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The boundaries of the gratuitous use of things in the sources of classical Roman law, with a view to the modern German regulation

Theses of PhD dissertation

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I. Brief summary of the research objective

The goal of the dissertation is to provide a vivid picture of the questions of gratuitous use of things still relevant today, by introducing dogmatic problems and the difficulties of delimitation in both classical Roman law sources and the German law in force. The analysis focuses on the contractual law aspects of the free use based on the parties' agreement, thus it covers mainly the construction of the loan for use contract, but partially touches upon the *precarium* as well, which in some sense can be found on the border of the law of obligations and property law.

The reason why no comprehensive Hungarian literary source can be found in either the topic of *precarium*, or in that of the ancient or modern loan for use, might lie in that the gratuitous transfer of use is regarded less significant from an economic point of view and is not in the cross-fire of commercial debates. However, assessing such a legal relationship, and therefore establishing governing rules or laying out its time limits, might raise exciting questions in practice due to the gratuitous nature of it.

The paper does not follow a traditional segmentation, since its goal is not to show the regulations governing one specific contract, thus – considering the page limit as well – it cannot be viewed as an analysis of each element of the loan for use. The intersections of its structure rather correspond with the several boundaries of this institution as suggested in the title. Thus, the components of the dissertation focus on border-areas, be it a contentual, a temporal, a factual or a liability dimension, or even gratuitous use of things based on favour or connected to another (onerous) contract, between the limits of which I introduce the Roman law rules and contemporary German law regulations as well as the relevant jurisprudence.

Besides the substantive limits of the paper, temporal limits should also be noted. The research in Roman law concentrates on the classical period, references to the Medieval continuation are only necessary exceptionally, regarding free habitation. Pre-classical antecedents are considered insofar as I would like to illustrate the possible everyday meaning of the expressions referring to the gratuitous use of things appearing in the literary sources through examples from Plautus' comedies. The analysis of modern German law focuses primarily on the German Civil Code in force and on judicial practice. Thus, I do not aim to show in full the Roman and temporary German regulations of the loan for use and the address its millennial evolution; my goal is rather – by highlighting the "sensitive border-issues" of

the gratuitous use of things – to analyse and resolve – at least partly – the theoretical and practical disputes concerning this seemingly marginalized topic.

II. Research and analyses

The Roman law regulations are being introduced with the exegetical method. Hence, in each chapter I assess the legislation elaborated by the ancient jurists by looking at the primary sources quoted verbatim, especially the Digest, the epitomes of cases and their Hungarian translations, or in some cases, their simple descriptions. Besides the sources of Classical Roman law, I lean on the German Civil Code in force and the relating judicial practice. The primary reason for this is the provisions in the BGB are akin to the ancient law in content, secondly, the colourful and rich German judicial practice in the topic provides excellent examples for each chapter. Besides the descriptive method the comparative method is necessarily being used because of the parallels of analyses of the ancient Roman and modern German law within the chapters.

The examined boundary-topics provide the basic units of the dissertation: in the first chapter the focus of the research lies in the substantive borders of the gratuitous use of things, in the second chapter in the temporal borders, the third chapter focuses on the borders concerning the loan for use concerning properties, the fourth on the standard of liability, and the fifth on the connection to other contracts.

1. In the first chapter the dissertation begins from the field of law and morals, and aims to examine the borderline between a contract for the gratuitous use of things and a simple favour. The first step in this regard is to introduce the expressions concerning free use found in literary sources, according to the everyday meaning of the terms. The examination of the classical sources and the German legal regulation is not limited to a simple dogmatic analysis but aims to draw attention to the practical consequences of the difficulties of delimitation.

In terms of content, it is justified to draw the following line between the loan for use and the *precarium*, through which I present the regulation of the legal institution distinguished by the conceptual element of revocability at any time, given that the following chapters focus on the loan for use – a typical contract for free use. The aim of the analysis in this area is not to fully explore the rules, disputes and difficulties of the *precarium* and the *commodatum*, but to highlight the foundation and significance of the distinction between these two legal institutions by highlighting the specifics of the *precarium*.

