέδωκα σοι ἐνωπιῶι ἔτους κβ μηνὸς Αὐδναίου ε κλήτορες.

<sup>13</sup> l. 44–45 [date] ἔγκλημα Ἀνικήτου πρὸς Πτολεμαίου δρ. Ἄρχ.

<sup>14</sup> Hagedorn and Kramer (2010) also list P. Lugd. Bat. XXV 20, a petition (P. Mil. Vogl. Inv. 1297) to be published as P. Mil. Vogl. IX 322; and several unpublished fragments concerning lawsuits at the *dikasterion* in Herakleopolis in Trier.

plaintiff can be found.<sup>15</sup> We cannot be entirely sure that plaintiff and witnesses appeared together before the clerk of the *dikasterion*, but it is highly probable that they regularly did,<sup>16</sup> even if the clerk might have made the descriptions without looking at the witness in case he knew the person.<sup>17</sup>

If the procedure did indeed start with handing in such a letter to the defendant at the *dikasterion* itself, it would significantly differ from the sequence of actions in a *polis*. For in Greek cities, the first step was to make the infraction public by announcing it to the competent official or, if a case of public interest, at the general assembly.<sup>18</sup> The inscriptions regularly indicate which official.<sup>19</sup>

At the beginning of the twentieth century, scholars supposed that even in Egypt, the first step was to address an official, in most cases the *strategos*.<sup>20</sup> This assumption was based on the annotations of a *strategos* called Diophanes who referred several petitions ‘to the competent court’ (ἐπὶ τοῦ κα(θήκοντος) δι(καστηρίου)).<sup>21</sup> Today however, petitions to officials count as independent remedy, which had no necessary or even regular connection with trials before the *dikasterion* and the other courts.<sup>22</sup> Indeed, no known document directly connected with a trial at a *dikasterion* can be found that indicates that it was necessary to write a petition before approaching the *dikasterion*. The one exception might be the letter mentioned in the famous verdict of the *dikasterion* in Krokodilopolis P. Gur. 2. There, the *pros tei strategiai*, the ‘appointed *strategos*’ (as translated by Henderson) wrote to the clerk to seat all the judges except those challenged by either party in accordance with the regulations.<sup>23</sup> But this letter arose from the defendant’s appeal to the *strategos*, not the plaintiff’s.

Nevertheless, some documents suggest that also in Egypt writing an *enklema* and handing it to the clerk of the *dikasterion* after the summons was not the first step involving the aid of an official. Plaintiffs might also often have first had recourse to a *praktor*, a collector of debts. A first document is a papyrus from the Zenon-archive

<sup>15</sup> Hagedorn and Kramer (2010), p. 221—besides, it is the only *enklema* indicating the date of the hearing; P. Heid. VIII 412 has a description of the witnesses only. Those descriptions we know from other contexts namely the register of contracts at the *grapheion*, to mention only the most familiar example (cf. CPR XVIII). The reconstruction of the lower part of P. Hamb. II 168 may need a revision, as in Hagedorn/Kramer, only the plaintiff and the witnesses are described, not the defendant, as the reconstruction of P. Hamb. II 168 demands.

<sup>16</sup> Kaltsas (2001), p. 55.

<sup>17</sup> Kramer, CPR XVIII p. 99.

<sup>18</sup> Cassayre (2010), p. 225–235; Harrison (1998), 85–94.

<sup>19</sup> Cassayre (2010), p. 230f.

<sup>20</sup> Wilcken (1912), (p. 12–16) this view is preserved by Seidl (1962), p. 89 as a compulsory attempt of reconciliation.

<sup>21</sup> At the end of P. Enteux. 21, 32, 52, 56, 66 and 69 (Magdola, 218 B.C.).

<sup>22</sup> Wolff (1970a), p. 183, that the petition was no obligation: Semeka (1913), p. 9–12, 59, 188 f. (‘Übergabefunktion’); Berneker (1930), p. 56.

