Book VII.
Title XLIV.

Concerning the reading of the decision in a lawsuit.
(De sententiis ex periculo recitandis.)

Bas. 9.1.64.

7.44.1. Emperors Valerian and Gallienus to Quintus.

The decision of the arbitrator given to the litigants in writing but not read by him, is void. If you have, therefore, stated the truth (that the arbitrator did not read his decision), the rector of the province will grant you a new trial, without the delay of an appeal.
(No day or consul stated.)

Note.

The arbitrator here mentioned was probably a referee, mentioned in C. 3.3. Mommsen, Strafrecht 249 note.

7.44.2. Emperors Valentinian, Valens and Gratian to Probus, Praetorian Prefect.

We believe it best to provide by this ever-enduring law that judges whose duty it is to try and decide cases, must first frame their decisions, not hurriedly, but with deliberation, after the trial, duly consider them, and correct them, and then immediately and with fidelity, inscribe them in a protocol, and from that read them to the parties as written, without power to correct or change them thereafter. The eminent praetorian prefects, and others who occupy illustrious offices and all other judges of illustrious rank, are excepted herefrom, and they may cause their final decisions to be read by members of their official staff or other persons in their service.[1]
Given January 21 (371).

7.44.3. The same to Probus, Praetorian Prefect.

We order by general provisions, that all judges to whom we give power to declare the law in the provinces shall, after trial of the cause, give final judgment by reading their written decisions. 1. And we add, that a decision not written in not entitled to the name of a decision, and the formality of an appeal is not necessary to vacate such faulty decree.
Given at Trier, December 3 (374).
Th. 4.17.1.

Note.

The decision of all judges was required to be given in writing - the periculum being the written decision - and must be read by all, except those of illustrious rank, in open court in the presence of the officials, after consultation with the assessor - the lawyer sitting with the judge. C. 7.45.6. It was required to be in Latin. D. 42.1.48. After the rendition of the decision, it could not be changed (law 2 hereof; D. 42.1.62; C. 7.50.1.), except as to incidental matters, and that only on the same day. D. 42.1.42; D. 42.1.56. The judge then ceased to be a judge in the case. D. 42.1.55. The words,

[1] [Blume] See note to next law.

however, might be changed if the meaning was not. D. 42.1.46. And an order to do or not to do a certain thing, as distinguished from a decision might be changed. D. 42.1.14. These requirements were, of course, based on public policy and were salutary. In some cases the proceedings were directed to be short and summary, and were to be disposed of and decided without writing (Nov. 17, c. 3), yet in Nov. 82, c. 5, the special judges appointed therein, and who were given jurisdiction in cases involving up to 300 solidi, and who were directed to try cases rather summarily, were nevertheless required to given their decisions in writing. The decisions referred to were the final decisions in the case, including the decisions that finally disposed of definite issues as mentioned in C. 7.45.15. 3 Bethmann-Hollweg 291. See C. 7.57.5 and 7. See 33 Z.S.S. 217ff; Steinwenter, Urkunden 17.