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## REMARKS ON THE LEGAL AND RHETORICAL BACKGROUND OF CICERO'S *PRO CAELIO*

**Abstract:** *The present paper intends to highlight some aspects of Cicero's speech in defence of Marcus Caelius Rufus on 4<sup>th</sup> April 56 on the first day of the Ludi Megalenses. Pro Caelio represents a highly important stage in Cicero's fight with Clodius (and his clan), which fight produced significant, sometimes fatal impact on the great orator's life and thereby on the political events of the end of the Republic. The first stage of the hostile relation can be dated to 73 when Clodius dealt a heavy blow on Terentia, Cicero's wife through accusing the Vesta priestess, Fabia, Terentia's half-sister with incestum. Among others, this was the injury that Cicero wanted to take revenge for in 61 (partly encouraged by his wife Terentia) in his testimony made against Clodius in the Bona Dea trial, which, however, due to the fact that Clodius was acquitted, ended with a result not meant to be achieved. In return, Clodius responded by urging Cicero's expulsion in 58 and the destruction of his house on the Palatinus. In 56, as a result of peculiar coincidence of political and private relations, Cicero was given the opportunity to deal a heavy blow on Clodia, Clodius's elder sister in his Pro Caelio, whom he mocked in the trial with murderous humour using the means of Roman theatre, especially of comedy, and, thus, arranged a peculiar theatre performance during the Megalensia, which anyway served as the time of the Ludi scaenici. Albeit, it does not belong to the history of the Pro Caelio to be investigated here but as the last stage of the hostile relation we mention that Cicero defended Milo in 52, who killed Clodius in a street fight. After outlining the circumstances of the lawsuit (I.) and the background of the Bona Dea case that sowed the seeds of the conflict between Cicero and the gens Clodia (II.) in our paper we intend to analyse the rhetoric situation provided by the Ludi Megalenses and genially exploited by Cicero (III.) and the orator's tactics applied in the speech in defence of Caelius (IV.).*

**Key words:** Cicero, classical rhetoric, *lex Plautia de vi*, *Pro Caelio*, *Ludi Megalenses*

I. In April 56 BC, the then twenty-five year old<sup>1</sup> M. Caelius before the *quaestio de vi* was charged by L. Sempronius Atratinus as main prosecutor, and L. Herennius Balbus and P. Clodius as *subscriptores*. The defendant himself made a statement of the defence. Furthermore, M. Licinius Crassus Dives and—taking the floor in line with his habit as the last one<sup>2</sup>—Cicero acted as counsel for the defence. The charge was made presumably on the grounds of the *lex Plautia de vi* (65/4),<sup>3</sup> which had been drafted based on Cicero's account of events against infamous citizens who raised riot, and who besieged the senate with weapons, used violence against a magistrate, and attacked the State.<sup>4</sup> From among the acts Caelius was charged with, the first three, which were expounded in more details in the statement of the defence made by Caelius and Crassus, are known to us only from Cicero's summary.<sup>5</sup>

Cicero kept for himself the expounding of the assassination against the Alexandrine philosopher Dio.<sup>6</sup> The counts of the indictment are connected in some form with the legates of Alexandria who intended to protest before the senate against Ptolemaios XII having been put back to the throne of Egypt by Rome (concerning the second and fourth counts of the indictment this can be established at first glance).<sup>7</sup> The legates led by Dio arrived to Rome in 57, but king Ptolemaios supported by Pompeius made every effort to thwart the audience before the senate.<sup>8</sup> The charge claimed that Caelius had been involved in these acts of Ptolemaios and Pompeius from the outset. The *pulsatio Puteolana* was probably an

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<sup>1</sup> Cf. Plinius, *Naturalis historia* 7, 165; Heinze, R.: Ciceros Rede pro Caelio. *Hermes*, 60. 1925. 193–258., 194; Stroh, W.: *Taxis und Taktik. Die advokatische Dispositionskunst in Ciceros Gerichtsreden*. Stuttgart, 1975. 243.

<sup>2</sup> Cicero: *Brutus* 190; *Orator* 130; Quintilianus: *Institutio oratoria* 4, 2, 27.

<sup>3</sup> About the *lex Plautia* see Rotondi, G.: *Leges publicae populi Romani*. Hildesheim, 1966. 377; Costa, E.: *Cicerone giureconsulto, I–II*. Milano, 1927. II. 91; Kunkel, W.: *Untersuchungen zur Entwicklung des römischen Kriminalverfahrens in vorsullanischer Zeit*. München, 1962. 123; Münzer, F.: *Römische Adelparteien und Adelsfamilien*. Stuttgart, 1920. 200; Classen, C. J.: Ciceros Rede für Caelius. In: Temporini, H.—Haase, W. (Hrsg.): *Aufstieg und Niedergang der römischen Welt, I. 3*. Berlin–New York, 1973. 60–94., 63; Th. Mommsen: *Römisches Strafrecht*. Leipzig, 1899. 564.

<sup>4</sup> Cicero: *Pro Caelio* 1.

<sup>5</sup> Cicero: *Pro Caelio* 23. *Itaque illam partem causae facile patior graviter et ornate a M. Crasso peroratum de seditionibus Neapolitanis, de Alexandrinorum pulsatione Puteolana, de bonis Pallae.*

<sup>6</sup> Cicero: *Pro Caelio* 23. 51–55.

<sup>7</sup> About Ptolemaios see Volkmann, H.: Ptolemaios. (XII.) In: *Paulys Realencyclopädie der classischen Alterthumswissenschaft, XXIII. 2*. Stuttgart–München, 1959. 1748–1755.

<sup>8</sup> Cf. Dio Cassius 39, 13; Cicero: *De haruspicum responso* 34; Strabo: *Geographica* 17, 7, 96.

attack made against the legates of Alexandria immediately after they had arrived to Puteoli; it cannot be ruled out that the *seditiones Neapolitanae* are connected with that in some form or other. If the legates heading from Naples on Via Appia to Rome used protection by a magistrate, then it can be deservedly called *seditio* using the proper Roman *terminus technicus* since it denotes defiance against the power of the state.<sup>9</sup> We cannot either prove or disclaim the relation of the *bona Pallae* with the legates of Alexandria.<sup>10</sup> In this respect, it is necessary to refer to the view that asserts that the present lawsuit can be considered dispute at law of primarily political nature; so, it was meant to attack Pompeius, Ptolemaios's patron, and Cicero's task was to deprive the case of any implication of current politics.<sup>11</sup> Contrary to this, the following points can be offered for deliberation: the prosecutors were motivated basically by private rather than political motifs.<sup>12</sup>

In particular, the fact that in February 56 on count of *ambitus* Caelius accused at the time of the lawsuit seventeen year old L. Sempronius Atratinus's<sup>13</sup> blood father, L. Calpurnius Bestia,<sup>14</sup> who was acquitted from the charge of election bribery, since he was defended by Cicero; he wanted him to be summoned again due to *ambitus*.<sup>15</sup> This second accusation was prevented by Atratinus by charging him with *vis*; consequently, Heinze claims that political considerations in this lawsuit constituted the means rather than the aim.<sup>16</sup> Pompeius's popularity reached its bottom;<sup>17</sup> thus, for the prosecutors it was actually advantageous to be able to attack Caelius as Pompeius's adherent. In this respect, Cicero himself, as a matter of fact, tried to mitigate the political edge of dispute at law. (Pompeius's name does not occur on a single occasion in the *Pro Caelio*).<sup>18</sup> In addition to specific counts of the indictment Cicero touches several issues that do not actually belong to the scope of the charge: specifically, the alleged attempt by Caelius to murder Clodia, Metellus Celer's widow.<sup>19</sup> He handles the attempt to poison Clodia in a somewhat separated form, but from a remark<sup>20</sup> it

<sup>9</sup> Mommsen: *op. cit.* 532.

<sup>10</sup> Stroh: *op. cit.* 245.

<sup>11</sup> Pacitti, G.: Cicerone al processo di M. Celio Rufo. In: *Atti I. Congresso internazionale di Studi Ciceroniani, II*. Roma, 1961. 67–79.