<sup>23</sup> P. Gur. 2 = Sel.Pap. 256, l. 8–11 (Krokodilopolis, 225 B.C.).

that contains notes for the preparation of a lawsuit.<sup>24</sup> Its first column gives the contract, the second contains a calculation and the third one is the draft of a petition, which should have been handed over to Kraton, aid of the *praktor* Diogenes. At the bottom of the draft begins a kind of list of what had to be done before handing in the petition: “[You must] also make inquiries at the royal granary [and indicate] to the *praktor* the [money] value of the whole according to the contract. You must add that the execution is to be as in the case of debts of the crown (*pros basilika*).”<sup>25</sup> By writing that the debt was to be treated *pros basilika*, Zenon probably meant to indicate that it could be directly enforced.<sup>26</sup> Given that the lessees agreed to an eased enforcement, it is not surprising that Zenon went to the *praktor* first. However, maybe the *praktor* was regularly addressed first. For the list of summons from El Hiba also attests that a plaintiff went first to the *praktor* and afterwards to the *dikasterion*. There, the plaintiff wrote that he filed a suit at the *dikasterion* because the defendant did not recognize his debt in face of the *praktor*.<sup>27</sup>

The laws preserved in P. Hamb. II 168 confirm the role of the *praktor* as a preliminary measure. These laws contain rules for filing a suit.<sup>28</sup> The upper, better-known part of them demands that the *enklema* be handed over to an assistant of the *nomophylax* and explains which information about the persons involved is necessary: for soldier’s *onoma*, *patris*, *tagma*, and so on. Hundreds of contracts and other documents conform to this way of identification.<sup>29</sup> Whereas this part seems to refer to trials in Alexandria,<sup>30</sup> the lower part refers to the countryside, as in line 17 we read about persons who sue in the *chora*. Two lines beneath, in line 19, we find the assistant of the *praktor* and some specifications about names.<sup>31</sup> It might be possible that the *praktor* and his assistants had similar duties as a *nomophylax* in Alexandria, supposing that this regulation is similar to the one of the upper part.

<sup>24</sup> P. Col. III 54, l. 41–58 (Arsinoite, 250 B.C.). This papyrus is widely cited because Zenon notes at the end that for specific cases or persons there would be no court (*kriterion*) in the Arsinoite *nome* at all. Therefore, the *strategos* should decide. This maybe supplies a *terminus post quem* for the permanent availability of *chrematistai* in the Arsinoite *nome*, as *kriterion* regularly referred to the *chrematistai*: Wolff (1970a), 71f.

<sup>25</sup> P. Col. III 54, l. 48: Κράτωνι ὑπηρετηί Διογένους πράκτορος τῶν ἰδιωτικῶν, l. 52–55: [Traces] ἐπισκέψασθ[αι] δὲ καὶ ἐν τῷ βασι-λικῷ. δεῖ πρ[ά]κτορι παραδε[ίξαι] τ[ὴν] τ[ιμ]ήν [πα]ντὸς ἰκατὰ τὴν σ[υγγ]ραφ[ήν]. προσθεῖνα(?)τ[ι] τ[ὴ]ν [π]ρ[ᾶ]ξιν<sup>55</sup>[ε]ῖναι πρὸς βασιλικά.

<sup>26</sup> Rupperecht (1994), p. 147; Hagedorn (1981); Wolff (1970b).

<sup>27</sup> P. Hib. I 30 d (Herakleopolites, 282–274 B.C.), l. 18 f. οὗτε τῷ πράκτορι ἠβούλου ἐξομολογήσασθαι.

<sup>28</sup> It dates from the 3<sup>rd</sup> c., found probably in El-Hiba, Falivene (2010).

<sup>29</sup> On this and the similar BGU XIV 2367 (Alexandria (?), late 3<sup>rd</sup> c.): Thompson (2001), p. 305.

<sup>30</sup> Wolff (1970a), p. 23.

<sup>31</sup> P. Hamb. II 168 l. 17–20: [- ca.13 -]ς· οἱ δὲ κατὰ τὴν χώραν κρινόμενοι το [- ca.18 -]... μέλλωσιν οἱ αἰρεθέντες διαιτηταῖ [- ca.12 - ὑπηρε]τῆς ὁ π[α]ρὰ τοῦ πράκτορ[ος] ὄνομα[α]ζ[ε]τω - ca.15 -]... [ε]τω δὲ καὶ τοῦξ ἀνιζ[ε]τ[ε]...

