

# ***Ho boulomenos* in the legal procedure of the Hellenic League of 302 B.C. and Athenian influence on the prosecution systems of the Panhellenic Leagues.**

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**Abstract:** This article examines the possibility that Athenian legal proceedings initiated by volunteers influenced the relevant procedures provided by the constitution of the Hellenic League of 302 B.C. Study of the epigraphic evidence shows that the dominant position of Athens in the Delian League led to the occasional prosecution of crimes denounced by volunteers before the Athenian law courts, and that the Athenian legal system also influenced the judicial proceedings of the Second Athenian League. Although it seems that the legal procedure of the Second Athenian League set a precedent for the procedural rules of the Hellenic League, the wording of the constitution of the Hellenic League indicates that its provisions on prosecution by *ho boulomenos* were inspired, rather, by features of the Athenian judicial system. The similarity between Athenian procedural rules and the judicial process in the charter of the Hellenic League can probably be put down to the close relationship that Demetrius Poliorcetes, one of the creators of the Hellenic League, had with Athens.

**Keywords:** Hellenic League, Athenian law, *ho boulomenos*, ancient Greek law, Athenian influence, Demetrius Poliorcetes, Panhellenic leagues, Athenian legal procedure

The Hellenic League of 302 B.C. has attracted considerable attention from scholars.<sup>1</sup> The revival of Alexander the Great's League of Corinth by the Diadochi who established the next great dynasty of Macedonia (Antigonos Monophthalmus and his son Demetrius Poliorcetes) is a significant milestone in ancient Greek history. The discovery of an inscription containing the League's constitution at the Asclepieion of Epidaurus<sup>2</sup> has given scholars hope of obtaining insight into the charter of a Greek interstate organization. Unfortunately, though, while the surviving text of the treaty on the formation of the League is the most detailed relevant text extant, it is so fragmentary that it is difficult to draw safe conclusions regarding the administration of the League during peacetime and wartime. However, fortunately for legal historians, a large part of the surviving text relates to procedures concerning transgressions which affected the proper functioning of the League.

Trials concerning offences against the decisions of interstate organizations were nothing new in the history of Panhellenic leagues. The council (*synodos*) of the Delian League acted in a judicial or quasi-judicial capacity, especially in cases of rebellion by some of its members.<sup>3</sup> According to the decree of Aristoteles on the foundation of the Second Athenian

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<sup>1</sup> Ferguson 1948; Patsavos 1956; Thür 1997; Harter-Uibopuu 2003.

<sup>2</sup> IG IV<sup>2</sup> 1.68.

<sup>3</sup> de Ste. Croix 1961 I, 94 n.4. See Thuc. 3.10.5, where the ambassadors from the rebel *polis* of Mytilene refer to the *polypsephia* (diversity of votes) of the allies in the council as the reason for their state's condemnation.

League, the council of the allies also exercised judicial powers over offenders who defied the League's provisions.<sup>4</sup> The Amphictyonic council in Delphi exercised jurisdiction over states, officials, and individuals charged with actions contrary to its orders and statutes.<sup>5</sup> In regard to the council of Philip and Alexander's League of Corinth, literary evidence shows that, although in crucial areas it was controlled by Macedonia, its authority encompassed arbitration, protection of the social order, and ratification of the decision to go to war<sup>6</sup> and, as the *synodos* of the Delian League, it sometimes assumed a judicial or quasi-judicial role regarding rebel states or individuals.<sup>7</sup>

An examination of the provisions in the constitution of the Hellenic League reveals that Antigonos and Demetrius followed Alexander's example and established trials against those, whether states or individuals, who broke the League's regulations, these to be held before a council consisting of delegates (*synedroi*) of the League's member states.<sup>8</sup> The new League, however, adopted a measure that does not appear to have been known to the old League of Corinth: prosecution by *ho boulomenos* (anyone who wishes). This type of prosecution by volunteers appears to have been a widespread, if not universal, Greek phenomenon.<sup>9</sup> However, denunciations brought before the council of a Greek interstate organization do not appear as a feature of the judicial system of a league until the third century B.C.<sup>10</sup>

Epigraphic and literary evidence shows, on the other hand, that prosecution by *ho boulomenos* was an integral part of the Athenian legal system during the fifth and fourth centuries B.C. Yet, although prosecution by *ho boulomenos* was mainly reserved for cases concerning transgressions against the Athenian laws, some inscriptions indicate that the Athenian law courts were to exercise jurisdiction over matters concerning the functioning of the Delian League which were brought before them by volunteers.

### **Prosecution by *ho boulomenos* in Athens and the Athenian legal system as a “federal” justice system during the time of the Delian League.**

According to *Ath. Pol.* 9.1, in the sixth century B.C. Solon created a new kind of procedure by which anyone who wished could bring a lawsuit on behalf of the victims of injustice.<sup>11</sup> Public lawsuits (as is the name used for such prosecutions) could be brought by any willing adult male citizen (and in some cases by a foreign resident) who was not barred from taking legal action due to *atimia* (disenfranchisement).<sup>12</sup> In the Classical age, this lawsuit was known as a *graphe*, but we have no evidence for this term nor for the term *graphesthai* in Athens before

<sup>4</sup> R-O 22, 41-46 & 51-61.

<sup>5</sup> For the cases of Amphictyonic jurisdiction, see Bonner & Smith 1943.

<sup>6</sup> Poddighe 2012, 132.

<sup>7</sup> For the cases of the League's council's jurisdiction see below.

<sup>8</sup> IG IV<sup>2</sup> 1.68, 36-37, 45-46 & 89-90.

<sup>9</sup> Rubinstein 2003, 107.

<sup>10</sup> Four honorific decrees for volunteer prosecutors dated to between 280 and 270 B.C. (*CID* 4:14, 15, 22 and 25) mention accusations brought before the council of the *hieromnemes* of the Delphic amphictyony.

<sup>11</sup> ἔπειτα τὸ ἐξεῖναι τῷ βουλομένῳ τιμωρεῖν ὑπὲρ τῶν ἀδικουμένων.

<sup>12</sup> Phillips 2013, 30.

the second half of the fifth century.<sup>13</sup> In addition to *graphai*, the Athenian legal system recognized a number of ‘extraordinary public actions’ which could be carried out by volunteers who acted on behalf of magistrates unable or reluctant to bring charges,<sup>14</sup> such as the *apagoge* (citizen’s arrest) or the *endeixis* (denunciation before a magistrate which led to immediate arrest).

Judging from the types of offences which were prosecuted by this type of denunciation, one may assume that this type of procedure provided the common Athenian citizen with easier access to justice and reinforced the capacity of the *polis* to deal with legal issues that might affect the community as a whole.<sup>15</sup> Prosecution by *ho boulomenos* entailed not only legal actions on behalf of individuals whose interests and well-being were regarded as matters of a public concern, such as *graphai kakoseos* (denunciations for maltreatment) in favor of orphans or of the elderly,<sup>16</sup> but also denunciations of offences which clearly affected the community collectively, such as the *graphe asebeias* (prosecution for impiety)<sup>17</sup> or *graphai* concerning misconduct by the *polis*’ officials.<sup>18</sup> The significance of the goods protected by these procedures explains the tendency of forensic speakers who acted as volunteer prosecutors to consider themselves contributors to the stability of the community and its constitution.<sup>19</sup> The orator Lysurgus’ statement that it is the duty of the just citizen to bring wrongdoers to a public trial, because of the hostility incited by their crime’s impact on the *polis*, is typical of this attitude.<sup>20</sup>

While this type of procedure appears to have related to transgressors of the Athenian laws, lawsuits initiated by *ho boulomenos* also appear in Athenian decrees which provided for the prosecution of *poleis* of the Delian League and their citizens, who defied Athens’ decisions on certain matters concerning the alliance. De Ste. Croix divides cases of Athenian involvement in disputes concerning its allies into two types: trials which were essentially administrative decisions (e.g. disputes over the tribute paid by the allies)<sup>21</sup> and cases of criminal prosecution, whether of individuals or of *poleis* collectively, initiated by *graphai* (written complaints).<sup>22</sup> Although the term “criminal” is problematic, since it does not take into account the lack of distinction between criminal and civil prosecution in ancient Greece, epigraphic evidence shows that prosecution by volunteers and, thus, the filing of *graphai*,

<sup>13</sup> On the origins of *graphe*, see Gagarin 2008, 111.

<sup>14</sup> Biscardi 1982, 257-8. I have translated the term ‘azioni pubbliche straordinarie’ used by Biscardi (1982, 257) to denote these types of lawsuits.

<sup>15</sup> Leão 2013.

<sup>16</sup> See *Ath. Pol.* 56.6.

<sup>17</sup> The most famous *graphe asebeias*, of course, is the one brought against Socrates.

<sup>18</sup> For these *graphai* see below.

<sup>19</sup> Cf. Sinclair 1988, 72; Harris 2013 a, 60-2. Harris provides several passages from speeches of volunteer prosecutors who stress that the reason for accusing the defendants was the latter’s harmful behavior towards the state.

<sup>20</sup> Lysurg. *Leoc.* 6: πολίτου γάρ ἐστι δικαίου μὴ διὰ τὰς ἰδίας ἔχθρας εἰς τὰς κοινὰς κρίσεις καθιστάναι τοὺς τὴν πόλιν μὴδὲν ἀδικοῦντας, ἀλλὰ τοὺς εἰς τὴν πατρίδα τι παρανομοῦντας ἰδίου ἐχθροῦς εἶναι νομίζειν, καὶ τὰ κοινὰ τῶν ἀδικημάτων κοινὰς καὶ τὰς προφάσεις ἔχειν τῆς πρὸς αὐτοὺς διαφορᾶς (Harris, 2013 a, 61: It is the duty of the just citizen therefore not to bring to public trial for the sake of private quarrels people who have done the city no wrong but to regard those who have broken the law as his own enemies and to view crimes that affect the community as providing public grounds for his enmity against them).

<sup>21</sup> The decree of Thudippos (O-R 153) includes procedures before the Athenian law courts regarding the reassessment of the tributes of the allies.

<sup>22</sup> de Ste. Croix 1961 II, 268.

before the Athenian law courts was promoted as a way to bring charges for some “federal” crimes.

