

Global sources of local laws – example of “just price” (*iustum pretium*)

Marko Petrak, Nikol Žiha, János Jusztinger

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IPA Cross-border Co-operation Programme



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Laesio enormis gilt auch im eBay

11.10.2007 | 23:37 | IVO STITIC (DiePresse.com)

OGH: Das Recht auf Vertragsaufhebung wegen Verkürzung über die Hälfte ist auch bei privaten Versteigerungen im Internet anwendbar.



Der Oberste Gerichtshof hat klargestellt, dass das Recht, Vertragsaufhebung nach § 934 ABGB wegen Verkürzung über die Hälfte zu verlangen, auch bei privaten Versteigerungen auf Internet-Plattformen zusteht.



STRUCTURE



ROMAN LAW



MEDIEVAL LAW

Influence of Roman legal tradition & Canon law on *Tripartitum* and the *Statute of Ilok*



CONTEMPORARY HUNGARIAN & CROATIAN LAW



ROMAN LAW



CLASSICAL ROMAN LAW

Purchase price did not have to express the objective value of the merchandise.



CODE OF JUSTINIAN

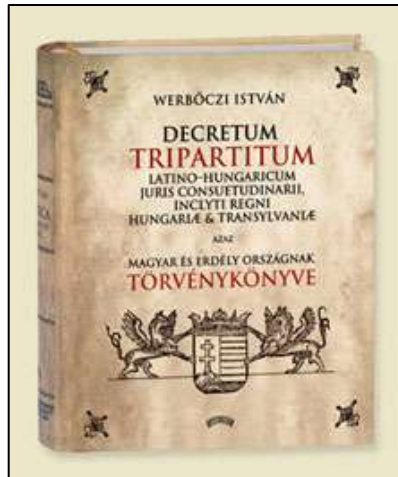
Rescripts of Diocletian and Maximian

C. 4.44.2. [...] *A price is considered too little if one half of the true value is not paid.*

C. 4.44.8. [...] *neither good faith, which protects the contract of purchase and sale, nor any other reason, permits that the contract, completed by consent, either immediately or after discussion of the price, should be rescinded on that account, unless less than half of the value of the property at the time of the sale was given, and in such case the purchaser has the right of election already extended to him (to pay the remainder of the just price.)*



MEDIEVAL ROMAN LEGAL TRADITION



Tripartitum (1514)



Statute of Ilok (1525)

Idea of *iustum pretium* implemented with the help of specific public law measures.



CONTEMPORARY HUNGARIAN & CROATIAN LAW

Art 201 (2) Hungarian Civil Code

If at the time of signing the contract there is an unreasonable and extensive difference between the value of a service and the consideration due, without either party having the intention of bestowing a gift, the injured party shall be allowed to contest the contract.

Art 375 (1) Croatian Civil Obligations Act

If at the time of entering into a contract there was an evident imbalance between the performances of the contracting parties, the harmed party may request annulment of the contract, provided that at that time it did not know or had no reason to know of the true value.





UNIFICATION OF PRIVATE LAW

Transition from freedom of contract to social responsibility.

Art. 4:109 *Principles of European Contract Law*

Art. 3:10 *UNIDROIT principles of international commercial contracts*

II.7:207 *Draft Common Frame of Reference*

“through Roman law, beyond Roman law”
Jhering



Thank you for your attention!