This would mean that in the *chora* the *praktor* made the identification. If this is correct, the the assistants of the *praktor* wrote the descriptions of the plaintiff and the witnesses in the Trier *enklema*.

Generally speaking, in the Egyptian context it sounds even more reasonable to head first to the *praktor* if you remember that the *dike* was not aimed at a verdict ordering the defendant to do something. Instead, the *dike*'s purpose was to justify the enforcement.<sup>32</sup> Announcing the intention to start a procedure of justification to the person who should do the work of enforcement therefore perfectly fits the image we have from the Greek form of trials. Whereas within a Greek *polis* the enforcement was a private matter of the claimant, in Egypt even in private cases a *praktor* could or had to be involved.<sup>33</sup>

As regards foreign judges, the involvement of the *praktor* after the trial might be parallel to some regulations attested for trials involving citizens of more than one *polis*. Following the treaty between Stymphalos and Demetrias,<sup>34</sup> the permission of enforcement by judges was not enough; the enforcement itself had to be announced to a local official in the city of the defendant. Maybe the reason was that the judgment was not in the same way publically known as if the *polis* itself had given judgment.<sup>35</sup> However, the court for trials between the citizens of these two cities was not a court of foreign judges.

Another question is whether in Egypt, the *praktor* was only addressed first for practical reasons—because it was highly probable that a debtor would recognize his obligation without a trial—or whether this was required by law. The question is, who actually wrote the *enklema*. The literature about Greek cities suggests that the written document is composed by the official or another person who receives the *enklema*.<sup>36</sup> For the Trier *enklema*, the different hands suggest that the *enklema* itself was not written by the same person who received it at the court.

Nevertheless, the involvement of the *praktor* before the summons does not replace an *anakrisis*. There are no indications that the *praktor* took oaths, asked questions, gathered evidence or structured the conflict to prepare the lawsuit. His task was collecting debts. Therefore one main difference between Ptolemaic and civic *dikasteria* remains.

## II. The Judges

The hypothesis that the Ptolemaic *dikasterion* was formed after the model of the courts of foreign judges is partly based on a comparison of composition of these courts, namely the number of judges.<sup>37</sup> Following the more recent publications about

<sup>32</sup> Thür (1997); Rupprecht (1994), 103, 143, 147f.; Wolff (1957).

<sup>33</sup> Préaux (1955); on epigraphical sources: Rubinstein (2010).

<sup>34</sup> IPark 17 (Stymphalos, 303–300 B.C.) = IG V 2 357.

<sup>35</sup> Thür and Taeuber (1994), p. 247.

<sup>36</sup> Cassayre (2010), p. 234.

<sup>37</sup> Méléze-Modrzejewski (1988), p. 174 f.

resolving disputes that went beyond a single *polis*, this comparison seems less convincing. However, the numbers as well as the way of selecting the judges and the possibility of rejecting particular persons as judges are not unique in the Hellenistic world.

It has been known since the first evidence was gathered at the beginning of the twentieth century that the *dikasterion* in Egypt regularly consisted of ten judges—therefore its alternative name ‘Zehnmännergericht’. There are decisions of fewer than ten judges and even the selection of more than ten *dikastai* should not be ruled out,<sup>38</sup> but all the evidence suggests keeping the number of judges near to ten. Newly published papyri have not altered this assumption in principle. Compared to the huge numbers Aristotle reports for the Athenian courts, the *dikasterion* in Egypt obviously was something different. However, the Athenian numbers are not representative for other Greek cities, although sorting machines and tablets as well as notes in literature indicate huge courts in some places, too. Cassayre assumed that a *dikasterion* in many cities had only fifteen to thirty judges,<sup>39</sup> but she cannot give much direct evidence.<sup>40</sup> The problem is that the composition of tribunals is better attested for cases involving more than one *polis*. Referring to contracts between cities that require 9 to 15 judges, as Joseph Méléze did,<sup>41</sup> therefore raises the question whether this reflects a specialty of inter-*polis* conventions or rather a customary feature of smaller or non-democratic *poleis*.