The 414 BC decree on the use of Athenian coins, weights and measures by the members of the Delian League seems to have provided for the *apagoge* of the Athenian citizens who proposed provisions contrary to the Athenian people’s decision.<sup>23</sup> But the Athenian *polis* did not restrict the right of denunciation to its own citizens. The decree of Cleonymus, dated to ca. 428-425 B.C., included a clause on the prosecution of citizens of allied *poleis* who questioned the validity of the Athenian resolution on tributes or hindered the delivery of the tribute to Athens. Volunteers from the transgressor’s homeland were to bring charges against such a person before the *epimeletai* (supervisors), who were Athenian officials with legal jurisdiction over allied states.<sup>24</sup> The decree of Cleinias, dated to 425/4 B.C., which was also concerned with the tribute of the allies, provided for the punishment of Athenian and allied citizens who committed offences respecting the tribute, and granted the right of prosecution through a *graphe* to any Athenian or allied citizen. The written complaint was to be filed before the Athenian *prytaneis* who were to bring the case before the Athenian council.<sup>25</sup>

The Athenian decision to try such cases in their own *polis* was motivated by the importance of these regulations, which meant that their policing and enforcement needed to be kept under strict control<sup>26</sup> and the scope for private initiative served this purpose. Although it has been argued that under Athenian democracy private initiative was fundamental to the enforcement of law and the involvement of officials was limited, if not non-existent,<sup>27</sup> a careful examination of the sources shows that the Athenian legal system restricted the right of self-help to a very limited number of particular occasions and that the task of enforcing the law was mainly in the hands of officials.<sup>28</sup> Indeed, literary and epigraphic evidence demonstrates that in Athens and elsewhere provisions on denunciations by volunteers were in many cases connected with offences difficult for the authorities to detect.<sup>29</sup> This is especially true for transgressions concerning tribute

<sup>23</sup> O-R 155, 6: [καὶ ἂν τις εἴπ[η] ἢ ἐπιψηφίσῃ περ[ὶ] τούτων...ἐς ἄλλο] τι χρῆσθαι ἢ δανε[ί]ζεσθαι, ἀπαγέσθω αὐτίκα μάλα πρὸς τοὺς ἑνδεκα.

<sup>24</sup> O-R 152, 42-46: ἂν δέ τις κακοτεχνῇ [λόπος μὲ κύριον ἔστα]/ι τὸ φρέφισμα τὸ τῷ φόρῳ [ἔ] λόπος μὲ ἀπαχθέσεται/αι ἡ φόρος Ἀθέναζε, γρά[φεσθαι] κατὰ τὸν πρατ/τόντον ἐκ ταύτης τῆς πό[λεως] τὸν βολόμενον π[ρὸς] τοὺς ἐπιμελετάς. For these *epimeletai* and their judicial duties during the fifth century B.C., see Tonini 2018, 206-211.

<sup>25</sup> O-R 154, 31-36: ἂν δέ τις Ἀθ[εναῖος] ἢ χσύμμαχος ἀδικεῖ περὶ τὸ]/ν φόρον ἡὸν δεῖ [τὰς πόλεις] γραφάσας ἐς γραμματεῖ]/ον τοῖς ἀπάγοσ[ιν] ἀποπέμπεν Ἀθέναζε, ... γ]/ράφεσθαι πρὸς [τὸς πρυτάνες] το . β]ολόμενο[. Ἀθένα]/ ἰον καὶ τὸν χσ[υμμάχον]· ἡοὶ δὲ πρυτάνες ἐσαγ[όντων]/ ἐς τὸ βολέν.

<sup>26</sup> Low 2013, 31.

<sup>27</sup> See Hunter 1994, 149-52; Behrent 2000, 260-1.

<sup>28</sup> See Harris 2007, who offers some convincing arguments against the theory of the enforcement of law mainly by Athenian citizens.

<sup>29</sup> Arnaoutoglou 2016, 457, notices that many cases of rewards for volunteer prosecutors were connected with violations easily concealed, either because they took place in a socially or geographically limited context or because the area was inefficiently policed, as in the case of crimes committed in a sanctuary. See e.g. IG XII.5 108 (unlawful wood cutting in a sanctuary in fifth century B.C. Paros); R-O 59, 35-39 (illegal herding on sacred land in fourth century B.C. Arkesine). See Rubinstein 2016, 434-441, who has collected all relevant cases from the archaic age to the second century B.C. and makes similar remarks. Although in Athens many lawsuits by *ho boulomenos* were not necessarily concealed from the authorities (e.g. *graphe paranomon* against those who proposed illegal motions or *graphe hybreos* for insolent violence), certain Athenian cases of

collection. This type of offence took place outside the territory of Athens and, thus, it was not possible for Athenian officials to discover the offenders themselves. Yet citizens of allied *polis* who were granted this right were able to denounce those who defied the orders issued by the Athenian *arche* of the Delian league before the Athenian magistrates.

As expected, references to the Athenian procedures by *ho boulomenos* against transgressors outside Athens have served as a proof of the dependence of the allied states on the Athenian hegemony. Buis notices that “the less important allied city-states pushed their judicial independence (their *autodikia*) into the background, so that their own citizens were tried by Athenian courts on many occasions”.<sup>30</sup> Indeed, major lawsuits were sometimes transferred from local to Athenian courts, which were likely to favor pro-Athenian litigants, first in individual cases, but later also in general.<sup>31</sup> This appears to be the case of Chalcis. The oath of allegiance to Athens sworn by the citizens of Chalcis, which is mentioned in a 446/5 decree proposed by Diognetus, refers to their duty to denounce those who revolt against the Athenian hegemony before the Athenian people.<sup>32</sup> But what shows clearly the Athenian intervention in this *polis*’ justice system is a clause in another decree concerning Chalcis, of the same period, put forward by Archestratus. The Chalcidian archons were to be held to account in their home *polis*, apart from cases of offences punished by the penalties of exile, death or loss of civic rights, which were to be tried for a second time in Athens by the process of *epheisis*.<sup>33</sup> This clause resembles similar provisions in two other decrees. According to a 427/6 B.C. proxeny decree in favor of a man from the *polis* of Colophon named Apollonophanes, it was not permitted for Apollonophanes to be punished “without the approval of the Athenian people”.<sup>34</sup> A similar provision appears in a 430-420 B.C. honorific decree in favor of some individuals from Chios.<sup>35</sup>

While Athenian supporters in allied *poleis* sometimes were rewarded with offers of special legal protection,<sup>36</sup> there is enough evidence that provides arguments against this Athenocentric view of the judicial relations between Athens and its allies. Concerning trials related to tributes, it is important to bear in mind that on Pericles’ initiative the League’s treasury was transferred from Delos to Athens in 454 B.C. because of the fear of a Persian attack on the island.<sup>37</sup> Whether this was the result of political calculation or of the acknowledgement of the vulnerability of Delos to enemy naval and armed forces,<sup>38</sup> the treasury came under Athenian jurisdiction and, thus, all cases arising from tribute assessment were to be tried by the law courts of Athens. Nevertheless, the 425/4 B.C. decree

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prosecution by *ho boulomenos* without any provision for rewards could be considered violations which might have remained undetected by the authorities, like the *graphe kakoseos orphanon* (indictment for maltreatment of orphans) or the *graphe hierosylas* (indictment for temple-robbery).

<sup>30</sup> Buis 2015, 40.

<sup>31</sup> Kubala 2013, 140.

<sup>32</sup> O-R 131, 24-25: κ/αὶ ἐὰν ἀφιστῇ τις κατερῶ Ἀθηναίοισι.

<sup>33</sup> O-R 131, 71-76: ἄς δὲ εὐθύνας Χαλκιδεῦσι κατ/ᾶ σφῶν αὐτῶν ἔναι ἐν Χαλκίδι καθάπερ Ἀθ/ένεσιν Ἀθηναίους πλὴν φυγῆς καὶ θανάτ/ο καὶ ἀτιμίας περὶ δὲ τούτων ἔφρουν ἕνα/ι Ἀθένανζε ἐς τὴν ἐλῖαιαν τὴν τῶν Θεσμοθ/ετῶν κατὰ τὸ φσέρισμα τῷ δέμῳ.

<sup>34</sup> IG I<sup>3</sup> 65, 20-22: [καὶ] μὲ ἐχσῆναι αὐτὸν / [μεδεν]ὶ ζεμιῶσα[ι ἄν]εῦ τῷ δέμῳ τῷ Ἀθεν/αίον.

<sup>35</sup> IG I<sup>3</sup> 70, 5-7: [δὲ μὴ] / [ἐ]ξεῖναι ζημιῶν [- ἄνευ] / τῷ δήμῳ τῷ Ἀθηνα[ίων].

<sup>36</sup> Low 2013, 30.

<sup>37</sup> Plut. *Per.* 12.1: δέισαντα τοὺς βαρβάρους ἐκείθεν ἀνελέσθαι καὶ φυλάττειν ἐν ὀχυρῷ τὰ κοινά.

<sup>38</sup> See Meritt, Wade-Gery & McGregor 1950, 262-264, who dismiss the vulnerability of Delos as the main reason for the transfer of the treasury.

of Thudippos shows that the allies continued to have a say in the tributes they paid. Largely fragmentary, this decree refers to the elaborate legal proceedings related to reassessment of tribute in cases a member *polis* challenged the assessment.<sup>39</sup> Although this text seems to indicate the Athenians' imperialistic behavior towards the member states of the League, it appears that it was directed more against potentially miscreant Athenian officials than against the allies, for whom, at least, provision was made for their involvement in the negotiation of their tribute and in bringing their complaints to the courts.<sup>40</sup>

As for the term “less important” used by Buis to denote the allies who accepted the trial of their own citizens before the Athenian law courts, this is misleading, if we consider that a significant Ionian *polis* such as Miletus accepted a number of obligations of a political, military and juridical order imposed on its citizens in accordance with an Athenian decree of 450/49 B.C.<sup>41</sup> But, apart from that, a number of *symbola* (international judicial conventions) between Athens and allied states shows that even defeated rebel *poleis*, such as Mytilene and Selymbria (which revolted in 428/7 and 408 B.C. respectively),<sup>42</sup> were granted the opportunity of being party to agreements which favored judicial reciprocity and that only political trials were transferred to Athens.<sup>43</sup> In this view, restrictions in the jurisdiction of the state authorities regarding the accountability of officials in the decree concerning Chalcis appear to have been limited, and only cases which required special penalties were to be tried in Athens.<sup>44</sup>

### Prosecution by *ho boulomenos* in the Second Athenian League and the continuity of Athenian influence.

Two decrees from the time of the King's Peace (387 B.C.) which prohibited the involvement of the Athenian generals in the reinstatement of exiles “without the consent of the people” of the *poleis* Erythrai and Klazomenai indicate that, almost a decade before the creation of the Second Athenian League, the Athenians continued to respect the justice system of other *poleis*.<sup>45</sup> Nevertheless, it is clear that the policy of trying “federal” crimes before Athenian law courts would have played a part in inciting some allied states, which saw Athens as an oppressive power, to rebellion. In the 378/7 B.C. decree of Aristoteles, which invited Greek *poleis* to join the new League, Athens promised not to indulge in various practices in which it

<sup>39</sup> O-R 153.

<sup>40</sup> Lambert 2017, 42.

<sup>41</sup> IG I<sup>3</sup> 21. For this decree, see Delorme 1995, 226-52.

<sup>42</sup> IG I<sup>3</sup> 66, 15-16 (Mytilene); O-R 185, 25-26 (Selymbria).

<sup>43</sup> On *symbola* between Athens and its allies see Gomme 1945 vol. 1, 236-244. The *symbola* were bilateral (two *poleis* have concluded these agreements) and preserved the rights of the residents of each *polis*, as it consisted of two parts exactly similar or complementary, with the procedure described in one of the parts corresponding to that of the other one. On *symbola* in general, see Gauthier 1972, 101.

<sup>44</sup> See O-R 131, esp. 179.