<sup>12</sup> Cf. Cicero: *Pro Caelio* 56.

<sup>13</sup> About Atratinus see Münzer, F.: L. Sempronius. In: *Paulys Realencyclopädie der klassischen Alterthumswissenschaft, II. A 2*. Stuttgart–München, 1923. 1366–1368.

<sup>14</sup> About him see Münzer, F.: Aus dem Leben des M. Caelius Rufus. *Hermes*, 44. 1909. 135–142.

<sup>15</sup> Cicero: *Pro Caelio* 16. 56. 78.

<sup>16</sup> Heinze: *op. cit.* 197; Classen: *op. cit.* 67., 93.

<sup>17</sup> Cf. Cicero: *Pro Caelio* 78. *Epistulae ad Quintum fratrem* 2, 6, 6.

<sup>18</sup> Stroh: *op. cit.* 246.

<sup>19</sup> Costa: *op. cit.* II. 93.

<sup>20</sup> Cicero: *Pro Caelio* 56.

comes out clearly that this element plays a material part in the chain of the demonstration of evidence. Consequently, Caelius had obtained money from Clodia to be able to hire Dio's murderers,<sup>21</sup> and if later on he wanted to poison Clodia, from whom the money came from, then, its aim was to get rid of the woman who later on learned of the assassination.<sup>22</sup>

**II.** The development of the hostile relation between Cicero and P. Clodius as well as his elder sister, Clodia cannot be understood without being aware of Cicero's testimony made in the so-called Bona Dea trial and the causes that made him do that. It was at the beginning of December 62 when highborn women of Rome, including the *virgines Vestales*, celebrated the festival of Bona Dea at the house of the *pontifex maximus*, Caesar. The name of Bona Dea is direct translation of the Greek Agathē Theos, who became generally known as a healing goddess,<sup>23</sup> based on the inscription referring to her<sup>24</sup> and the representations from Attica we are discussing here a figure of Hygeia.<sup>25</sup> This ritual was held in Rome at the house of a *magistratus cum imperio*, and only the *matronae* of the ruling class and Vesta priestesses were allowed to take part in it.<sup>26</sup> The festivity was led by the wife of the *magistratus*, so, Bona Dea did not have a priestess of her own.<sup>27</sup> With respect to the present case, it is of special importance that each male being, be it human or animal, was strictly excluded from the ritual. No exact picture regarding each detail is provided by historical sources<sup>28</sup> on what happened during this night; the following, however, can be established with acceptable certainty: Clodius somehow found his way into the house (Plutarch claims that he found the door open and that is how he entered). He pretended to be disguised as a woman with a Harp<sup>29</sup> but the assertion made by Plutarch and Appianus that disguising was greatly facilitated by him not being compelled yet to shave in those days is false; they simply forget about the fact that at the time of the Bona Dea scandal Clodius was already twenty-nine/thirty years old. Dio Cassius claims that his purpose was to seduce Caesar's wife, Pompeia (which did happen as Dio Cassius asserts), but that is not

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<sup>21</sup> Cicero: *Pro Caelio* 52.

<sup>22</sup> Stroh: *op. cit.* 249.

<sup>23</sup> Macrobius: *Saturanalia* 1, 12, 25.

<sup>24</sup> Corpus Inscriptionum Latinarum VI. 72.

<sup>25</sup> Latte, K.: *Römische Religionsgeschichte*. München, 1967. 228.

<sup>26</sup> Cicero: *Epistulae ad Atticum* 1, 13, 3; *De haruspicum responso* 37; Plutarchus: *Cicero* 19; Dio Cassius 37, 35, 4; 37, 45, 1.

<sup>27</sup> Latte: *op. cit.* 230.

<sup>28</sup> Vell. 2, 45, 1; Plutarchus: *Cicero* 28; *Caesar* 9; Suetonius: *Divus Iulius* 6, 2; Appianus: *Bella civilia* 2, 14, 52; Dio Cassius 37, 45; Livius: *Periochae* 103.

<sup>29</sup> Cicero: *De haruspicum responso* 44; Plutarchus: *Cicero* 28, 2; *Caesar* 10, 1; Iuvenalis: *Saturae* 6, 337.

certain at all. Anyway, the ritual was led by Caesar's mother: Aurelia and not by Pompeia.<sup>30</sup> The disturbed festivity was later repeated by Vesta priestesses (*instauratio*).<sup>31</sup>

In the senate the Bona Dea scandal was first put forth by Q. Cornificius, and the body referred it to the Vesta priestesses and the *pontifices*, who held a session under the chairmanship of the *pontifex maximus*, Caesar.<sup>32</sup> In addition to Caesar, this body included one more member who played a part in the later trial: L. Cornelius Lentulus Niger, who fulfilled the dignity of the *flamen Martialis*.<sup>33</sup> The senate received a report stating that the disturbance of the Bona Dea ritual was deemed *nefas*. After this report, albeit, before the trial, Caesar divorced his wife and announced that he would not be willing to appear in court as a witness—thereby reassuring Clodius that there had been no break in the friendship they had entertained.<sup>34</sup> The senate accepted the report, and resolved to set up a special venue of jurisdiction in order for it to investigate the *incestum* committed by Clodius.<sup>35</sup> The members of the court of justice were not elected from *album iudicum* by drawing lots—as it was customary in the *quaestiones*—instead, the chairing *praetor* selected the participants from specific persons, which enhanced the suspicion that the judges must have been prejudiced against Clodius right from the first.<sup>36</sup> For this reason, Fufius Calenus *tribunus plebis* vetoed the charge submitted by M. Piso.<sup>37</sup> The matter was delivered to the public, from among Clodius's opponents three persons—Cato, Favonius and Hortensius—took firm action quite resolutely. Then, the senate was convened again, and having put down Fufius Calenus's resistance they decided to proceed in the form originally planned—it was this fact on which Cicero informed Atticus on 13<sup>th</sup> February.<sup>38</sup> At the next session of the senate Fufius made two proposals: first, regarding the point that the trial on Clodius's case should be held; secondly, that the judges should be appointed by drawing lots.<sup>39</sup> The first proposal was accepted, the second one was dismissed,<sup>40</sup> the senate entrusted Fufius to submit the charge to the public. Cicero claims this happened, because Hortensius and his circle

<sup>30</sup> Suetonius: *Divus Iulius* 74, 2.

<sup>31</sup> Cicero: *Epistulae ad Atticum* 1, 13, 3.

<sup>32</sup> Cicero: *Epistulae ad Atticum* 1, 13, 13; Macrobius: *Saturnalia* 3, 13, 11.

<sup>33</sup> Baldson, J. P. V. D.: *Fabula Clodiana. Historia*, 15. 1966. 65–73., 67.

<sup>34</sup> Cicero: *Epistulae ad Atticum* 1, 13, 3; Plutarchus: *Caesar* 10, 8–10; Suetonius: *Divus Iulius* 6, 2, 74, 2; Appianus: *Bella civilia* 2, 14, 52; Dio Cassius 37, 45.

<sup>35</sup> Cicero: *Epistulae ad Atticum* 1, 13, 3.

<sup>36</sup> Baldson: *op. cit.* 69.

<sup>37</sup> Cicero: *Paradoxa Stoicorum* 4, 32.

<sup>38</sup> Cicero: *Epistulae ad Atticum* 1, 14, 5.

<sup>39</sup> Tatum, W. J.: Cicero and the Bona Dea Scandal. *Classical Philology*, 85. 1990. 202–208., 206.