However, one thing is sure: No inscription giving a number of judges comparable to the Egyptian *dikasterion* is an example for the use of foreign judges.<sup>42</sup> There are eleven judges attested in the treaty concerning the Lokrian maidens<sup>43</sup> and the decree concerning judicial assistance between Delphi and Pellana.<sup>44</sup> In a quarrel about borders between two smaller Achaian cities, there were at least 21 judges. In a similar case, probably 30 men acted as judges, which a third city addressed by the two litigants had assigned.<sup>45</sup> By contrast, all tribunals of foreign judges were smaller in number than the *dikasterion* in Egypt: for most cases, three judges and a secretary

<sup>38</sup> Méléze-Modrzejewski (1988), p. 173 discusses the fragmentary SB XVI 12858 as a possible beginning of a decision of a *dikasterion*. Only a date and parts of at least 12 names are left.

<sup>39</sup> Cassayre (2010), p. 368.

<sup>40</sup> Walser (2012), p. 83–93: huge courts in Hellenistic times are certain for Athens, Thasos, Rhodos and Delos; Harter-Uibopuu (1998), p. 141.

<sup>41</sup> Méléze-Modrzejewski (1988), p. 174f.

<sup>42</sup> Harter-Uibopuu (1998), p. 139–148; about foreign judges in general Crowther (2008), Robert (1973).

<sup>43</sup> IG IX 1<sup>2</sup>706 (Oiantheia, ca. 272 (?) B.C. = StV III 472 = SEG XXXII, 558 = Cassayre (2009) 9).

<sup>44</sup> FdD III 1 486 = StV III 558 (Delphi, 1<sup>st</sup> half of the 3<sup>rd</sup> c. B.C.).

<sup>45</sup> Harter-Uibopuu (1998), p. 143; IPark 22—Arbitration about Boura (Lousoi?, 3<sup>rd</sup> c. B.C., SEG XI,112 = Harter-Uibopuu (1998) 2), IPark 26—Alipheira vs. Letreon (Alipheira, after 194/3 B.C., SEG XXV, 449 = Harter-Uibopuu (1998), 6).

are attested and in many others, only one person was called as judge.<sup>46</sup> Two, four or five judges are attested for a small number of cases, and never more than seven. This corresponds closely with the number of judges of another type of court in Egypt, the *chrematistai*, who acted in councils of three judges and an *eisagogeus* or clerk.

Concerning the second point, the selection of the judges, drawing the judges by lot had been suggested for the Ptolemaic *dikasterion* for a long time, and after the publication of documents from the *dikasterion* in Herakleopolis in which it is named “court sorted by lot” this is even more certain.<sup>47</sup> One of these documents will be discussed later on. Sortition by lot corresponds with the practices known from *dikasteria* in *poleis*, although there is evidence that in some places judges were elected at least on special occasions.<sup>48</sup> How the drawing was executed in Egypt is not known.

For Egypt, the possibility of challenging judges is well known from the above-mentioned P. Gur. 2 containing a judgment of the *dikasterion* in Krokodilopolis. In this case, the *eisagogeus* had seated all the judges except those challenged by one of the parties:

*“Polydeukes, the clerk of the court, having constituted us in accordance with the order sent to him by Aristomachus, appointed strategos of the Arsinoite nome, of which this is a copy: ‘To Polydeukes greetings. Heracleia has requested the king in her petition to form a court of all the judges ... except such as either party may challenge in accordance with the regulations. Year 21, Dystros 16, Pachon 19’”*<sup>49</sup>

At first, the possibility of challenging judges seems to be unique in the Greek world, but this might not be true.<sup>50</sup> Certainly, in the letter of the deputy *strategos* to the clerk of the *dikasterion* in Krokodilopolis, nothing is said about the reasons why certain persons should not be judges in this special case. This is why most commentators on this papyrus thought that the *diagramma* he refers to did not

<sup>46</sup> Harter-Uibopuu (1998), p. 141; overview: Cassayre (2010), p. 131–154. The list contains 26 inscriptions with a single judge, 36 where three judges are certain. In 13 cases, two are named, on 7 inscriptions four judges, on 8 five judges. Six and seven judges appear only once.