<sup>45</sup> R-O 17, 9-11 (Erythrai): μηδενὶ ἐξεῖναι κατά/γειν ἐς Ἐρυθράς ἄνευ τοῦ / δήμου τοῦ Ἐρυθραίων; R-O 18 (with an amendment by Matthaiou 2004-2009, 14-15), 11-13 (Klazomenai): καὶ μὴ ἐξεῖναι τῶν στρατηγ[ῶν μηδενὶ μήτε τ]/ οὓς φεύγοντας κατάγειν ἄνευ τοῦ δή[μου τοῦ Κλαζομε]/νίωμ. See, however, Funke 1980, 156 n. 86, who believes that these cases are exceptions to the Athenian imperialistic attitude due to the tension caused during the last year of the Corinthian war (387 B.C.).



had indulged in the Delian League.<sup>46</sup> Given the provisions for the trial of “federal” cases under the first League led by Athens, it is hardly surprising that there was an attempt to establish a more satisfactory system in the constitution of the new organization.<sup>47</sup>

In the decree of Aristoteles, it is mentioned that Athenians who violated the law against acquiring land in the territory of their allies could be denounced by “any of the allies before the members of the League council”.<sup>48</sup> This provision was obviously related to an Athenian “offence” commonly committed during the Delian League, which had turned the Athenians into enemies of many allied *poleis*. From the literary sources on Athenian fifth-century politics, we know several cases of member states who were “punished” by the expulsion of large parts of their population and their replacement with Athenian cleruchs.<sup>49</sup> Guarantees against the recurrence of this practice had to be ironclad to be reassuring to potential allies and so, in this particular area, the allies were conceded absolute and final authority.<sup>50</sup> A similar provision appears in an Athenian decree of the mid-fourth century B.C. concerning penalties for attacks on Eretria by Athenians and their allies.<sup>51</sup> The Athenians provided for the severe punishment – loss of civic rights and confiscation of property – of any Athenian or ally found supporting a plot to invade Eretria or any other allied *polis* in the future. This could be executed by any allied *polis*. The decree compelled any *polis* that expropriated the confiscated property to pay the value of the property to the council of the allies.<sup>52</sup> Although this text is part of Athenian legislation and seems to indicate Athenian willingness to legislate for non-Athenians (as was the case during the age of the Delian league), it is framed so as to benefit the members of the League.<sup>53</sup>

As in the case of the procedures initiated by volunteers known from the fifth-century decrees, it may be deduced that this measure was necessary due to difficulties in policing transgressors far from the League’s administrative centre. Even in this case, however, and in view of the Athenian initiative for the establishment of a new League, Athenian influence is evident. Although the institution of volunteer prosecutor appears outside Athens already in the fifth century B.C.,<sup>54</sup> it should be noted that the provision on denunciations by “any of the allies” is similar to that regarding the right of any Athenian or allied citizen to bring charges against transgressors of the tribute provisions in the decree of Cleinias. The decree of Aristoteles was enacted by Athenians and so it was normal that it would use Athenian legal institutions and terminology as models. Furthermore, an entrenchment clause in the decree

<sup>46</sup> R-O 22, esp. 101.

<sup>47</sup> Robertson 1928, 31.

<sup>48</sup> R-O 22, 41-44: ἐὰν δέ τις ὠνήται ἢ κτᾶται ἢ τι/θῇται τρόπῳ ὁτιῶν, ἐξεῖναι τῷ βολο/μένῳ τῶν συμμάχων φῆναι πρὸς τοὺς συν/έδρους τῶν συμμάχων.

<sup>49</sup> See e.g. Thuc. 1.98.2 (expulsion of the population of Scyros by Kimon and settlement of Athenian cleruchs in 475 B.C.); Plut. *Per.* 34.1 (expulsion of the population of Aegina and allotment of the land to Athenians in 431 B.C.); Thuc. 3.50.2 (allotment of the land of the Lesbians to Athenian cleruchs after the end of the revolt of Mytilene in 427 B.C.).

<sup>50</sup> Cargill 1981, 123.

<sup>51</sup> On this decree and its dating see Knoepfler 1984; Dreher 1995, 156-180; R-O 69; Laursen 2019.

<sup>52</sup> R-O 69, 9-17: [ἐὰν] / δέ τις τοῦ λοιποῦ χρόνου ἐπιστρατ[εύσει ἐπὶ Ἑρέ]/τριαν ἢ ἐπ’ ἄλλην τινὰ τῶν συμμαχί[δ]ων πόλεων, Ἀθη[ν]αίων ἢ τῶν συμμάχων τῶν Ἀθηνα[ίων, ...αὐτοῦ] / κατεγνώσθαι καὶ τὰ χρήματα δ[ημόσια εἶναι καὶ τ]/ῆς θεοῦ τὸ ἐπιδέκατον· καὶ εἶν[αι τὰ χρήματα αὐτοῦ] / ἀγώγιμα ἐξ ἀπασῶν τῶν πόλεω[ν τῶν συμμαχίδων· ἐὰν] / δέ τις ἀφέλῃται πόλις, ὀφείλ[ειν...τῷ συνεδρίῳ τ]/ῶν συμμάχων.

<sup>53</sup> R-O 69, esp. 349.

<sup>54</sup> See e.g. the procedures initiated by volunteers in two inscriptions from Paros (*IG* XII.5 107 and *IG* XII.5 108).

of Aristoteles shows that the Athenian law courts were not completely absent from the League's prosecution process. The decree refers to the trial of those who did not honor the league's formation treaty "in the courts of the Athenians and the allies." Cargill convincingly argues that the absence of similar expressions in other decrees mentioning the allies demonstrates the existence of two separate legal procedures, one before the Athenian authority and one before the council of the League.<sup>55</sup>

This is a clear indication of the ongoing "federal" character of the Athenian law courts, which are likely (though there is no reference to this in the decree) to have been connected with procedures initiated by *ho boulomenos*. Once again, however, the fact that Athens' allies, too, were allowed jurisdiction seems to militate against the Athenocentric view. Epigraphic evidence also shows that Athens continued to conduct *symbola* with other *poleis* during the time of the Second Athenian League.<sup>56</sup> But, apart from interstate judicial agreements with states on friendly terms with Athens, a decree of 363/2 B.C. shows that the Athenian state continued to treat rebel *poleis* in a way that favored judicial reciprocity. The citizens of Iulis, one of the *poleis* on the island of Ceos, who had been accused of revolting against Athens and disputed this charge, were permitted to appoint guarantors and bring a case before the law courts of Ceos and of Athens as a city of appeal.<sup>57</sup> Although Rhodes and Osborne see here the revival of the practice of transferring lawsuits to Athens,<sup>58</sup> it is clear from the agreement that, as in the case of Chalcis in the mid-fifth century B.C., where certain cases were referred to the Athenian law courts, local jurisdiction was not completely abolished. Judging from another mid-fourth-century B.C. decree from Ceos, however, it appears that Athens and Ceos shared similar procedures: this decree, which included Athenian regulations on ruddle export from Ceos, states that volunteers may bring charges against transgressors in the form of an *endeixis* or *phasis* before the local law courts.<sup>59</sup> The fact that, as the accused rebels, the denouncers were entitled to an appeal before the Athenian law courts shows that the citizens of Ceos were familiar with Athenian legal procedure.<sup>60</sup>

One demosthenic speech reinforces the idea that the Athenians did not initially seek to establish their legal system as a "federal" legal system. Dem. 23 concerns the prosecution of a man named Aristocrates, who had declared the mercenary commander Charidemus sacrosanct and proposed the punishment of his would-be murderer without trial. Euthycles, the man who delivered the speech, reprimanded Aristocrates because his decree provided for the expulsion of the state which sheltered Charidemus' murderer from the Second

<sup>55</sup> R-O 22, 51-54 & 57-59: ἐὰν δέ τις εἴπηι ἢ ἐπιψηφίσῃ ἢ ἄρχων ἢ ιδιώτης/ς παρὰ τόδε τὸ ψήφισμα ὡς λυεῖν τι δεῖ τῶν ἐν τῷδε τῷ ψηφίσματι εἰρημένων] (...) κρινέσθω ἐν Ἀθην[αί/ο]ις καὶ τ[οῖς] συμμάχοις ὡς διαλύων τήν / συμμαχία[ν]. See Cargill 1981, 121-122.

<sup>56</sup> IG II<sup>2</sup> 144 (Athens and Stymphalos, dated by Gauthier 1972, 167, between 368-364 B.C. and by Walbank 1986, 350 in the first years after the establishment of the Second Athenian League); *Agora* XVI 51[1] (Athens and Cnossos, ca. 360 B.C.). See also Dem. 21.173, who mentions a *symbolon* between Athens and Cyzicus, which was probably conducted when this polis was a member of the Second Athenian League in the 360s B.C. See Gauthier 1972, 169-170.

<sup>57</sup> R-O 39, 45-49: ἐὰν δέ [τινες τῶν] ἀπογραφέντων ἀμφισβητῶσι μὴ εἶναι τούτων τῶ[ν] ἀνδρῶ[ν], ἐξεῖναι αὐτοῖς ἐνγυη/τάς πρὸς [τ]ὸ[ς] σ[τ]ρατηγὸς τὸς Ἰολιητῶν τρ/ιάκοντα ἡμερῶν δικά[ς] ὑ[π]ο[σ]χ[ῃ]ν [κα]τὰ τ[ὸ]ς ὅρκος καὶ τὰς / συνθήκας ἐν Κέωι καὶ [ἐν τῇ ἐκκ]λήτῳ [πὸ] λει Ἀθήνησι.

<sup>58</sup> R-O 39, esp. 203.

<sup>59</sup> R-O 40, 18-20, esp. 209.

<sup>60</sup> R-O 40, 21.



Athenian League.<sup>61</sup> This clause in the decree was important because it shows that this provision extended Athenian regulations to a wider area by imposing penalties on their allies.<sup>62</sup> The fact that this provision was proposed not long before the outbreak of the Social War (357-355 B.C.) between Athens and some of its discontent allies appears to reveal the change in the Athenian attitude towards the other members of the League which led to hostilities.