<sup>40</sup> Baldson: *op. cit.* 70.

were fully certain that Clodius would be sentenced by any court.<sup>41</sup> Accordingly, the formal accusation was made approx. before 15<sup>th</sup> March, 61. Of the lawsuit itself rather few facts are known to us; the charge was expounded by three persons, three Cornelii Lentuli: L. Cornelius Lentulus Crus, L. Lentulus Cornelius Lentulus Niger (*flamen Martialis*) and Cn. Cornelius Marcellinus.<sup>42</sup>

Against the charge Clodius intended to prove the alibi that on the day of the Bona Dea ritual he had been in Interamna and not in Rome. To refute this alibi several *matronae* participating in the Bona Dea festivity acted as witnesses, including Caesar's mother, Aurelia and Caesar's elder sister, Iulia. Similarly, Cicero made a testimony pleading that on the day of the ritual Clodius visited him in Rome—certain sources<sup>43</sup> claim this visit was paid three hours before the scandal (i.e., late at night), other interpretations<sup>44</sup> assert it took place during the *salutatio* in the morning. Eventually, Clodius was acquitted; several causes of such outcome of the lawsuit can be made probable: it cannot be ruled out that the members of the court were bribed, the money presumably was provided by Crassus (each member of the jury must have been given three-four hundred thousand *sestertii*)—both Catulus<sup>45</sup>, and Cicero referred to this possibility.<sup>46</sup> Besides possible bribery, the jury's fear might have also arisen, and there might have been doubt to what extent Aurelia was able to recognise Clodius exactly.<sup>47</sup> Since the decision in the lawsuit was not adopted as Cicero had desired, and through his testimony he had made Clodius his deadly enemy, which resulted in a tragic turn in his later career—exile, it is worth highlighting the motifs that had made Cicero take such firm action in the lawsuit. Cicero himself emphasised unselfish and purely moral reasons of his procedure,<sup>48</sup> however, his first account of the disturbance of the ritual written to Atticus was not free from certain cynical overtone.<sup>49</sup> He describes the action taken against Clodius as one of the (subsequent) steps in the combat against Catilina, and alleged to have discovered connections between the Catilina's plot in 63 and the elements that supported Clodius in the Bona Dea trial.<sup>50</sup> This explanation, however, does not seem satisfactory to the extent that Clodius had been—as we shall see—a long-

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<sup>41</sup> Cicero: *Att.* 1, 16, 2. 4–5; Spielvogel, J.: Clodius P. Pulcher – eine politische Ausnahmerecheinung der späten Republik? *Hermes*, 125. 1997. 56–74., 60.

<sup>42</sup> Baldson: *op. cit.* 71.

<sup>43</sup> Cicero: *Epistulae ad Atticum* 1, 16, 2; 2, 1, 5.

<sup>44</sup> Quintilianus: *Institutio oratoria* 4, 2, 88.

<sup>45</sup> Cicero: *Epistulae ad Atticum* 1, 16, 5; Dio Cassius 37, 46, 3.

<sup>46</sup> Cicero: *Epistulae ad Atticum* 1, 16, 5.

<sup>47</sup> Baldson: *op. cit.* 72.

<sup>48</sup> Cicero: *Epistulae ad Atticum* 1, 18, 2.

<sup>49</sup> Cicero: *Epistulae ad Atticum* 1, 12, 3.

<sup>50</sup> Cicero: *Epistulae ad Atticum* 1, 14, 5.

time personal enemy of Catilina, and he personally had not taken part in the plot.<sup>51</sup>

Plutarch<sup>52</sup> identifies the following reasons for Cicero making a testimony incriminating Clodius in the Bona Dea trial. Cicero had been induced by his wife, Terentia to take this step, whose hatred was aimed not so much at Clodius but at his elder sister, Clodia due to the point that Clodia had purportedly wanted Cicero to divorce Terentia, and marry her, Clodia. Through Cicero's testimony Terentia wanted to deteriorate the relation so that this step could not be taken, and Cicero wanted to clear himself of the suspicion. Plutarch himself mentions this possibility merely as talk of the town, and mostly it is in accordance with that that researchers of the modern age have refused this version.<sup>53</sup> In spite of that, it is worth casting an investigating glance at this explanation too. Plutarch dates Clodia's intention regarding Cicero to the year 61. The chronology indicated by Plutarch is sometimes quite uncertain, but the event he gives an account of often constitutes a historical fact in spite of the erroneous determination of the point of time.<sup>54</sup> The story appears in a more realistic light if we attempt to place it in the year 63 in stead of 61. After making a survey of the political marriages entered into and planned around this time,<sup>55</sup> the marriage entered into between Clodia and Metellus Celer can be dated to the end of 63.<sup>56</sup> Through that Metellus Celer got in the circles of the *optimates*, and became the son-in-law of Pompeius's opponent, Lucullus. It cannot be excluded that the party of the *optimates* knowingly attempted to alienate his key supporters from Pompeius. In 63, Cicero having taken steps against the *populares* became a man of political significance in the eyes of the *optimates*—it is possible to imagine that it was at that time when they tried to attain that Cicero should divorce Terentia and marry Clodia. And if after that the politically promising marriage to be entered into with Cicero was not accomplished, then they were satisfied with Metellus Celer. Cicero probably did not want to violate his marriage for certain temporary political advantages, and did not consider the marriage practice usually accepted in the circles of the notables of Rome a political trump card.<sup>57</sup> Yet, even if we do not accept this hypothesis, Plutarch's thought that Cicero had

<sup>51</sup> Epstein, D. F.: Cicero's testimony at the Bona Dea Trial. *Classical Philology*, 80. 1986. 229–235., 230.

<sup>52</sup> Plutarchus: *Cicero* 29, 2–3.

<sup>53</sup> Baldson: *op. cit.* 72; Weinstock, I.: Terentia. (95.) In: *Paulys Realencyclopädie der classischen Alterthumswissenschaft, IV. A.* Stuttgart–München, 1934. 710–716., 711.

<sup>54</sup> Dorey, A. T.: Cicero, Clodia, and the pro Caelio. In: *Greece and Rome*, II/5. 1958. 175–180., 179.

<sup>55</sup> Cf. Plutarchus: *Cato min.* 30; *Pompeius* 44.

<sup>56</sup> Cf. Cicero: *Epistulae ad familiares* 5, 2, 6.

<sup>57</sup> Dorey: *op. cit.* 179.

been induced by Terentia to stand as witness against Clodius does not seem groundless if a former clash between the two families is taken into consideration.<sup>58</sup>

The hatred between Terentia and Clodius comes from 73 when Clodius charged Catilina with *incestum* committed against Fabia. Fabia was a *virgo Vestalis* and Terentia's half-sister. Owing to Catulus's help, Catilina was acquitted; yet, the case highly damaged Fabia, and thereby Terentia's family. There are some loci available to us on the case: so, for example, Sallustius mentions *incestum* as a fact,<sup>59</sup> and a reference to it is also available in Cicero.<sup>60</sup> Presumably, the Bona Dea ritual held in 63 at the house of the *consul* at that time led by Terentia gave a push to Cicero to take action against Catilina since the participants of the Catilina's plot had already been arrested in Rome though, Cicero had not made a decision on their fate yet. The *matronae* celebrating the Bona Dea festival saw the altar bursting into flames, which qualified a *prodigium*, and it was interpreted by the *virgines Vestales* and Terentia taking part in the festival as a need for Cicero to take firm action against the conspirators in order to restore *pax deorum*.<sup>61</sup> The priestesses and Terentia must have been inflamed also by Fabia having been put to shame through Catilina making mockery of her reputation.<sup>62</sup> The attempt at providing the interpretation claiming that disgracing the Bona Dea festival in 62 might have been Clodius's political response to Cicero using the festival in 63 in order to influence him<sup>63</sup> does not seem well-grounded.<sup>64</sup> First, because Clodius did not belong to Catilina's adherents; secondly, because it is hard to presume that he had had such a conscious political concept.

Both the hypothesis of the jealousy due to the presumed plan of the marriage to be entered into with Clodia and the fact of the hatred felt because of Fabia having been shamed by Catilina and Clodius clearly indicates that Terentia produced highly great influence on Cicero with respect to the testimony to be made against Clodius. Clodius also wanted to shift the responsibility of Cicero's action to Terentia; at least, in 58 as *tribunus plebis* he deluded Cicero<sup>65</sup> that he should not flee from Rome—just to enjoy his revenge all the more.<sup>66</sup> Albeit,

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<sup>58</sup> Epstein: *op. cit.* 232.

<sup>59</sup> Sallustius: *De coniuratione Catilinae* 15, 1.