<sup>47</sup> P. Heid. VIII 412.

<sup>48</sup> On the lot and its material evidence Walser (2012), 83–93; election: Cassayre (2010), p. 364, probably based on IMyl. 101, 127 and 141 and IEry. 114 (honorific decree for Kallikrates, ca. 2 c. B.C.)—on these exceptions also Walser (2012), 100–103.

<sup>49</sup> P. Gur. 2 (Krokodilopolis, 218 B.C.) l. 6–11, translation: Sel. Pap. 256: καθίσαντος ἡμᾶς Πολυδεύκου τοῦ εἰσαγωγ[γέως κατὰ τὸ] ἰπαρὰ Ἀριστο[μάχου το]ῦ πρὸς τῆι στρατ[ηγ]ία τοῦ Ἀρσινοίτου νο[μοῦ τεταγμένου] ἰγραφέν αὐτῶ[ι προστ]άγμα οὐ ἔστιν ἀν[τ]ίγραφον τόδε· Πολυ[δεύκει χαίρειν]. ἰήξιωκεν τὸ[ν βασιλ]έα διὰ τῆς ἐντε[ύξ]εως ἡ Ἡράκλεια καθίσαι - ca.9 - ομο-]<sup>10</sup> σαντας πάντ[ας δικ]αστὰς πλὴν ὧν [ἀν] ἐ[κ]άτερος ἐξαναστή[σῃ κατὰ τὸ διάγραμ]μα. (ἔτους) κα Δύστρο[υ ις] Παχῶν ιθ.

<sup>50</sup> Méléze-Modrzejewski (1988), 174 f. pointing at Plat. Nomoi 937a; the Delhi-Pellana treaty (FdD III 1 486 = StV III 558, 3<sup>rd</sup> c. B.C.) and an Oiantheia-Chaleidon-treaty from the 5<sup>th</sup> century B.C. (IG IX I<sup>2</sup> 717 = StV 146).



require a reason, but gave the parties the right to challenge a certain number of men sorted as judge.<sup>51</sup> However, the text does not refer to a certain number either. Maybe the *diagramma* did give a certain number. But it is more probable that it named certain reasons for excluding specific persons, such as near relatives, because those were excluded according to some contemporary inscriptions,<sup>52</sup> such as the Nakona decree,<sup>53</sup> a treaty between Temenos and Klasomenos<sup>54</sup> and probably also in the treaty between Delphi and Pellana.<sup>55</sup> Another option is available if we assume a less formalistic way of forming the *dikasterion*: the *diagramma* might not have stated reasons or numbers at all, but only a general provision for forming a *dikasterion*, e.g. that the *eisagogeus* should draw ten judges by lot.<sup>56</sup> So comparing the Ptolemaic and the civic *dikasteria* from the angle of the deciding group, we have seen no fundamental difference.

### III. Renew Actions

The reopening of a case was not very well attested until the publication of P. Heid. VIII 412, the motion to reopen the case after a *dike eremos*, a default judgment. The first time, the court had dismissed this case because the claimant did not appear. It may be asked how this could happen as the claimant summoned the defendant for a certain day and in some jurisdictions a case may not be heard if the claimant does not appear in court. However, remember that P. Gur. 2 is a decision with an absent plaintiff, too. There might have been a *diagramma* demanding the judges to decide even if the plaintiff was not present. Fragments of such a *diagramma* are cited at the end of P. Gur. 2 and in the more recently published P. Gen. III 136, which contains several quotes from legislation.<sup>57</sup>

To renew such an action, which had been dismissed for default, a claimant wrote in the first half of the second century this simple letter:

<sup>51</sup> Wolff (1970a), p. 42; about the not very well-researched subject of excluding judges in general: Vollkommer (2001), 59–67.

<sup>52</sup> Cassayre (2010), p. 369–371.