### **Prosecution in Philip and Alexander's League of Corinth: the king's will.**

From the outset, the council of Philip and Alexander's League conferred on itself something of the character of a court of justice, since any interstate dispute that came to its notice was addressed by the League's council in their capacity as judges.<sup>63</sup> But, in addition to interstate arbitration, the council was also convened to try transgressors of the league's orders. It was the council in 335 B.C. that ratified the punishment of Thebes, which had revolted against Alexander and the allies.<sup>64</sup> Alexander's letter to Chios in 334 B.C. prescribed that the citizens who had betrayed their country to the Persians and were still on the island would be tried by the "council of the Greeks".<sup>65</sup> Moreover, one case seems to show that, given the League's role in preserving the peace in Greece, the scope of its activity would extend to non-members as well, if the latter were a threat to stability.<sup>66</sup> After the revolt of several member states under the leadership of Sparta in 331 B.C., Antipater, who acted as regent and Alexander's representative in Greece, referred the matter of the punishment of the Spartans to the council.<sup>67</sup> In addition, it appears that non-Macedonian individuals who defied the Macedonian king were occasionally tried by the council.<sup>68</sup> Plutarch (according to a report by Chares of Mytilene) speaks of Alexander's wish to try the philosopher Callisthenes of Olynthus before the council for his participation in a conspiracy against him.<sup>69</sup>

Judging from the judicial powers of the League's council, it is highly likely that the process provided by the Delphic Amphictyony served as a model for the judicial proceedings before the League's council. The Amphictyonic council had several times exercised its judicial powers before Philip's ascension to the throne.<sup>70</sup> After the end of the Third Sacred

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<sup>61</sup> Dem. 23.85: ὃν κοινὸν ἀπάντων ἀνθρώπων νόμον, ὃς κεῖται τὸν φεύγοντα δέχεσθαι, ὑποδεξαμένους ἐκσπόνδους εἶναι γράφει, ἂν μὴ τὸν ἰκέτην ἔκδοτον διδῶσιν.

<sup>62</sup> Esu 2020, 91.

<sup>63</sup> Hammond & Griffith 1979, 636.

<sup>64</sup> Diod. Sic. 17.14.1-2: ὁ δὲ βασιλεὺς...τοὺς δὲ συνέδρους τῶν Ἑλλήνων συναγαγὼν ἐπέτρεψε τῷ κοινῷ συνεδρίῳ πῶς χρηστὸν τῇ πόλει τῶν Θηβαίων. προτεθείσης οὖν βουλῆς τῶν ἀλλοτρίως διακειμένων τοῖς Θηβαίοις τινὲς ἐπεχείρουν συμβουλεύειν ἀπαραιτήτοις τιμωρίαις δεῖν περιβαλεῖν αὐτούς.

<sup>65</sup> R-O 84, 13-15: ὅσο[ι] / δ' ἂν ἐγκαταλειφθῶσιν ἐπανάγεσθαι καὶ κρίνεσθαι ἐν τῷ τῶν Ἑλ/[λ]ήνων συνεδρίῳ.

<sup>66</sup> Roebuck 1948, 92.

<sup>67</sup> Diod. Sic. 17.73.5.

<sup>68</sup> According to Curt. 6.8.25, capital trials were conducted before the Macedonian assembly in Macedonia and before the army assembly during campaigns. This procedure was followed against Macedonian officers who conspired against the king.

<sup>69</sup> Plut. Alex. 55.5: Χάρης δὲ μετὰ τὴν σύλληψιν ἐπὶ μῆνας φυλάττεσθαι δεδεμένον, ὡς ἐν τῷ συνεδρίῳ κριθεῖ παρόντος Ἀριστοτέλους.

<sup>70</sup> Hdt. 7.213.2 mentions the price placed by the Amphictyonic council on the head of the traitor Ephialtes after the battle of Thermopylae: καὶ οἱ φυγόντι ὑπὸ τῶν Πυλαγόρων τῶν Ἀμφικτυόνων ἐς τὴν

War (356-346 B.C.), the Macedonian king called an extraordinary meeting of the Amphictyons for the punishment of the Phocians who had committed sacrilege by seizing the Delphic shrine, his presidency of the Amphictyonic council being somewhat dubious, since he was not yet a member of the organization.<sup>71</sup> Philip's presence at Delphi would have allowed him to observe the judicial system of the Amphictyony and establish a similar legal process in the context of the League of Corinth. Pausanias reports that Philip and Alexander allowed those who opposed them to plead their cases at the Amphictyonic council and Demosthenes seems to imply that Alexander asked the orator's surrender to the Amphictyons,<sup>72</sup> which appears to demonstrate the existence of a parallel judicial system as in the case of the two justice systems of the Second Delian League.

On the matter of prosecution in the League's council, however, neither literary nor epigraphic evidence offers significant information about the initiation of legal proceedings before the *synedrion*. The oath in the 338/7 B.C. treaty between Athens and Philip, which led to the admission of Athens as member of the League of Corinth, included a provision about stopping transgressors from breaking the alliance with Philip and his allies.<sup>73</sup> The expression used in this text ("I will not allow anyone to break the alliance") is similar to that appearing in the oaths of some Hellenistic treaties of *isopoliteia* (equal citizenship rights), in which it is followed by a clause concerning the right of any willing citizen to denounce the transgressor of the treaty before a governing body (*polis* assembly or council).<sup>74</sup> The Delphic Amphictyony also acknowledged denunciations by volunteers; however, the earliest evidence of such a denunciation comes from honorific decrees of the early Aetolian era of the sanctuary (270s B.C.) and, thus, it is difficult to connect the procedures mentioned in these inscriptions with those in the Amphictyonic League of the age of Philip and Alexander.<sup>75</sup>

Πυλαίην συλλεγομένων ἀργύριον ἐπεκηρύχθη. The speaker of [Dem.]59.98 reports that the Amphictyons passed a judgment against the Spartans because of general Pausanias' decision to add a distich concerning his own merit on the tripod offered by the Greeks in memory of the victory at the battle of Plataea: οἱ Πλαταιεῖς λαγχάνουσι δίκην τοῖς Λακεδαιμονίοις εἰς τοὺς Ἀμφικτύονας χιλίων ταλάντων ὑπὲρ τῶν συμμάχων. See also Diod. Sic. 16.23.2 who refers to the judgment passed by the council against the Spartans because of the seizure of Cadmeia, the citadel of Thebes, in 382 B.C.: Λακεδαιμονίων πρὸς Βοιωτοὺς διαπολεμησάντων τὸν Λευκτρικὸν πόλεμον καὶ καταπολεμηθέντων οἱ μὲν Θηβαῖοι διὰ τὴν κατάληψιν τῆς Καδμείας δίκας μεγάλας ἐπαγαγόντες τοῖς Λακεδαιμονίοις ἐν Ἀμφικτύοσι κατεδίκασαν αὐτοὺς πολλοῖς χρήμασιν.

<sup>71</sup> Diod. Sic. 16.59.4: ἔκρινεν οὖν συναγαγεῖν τὸ τῶν Ἀμφικτυόνων συνέδριον καὶ τούτῳ τὴν περὶ τῶν ὄλων διάγνωσιν ἐπιτρέψαι. For the procedure followed by the Amphictyons in 346 B.C. see Mari 1999.

<sup>72</sup> Paus. 7.10.10: Φίλιππος Ἀμύντου καὶ Ἀλέξανδρος, τοὺς ἀνθεστηκότας σφίσιν Ἑλλήνων ἐς Μακεδονίαν ἐβιάσαντο ἀποσταλῆναι, δίδοναι δὲ αὐτοὺς ἐν Ἀμφικτύοσιν εἶων λόγον; Dem. 18.322: οὐκ εἰς Ἀμφικτύονας δίκας ἐπαγόντων.

<sup>73</sup> R-O 76, 16-19: [οὐδ' ἄλλ]ωι ἐπιτρέψω εἰς / [δύναμιν]. ἂν δέ τις ποῆι τι] παράσπονδ[ον] πε/[ρὶ τὰς συνθήκας, βοηθήσω] καθότι ἂν παραγ/[γέλωσιν οἱ ἀδικούμενοι].

<sup>74</sup> ISmyrna 573 II, 66-68 (denunciation before the assembly, 245/243 B.C.): καὶ οὐτε αὐτὸς ἀδικήσω αὐτῶν οὐθέννα οὐτε ἄλλωι ἐπ[ι]/τρέψω οὐθενὶ κατὰ δύναμιν τὴν ἐμήν· καὶ ἐάν τινα αἰσθάνωμαι ἐπιβουλεύοντα] τῇ πόλει ἢ τοῖς χωρίοις τοῖς τῆς πόλεως, ἢ τὴν δημοκρατίαν ἢ τὴν ἰσο/νομίαν καταλύοντα, μηνύσω τῷ δήμῳ τῷ Συμρναίων. Milet I.3 149, 56-58 (denunciation before the council and the assembly, 183/164 B.C.): οὐδὲ ἄλλ]ωι παραβαίνοντι τὴν συνθήκην ἐπιτρέψω, καὶ ἐάν τινα / ἄλλον πυν[θά]νωμαι αἰρούμενον παραβαίνειν τὰς ὁμολογίας, οὐκ ἐπ[ι]/τρέψω κατὰ δύναμιν τὴν ἐμήν, ἀλλὰ δηλώσω τῇ βουλῇ καὶ τῷ δήμῳ. Milet I.3 150, 110-2 (denunciation before the council and the assembly, 180/161 B.C.): οὐδὲ ἄλλωι παραβαίνοντι τὴν συνθήκην / ἐπιτρέψω <ω> καὶ ἐάν τινα ἄλλον πυνθάνωμαι παραβαίνοντα τὰς ὁμολογίας, οὐκ ἐπιτρέψω / κατὰ δύναμιν τὴν ἐμήν, ἀλλὰ δηλώσω τῇ βουλῇ καὶ τῷ δήμῳ ταῦτα ἀληθῆ.

<sup>75</sup> Several persons are honored for their role as informers and prosecutors in the Amphictyonic council in cases of theft of sacred money from the Delphi sanctuary. They appear in the decrees: CID 4:14, 15, 22 and 25.

But a convincing argument against the possibility of such legal actions in the context of the League of Corinth is that, as Bosworth notes, in the initiation before the League's council "matters were less clear-cut when the interests of the ruling power were involved."<sup>76</sup> The examples of the Lesbian poleis of Mytilene and Eressus are typical of the attitude of the Macedonian kings towards the legal procedure of the League. A 334 B.C. decree from Mytilene notes that the reconciliation between oligarchs and democrats after the *polis'* return to the League was to be in accordance with Alexander's *diagrapha* (order).<sup>77</sup> According to a decree of Eressus, in 332 B.C. Alexander issued another order for the punishment of the oligarchic leader Eurysilaus who had surrendered the state to the Persians without any reference to a decision of the League's council.<sup>78</sup> Certainly, both these states were of military importance to Alexander due to their closeness to the Persian Empire. Yet the council must have had some say in the treatment of delinquent members,<sup>79</sup> as in the case of Thebes, despite the royal authority's crucial role in the prosecution process. The fact that the council decided to refer the case of the Spartans in 331 B.C. to Alexander himself not only leads to the conclusion that the League had no authority at all in this case,<sup>80</sup> but also speaks volumes about the significance of the royal will in deciding the punishment of those who defied the alliance and its leader.

### **Prosecution by *ho boulomenos* in the Hellenic League's charter and the influence of the Second Athenian League.**

The Hellenic League appears to have adopted certain elements from the Second Athenian League and the old League of Corinth. As in the case of Alexander the Great before them, Antigonos and Demetrius' persistent preoccupation with the theme of Greek freedom, whether based on conviction or on calculation, won them friends and civic honours,<sup>81</sup> although this time the so-called unification of the Greeks under the two Macedonian commanders was directed by a Macedonian against the Macedonian king,<sup>82</sup> Cassander, who had held the throne since 305 B.C. On the other hand, the relationship between the members of the League was to be determined by friendship and alliance, as in the case of the Second Athenian League, and that satisfied the vital interests of the two rulers, who aimed at a comprehensive organization and better governance and at the same time sought to optimise the military potential of their allies.<sup>83</sup> At any rate, Antigonos compares favorably with the

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In CID 4:15 an Argive *hieromnemon* is one the prosecutors. Although this is not explicitly mentioned, the fact that almost all of them are otherwise unknown shows that accusations against transgressors could be brought by any willing person.