<sup>60</sup> Cicero: *In toga candida* 82.

<sup>61</sup> Plutarchus: *Cicero* 20, 1–3.

<sup>62</sup> Weinstock: *op. cit.* 711.

<sup>63</sup> Benner, H.: *Die Politik des P. Clodius Pulcher*. Stuttgart, 1987. 37; Will, W.: *Der römische Mob*. Darmstadt, 1991. 48; Moreau, Ph.: *Clodiana Religio. Un procès politique en 61 av. J-C*. Paris, 1982. 15.

<sup>64</sup> Spielvogel: *op. cit.* 59.

<sup>65</sup> Plutarchus: *Cicero* 30, 1–3.

<sup>66</sup> Epstein: *op. cit.* 234.

Caesar offered Cicero the position of a *legatus* so that he could leave Rome; it has not been clarified whether this had happened before Clodius was elected *tribunus*<sup>67</sup> or took place after that.<sup>68</sup> However, although being aware of the danger, he did not leave.<sup>69</sup> The consequences not foreseen either by Cicero or Terentia are widely known. In 58, Clodius was elected *tribunus plebis*; to this end, he had had to be adopted by a plebeian family, which was implemented with the consent of Caesar as *pontifex maximus*, and he submitted the following bill: anyone who had caused any Roman citizen to be executed without court proceedings should be outlawed. This law (which was enacted with retroactive force!) was targeted at Cicero personally, who had caused Catilina's five accomplices executed in Tullianum during the Catilina's plot without court proceedings but with the approval of the senate.<sup>70</sup> Cicero went into exile and on the site of his villa on the Palatine ravaged to dust Clodius had a temple erected for goddess Libertas. As Imre Trencsényi-Waldapfel remarks: "In the history of the world, it was not the first and not the last act of abusing the name of liberty but certainly it was one of the most repulsive ones."<sup>71</sup> Since neither Cicero nor Terentia<sup>72</sup> were able to foresee the fatal consequences of the testimony made in the Bona Dea trial that occurred in 58. It cannot be considered inconsistent for them to proceed in the action at law in 61 making an attempt to obtain redress through Fabia for the injury suffered by the whole family in 73.

**III.** After having given a brief account of the historical/political situation and the stages of the hostile relation between Cicero and the *gens Clodia*, we should turn our attention to the rhetoric situation developed by the circumstances and to the point how Cicero handles it. De Saint-Denis calls the *Pro Caelio* the wittiest of Cicero's orations,<sup>73</sup> which results to a great extent from the date when the speech was delivered (on 4<sup>th</sup> April), from the maximum exploitation of the somewhat contradictory situation provided by the first day of the *Ludi Megalenses* through the tools of humour.<sup>74</sup> *Ludi Megalenses* (4–10 April) was the festivity of Magna Mater (Kybelē), whose cult was borrowed and

<sup>67</sup> Cicero: *Epistulae ad Atticum* 2, 18, 3. 19, 5.

<sup>68</sup> Dio Cassius 38, 15, 2.

<sup>69</sup> Cicero: *De provinciis consularibus* 41–42.

<sup>70</sup> Uttschenko, I. L.: *Cicero*. Berlin, 1978. 121; Trencsényi-Waldapfel I.: *Cicero*. Budapest, 1959. 43.

<sup>71</sup> Trencsényi-Waldapfel: *op. cit.* 43.

<sup>72</sup> Cf. Cicero: *Pro Caelio* 50; *Epistulae ad Atticum* 14, 2, 2.

<sup>73</sup> Saint Denis, E. de: Le plus spirituel des discours cicéroniens: le *Pro Caelio*. In: *Essais sur le rire et le sourire des Latins*. Paris, 1965. 129–144.

<sup>74</sup> Salzman, M. R.: Cicero, the Megalenses and the defense of Caelius. *American Journal of Philology*, 103. 1982. 299–304., 301.

introduced in Rome in 205/4 immediately before the end of the second Punic war on the grounds of the instruction of the *libri Sibyllini*.<sup>75</sup> At that time, they turned to the seat of the cult,<sup>76</sup> in the present case, to Attalos, king of Pergamon, who handed over the black stone representing the goddess, and equipped a ship for carrying it to Rome.<sup>77</sup> Another tradition has it that the stone was taken to Rome directly from Pessinus.<sup>78</sup> The goddess was brought to Rome with ritual ceremony, the senate entrusted Scipio Nasica to receive the Magna Mater. Certain sources assert that in order to prove her innocence the Vesta priestess Quinta Claudia herself set the boat—transporting the stone, stuck on the sand bank of Tiberis—to sail.<sup>79</sup> In her temple on the Palatinus Claudia also had a statue,<sup>80</sup> this temple was completed in 191, and it was at that time when the *Megalensia* and the staged plays (*ludi scaenici*) held on this occasion were introduced. In the ritual of the *Ludi Megalenses*—just like in the entire Roman cult of Kybelē—no part was given to the raging *gallus* dance recalling Attis's self-mutilation.<sup>81</sup> On the other hand, archaeological find proves the appearance of the Attis cult simultaneously with the cult of Magna Mater for during the archaeological excavations on the Palatine Hill in 1950/1 small statues representing Attis were found in the cell of the Kybelē temple from the layer from the 2<sup>nd</sup> c. BC. This unambiguously refutes the standpoint which claims that Kybelē's cult had been borrowed and introduced in Rome without Attis's cult<sup>82</sup> as this seemed doubtful merely on the grounds of philological findings.<sup>83</sup>

As it has already been mentioned, theatre performances were held on the *Megalensia* right from the outset. Apart from stressing the two members of the *gens Claudia* being directly affected in the trial and the contrast between Clodia and Quinta Claudia,<sup>84</sup> another link between the *Megalensia* and the history of the family existed. Clodius disturbed the festival of Magna Mater on several occasions. He caused the second scandal on 8<sup>th</sup>, 9<sup>th</sup> or 10<sup>th</sup> April, 56,<sup>85</sup> when accompanied by armed slaves he attacked and occupied the theatre where the

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<sup>75</sup> Latte: *op. cit.* 258.

<sup>76</sup> Schmidt, E.: Kulturübertragungen. *Religionsgeschichtliche Versuche und Vorarbeiten*, VIII/2. 1909. 1–30.

<sup>77</sup> Livius: *Ab urbe condita* 29, 10, 4. 14, 5; Ovidius: *Fasti* 4, 255; Silanus: *Punica* 17, 1; Appianus: *Hannibalica* 233.

<sup>78</sup> Cicero: *De haruspicum responso* 27; Livius: *Ab urbe condita* 29, 10, 7; Strabo: *Geographica* 12, 567; Ammianus Marcellinus 22, 9, 5.

<sup>79</sup> Suetonius: *Tiberius* 2, 3; Lactantius: *Divinae institutiones* 2, 7, 12.

<sup>80</sup> Tacitus: *Annales* 4, 64.

<sup>81</sup> Latte: *op. cit.* 260.

<sup>82</sup> Altheim, Fr.: *Römische Religionsgeschichte, I–III*. Baden-Baden, 1951–1953. II. 51.

<sup>83</sup> Graillot, H.: *Le culte de Cybèle*. Paris, 1912. 101.

<sup>84</sup> Cicero: *Pro Caelio* 34.

<sup>85</sup> Salzman 303.

performance was being held.<sup>86</sup> Thus, this happened a few days after *Pro Caelio* was delivered. However, those who listened to the oration might have thought and most certainly did think of the first incident since in 58 Clodius was involved in an action against the Kybelē sanctuary in Pessinus<sup>87</sup> when Brogitarus, who supported Clodius's gang with money, obtained the Kybelē priest dignity (accompanied by royal title) in Pessinus with Clodius's assistance, through having expelled the legitimate fulfiller of this office and broke up the cult.<sup>88</sup> This way, the *gens Clodia* was closely linked to the *Megalensia* both in terms of history and current political issues.