<sup>53</sup> SEG XXX 1119 (Nakona, 254–241 B.C.?).

<sup>54</sup> SEG XXIX 1130bis (Klazomenai, first half 2nd c. B.C.), l. 37–47 = Cassayre (2009), 27.

<sup>55</sup> FdD III 1 486 = StV III 558 (Delphi, 1<sup>st</sup> half 3<sup>rd</sup> c. B.C.).

<sup>56</sup> Similar to the early modern period: Vollkommer (2001), p. 59–67.

<sup>57</sup> P. Gur. 2:l 46–49: ἐὰν δὲ] ἀμφοτέρων τῶν ἀντιδίκων [κληθέν-][των ἐν τῷ δικαστ[η]ρίῳ ἑκάτερος οὖν αὐτῶν μὴ βούλη[ται γραπ-][τὸν λόγον θέσθαι] ..... ὀρηγ ἢ ἀποδέχ[ε]σθαι ἢ συθασθαι [.....] |[- ca.11 - κρινέ]τωσαν ἀδικῆσαι. The reading of the lines 46–49 is highly disputed: l. 46–47: Wolff (1970a), p. 25 n. 19 [τοῦ μὲν παρόντος, τοῦ δὲ μὴ παρόντος ἐν τῷ δικαστ[η]ρίῳ; Kaltsas (2001), p. 11 f. n. 5; 6: ἐὰν δὲ] ἀμφοτέρων τῶν ἀντιδίκων [ἢ τοῦ ἐνὸς παρόντος ἐν τῷ δικαστ[η]ρίῳ ὀποτεροσούν; l. 48: Edgar/Hunt Sel.Pap.: κατηγορεῖν ἢ ἀποδέχ[ε]σθαι ἡσ(θ)ᾶσηαι; Kaltsas (2001), p. 12 n. 8: ἢ συνθέσθαι. P. Gen. III 136, l. 8f: [-ca.-? - συ]νεδρευόντων τῶν κριτῶν ὀποτεροσούν τῶν ἀντιδίκω[ν μὴ παρῆ],| [-ca.-? - ], καταδικαζέσθω ἢ ἀποδικαζέσθω ἢ δίκε ἔρημος. τῶν δ[ἐ -ca.-? - ].

“To Parmenion, clerk of the allotted court in Herakleopolis, from Megisteus, Macedonian, member of the troops of Automedon, Lochagos. I renew the action which had been dismissed for default for the first time in the allotted court in Herakleopolis and which I wrote against NN, son of Machatas, Macedonian *tes epigones*, on a contract of loan worth 100 artabas of wheat, 30000 drachmae, within the days according to the ordinance, and I summoned the opponent in the revision”<sup>58</sup>

Names of the witnesses of the summons, the date and a physical description of the witnesses follow at the end of this well-preserved document. The word used for dismissing is *apodikazo*, which describes in its active form a decision of the judges against the plaintiff, so that is quite certain, how the court decided.<sup>59</sup>

For Athenian and other *polis*' law, the reopening of cases is discussed mainly for the *dike pseudomartyrion*, in case of false evidence.<sup>60</sup> Nevertheless, to renew the action after a default judgment is also known, although there are only a few sources.<sup>61</sup> Compared to them, the most interesting fact in this document is the absence of any explanation for the renewal of this action. In Athenian law, an excuse for someone's default was required. However, here, the plaintiff does not state why he was absent the first time, although the text itself is full of detail and formalistic remarks, which allows us to suppose that the plaintiff followed a standard form. A small hint may be the word *proton*—for the first time. It is possible that a decision of the court in absence of one party was not definitively binding if the party missed one session only.<sup>62</sup> However, it may also be possible that the party had to give a reason for missing the hearing in another document or verbally.<sup>63</sup> However, the simple fact of excluding certain persons from acting as judge is attested elsewhere in the Greek world as well. Maybe we see in Egypt only a simplified or generalized way of excluding them, if indeed no reason was necessary.