<sup>76</sup> Bosworth 1988, 191-192.

<sup>77</sup> R-O 85, B.28-29: [καὶ ἐν ταῖς διαλυσίεσσι ταῖς ὁ βασιλεὺς ἐπέκριννε / [ταῖς ἐν ταῖ διαγράφαι] ἐμμενέοισι πάντες.

<sup>78</sup> R-O 83, B.i.15-19: [κ]ρίνναι μὲν αὐτον / [κ]ρύπτει ψάφιγγι κα/[τ]ὰ τὰν διαγράφαν τ[ῶ] / β[α]σιλέος Ἀλεξάνδ[ρ]ω / κ[αὶ] τοῖς νόμοις.

<sup>79</sup> Bosworth 1988, 193.

<sup>80</sup> See Richardson 2019, 53.

<sup>81</sup> Shipley 2018, 50-1.

<sup>82</sup> Kralli 2017, 101. See Diod. 20.102.1, who argues that the plan of Antigonos and Demetrius was to carry on war against Cassander.

<sup>83</sup> Smarczyk 2015, 459.

two other interstate organizations, in that he provided for a peacetime governance under which problems between states could be discussed in the context of a league.<sup>84</sup>

The first passages of the League's charter which refer to prosecution by *ho boulomenos* are fragmentary, and it is impossible to draw valid conclusions about the exact nature of the procedures described in the text. Yet from the surviving text it appears that it was possible for denunciations to be brought against *poleis* that contravened the League's charter, against individuals and officials who made proposals detrimental to the federal government, and also against the presiding officials of the League's council (*proedroi*) in certain cases.<sup>85</sup> In particular, the League prohibits the *poleis* to act contrary to its constitution "in word or deed" and grants volunteers the right to bring charges against offending states before the representatives of the League.<sup>86</sup> A few lines below, an entrenchment clause prohibiting proposals or voting on motions which contradict the charter's provisions seems to appear along with another clause on the prosecution of the *synedroi* who meet to judge the transgressors by *ho boulomenos*.<sup>87</sup> Finally, in the best-preserved part of the constitution we read that the *proedroi* of the League are held accountable for their acts and, in case of misbehavior, are also prosecuted by any person wishing to do so by the filing of written complaints (*graphai*).<sup>88</sup>

The entrenchment clause prohibiting proposals or voting on motions which contradict the charter's provisions resembles a provision in the text of the decree of Aristoteles on the formation of the Second Athenian League, and shows that this significant organization may have exercised a certain amount of influence on the new League of Corinth. Indeed, the creation of the Second Athenian League marks the beginning of more detailed regulations for peaceful coexistence within a confederation of states in the fashion of the *koina* (leagues) of Aetolians and Achaeans. The jurisdiction of the allied *synedrion* in the decree of Aristoteles indicates that the right of the council of the Hellenic League to act as a judicial assembly was a logical continuation of a development which had begun in Athens.<sup>89</sup>

A judicial system which, in addition to including the representatives of the allied *poleis*, acknowledged the right of volunteers among the allies to denounce transgressors demonstrated the significance of each member *polis'* citizens' contribution to the proper functioning of the League and to the concept of freedom advocated by the two Macedonian leaders. Nevertheless, a careful observation on some provisions of the charter demonstrates that some elements of the procedures described in it may have been directly inspired by Athenian legal institutions. And this influence is probably connected with the relationship between Athens and one of the two creators of the League, Demetrius Poliorcetes.

<sup>84</sup> Billows 1990, 230.

<sup>85</sup> Harter-Uibopuu 2003, 326.

<sup>86</sup> IG IV<sup>2</sup> 1.68, 34-37 (procedure against *poleis* and individuals who contravene the League's charter): μὴ ἐξεῖναι δὲ ταῖς πόλ[ε]σιν ἄλλο τι πρ[ό]τερον ἢ τὰ γεγραμμένα· ἂν δὲ τινες ἐναντίον τι πράττωσιν ἢ λόγ[ω]ι ἢ ἔργωι, εἰσαγ[ο]ν[τ]ε[ρ] [γε]λλέτω περὶ αὐτῶν ὁ βουλόμενος εἰς τοὺς προέδρους οἱ δὲ σύν[ε]δροι κρινόντω[ν] [σαν].

<sup>87</sup> IG IV<sup>2</sup> 1.68, 44-47: ἂν δὲ τις εἴπῃ ἢ ἐπιψηφίσῃ ὥς δεῖ — —]αν αἰρεῖσθαι ἐ/- τὸν εἰπόντα καὶ τὸν ἐπιψη[φ]ίσαντα κρίνε[ι] [σθαι ὑπὸ τῶν συνέδρων· ἂν δ' οἱ σύνεδροι μὴ κρίνωσιν, εἰσαγγελλέτω περὶ αὐτῶν ὁ βουλό[μ]ενος].

<sup>88</sup> IG IV<sup>2</sup> 1.68, 87-89: ὑπευθύνους [δὲ πάντων εἶναι τοὺς] / προέδρους, ὧν ἂν πράξωσιν· τὰς δὲ [γρ]αφὰς διδόντω κατ' α[ὐ]τῶν ὁ βουλόμενος πρὸς] / τοὺς μετὰ τούτους ἀποκληρωθέντας προέδρους.

<sup>89</sup> Harter-Uibopuu 2003, 328-9.

## Demetrius and Athens.

Historical evidence shows that Demetrius tried to establish himself in Athens in several ways. In 307 B.C. Demetrius seized Athens from Cassander and restored the democratic constitution to the Athenians.<sup>90</sup> The Athenian attachment to the Antigonid dynasty had a serious impact on Athenian policies. Antigonos' favourable attitude to Athens was expressed by his returning control of the islands of Lemnos and Imbros to the Athenians<sup>91</sup> and offering grain, wood for warships and money as gifts.<sup>92</sup> On their part, the Athenians showed their gratitude by offering extravagant honors to the two rulers, such as their deification<sup>93</sup> and the creation of two new *phylai* (tribes) - Antigonis and Demetrias.<sup>94</sup> Demetrius chose as his second wife Eurydice, a woman from a noble Athenian family, which indicates that Demetrius followed Philip II's policy of political marriage.<sup>95</sup> Furthermore, he was initiated into the Eleusinian mysteries.<sup>96</sup>

Yet the relationship between Athens and the two Macedonian rulers was not limited to honors and gifts. W. Ferguson notes that "between 307 and 301 Athens was a free city, but it was also Demetrius' capital."<sup>97</sup> Epigraphic and literary evidence demonstrates the attempts of Athens and the two Macedonian rulers to establish a network of alliances with neighboring states from the time of Demetrius' liberation of Athens onwards.<sup>98</sup> Several states, or their citizens who were members of the Second Athenian League and familiar with the Athenian legal system, were honored and granted special privileges by Athens,<sup>99</sup> and this seems to reveal the partial revival of this interstate organization with Athens as an administrative centre.

But Demetrius did not restrict himself to designating Athens as his capital. His long stays at Athens (in the winters of 307/6, 304/3 and 303/2 B.C.) allowed him and his entourage to interfere in Athenian politics in ways that were inconsistent with democratic ideals.<sup>100</sup> A controversial resolution passed by the king's favorite, Stratocles of Diomeia, which stipulated that Athenians should acknowledge the sanctity of the ruler's wishes, is perhaps the heyday of Demetrius' involvement.<sup>101</sup> Stratocles, who played a crucial role in the

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<sup>90</sup> Plut. *Demetr.* 8.5.

<sup>91</sup> The relationship between Athens and Lemnos is established by two inscriptions: *IG* II<sup>2</sup> 149, 133 (tributes from Lemnos to Athens) and *SEG* XLV 45.92[1] (where there seems to be a reference to the delivery of the island by Antigonos). On the delivery of Imbros to Athens by Antigonos, see Diod. Sic. 20.46.4.

<sup>92</sup> See Plut. *Demetr.* 10.1, where it is mentioned that after the liberation of Athens, Demetrius announced his father's promise to provide the Athenians with grain and wood for warships. See also *IG* II<sup>2</sup> 1492, 97-99 (reference to money provided by Antigonos) and 119-121 (reference to pine wood provided by Antigonos and Demetrius).

<sup>93</sup> Plut. *Demetr.* 10.3.

<sup>94</sup> Diod. Sic. 20.46.2. For all these honors, see Habicht 1970, 44-50 & 1997, 68-9.

<sup>95</sup> Plut. *Demetr.* 14.1. Wheatley & Dunn 2020, 143.

<sup>96</sup> Plut. *Demetr.* 26.

<sup>97</sup> Ferguson 1948, 113.

<sup>98</sup> See Wheatley and Dunn 2020, 141 and n. 68 with a list of references in inscriptions and literary sources.

<sup>99</sup> See *IG* II<sup>2</sup> 466 (Athenian honors for the people of Tenos, 307/6 B.C.); *IG* II<sup>2</sup> 467 (Honors for a proxenos of Karystos); *Agora* XV 113 & *IG* II<sup>2</sup> 469 (Honors for individuals from Chalcis).

<sup>100</sup> Bayliss 2011, 124.

<sup>101</sup> Plut. *Demetr.* 24.4.



Athenian administration during the period of Demetrius' stay,<sup>102</sup> was also the man who proposed the decree which allowed Demetrius to be initiated into the Eleusinian mysteries, despite its being the wrong time of year.<sup>103</sup> Although it has been suggested that Demetrius was granted citizenship and the right to put forward motions, it is more likely that he was given the right of *prosodos*, that is, the right granted to foreigners to make written applications to the Athenian council.<sup>104</sup> And, naturally, as monarch and liberator of Athens he expected that his requests should be heard by the Athenian state.

Judging from the above, it can be assumed that Demetrius, either in person or through his Athenian protégés, such as Stratocles, had been given the opportunity to observe the functioning of the political and judicial system of Athens. But what do we know about Athenian judicial proceedings between 323 and 302 B.C.? The judicial reforms of Demetrius of Phalerum, who was head of the Athenian state from 317 B.C. until its capture by Demetrius Poliorcetes, had an impact on the organization of law courts in Athens.<sup>105</sup> Yet there is no reference in the ancient sources to changes in the right of volunteers to prosecute transgressors in early Hellenistic Athens and epigraphic evidence shows that procedures of this kind remained an essential element of Athenian legal procedure even in the last two centuries B.C.<sup>106</sup> Regarding lawsuits initiated by volunteers, literary sources bring to light two cases: the trials of Theophrastus of Eressos a few years after Alexander's death and of general Phocion in 318 B.C. The Athenian statesman Hagnonides filed a *graphe asebeias* against Theophrastus and was defeated in court, barely escaping payment of a fine due to lack of the required number of court votes.<sup>107</sup> On the other hand, general Phocion appears to have been charged with treason after the filing of an *eisangelia* before the Athenian assembly at the end of the process of *epicheirotomia* (vote of confidence in officials),<sup>108</sup> but the whole procedure seems to have been arranged by a decree passed by the assembly as an *ad hoc* measure.<sup>109</sup>

The only evidence pointing to a trial during Demetrius' residency in Athens also comes from a literary source. Plutarch says that Demochares, Demosthenes' nephew and one of the greatest opponents of Demetrius' flatterers, was accused of having ridiculed Stratocles' motion on the sanctity of the Macedonian ruler's orders and was banished.<sup>110</sup> It is not clear whether Demochares was tried according to traditional Athenian rules, yet we cannot dismiss this possibility. Aeschines mentions the case of Leocrates, who was prosecuted for

<sup>102</sup> For the relationship between Demetrius and Stratocles, see Bayliss 2011, 159-172.