IV. At the beginning of the speech Cicero as it were expresses his regret that it is a pity that judges are not granted any rest even on holidays,<sup>89</sup> and cannot watch the theatre performance just being held. So, the *orator* is going to stage his own theatre performance, comedy for them, and puts Clodia<sup>90</sup> defined as the source of the charge in the centre. By doing that he is not trying to make the defendant appear a nice person to the judges, instead, he drives the attention to the opponent's motive force, *opes meretriciae*,<sup>91</sup> and it is absolutely not doubtful to those listening to the speech whom the term *meretrix* covers. The chief witness of the charge of attempted murder of Dio, the Roman merry widow, Clodia Metelli known from her licentious way of life. Before responding to the actual charges (*de vi*), he deems it is important to reply to the invented defamation made to the detriment of Caelius.<sup>92</sup>

From the part regarding *vita ante acta*<sup>93</sup> the following key charges can be discerned. Caelius had violated *pietas* and *fides*, had not paid due respect to his father<sup>94</sup>, and had not acted properly concerning Calpurnius Bestia either when he had caused him to be summoned.<sup>95</sup> The charge of *luxuria*,<sup>96</sup> which he reproached both Herennius and Clodius Caelius for,<sup>97</sup> and dissolute life in young age.<sup>98</sup> Remarks of political nature: friendly relation to Sergius Catilina,<sup>99</sup> alleged

<sup>86</sup> Cicero: *De harispicum responso* 21–29.

<sup>87</sup> Cicero: *De harispicum responso* 27.

<sup>88</sup> Cicero: *De harispicum responso* 28.

<sup>89</sup> Cicero: *Pro Caelio* 1.

<sup>90</sup> Cicero: *Pro Caelio* 2.

<sup>91</sup> Cicero: *Pro Caelio* 1.

<sup>92</sup> Cicero: *Pro Caelio* 3.

<sup>93</sup> Cicero: *Pro Caelio* 3–22.

<sup>94</sup> Cicero: *Pro Caelio* 4. 18.

<sup>95</sup> Cicero: *Pro Caelio* 26.

<sup>96</sup> Cicero: *Pro Caelio* 4. 17.

<sup>97</sup> Cicero: *Pro Caelio* 27.

<sup>98</sup> Cicero: *Pro Caelio* 6–14.

<sup>99</sup> Cicero: *Pro Caelio* 10–14.

participation in the conspiracy,<sup>100</sup> the crime of *ambitus*,<sup>101</sup> and attack against a *senator* in the election of the *pontifex*.<sup>102</sup> The grouping of the charges may be discretionary but their order mostly follows Caelius's course of life.<sup>103</sup> The third part<sup>104</sup> discusses the assassination against Dio; the accusation supports this by Clodia's statement claiming that Caelius had obtained money from her in order to bribe Luceius's slaves, and then tried to get rid of her as an incriminating witness.<sup>105</sup>

Cicero expounds these two statements made by Clodia as independent charges,<sup>106</sup> he refutes the charges of *aurum*<sup>107</sup> and *venenum*<sup>108</sup> separately.<sup>109</sup> It is one of Cicero's clearly perceptible objectives to alleviate the political overtones of the trial as much as possible, among others it is for this reason that he does not focus on the attack against Dio. *Crimen veneni* is properly known, presumably other persons' testimonies were available to support Clodia on the issue that Caelius had attempted to hand over poison to Clodia's slaves. Quite interestingly, during the entire oration Cicero does not provide any other version instead of this story; he is satisfied with making the inconsistencies in the opponent's pleading ridiculous, and emphasising that *corpus delicti* is not available to them. Although thereby he does not fully dispel suspicion regarding Caelius but at least he can take this detail out of its original context.<sup>110</sup>

Several material questions arise in the middle part of the speech.<sup>111</sup> After having covered the paragraphs *de vita*, or *de moribus*, the *orator* drives the attention to the actual counts of the indictment. With a few sentences he briefly presents the assassination against Dio. He refers to the point that king Ptolemaios was the author the murder, who used Asicius having been acquitted in the meantime as a tool—for this reason, even the shadow of suspicion could not be cast on Caelius.<sup>112</sup> After that, he suddenly returns to the objections made against Caelius's conduct of life (*deliciarum obiurgatio*).<sup>113</sup> With respect to minor licentiousness he takes a liberal position believing that youth has the right

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<sup>100</sup> Cicero: *Pro Caelio* 15.

<sup>101</sup> Cicero: *Pro Caelio* 16.

<sup>102</sup> Cicero: *Pro Caelio* 19.

<sup>103</sup> Heinze: *op. cit.* 214.

<sup>104</sup> Cicero: *Pro Caelio* 51. 69.

<sup>105</sup> Cicero: *Pro Caelio* 63.

<sup>106</sup> Cicero: *Pro Caelio* 51.

<sup>107</sup> Cicero: *Pro Caelio* 51.

<sup>108</sup> Cicero: *Pro Caelio* 56.

<sup>109</sup> Stroh: *op. cit.* 260.

<sup>110</sup> Stroh: *op. cit.* 261.

<sup>111</sup> Cicero: *Pro Caelio* 23–50.

<sup>112</sup> Cicero: *Pro Caelio* 24.

<sup>113</sup> Cicero: *Pro Caelio* 27.

to sow their wild oats as long as they do not cause any serious harm by that,<sup>114</sup> and in more serious cases he asks the judges to distinguish the subject (*res*) from the defendant (*reus*); that is, to notice that the objections raised concern young people of the period in general and not specifically Caelius.<sup>115</sup> Then, he passes on to a definite *crimen luxuriae*: the money obtained from Clodia allows the deduction of a quite intimate relationship, which ended with a bitter split.<sup>116</sup> Instead of the continuation, logical at first sight (on the one hand, he might deny the existence of this love affair; on the other hand, he could fully doubt the authenticity of the two *crimena* due to its sudden break), Cicero chooses to follow another track: in what follows<sup>117</sup> he doubts the authenticity of Clodia's testimony on the grounds that as a left and jealous mistress she is not able to judge Caelius without bias. Thereby he anticipates the subject *de vi* that belongs to the *argumentatio*;<sup>118</sup> through that *vis* and *luxuria* change turning into each other in paragraphs 23–50:<sup>119</sup> *vis*,<sup>120</sup> *luxuria*,<sup>121</sup> *vis*,<sup>122</sup> *luxuria*,<sup>123</sup> *vis*.<sup>124</sup>

This point is highlighted by an excellent observation made by Heinze when he asserts that the construction of the charge is primarily and exclusively based on Clodia's testimony. So, it could not ruin its authenticity by presenting Clodia as Caelius's left mistress, consequently, it was only Cicero who could bring up this relation in the lawsuit.<sup>125</sup> Thus, he defended Caelius against an accusation (since the liaison with Clodia is far from being so general as *amores* and *libidines* referred to) that had not been made against him.<sup>126</sup> The whole thing seems all the more appropriate as there is no single point in the entire *Pro Caelio* where Cicero presumed that the love relation between Clodia and Caelius is a fact known to the general public listening to the case. At several places he keeps mentioning certain generally spread rumours regarding the sexual life of each of the persons separately but never concerning the affair between them. So, it is Cicero who reduces Clodia's and Caelius's licentious conduct of life engaged by both of them individually to a common denominator and invents connection between them.<sup>127</sup>

<sup>114</sup> Cicero: *Pro Caelio* 28.

<sup>115</sup> Cicero: *Pro Caelio* 29–30.

<sup>116</sup> Cicero: *Pro Caelio* 31.

<sup>117</sup> Cicero: *Pro Caelio* 32–36.

<sup>118</sup> Cicero: *Pro Caelio* 51–69.

<sup>119</sup> Stroh: *op. cit.* 266.

<sup>120</sup> Cicero: *Pro Caelio* 23–24.

<sup>121</sup> Cicero: *Pro Caelio* 25–31.

<sup>122</sup> Cicero: *Pro Caelio* 32–36.

<sup>123</sup> Cicero: *Pro Caelio* 37–50.

<sup>124</sup> Cicero: *Pro Caelio* 51.

<sup>125</sup> Heinze: *op. cit.* 228.

<sup>126</sup> Heinze: *op. cit.* 245.