To sum up: We have seen a major procedural difference between Ptolemaic and civic *dikasteria*—the absence of a pretrial *anakrasis*, which could result from the

<sup>58</sup> P. Heid. VIII 412, l. 1–18 (Herakleopolis, 186 B.C.). Παρμενίωνι, εισαγωγῆ τοῦ ἐν Ἡρακλέους πόλει κληρωτοῦ δικαστηρίου, παρὰ Ἰ Μεγιστέως Μακεδόνοϛ<sup>5</sup> τῶν Αὐτομέδο[ν]τος λοχαγοῦ. ἰ τὴν ἀποδεδικ[ασμ]ῆν ἔρημον τὸ πρῶ[τον] δίκην<sup>6</sup> ἐν τῷ ἐν Ἡρακλέου[ς] πόλει κληρωτῷ δικαστ[η]ρ[ί]ωι.<sup>10</sup> ἦν ἐγραψάμην. . . . [ . ] ἰ Μαχάτου Μακεδόνη τ[ῆ]ς ἐπιγονῆς κατὰ συγγραφῆν ἰ δανείου τιμῆς πυρῶν ἀρ[ταβῶν] ρ[ι]δ[ραχμῶν] τρισμυρ[ί]ων.<sup>15</sup> [ἀ]ναδικῶ ἐν ταῖς κ[α]τὰ τ[ὸ] [δι]άγραμμα ἡμ[έρ]αις [κ]αλεσάμενος τὸν [ἀ]ντίδικον [ε]ῖς τὴν ἀναδικίαν.

<sup>59</sup> LSJ p. 197; Arist. 1268b 18; 20.

<sup>60</sup> Cassayre (2010), p. 415–417 on the basis of the treaty between Delphi and Pellana, FdD III 1 486 = StV III 558, l. 13–14; for Athens: Todd (1993), p. 145 f., Harrison (1998), p. 190–99; Bonner and Smith (1930–38) II, p. 232–270; Lipsius (1905 (reprint 1984)), p. 953–964.

<sup>61</sup> Harrison (1998), p. 197. Sources are Dem. 32, 27 and Poll. 8,16.

<sup>62</sup> In Roman law, a party was summoned three times before a default judgment was entered (Ulp. Dig. 5,1,68–70)—but in this procedure the court summoned the parties.

<sup>63</sup> Such a document might be P. Princ. II 16.

absence of civic officials within the settlements in the countryside. However, some kind of official was addressed first in many cases even in Egypt, maybe for practical reasons. Other differences such as challenging judges have lost their singularity. Overall, the Ptolemaic *dikasterion* was one of several possible variants of this type of court rather than a fundamentally different thing. Characteristics of the foreign judges—small numbers and, this is the main point, a court present only a few days a year—correspond more closely to another type of court in Egypt, the *chrematistai*.<sup>64</sup> As did foreign judges, the *chrematistai* gained more importance from century to century. At the end of the second century, they alone survived beside the courts of Egyptian type.<sup>65</sup>

The question is, whether this development was specially Egyptian or part of a general Hellenistic trend. At present, the question how the jurisdiction within the Greek poleis evolved in Hellenistic times is under review, so that no reasonable answer can be given here. However, if there was a decline of democratic institutions in general, which went together with a decline of the democratic and participative form of giving justice and a decline of *dikasteria* everywhere,<sup>66</sup> the decline of the Egyptian *dikasteria* would be nothing special.

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<sup>64</sup> For them, even an inscription is preserved: OGIS 106 (Ghazi, 172 B.C.)—not a honorific inscription for *chrematistai* but an inscription set by a council of *chrematistai*.

<sup>65</sup> P. Tebt. I. 5, 207–220 (Kerkeosiris, after 118 B.C.), on this papyrus Thompson (2001); Pestman (1985); Méléze-Modrzejewski (1979).

<sup>66</sup> Democratic jurisdiction in its pure form requires a compensation for the judges (Arist. Pol. 1294a 37–41, 1320a17–35, on this Walser (2012), 83 and 91; Cassayre (2010), 278–281), the payment of the *dikastai* in Egypt is nowhere attested while there are receipts for the payment of certain court fees (scribal and attorneys), e.g. UPZ II 172 (Thebes, 126/125 B.C.).

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