<sup>103</sup> Plut. *Demetr.* 26.3.

<sup>104</sup> Bayliss 2011, 171 and 247 n. 49.

<sup>105</sup> For Demetrius of Phalerum's reforms on the Athenian justice system, see O'Sullivan 2009, 138-159.

<sup>106</sup> Prosecution by *ho boulomenos* appears in Athenian decrees of the second and first century B.C.: *IEleusis* 250 (second/first century B.C.), 30-31; *IEleusis* 237 (120 B.C.), 14; *SEG XXIII* 77 (37 B.C.), 9-10.

<sup>107</sup> Diog. Laert. 5.37: τοσοῦτον δ' ἀποδοχῆς ἤξιοῦτο παρ' ὧς Ἀγνωνίδης τολμήσας ἀσεβείας αὐτὸν γράψασθαι, μικροῦ καὶ προσῶφλεν.

<sup>108</sup> See Diod. Sic. 18.65.6, who reports that the people gathered and condemned Phocion and other Athenian officials: ὁ δὲ δῆμος εἰς ἐκκλησίαν συνελθὼν τὰς μὲν ὑπαρχούσας ἀρχὰς κατέλυσεν, ἐκ δὲ τῶν δημοτικωτάτων τὰ ἀρχεῖα καταστήσας τοὺς ἐπὶ τῆς ὀλιγαρχίας γεγονότας ἄρχοντας κατεδίκασε τοὺς μὲν θανάτῳ, τοὺς δὲ φυγῇ καὶ δημεύσει τῆς οὐσίας: ἐν οἷς ἦν καὶ Φωκίων ὁ ἐπ' Ἀντιπάτρου τὴν τῶν ὅλων ἀρχὴν ἐσχηκώς. For the trial of Phocion, see Mossé 1998.

<sup>109</sup> See Harris 2019, 103-4.

<sup>110</sup> Plut. *Demetr.* 24.5: ὁ δὲ Δημοχάρης ἐπὶ τούτῳ διαβληθεὶς ἐφυγαδεύθη.



treason and narrowly avoided being exiled, as the orator says, because of a tied vote.<sup>111</sup> Given the close relationship between Demetrius and Athens, it is not unlikely that Demochares might have been accused of treason by one of Demetrius' favorites, who then secured his banishment.

Nevertheless, given that sources on the above trials date from well after the events occurred, the judicial proceedings described in these texts can easily be dismissed as fictional or fragmentary. Hence, in order to obtain a clearer picture of the possible influence of the Athenian judicial system on the procedures of the Hellenic League's constitution, scholars are obliged to study the terminology used in the text of the charter.

### **Lawsuits by volunteers as mentioned in the charter of the Hellenic League and their relationship to Athenian prosecution by *ho boulomenos*.**

#### **A. *Eisangelia* and *agones timetoi*.**

Despite the fragmentary condition of the League's treaty on its formation, the terms which appear in the well-preserved text of the League's constitution offer some pieces of information which can help in the recreation of procedures against illegal actions by individuals and member states. In particular, there is a reference to the filing of denunciations against those "who act against the allies' interests or do not comply with the decisions" of the League, to be carried out before the body of the *proedroi*, the presiding officials of the council. The *proedroi* were to bring charges before the *synedroi*.<sup>112</sup>

The term used to denote the act of denunciation is *eisangeliai* (to denounce), a word commonly found in Athenian legal texts in connection with a special legal action initiated by volunteers. The term *eisangelia* denotes four distinct types of prosecution initiated by this lawsuit in the Athenian judicial system: cases of serious crimes against the state, some of which were included in a special law in the fourth century (mentioned in Hyp. 4.7-8), cases of officials accused of maladministration, cases of misconduct of arbitrators and cases of maltreatment of orphans.<sup>113</sup> Although this word also meant "denounce" without any connection to the legal procedure of *eisangelia*, the words *eisangellein* and *eisangelia* in the sense of denouncing offenders do not appear in the epigraphic evidence from *poleis* other than Athens before the third century B.C.<sup>114</sup> Hence, it may be concluded that the creators of the League's constitution were familiar with Athenian legal terminology. Not only this, but there is further verbal evidence pointing to the influence of this specific Athenian procedure on the League's procedures.

Athenian influence on the legal procedure of the League is revealed by the process concerning the penalty imposed on the *polis* which defied the regulations of the League's

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<sup>111</sup> Aeschin. 3.252: καὶ ἴσαι αἱ ψῆφοι αὐτῷ ἐγένοντο: εἰ δὲ μία ψῆφος μετέπεσεν, ὑπερώριστ' ἄν.

<sup>112</sup> IG IV<sup>2</sup> 1.68, 84-87: [ἄν δέ τις εἰση]γήσ<ασ>θαι π[ροαιρῆται τι τῶν] / συμφερόντων τοῖς βασιλεῦσιν κα[ὶ τοῖς Ἑλλη]σιν ἢ εἰσαγ[γεῖλαι τινας ὡς ὅ]/πεναντία πράττοντας τοῖς συμμά[χοις ἢ μ]ὴ πειθομέν[ους τοῖς ὡμολογημέ]/νοις, ἢ ἄλλο τι χρηματίσαι τοῖς συ[νέδροις], ἀπογραφέσθω [πρὸς τοὺς προέδρους]. οἱ δὲ προτιθέτωσαν εἰς τοὺς συ[νέδρου]ς.

<sup>113</sup> For an analysis of *eisangelia* see the most detailed study by Hansen 1975. But see also Rhodes 1979, who criticizes some points of Hansen's analysis.

<sup>114</sup> The term in the sense of a denunciation against transgressors appears in ID 509, 16-18 (Delos, 235-230 BC): ἐξέστω εἰσαγγέλλ/λιν τῷ βουλομένῳ τῷ πολιτῶν πρό/ς τοὺς ἀγορανόμους.

constitution. The body of *synedroi* decided what the transgressor had to “suffer or pay”.<sup>115</sup> This clause is connected with the *agones timetoi*, that is, trials where the law court decided what penalty should be imposed,<sup>116</sup> and can be found in the Athenian laws against *hybris* (insolent assault), against maltreatment of parents and military desertion and against maltreatment of *epikleroi* daughters, all of which included clauses on volunteer prosecutors.<sup>117</sup> This clause is also present in the decrees of Cleinias and Cleonymus concerning the tributes of the allies and the decree concerning Miletus, where clauses on volunteer prosecutors are found.<sup>118</sup> Although it appears that sometimes the punishment was prescribed by law (as in the case of treason) or by assembly decrees which referred the case to a law court,<sup>119</sup> Hansen has convincingly argued that the *eisangelia* was normally an *agon timetos* in the fifth and early fourth century B.C. and so remained until the end of the Classical period.<sup>120</sup>

There is, however, yet another expression which may reinforce this connection. As already noted, the League’s charter forbids the *poleis* to act contrary to its constitution “in word or deed”.<sup>121</sup> This expression is very close to that used in the oath of the Athenians to protect their country from tyrants which was included in the decree of Demophantus: each citizen is to swear to kill the man who overthrows democracy “by word and by deed and by my vote and by my own hand.”<sup>122</sup> The fourth-century law on *eisangelia*, mentioned in Hyp. 4.7-8, provided for the prosecution of individuals who sought to overthrow democracy or betray the state and of any orator who “makes speeches contrary to the interests of the Athenian people”.<sup>123</sup> If the provision of the League’s constitution concerns the representatives of the *poleis* who act or speak against the interests of the alliance, then, this clause may be an abbreviated version of the clause in the law on *eisangelia*.

What appears to be still further evidence of Athenian influence on that type of prosecution is the role of the *proedroi*. In fourth-century Athens the *proedroi* were in charge of the running of the Athenian council and the assembly. They had extensive powers in the assembly which enabled them to encourage deliberation and steer it towards consensus.<sup>124</sup> Nevertheless, as is evident from cases known from forensic speeches, when the council acted

<sup>115</sup> IG IV<sup>2</sup> 1.68, 37: [καὶ ἐὰν ἀλῶσι, τιμάτωσαν, ὅτι ἂν δοκῶσιν ἄξιοι εἶναι παθεῖν ἢ ἀποτεῖσαι.

<sup>116</sup> On *agones timetoi* see Harrison 1971, 80-82.

<sup>117</sup> Dem. 21.47 (law on *hybris*): ὅτου δ’ ἂν καταγνῶ ἡ ἡλιαία, τιμάτω περὶ αὐτοῦ παραχρῆμα, ὅτου ἂν δοκῇ ἄξιος εἶναι παθεῖν ἢ ἀποτεῖσαι; 24.105 (law on maltreatment of parents and desertion): ἐὰν δ’ ἀλῶ, τιμάτω ἡ ἡλιαία ὅ τι χρὴ παθεῖν αὐτὸν ἢ ἀποτεῖσαι.; 43.75 (law on maltreatment of *epikleroi*): ἐὰν δ’ ἀλῶ, τιμάτω ἡ ἡλιαία περὶ τοῦ ἀλόντος, ὅ τι χρὴ αὐτὸν παθεῖν ἢ ἀποτεῖσαι.

<sup>118</sup> O-R 154, 40-41: γνόμας πο[ιέσθον] ἡοι πρυ[τάνες] ἡό τι ἂν δοκ[εῖ] αὐτ[ὸν]/ὅμ παθεῖν ἢ ἀ[ποτεῖσαι]; O-R 152, 49-51: [ἐὰν δέ το κα]/ταγνῶι τὸ [δικ]αστέριον τιμ[ᾶν] ὅ τι χρὴ αὐτὸν π[αθεῖν] ἢ ἀ[ποτεῖσαι]. IG I<sup>3</sup> 21, 50-51: [τιμάτο δὲ τὸ] / δικαστέριον ἡό τι ἂν χ[ρῆ]ι παθεῖν ἢ ἀ[ποτεῖσαι].

<sup>119</sup> See Harrison 1971, 55-59 & 82.

<sup>120</sup> See Hansen 1975, 33-6.

<sup>121</sup> IG IV<sup>2</sup> 1.68, 5: ἐὰν δέ τινες ἐναντίον τι πράττωσιν ἢ λόγ[ω]ι ἢ ἔργωι.