<sup>127</sup> Stroh: *op. cit.* 272.

The situation would have been exploited by a counsel for the defence less genial than Cicero as follows. First, he would decrease the significance of *crimen luxuriae*, and would point out the highly general nature of the charges and the right of youth to engage in free and easy way of life. Secondly, he would cast doubt on Clodia's authenticity—which is perhaps not so difficult since in 56 satirical poems on incestuous relation maintained with her brother Clodius had been rather widespread among the people<sup>128</sup>—and thereby he would question whether the Roman court could grant great authenticity to the testimony of the *meretrix*. This *orator*, as we have said, less genial than Cicero would face the following difficulties. How can he measure by two measures; that is: why is he so forbearing regarding Caelius's lascivious conduct of life and why so strict regarding the same in case of Clodia? (It is a fact that whereas Caelius is merely a young man, Clodia is a *consul's* widow but the oration could possibly become inauthentic through this duality.) Even if Clodia—exactly due to her conduct of life—were not a witness considered too authentic, this would by no means give reason for her to lie. And on the whole why would she have been up to make a false testimony against Caelius?<sup>129</sup>

It is a brilliant construction by which Cicero takes the sting out of possible objections. How would the case look like if Clodia had been Caelius's lover? The edge of moral aversions against Caelius is actually eliminated by the fact that it is not possible to commit *adulterium* with a kind of woman like Clodia since she is ranked among *amores meretricii*. And thereby the question regarding the reason for Clodia's testimony is solved at one blow: the left lover is thirsting for revenge, and it is for this reason that she makes a false testimony; subsequently, it cannot be evaluated. On the other hand, at first sight, Cicero does not have too extensive background at his disposal to build the love relation between Caelius and Clodia: both of them live on the Palatinus, and it is not really their ascetic conduct of life that they are notable for. Cicero, however, finds one more point: the charge claims that Clodia had given money to Caelius, who later wanted to poison Clodia (*aurum et venenum*). According to Cicero's construction, which seems quite obvious, all this had taken place because of a highly intimate relationship and a quite stormy break. However, it is still hard to solve the dilemma: the claims made in the charge are either true and then Caelius is guilty in the assassination against Dio; or, if they are not true, then the Caelius-Clodia *liaison* cannot be developed. Thus, Cicero must acquit the defendant (*luxuria*), and must make Clodia's testimony inauthentic (*vis*). If the relation between the two of them had been widely known, then Cicero would have had to place the point on *luxuria* in the part of *de vita ac moribus*, and the

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<sup>128</sup> Cicero: *Ad Quintum fratrem* 2, 3, 2.

<sup>129</sup> Stroh: *op. cit.* 274.

attack against Clodia in the part of *crimen de vi*. This way, however, he deals with Clodia's authenticity under the points of *crimina auri et veneni*, and builds and manipulates the Clodia-Caelius relation.<sup>130</sup>

Now, let us look at how Cicero creates this relation. At the beginning of the speech<sup>131</sup> he does not name Clodia yet, he refers to *opes meretriciae* only, which properly and excitingly rhymes with *intolerabilis libido* and *nimis acerbum odium*.<sup>132</sup> When he mentions Caelius's moving to the Palatinus he formulates more clearly.<sup>133</sup> Here, Cicero uses the well-known Medea motif, which has already arisen a few times during the lawsuit since Atratinus called Caelius *pulchellus Iason*, and referred to the story of the golden fleece regarding the hired gold,<sup>134</sup> and Caelius called Atratinus *Pelia cincinnatus*.<sup>135</sup> And he continues to develop the thought.<sup>136</sup> He refers the motif of money and poison (*duo sunt autem crimina, auri et veneni*) to the scope of subject of *luxuria*, and intends to draw conclusions from that regarding the relation between Clodia and Caelius. Yet, if he uttered this *expressis verbis*, then he would acknowledge that the charges are true.<sup>137</sup>

Cicero repeats the opponent's charges with an *ut dicitur* phrase but he lets them appear real and true—more properly he suspends the response to be given to them—as long as they fit in with his aims.<sup>138</sup> It is here where he conjures up Appius Claudius Caecus (*prosopopoiia*) from the underworld—which is no way a tool that belongs to *genus grande*<sup>139</sup> in the present case<sup>140</sup> but a trick full of comic circumstances<sup>141</sup>—in order to be able to compare ancient Roman virtues to Clodia's conduct of life. Seemingly, this does not serve defence since the ancestor conjured up is convinced of the justice of the charge of *aurum et venenum*.<sup>142</sup> However, the old *ensor's* speech now unambiguously feeds the fact of the relation between Clodia and Caelius and Clodia's corruptness into the judges' head.<sup>143</sup>

<sup>130</sup> Stroh 275.

<sup>131</sup> Cicero: *Pro Caelio* 1 sqq.

<sup>132</sup> Cicero: *Pro Caelio* 2.

<sup>133</sup> Cicero: *Pro Caelio* 18. *Quo loco possum dicere id quod vir clarissimus, M. Crassus, cum de adventu regis Ptolemaei quereretur, paulo aute dixit: 'utinam ne in nemore Pelio...' ac longius mihi quidem contextere hoc carmen liceret: 'nam numquam era errans' hanc molestiam nobis exhiberet 'Medea animo aegro, amore saevo saucia...'*.

<sup>134</sup> Münzer: *op. cit.* 136.

<sup>135</sup> Quintilianus: *Institutio oratoria* 1, 5, 61.

<sup>136</sup> Cicero: *Pro Caelio* 18. *Hanc Palatinam Medeam migrationemque hanc adulescenti causam sive malorum omnium sive potius sermonum fuisse.*

<sup>137</sup> Stroh: *op. cit.* 278.

<sup>138</sup> Cicero: *Pro Caelio* 30–32.

<sup>139</sup> Quintilianus: *Institutio oratoria* 12, 10, 61.

<sup>140</sup> Geffcken, K.: *Comedy in the pro Caelio*. Leiden, 1973. 18.

<sup>141</sup> Cf. Cicero: *Pro Caelio* 33.

<sup>142</sup> Cicero: *Pro Caelio* 33–34.

<sup>143</sup> Stroh: *op. cit.* 282.

It is after this that the *reprehensio testis* may be implemented with respect to Clodia, which presents Clodia as a jealous, left lover, and proves that Caelius is not an *adulter*, that is, adulterer, but only an *amator*, that is, a lover. In accordance with the above cast (first, Cicero and then Appius Claudius Caecus spoke), here again the *orator* himself and then Clodius Pulcher pleads; thereby Cicero shifts the burden of proof mostly to the two persons summoned. Cicero's tactic here becomes much clearer: if the charge of poison and gold is true, then Clodia was Caelius's lover; if she was his lover, then her testimony is useless, so the charge of poison and gold is not proved. Thus, the charge of poison and gold, which has been so summed up by Cicero in order for him to create a *liaison*, now becomes needless; therefore, it should be concealed, and that without being noticed, so that the judges should not remember on what premises their conclusions were based on.<sup>144</sup> The *crimina auri et veneni* are merged with *crimen luxuriae*, and in the rest of the speech they are referred to as such. In the speech put into Clodius's mouth it is now considered a fact that Clodia is Caelius's mistress—whereas Appius Claudius deduced this only from various signs of suspicion.<sup>145</sup> The level the two actors are informed corresponds to the listeners' seeming level of knowledge. Clodius details the love affair rather loosely—and thereby Cicero dealt a deathly blow on Clodia's confession.<sup>146</sup>

In the editing of paragraphs 30–36 of the *Pro Caelio* we can see several threads running side by side. In terms of content: hypothetical deduction from gold and poison on the affair and split (here the speaker is Cicero),<sup>147</sup> the actual (now not hypothetical) conclusion, Appius Claudius Caecus is the speaker,<sup>148</sup> hypothetical conclusion from the affair and from the split on the inauthenticity of Clodia's testimony (here the speaker is Cicero),<sup>149</sup> actual conclusion drawn by Clodius.<sup>150</sup> In terms of the real aim of the demonstration of evidence: proving the existence of the affair,<sup>151</sup> ruining Clodia's authenticity.<sup>152</sup> In terms of the facts to be seemingly proved: acquitting Caelius from *crimen luxuriae*,<sup>153</sup> ruining Clodia's authenticity.<sup>154</sup> After that he frees Caelius from characterisation as an *adulter* since he has proved that Clodia is living a life not worthy of a Roman

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<sup>144</sup> Cicero: *Pro Caelio* 35.