2. The aim of the second chapter is to draw the temporal borders of the gratuitous use of things, in which I look for the answer to when the loan for use begins and when it ends. The analysis, based on solutions of real and consensual contractual rules, sharply contrasts

antique and modern standards, and provides some insight into the provisions of other European codes in terms of definition. In the second half of the chapter, the Roman legal facts of the termination of the loan for use are followed by a presentation of the relevant rules of the BGB. The guideline for examining the rules of the classical era is a source text from Paulus, which helps to orientate oneself in the question of how long a loan for use lasts and how the possibility of „premature" termination may arise. In the context of the relevant provisions of the BGB, in addition to the examination of fixed and indefinite periods, I shall mention the importance of the circumstances of the parties at the statutory level and the need to determine as precisely as possible the grounds for termination.

3. The third chapter looks at the issue of free use of immovable property: it examines the concept of *gratis habitare* in Roman law and the difficulties of classifying the free use of immovables in German case law. In this context, the „border issue" is different in the case of antique and in the case of modern rules. In classical Roman legal sources, I am looking for the answer to whether immovables can be the subject of loan for use at all, while in German judicial practice, the difficulty that recurs from time to time is whether to classify free housing as loan for use or donation.

4. In the fourth chapter, the boundaries arising from the borrower's standard of liability and the bearing of risk can be interpreted on two levels. On the one hand, as to how long liability lasts and where the risk bearing begins. I break down the principle of *casum sentit dominus*, which can be considered general, and examine the possibilities of transferring the risk to the *commodatarius*, depending on whether the parties have determined the purpose of use. There may also be another aspect of boundaries, the limit of use: whether it is for a purpose other than the intended or customary use, or for transfer to a third party. The rules of the BGB are well suited to this issue, so that the clarification of the borrower's liability in this case also leads from the general rules to the facts of the misuse in exceptional cases, including unauthorized and permissible third-party transfers.

5. In the final chapter of the dissertation, I first examine the possibility of a connection of an onerous contract – especially some of the ancillary contracts of sale – and the gratuitous use of things in the light of Roman legal sources, paralleling the question with the construction of an alternative and cumulative combination of leases.
In addition to highlighting some of the cases of the loan for use connected to an onerous contract, as recognized under German law, the chapter presents the provisions governing the test drive as a free trial.

III. Brief summary of the results of the research

During the research I aimed to illuminate certain areas of the gratuitous use of things from several sides, in different dimensions, approaching from the theoretical problems, keeping in mind the practical difficulties – and at least partially solving them – of the Roman law and modern German law aspects of the issues in question.

1. In the framework of the first chapter, I examined substantial issues, in which I dealt with the differentiation of law and morality, as well as loan for use and *precarium*.

To the ethical and legal meaning of the terms related to the gratuitous use of things, Plautus' comedies added to the study of possible interpretations of *commodare*, *utendum dare* and *beneficium*, drawing an extremely diverse picture about the questions of favour, charity, lending, loan for use and use, providing an excellent basis for further analysis.

Based on the literary sources examined in the case of *commodare*, which typically appears as a meaning for loan for use, I find it acceptable to understand it in the general ethical sense of favours, however, I do not consider this term applicable to lending money.

The term *commodare*, which appears in a more abstract meaning in one of the Plautian texts cited in the analysis, can be contrasted with the notion of *utendum dare*, which presumably refers to the moment of transfer, while the study on the free use of immovable property specifically refers to the narrower use of *commodare*. The most important conclusion I have drawn from the juxtaposition of the two terms is that the difference in the degree of abstraction of the terms *commodare* and *utendum dare*, as often used interchangeably, depends on the context and the subject of the use. The differences between abstract and more specific interpretations, friendly favour, and legal constraint were determined by contrasting the former terms with *beneficium* (charity).

As to why the legal scholar is interpreting the *commodatum* as a *beneficium* in Paul. D. 13, 6, 17, 3 – contrary to the cited sources of Plautus and Seneca – I think a possible explanation is that the emphasis in this text is not on the distinction between charity and lending, but rather on contrasting a *commodatum* with a legal obligation with a charity and a mere favour, which are used as an equal concept.

Based on the testimony of antique sources, I see the boundary line between the *officium* and the *contractus* in the real contractual nature, so that after the handing over of the thing, there is no longer a gratuitous transfer of use outside the scope of *commodatum*.