<sup>122</sup> Andoc. 1.97: κτενῶ καὶ λόγῳ καὶ ἔργῳ καὶ ψήφῳ καὶ τῇ ἑμαυτοῦ χειρί.

<sup>123</sup> ὑπὲρ τίνων οὖν οἴεσθε δεῖν τὰς εἰσαγγελίας γίνεσθαι;... ‘ἐάν τις,’ φησί, ‘τὸν δῆμον τὸν Ἀθηναίων καταλύη;’... ἡ ‘συνή ποι ἐπὶ καταλύσει τοῦ δήμου ἢ εταιρικὸν συναγάγη, ἢ ἐάν τις πόλιν τινὰ προδῶ ἢ ναῦς ἢ πεζὴν ἢ ναυτικὴν στρατιάν, ἢ ῥήτωρ ὦν μὴ λέγῃ τὰ ἄριστα τῷ δήμῳ τῷ Ἀθηναίων χρήματα λαμβάνων’.

<sup>124</sup> Canevaro 2018, 128-9.

as a law court in cases of prosecution by *ho boulomenos*,<sup>125</sup> the body responsible for the introduction of lawsuits to the council were the *prytaneis*, its executives who presided over the meetings of the assembly before this duty was transferred to the *proedroi* between 403/2 and 379/8 B.C.<sup>126</sup> As already mentioned, the decree of Cleinias concerning tributes of the allies of the Delian League provided that written complaints was to be filed before the Athenian *prytaneis* who were to bring the case before the Athenian council.<sup>127</sup> In Lys. 22.2 the case of the defendants who were accused of having transgressed Athenian laws on the purchase of grain was referred to the council by the *prytaneis*.<sup>128</sup> The speaker of Dem 47.42 mentions an *eisangelia* to the council against the defendant, which was written down by the *prytaneis* on a register.<sup>129</sup>

A comparison of the responsibility of the League's *proedroi* for the receipt of complaints by volunteers with the judicial duties of the Athenian *prytaneis* can lead to the assumption that those drafting the League's constitution had in mind the Athenian procedural system. The lack of a distinction between *proedroi* and *prytaneis* could be explained by the way the League was expected to function. Although they promoted the creation of an organization more sophisticated than that of Philip and Alexander, Demetrius and Antigonos were not interested in creating an organization with a large number of presiding officials with specialized duties, just like that of a *polis*. The League was expected to have a small number of individuals involved in its administration and, unlike their Athenian counterparts, the *proedroi* were also called to perform the duties related to legal proceedings which in Athens were assigned to the body of the *prytaneis*.

## B. Written complaints and procedures initiated by *ho boulomenos*.

Another piece of terminology which bolsters the theory that Athenian legal practices were adopted comes from the fact that, according to the League's charter, any accusation against transgressors had to be written (*apographestho*).<sup>130</sup> The charter also mentions that volunteers were allowed to bring written complaints (*graphai*) against the outgoing *proedroi* before their successors to office.<sup>131</sup> Although the verb *apographo* is used about any report before the *synedroi*, it should be noted that it is a typical Athenian legal term. The word *apographe* designated a denunciation of those in debt to the state along with a list of the debtor's property which had to be confiscated. In many cases, however, the verb *apographo* is used by Attic orators also in the sense of a written indictment filed against a person: it is used by the speaker of Lys. 7.29 regarding his opponent's accusations that he had removed a sacred olive tree and by the speaker of the Antiph. 6.36 concerning an indictment for murder.<sup>132</sup> It is also

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<sup>125</sup> On the connection of the Council to *eisangeliai*, see Rhodes 1972, 162-71.

<sup>126</sup> Hansen 1999, 140.

<sup>127</sup> O-R 154, 34-36.

<sup>128</sup> ἐπειδὴ γὰρ οἱ πρυτάνεις ἀπέδοσαν εἰς τὴν βουλὴν περὶ αὐτῶν. Todd 2000, 237 n. 3, argues that this procedure was initiated by an *eisangelia*.

<sup>129</sup> ἐκέλευεν εἰσαγγέλλειν με, καὶ τοὺς πρυτάνεις προγράφειν αὐτῷ τὴν κρίσιν ἐπὶ δύο ἡμέρας.

<sup>130</sup> IG IV<sup>2</sup> 1.68, 86: ἀπογραφέσθω [πρὸς τοὺς προέδρους].

<sup>131</sup> IG IV<sup>2</sup> 1.68, 87-89.

<sup>132</sup> Lys. 7.29: ἀπογράψαι με ἐκ γῆς μορίαν ἀφανίζειν. Antiph. 6.36: ἐπειδάν τις ἀπογραφῇ φόνου δίκην. Osborne 1985, 44 n. 22, notes that the non-technical use of terms *apographe* and *apographein* complicates the use and nature of this legal action.

used by the speaker of Isaeus 4.28, who says that his opponent had been denounced as a criminal by means of a written complaint placed before the chief executive body of the Athenian democracy, the Athenian council.<sup>133</sup> In the law concerning the protection of *epikleroi* daughters, the same term is used to designate the written complaint against transgressors *ho boulomenos* had to file to the eponymous archon.<sup>134</sup>

In order to understand how the Athenian legal system influenced the League's prosecution system in the type of judicial complaints the importance of the written word for Athenian justice should be considered. Like every other branch of the administrative machinery, the Athenian legal system saw an increased use of writing during the fifth century BC, while a series of reforms that took place in the fourth century imposed on litigants a greater reliance on documents.<sup>135</sup> The word *graphe* was used for a lawsuit filed by *ho boulomenos*, yet by the late fifth century the term *graphesthai* was used also for *dikai* (private suits), and judicial officials were recording complaints of all types.<sup>136</sup> An important reason for requiring the accuser to write down the specific charges he intended to prove at the trial was to ensure procedural fairness for the defendant. The defendant needed to know not only the kind of action the accuser had brought, but also to know what the accuser claimed he had done so that he could prepare a detailed reply to each of the charges.<sup>137</sup>

Given the significance of written complaints for the fair prosecution of offenders in Athens, it is easy to understand why Demetrius and Antigonus accepted this form of lawsuit. The individuals or the *poleis* would feel more comfortable if tried on the basis of charges which, unlike an oral and probably vague accusation before the League's council, they were able to read so as to prepare their defence. At this point, it is worth noticing that the League's charter refers to *grammateis* (secretaries) who were instructed by the *proedroi* to keep records of the decisions of the League's meetings, which were preserved by the presiding officials of the organization.<sup>138</sup> This is a certain indication of a high level of bureaucracy and the phrasing in the text reflects the working environment in Athens.<sup>139</sup> From epigraphic and literary sources, we know that sometimes the secretary of the Athenian council in the fourth century B.C. was assisted by other *grammateis* and public slaves who served at the *Metroon*, the state archive of Athens.<sup>140</sup> It is thus highly likely that the individuals behind the League's

<sup>133</sup> πάλιν ἀπογραφείς εἰς τὴν βουλὴν κακουργῶν, ὑποχωρῶν ὥχετο καὶ οὐχ ὑπήκουσεν.

<sup>134</sup> Dem. 43.54: ...ἀπογραφέτω δὲ τὸν μὴ ποιοῦντα ταῦτα ὁ βουλόμενος πρὸς τὸν ἄρχοντα.

<sup>135</sup> Sickinger 2007, 204.

<sup>136</sup> See e.g. Isoc. 18.12.; Ar. Nub. 759. Sickinger 2007, 205.

<sup>137</sup> Harris 2013b, 151-2.

<sup>138</sup> IG IV<sup>2</sup> 1.68, 80-81: κ[αὶ τὰ] δόξαν[τα μεταδιδόναι] / τοῖς γραμματεῦσι, καὶ αὐτοὺς εἴ[ρημα ἀν]τίγραφῳ [ἔχοντ]ας.

<sup>139</sup> Abbott 2012, 229.

<sup>140</sup> See e.g. the Athenian decree of Chalkotheke of mid-fourth century B.C. where the secretary by prytany (another title for the secretary of the council in the fourth century B.C.) is mentioned along with other secretaries involved in recordkeeping: IG II<sup>2</sup> 120, 15-17: ἀντιγράφεσθαι δὲ τὸν γραμματέα τὸν κατὰ / [πρ]υτανείαν καὶ τοὺς ἄλλους γραμματεῖς τοὺς ἐπὶ τοῖς/[ς] δημόσις γράμμασιν. For the public slaves who served at the *Metroon*, see: Dem. 19.129: ἀλλ' ὑπὲρ μὲν τῆς ἐξωμοσίας ἐν τοῖς κοινοῖς τοῖς ὑμετέροις γράμμασιν ἐν τῷ μητρῷ τὰυτ' ἐστίν, ἐφ' οἷς ὁ δημόσιος τέτακται; IG II<sup>2</sup> 463, 28-30 (recording of a contract concerning the repair of the Athenian fortifications, 307/6 B.C.): κ[αὶ] εἰς τὸ μ[η]τρῶιον πρὸς τὸν δημόσιον ... ἀναγράψ[α]ι τὸ τε ὄνομα τοῦ μεμισθωμένου καὶ τὸ ἀργύριον ὅσ[ου] / ἂν μισθώσῃται. IG II<sup>2</sup> 583, 4-7 (transfer of a document by the public slave at the *Metroon* to the secretary of the council, late fourth century B.C.): [δοκ/εἰ τῇ βουλῇ]

charter had in mind the Athenian recordkeeping system and, as in Athens, the judicial process was not unaffected by the high level of bureaucracy.<sup>141</sup>

But, in addition to providing litigants with a concise accusation, there is another possible reason for the employment of written complaints in Athens. Maintaining the written pleas was of great importance for the sake of accountability of officials: notes documenting the cases over which they had presided offered valuable evidence of their activities in office, especially if charges of dereliction of duty or false prosecution were brought against them.<sup>142</sup> This now brings us to the final piece of information which indicates that the Hellenic League's prosecution system was influenced by Athenian legal practices.

### C. The accountability of the *proedroi* and prosecution by *ho boulomenos*.

The last piece of evidence on prosecution by *ho boulomenos* is related to the accountability of the *proedroi* for their activities: the presiding officials of the league were held accountable for all their activities and volunteers were allowed to bring written complaints against the outgoing *proedroi* before their successors to office.<sup>143</sup> The accountability of officials and prosecution by volunteers are characteristic features of the administrative system of Athens and the other Greek *poleis*. Unlike the Roman republic magistrates who enjoyed immunity from prosecution and sacrosanctity for the entire term of office, in Greece even the highest officials of the state could be put on trial or punished for transgressions during their tenure.<sup>144</sup> Judicial proceedings relating to control of magistrates were not initiated only by citizens, yet there is good evidence for the filing of lawsuits by volunteers, who usually received a part of the fine imposed on the transgressor.<sup>145</sup>

Classical Athens employed an elaborate system of control over its magistrates during their tenure of office from the time of appointment to the submission of their term's account, and this included the filing of special lawsuits against their misconduct, although it is impossible to estimate how frequently this occurred.<sup>146</sup> In fourth-century Athens, *graphai* by volunteers were filed against officials in cases of accountability (*euthynai*) after the decision of the body of *euthynoi* (examiners) and their referral of a case to the appropriate law court (the *thesmothetai*).<sup>147</sup> The list of *graphai* brought for offences committed by officials includes: the *dike alogiou* (lawsuit for failure to present accounts),<sup>148</sup> the *graphe doron* (indictment for

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τὸν δημόσιον τὸν ἐκ τ[οῦ Μητρώου τὸ ψή/φισμα καθ' ὃ ἐστίν] αὐτοῖς ἢ ἰσοτέλεια παραδοῦναι τῷ/ἰ γραμματεῖ].

