

Rechtshistorische Causerie 19 december 2011

De volgende gast in de reeks „Gentse Rechtshistorische Causerieën” is dr. Magnus Ressel (Ruhr-Universität Bochum).



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dr. Magnus Ressel promoveerde in juli 2011 tot doctor in de geschiedenis (Ruhr-Universität Bochum/Université Paris 1 Panthéon-Sorbonne) onder Prof. dr. Cornel Zwielerlein en Prof. dr. Wolfgang Kaiser. Ter gelegenheid van zijn komst op maandag 19 december licht hij een aspect uit zijn dissertatie *Zwischen Sklavenkassen und Türkenpassen. Nordeuropa und die Barbaresken*.

Plaats van afspraak: vergaderlokaal Vakgroep Grondslagen & Geschiedenis van het Recht, Universiteitstraat 4, tweede verdieping. De lezing verloopt in het Engels. De toegang is gratis en vrij, maar slechts voorzover de beschikbare plaatsen dit toelaten.

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Abstract: "The codification of the principle « Free ship – Free good » in international treaties as a result of conflicts between the Barbary corsairs and the Europeans"

While it was considered a legitimate act of the authorities of the Early Modern Era to issue "Lettres de marque" to corsairs in order to do damage to the enemies sea-borne trade, the freedom of movement of neutral ships was a contested issue during this age. If they carried war-materials for the enemy, they were usually regarded as "good prize"; yet, the term could be interpreted quite extensively. Even more difficult was the question whether the neutrals had the right to ship goods of the enemy and thus maintain his trade-lines. Nowhere was this 'juridical' question more delicate than in the Mediterranean between Europeans and the four Maghreb-states. To give an example, if Dutch ships carried Spanish goods towards Italy the North-African corsairs usually regarded these ships as legitimate targets since

they were helping the arch-enemy. Once the Dutch conceded the right to inspect their ships to the Barbary-corsairs in order to obtain a peace-treaty, this caused grave damage to the Dutch Mediterranean trade because Spaniards or Italians immediately switched to Hanseatic ships. The latter not being at peace with the Barbary states gave them in this specific case a competitive advantage since South-European merchants could thus be sure of the defense of their goods by the Northern Germans who in case of an attack of the corsairs also defended themselves against slavery. This constellation caused the absolute necessity for the European sea-powers to wrench the acceptance of the principle "Free Ship – Free Good" from the Muslim corsairs. Yet this was impossible for the corsairs to concede, being completely dependent on preying on European ships, a concession of this endangered their sheer survival. War was the only possible consequence and thus we see the 17th century filled incessantly with squadrons of the European sea-powers attacking the Barbary corsairs in order to bring them to their heels and accept the principle "Free Ship – Free Good". In the presentation I intend to highlight the first occurrence of the principle, the subsequent 'debate' (i.e.: wars) about this, the final acceptance of the principle by the corsairs and the following diffusion into international maritime law. I also want to point out some misunderstandings and wrong conception of the evolution of this principle which can be found to this day in the relevant literature.