<sup>145</sup> Cicero: *Pro Caelio* 36.

<sup>146</sup> Stroh: *op. cit.* 284.

<sup>147</sup> Cicero: *Pro Caelio* 30–32.

<sup>148</sup> Cicero: *Pro Caelio* 33–34.

<sup>149</sup> Cicero: *Pro Caelio* 35.

<sup>150</sup> Cicero: *Pro Caelio* 36.

<sup>151</sup> Cicero: *Pro Caelio* 30–34.

<sup>152</sup> Cicero: *Pro Caelio* 35–36.

<sup>153</sup> Cicero: *Pro Caelio* 30–31.

<sup>154</sup> Cicero: *Pro Caelio* 32–36.

*matrona*; accordingly, it is not possible to commit *adulterium* with such a woman, a *meretrix*. Although in the points concerning the above<sup>155</sup> Cicero does not mention Clodia by name, and the formulation of the evaluation is somewhat hypothetical, later he states that Clodia is living *meretricio more*.<sup>156</sup> By this response the orator replies to the thoughts of the two types of fathers involved in the proceedings. However, both fathers agree<sup>157</sup> that young people have always been permitted to engage in a certain libidinous conduct, and this libertine conduct might include affairs maintained with the kind of women like Clodia, which belongs to the scope of *amores meretricii*.<sup>158</sup>

In presenting the liaison with Clodia Cicero uses the rhetoric tools of humour and irony on several occasions. So it seems appropriate to review what role humour and irony as orator's tool played in the theory of Antique elocution, in particular, especially in the *Corpus Ciceronianum*. The usefulness of fun, *geloion* was first discussed by Gorgias, who claimed that the opponent's seriousness should be contrasted by fun and his mock by seriousness in order to destroy its impact,<sup>159</sup> as it is quoted by Aristotle too.<sup>160</sup> It is at this point where Aristotle refers to the fact that in the *Poetica* he has already expounded how many types of *geloion* there are; but the part of the *Poetica* where he discussed comedy has been lost. He adds that a part of that suits free men, and another part does not; therefore, the *orator* should use the former ones.<sup>161</sup> The fact that several Greek authors have dealt with the issue of humour is mentioned in Cicero's works.<sup>162</sup> These Greek writings, however, have not been preserved to us. Quintilian can see fundamental difference between the two greatest figures of Antique eloquence, Demosthenes and Cicero in terms of wit and humour: whereas Demosthenes lacked high spirits, Cicero could not keep within bounds in witticism.<sup>163</sup> In the *Orator*<sup>164</sup> Cicero touches on, in his work *De oratore* gives and exhaustive exposition<sup>165</sup> on the issues of wit, jokes and humour. As sources he used his own practice, collections of Roman jokes<sup>166</sup> and peripatetic writ-

<sup>155</sup> Cicero: *Pro Caelio* 38. 49.

<sup>156</sup> Cicero: *Pro Caelio* 57.

<sup>157</sup> Cicero: *Pro Caelio* 37.

<sup>158</sup> Stroh: *op. cit.* 289.

<sup>159</sup> Gorgias: *fragmenta* 82b; 12d-k

<sup>160</sup> Aristoteles: *Rhetorica* 3, 1419b

<sup>161</sup> Aristoteles: *Rhetorica* 3, 1419b

<sup>162</sup> Cicero: *De oratore* 2, 217; Quintilianus: *Institutio oratoria* 6, 3, 5; Barwick, K.: *Das rednerische Bildungsideal Ciceros*. Berlin, 1963. 73.

<sup>163</sup> Quintilianus: *Institutio oratoria* 6, 3, 1-3; Cicero: *Orator* 26. 90.

<sup>164</sup> Cicero: *Orator* 87.

<sup>165</sup> Cicero: *De oratore* 2, 216-289.

<sup>166</sup> Cicero: *De oratore* 2, 271.

ings.<sup>167</sup> His scrivener, Tiro published a thesaurus of examples summed up in three books on this subject.

Cicero starts the treatise by making the statement that jokes and humour are quite often very useful,<sup>168</sup> then, he goes on by saying that he himself has seen that in lawsuits lots of things can be achieved through witticism.<sup>169</sup> Cicero looks for answers to five questions regarding laughing. What is laughter? Where does it come from? Should the orator want to create jollity? How far may he go? What types of *ridiculum* are there?<sup>170</sup> One of the actors of the dialogue C. Iulius Caesar Strabo claims that the first question does not belong to the subject,<sup>171</sup> he answers the second one by citing Aristotle asserting that *ridiculum* should be applied in the field determined by the attributes: ugly and grotesque.<sup>172</sup> To the third question the answer is clearly yes.<sup>173</sup> To the fourth question he replies as follows: the *orator* shall not make fun of either special turpitude or grave misfortune<sup>174</sup>; similarly, a person favoured and respected by the public shall not become the target of scorn.<sup>175</sup> The prime law is thus moderation.<sup>176</sup> From the answer given to the fifth question we learn that one of the types of jokes is created by the thing itself, the other one by the formulation.<sup>177</sup> After that, he identifies the sources of *ridiculum* the orator may draw on<sup>178</sup> and of those he shall not.<sup>179</sup> Laughter is most often evoked, for example in jokes, by the orator saying something that nobody expects; in this case we are laughing at our own error.<sup>180</sup> In defining the idea of the *perfectus orator* Cicero identifies three kinds of style – simple, medium and sublime – and he notes that, albeit, some persons are excellent in specific types of style, very few have mastered all of them.<sup>181</sup> In *Orator* Cicero provides theoretical foundations for all the three kinds of style, however, he points out that, in addition to its other attributes (avoiding prose rhythm and complex sentence, dropping *hiatus*, *munditia* and

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<sup>167</sup> About this topic see Arndt, E.: *De ridiculi doctrina*. Diss. Bonn, 1904.

<sup>168</sup> Cicero: *De oratore* 2, 216.

<sup>169</sup> Cicero: *De oratore* 2, 219.

<sup>170</sup> Cicero: *De oratore* 2, 235.

<sup>171</sup> Cicero: *De oratore* 2, 235.

<sup>172</sup> Cicero: *De oratore* 2, 236. On the Aristotelian theory of comedy see Cooper, L.: *An Aristotelian Theory of Comedy*. New York, 1922.

<sup>173</sup> Cicero: *De oratore* 2, 236.

<sup>174</sup> Cicero: *De oratore* 2, 237.

<sup>175</sup> Cicero: *De oratore* 2, 237.

<sup>176</sup> Cicero: *De oratore* 2, 238; Quintilianus: *Institutio oratoria* 6, 3, 28–31.

<sup>177</sup> Cicero: *De oratore* 2, 240.

<sup>178</sup> Cicero: *De oratore* 2, 269. 280. 289.

<sup>179</sup> Cicero: *De oratore* 2, 251.

<sup>180</sup> Cicero: *De oratore* 2, 255.

<sup>181</sup> Cicero: *Orator* 20.