<sup>141</sup> On the importance of written documents for the Athenian legal procedure see Pébarthe 2006, 315-343.

<sup>142</sup> Sickinger 2007, 205.

<sup>143</sup> IG IV<sup>2</sup> 1.68, 87-89.

<sup>144</sup> McAuley 2013, 185.

<sup>145</sup> See Fröhlich 2004, 295-7.

<sup>146</sup> See Roberts 1982, 14-29.

<sup>147</sup> For the *euthynai* procedure in the fourth century B.C., see Efstathiou 2007.

<sup>148</sup> Poll. *Onom.* 8.54: ἀλογίου δίκη, ἣν φεύγουσιν οἱ ἄρχοντες λόγον οὐ διδόντες τῶν τῆς ἀρχῆς διοικημάτων.



bribery),<sup>149</sup> the *graphe adikiou* (lawsuit for malversation),<sup>150</sup> the *graphe klopes hieron chrematon* (embezzlement of sacred money)<sup>151</sup> and perhaps a *graphe klopes demosion chrematon* (embezzlement of public money).<sup>152</sup> Andocides mentions *graphai* concerning accountability of officials,<sup>153</sup> while Demosthenes speaks of the possibility of filing an *eisangelia* relating to the accountability of the Athenian ambassadors after their tenure of office.<sup>154</sup> In another speech, Demosthenes states that officials could be accused of theft (which was prosecuted by *graphe*) during their audits even after their term of office.<sup>155</sup>

All of the above lawsuits could be used as models for the *graphai* brought against the *proedroi*. Additionally, one might add to the aforementioned *graphai* against the *proedroi* several other written complaints which may have served as models for the procedure mentioned in the League's charter. *Ath. Pol.* 59.2 mentions the *graphe prytanike*, the *graphe proedrike* and the *graphe epistatike* which were filed against the *prytaneis*, the *proedroi* or their chairmen (the *epistatai*) who did not conduct their duties in a proper way. We have no contemporary evidence concerning these *graphai* as separate lawsuits, and the offences to which they applied could also be prosecuted by the filing of an *eisangelia me chresthai tois nomois*, a denunciation concerning misconduct of officials (*Ath. Pol.* 45.2).<sup>156</sup> But, as Rhodes notes, "there are many overlaps in Athenian judicial procedure and we need not doubt that these suits existed."<sup>157</sup>

In Dem. 24.22, the law on the *epicheirotomia ton nomon* provided for the punishment of the *prytaneis* and the *proedroi* (a fine) who did not put to the vote the suggested motion after an *endeixis*, a type of prosecution by volunteers.<sup>158</sup> Although the text of the law in the forensic speech is considered a forgery,<sup>159</sup> similar sanctions against *proedroi* and *prytaneis* are attested in Classical inscriptions.<sup>160</sup> Hence, we should not dismiss the possibility that there were procedures against *proedroi* and *prytaneis* initiated with extraordinary public actions like the *endeixis*. In the same speech we find another provision connected with the misconduct of

<sup>149</sup> Aeschin. 3.232.

<sup>150</sup> *Ath. Pol.* 54.2.; Plut. *Per.* 32.2.

<sup>151</sup> Antiph. 2.1.6.

<sup>152</sup> About the possibility of a *graphe* with that name see Cohen 1983, 49-51, who argues against its existence.

<sup>153</sup> And. 1.78: ἡ μήπω εἰσηγμένοι εἰς τὸ δικαστήριον γραφαί τινές εἰσι περὶ τῶν εὐθυνῶν.

<sup>154</sup> Dem. 19.103: καὶ εἴ γε τι τῶν προσηκόντων ἐγίγνετο, ἐν εἰσαγγελίᾳ πάλοι ἂν ἦν.

<sup>155</sup> Dem. 24.112: εἰ μὲν τις ἀγορανόμος ἢ ἀστυνόμος ἢ δικαστὴς κατὰ δήμους γεγόμενος κλοπῆς ἐν ταῖς εὐθύναις ἐάλωκεν.

<sup>156</sup> ἔξεστι δὲ καὶ τοῖς ιδιώταις εἰσαγγέλλειν ἢν ἂν βούλωνται τῶν ἀρχῶν μὴ χρῆσθαι τοῖς νόμοις.

<sup>157</sup> Rhodes 1993, 660.

<sup>158</sup> ἐὰν δ' οἱ πρυτάνεις μὴ ποιήσωσι κατὰ τὰ γεγραμμένα τὴν ἐκκλησίαν ἢ οἱ πρόεδροι μὴ χρηματίσωσι, ὀφείλιν τῶν μὲν πρυτάνεων ἕκαστον χιλίας δραχμὰς ἱερὰς τῇ Ἀθηνᾷ, τῶν δὲ προέδρων ἕκαστος ὀφειλέτω τετταράκοντα δραχμὰς ἱερὰς τῇ Ἀθηνᾷ. Καὶ ἔνδειξις αὐτῶν ἔστω πρὸς τοὺς θεσμοθέτας

<sup>159</sup> See Canevaro, 2013, 96-102.

<sup>160</sup> See O-R 153, 28-30 (425/4 B.C. decree of Thudippos on the reassessment of the allies' tributes, fine to be imposed on the *prytaneis*): [ἐὰν δὲ οἱ πρυτάνεις με -]σι ἐ[ς] τὸν δέμον κ[αὶ -]έριον / περὶ τῷ [φόρῳ -] ἐπὶ σ[φ]δὸν αὐτὸν ὀφ[έ]λεν ἑκατὸν δραχμὰς ἡε[ρ]ὰς τῇ/ἰ Ἀθηνᾶ[ιαι]; O-R 154, 35-37 (decree of Cleinias, fine to be imposed on the *prytaneis*): [οἱ δὲ πρυτάνεις] ἐσαγγ[όντων] / ἐς τὴν βολὴν [τὴν γραφὴν] ἡέν τι]ς ἄγ[ρα]φ[ε]τα[ι] ἔ[ε] εὐθ[ύ]ν[η]ς/ὕν[ε]σθ[ο] δόρ[ον] μυρίασι δραχμ[ῶ]ν ἡε[ρ]ὰς τῇ/ἰ Ἀθηνᾶ[ιαι]; IG II<sup>3</sup> 1 452, 48-52 (fine to be imposed on the *proedroi*): εἰὰν δὲ μ[ὴ] ἐπιψηφ[ίσω]σιν οἱ πρόεδροι καὶ ὁ / [ἐπιστά]της τῶν νομοθετῶν, ὀφειλέ[τω] ἕκαστος αὐτῶν :X: δραχμὰς ἱερὰς / [τῇ] Ἀθηνᾶ[ιαι]. Hansen 2016, 449.



*proedroi* regarding voting, which has been deemed genuine; if one of these officials should put to the vote the petition of a person who has been fined or if someone who acts on behalf of them, he is to lose his civic rights (Dem. 24.50).<sup>161</sup>

Judging from the duties of the League *proedroi*, it may be concluded that the offences committed by those officials were not much different from the transgressions that an Athenian *proedros* or *prytanis* could be blamed for. The League's charter demonstrates that the *proedroi* were responsible for determining the duration of the meetings of the *synedroi*,<sup>162</sup> prepared the meeting agenda along with the *synedroi*, the *grammateis* and the *hyperetai* (servants) who served under their orders<sup>163</sup> and, as already mentioned, supervised the recording of the decisions of the *synedroi* by the *grammateis*. Any misconduct connected with one or more of the above duties might end up in accusations brought by any willing person before the next *proedroi* and procedures against maladministration, which was a typical feature of the Greek *polis*, would demonstrate the League's leaders' intention to protect the freedom of their allies from the misbehavior of the League's officials.

## Conclusions.

Although the fragmentary situation of the 302 B.C. Hellenic League's constitution prevents scholars from reaching watertight conclusions concerning the prosecution system of this interstate organization, the surviving text reveals that the drafters of this text adopted the institution of denunciations initiated by *ho boulomenos* as a way to initiate procedures against transgressors of the League's regulations. This type of prosecution, which was a typical feature of the Athenian legal system, appears in Athenian decrees concerning the policies of the Delian League and in the founding decree of the Second Athenian League, the latter being, in all likelihood, the model for the Hellenic League. The Second Athenian League's provisions which provided for the protection of the allies offered the two Macedonian leaders of the league, Antigonos and Demetrius, the example of an organization that heralded their concept of freedom and friendship between their allies. Yet given Demetrius' attachment to Athens, there is a strong possibility that the Macedonian ruler's close relationship with certain Athenian political figures helped him either to observe the Attic institutions for himself or to choose his Athenian advisors as the drafters of the League's constitution. The legal terms concerning prosecution by volunteers which are mentioned in the charter demonstrate the Athenian character of certain features of the League's prosecution system and the wishes of the Macedonian commanders to present a sophisticated league constitution, which would convince their allies of their intention to offer them the opportunity of true deliberation on the common issues on equal terms. Despite the loss of its significance as a Greek superpower, it seems that Athens and its legal institutions continued to have an impact on several Greek *poleis* through the judicial proceedings of an interstate organization led by a pro-Athenian leader. Considering the short life of Antigonos' and Demetrius' venture, however, (the League was dissolved after

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<sup>161</sup> ἔαν δέ τις τῶν προέδρων δῶ τι τὴν ἐπιχειροτονίαν, ἢ αὐτῷ τῷ ὠφληκότῃ ἢ ἄλλῳ ὑπὲρ ἐκείνου, πρὶν ἐκτεῖσαι, ἄτιμος ἔστω. Canevaro 2013, 132-8, argues in favor of the authenticity of this law.

<sup>162</sup> IG IV<sup>2</sup> 1.68, 69-70: [σ]υνεδρεύειν δὲ ὅποσας ἂν ἡμέρας οἱ πρόεδροι / τοῦ συνεδρίου παραγγέλλωσ[ιν.]

<sup>163</sup> IG IV<sup>2</sup> 1.68, 78-80: τοὺς [δὲ προέδρους συ]/γάγειν τε τοὺς συνέδρους κ[αὶ τοὺς] γραμματεῖς ἀπὸ τοῦ κοιν[οῦ δόγματος(?) καὶ τοὺς] / ὑπηρέτας καὶ προτιθέναι περὶ ὧ[ν δεῖ βου]λεῖσθαι.

Antigonus' death at the battle of Issus in 301 B.C.) it is far from easy to demonstrate how profound this impact may have been.

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