*elegantia*, moderation in applying both ornament and word and thought figures), the most characteristic trait of simple style is witticism and sharp tongue. When using them the *orator* is to make sure that he should not cause irreparable harms, should thrust stings only into his enemies, should do that with moderation and ceaselessly, and he should not hurt all of them and not in any way. He calls this the purest Atticism, although in this respect none of the recent Atticists have reached any special elegance.<sup>182</sup>

Several essential elements of Roman comedy have been highlighted by Segal, who claims that as a perfect opposition to Roman everyday life ruled by *negotium* and *industria* appears the so-called Plautian day, where the key attributes are *ludus* and *voluptas*.<sup>183</sup> During the period when theatre plays were performed, activity on the *forum* discontinued (*Ludi Romani*, *Ludi Apollinares*, *Ludi plebei*, *Ludi Megalenses*), so, a kind of exemption from *gravitas* that permeates the entire Roman life entered into force. In comedies, each player step out of the world of their everyday life: young people do not obey their father, *matronae* do not follow their husband's will, and slaves brief their masters without being punished. Education is sometimes aimed at the outsider, who will be integrated in society if he accepts criticism, whereas he will be definitely cast out as the hindrance of the play if he continues to be an outsider.<sup>184</sup> The persons injured by Plautus's humour are often the *milites gloriosi* and the Cato Maior kind conservatives, puritan figures. In the works of Terentius the opposition between strict fathers and jolly sons is a highly favoured motif (fathers mostly "improve" and start to tolerate their son's conduct of life).<sup>185</sup> In the *Pro Caelio*,<sup>186</sup> in the *syncretis* of the two father types Cicero quotes the words of two fathers from the comedies of Caecilius and Terentius. The former one is severe and tough, the latter one is well-intentioned and forbearing, it is not by chance that the quotation comes from Micio's speech in *Adelphoe*.<sup>187</sup> The words of the two fathers can be to some extent linked to the two actors conjured up in the previous paragraphs, Appius Claudius Caecus and P. Clodius Pulcher, and create an impressive parallel with the relation between Cicero and his intellectual/spiritual son, Caelius, which is a definite opposite of the relation between Clodia and her younger brother/husband, Clodius.<sup>188</sup>

In Clodia's characterisation the orator quotes Ennius's tragedy entitled *Medea exul*, and uses the lines with tragic tone for producing the comic impact.<sup>189</sup> That is

<sup>182</sup> Cicero: *Orator* 89.

<sup>183</sup> Segal, E.: *Roman Laughter*. Cambridge, 1968. 42.

<sup>184</sup> Frye, N.: *Anatomy of Criticism*. New York, 1969. 163.

<sup>185</sup> Segal: *op. cit.* 70.

<sup>186</sup> Cicero: *Pro Caelio* 37–38.

<sup>187</sup> Terentius: *Adelphoe* 120–121.

<sup>188</sup> Geffcken: *op. cit.* 23.

<sup>189</sup> Cf. Quintilianus: *Institutio oratoria* 8, 6, 53.

how Caelius becomes Iason, his move to the neighbourhood of Clodia-Medea a mythical journey, and the left merry widow a sorceress.<sup>190</sup> Later he presents the adventure of handing over the jar, not so much in the spirit of comedy, more as kind of *mimus*.<sup>191</sup> In this kind of plays (and this is highly significant in the characterisation of Clodia as *meretrix*) prostitutes entered the stage.<sup>192</sup> The *comedia dell' arte* kind of *mimus* not having a definite story was far from being a form of entertainment to improve morals, it often produced the impact expressed in *risus mimicus* through its obscenity. Adultery and attempted poisoning constituted the cornerstone of its subject matter; accordingly, Cicero describes what has happened in the bath as *obsценissima fabula*.<sup>193</sup> He presents the events aimed at handing over and obtaining the *pyxis* as *muliebre bellum*, in the course of which Clodia becomes *imperatrix* and her men *provincia* hiding in the wooden horse of Troy.<sup>194</sup> Clodia's characterisation as a *meretrix*<sup>195</sup> constitutes a perfect contrast with the image of the obedient and ethical *matrona* who safeguards the purity of home. Clodia's whole appearance and behaviour fits in with a *meretrix*, and not with a *mater familias*,<sup>196</sup> but her *familiaris* are her slaves and the bath master,<sup>197</sup> and regarding this point Cicero refers to the nickname *quadrantaria* twice.<sup>198</sup> Plutarch claims this title has been stuck to her because she would be given one *quadrans* by her lovers as payment,<sup>199</sup> and he calls Caelius by the name *Quadrantaria Clytaemnestra*.<sup>200</sup> Caelius is attacked by *opibus meretriciis*<sup>201</sup> assisted by prostitutes; so, Clodia leads her army as a kind of *miles gloriosa*.<sup>202</sup>

In Cicero's career there were several more triumphant points and ones that formed history to a greater extent, yet—as it might have become apparent from some of the references made here—there were few moments when as an orator he was able to present such a gleaming theatre play and genially constructed composition to the judges as on the *Megalensia* in the year 56. The speech did not fail to reach its result: Caelius was, as a matter of fact, acquitted; and the lawsuit offered a great occasion for Cicero to take revenge—even if just in part and merely verbally—for the roguery committed repeatedly by Clodius and Clodia against him.

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<sup>190</sup> Geffcken: *op. cit.* 15.

<sup>191</sup> Cicero: *Pro Caelio* 61–69.

<sup>192</sup> Lactantius: *Divinae institutiones* 1, 20, 10

<sup>193</sup> Cicero: *Pro Caelio* 69.

<sup>194</sup> Geffcken: *op. cit.* 25.

<sup>195</sup> Cicero: *Pro Caelio* 49.

<sup>196</sup> Cicero: *Pro Caelio* 32. 57.

<sup>197</sup> Cicero: *Pro Caelio* 62.

<sup>198</sup> Cicero: *Pro Caelio* 62. 69.

<sup>199</sup> Plutarchus: *Cicero* 29.

<sup>200</sup> Quintilianus: *Institutio oratoria* 8, 6, 53.

<sup>201</sup> Cicero: *Pro Caelio* 1.

<sup>202</sup> Geffcken: *op. cit.* 38.

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## **Osvrt na ciceronov govor *Pro Caelio* iz aspekta prava i retorike**

### ***Sažetak***

Autor u ovom radu nastoji da osvetli neke aspekte Ciceronovog govora u odbrani Marka Celija Rufa, održanog 4. aprila 56 godine, prvog dana festivala Ludi Megalenses. Pro Caelio predstavlja veoma značajan stadij u Ciceronovoj borbi protiv Klodija (i njegovog roda). Ova borba je imala veliki a ponekad i ftalan ishod imajući u vidu život velikog oratora i samim tim i političke događaje krajem Republike. Neprijateljstvo među njima je započeto najverovatnije 73. godine kada je Klodije teško uvredio Ciceronovu suprugu Terenciju optužujući njenu sestru Fabiju, koja je bila sveštenica Vestalka, za incest. Ciceron (delom ohrabren od strane Terencije) je hteo zbog ove uvrede da se osveti, između ostalog, putem svog svedočenja protiv Klodija 61. godine u sporu zbog događaja za vreme praznika Bona Dea. Međutim, usled činjenice da je Klodije oslobođen, ovaj revanš nije mogao biti ostvaren. Klodije je na ovo svedočenje uzvratio urgirajući Ciceronovo izgnanstvo 58. godine kao i uništenje njegove kuće na Palatinu. Godine 56. čudnom koincidencijom političkih i privatnih događanja Ciceronu je data mogućnost da zadaje težak udarac Klodiji, starijoj sestri Klodija u svom govoru Pro Caelio. Rugajući joj se u sporu ubivstvenim humorom koristeći sredstva rimskog pozorišta, posebno komedije, izveo je neobičnu pozorišnu predtavu u toku festivala Megalensia, koji je i inače bilo vreme pozoričnih igara Ludi scaenici. Mada ne pripada istoriji razmatranog govora Pro Caelio, autor ipak ukazuje i na poslednji stadij njihovog sukoba, a to se dogodilo 52. godine, kada je Ciceron prihvatio odbranu Mila, koji je ubio Klodija u uličnoj tuči.

Posle ukazivanja na okolnosti spora (I.) i na pozadinu slučaja Bona Dea, koji je posejao seme konflikta između Cicerona i roda Klodijevaca (gens Claudia) (II.), autor analizira posebnu priliku za retora koju je pružio festival Ludi Megalenses, a genialno iskoristio Ciceron (III.), kao i taktiku govornika korišćenju u govoru u odbrani Celija (IV.).

Ključne reči: Ciceron; klasična retorika; lex Plautia de vi; Pro Caelio; Ludi Megalenses