However, in German law, three different categories can be distinguished: the recognition of a favour as a contract, as a „Schutzpflichtverhältnis" with a transactional

character, or as an everyday favour outside the realm of law is not just a theoretical debate, it has important implications for the favourer's responsibility.

I have found that while the loan for use is clearly governed by contractual rules and outside the field of law by the rules of non-contractual liability, the category of a transactional nature lying between them requires a differentiated approach. With the help of the rules of indemnification and the distinction between damages caused in connection with the condition of the thing and independent from it, I finally came to the solution preferred by the judicial case law as well, which combines non-contractual liability with the rules governing the lender.

In the second half of the first chapter, a substantive distinction was made between two important legal institutions of the free use of things. According to the sources, the demarcation of the *precarium* and the *commodatum* cannot be justified by historical reasons – although this cannot be ruled out with absolute certainty – so in the course of the analysis I searched for other, more certain points of reference.

One of the most important starting points proved to be the classical role of *precarium*, which suggests that it was not applied independently during this period and cannot be considered a contract. I emphasized that in the classical age, in its function of establishing protection of possession, it was used as a means of protecting credit collateral, preserving and securing services, and as an appendix to assignment contracts.

Then, in the course of the analysis, I drew attention to further contradictions, since while the contractual form of the free use of things, the *commodatum*, is discussed among contracts, the duality of the *precarium* is, for example, that the way it is created is closer to contracts, but its subject matter focuses on a factual element, the possession.

Thus, the possibility of the protection of possession against third party allows the precarist a strong position from the point of view of property law and a weak position from the standpoint of law of obligations, which can be sharply contrasted with the weak position of the *detentor commodatarius* from the point of view of property law, but strong position from the standpoint of law of obligations. The possibility to recover at any time strengthens the legal position – from the point of view of property law – of the *precario dans* and gives the opportunity to take away the thing from the precarist without a legal dispute on the obligation.

In my opinion the two constructions might complement each other in that regard, however, compared to the possibility of the *commodatum* to exist independently, in the classical era the ancillary nature of the *precarium* (which only serves as a base for protection

of possession) presupposes an additional legal relationship, which probably becomes thus protected by a contractual action.

If, in addition to the *commodatum*, we assume a cumulative combination of the two and, given the ancillary function of the *precarium*, the priority of the loan for use, I consider that only in the case of the expiry or breach of the contract will the recovery at any time as secured by the *precarium* be enforceable by means of protection of possession.

The role of the *precarium* in modern German law seems negligible, given that its classical function has ceased to exist and that, during codification, the provisions of the loan for use were first extended to it and it was then integrated into its regulation. At the same time, it was logically excluded from the facts of the imperfect possession, as the return became a normal contractual obligation that could not be sanctioned by a possessory legal instrument.

However, in my opinion, the idea of the necessity of a modern legal institution similar to *precarium* – which does not interfere with commercial traffic – cannot be ruled out, since this gratuitous use of things, which bears a special function and in a way lies on the border of property law and obligation law, strengthening contractual relations from a property-law point of view, seemed able to build a bridge between the fact of the possession and the obligation it is based on.

2. In the second chapter, examining the time limits now only concerning the loan for use, I emphasized above all that the recognition of freedom of contract had led to a change in the conclusion of the loan for use agreement, so that although initially regulated as a real contract, according to the BGB it can also conclude as a promise, since its consensual nature does not assume the delivery of the thing.

At the same time, in this favour-based contract, it does not seem worth to completely rule out the possibility of maintaining the real contract regulation in modern codes, nonetheless I consider the *clausula rebus sic stantibus* included in the law to be an acceptable solution in addition to the consensual construction. On the other hand, it seems clear to me that overemphasising this consensual nature can lead to unrealistic regulation, for example, if it emphasizes the obligation of the borrower to take over the thing instead of returning it.

Regarding the termination of the loan for use, I found that although we could not discover the modern provisions of the German Civil Code in the Roman legislation, it can be observed from the examined fragment of Paulus (Paul. D. 13, 6, 17, 3) that the principles of early termination of the contract in some cases led to a similar result as their modern counterparts.

During the research, I started from the distinction between the interests of the parties, as well as the fixed-term and indefinite-term loan for use, and I discussed the individual cases in a logical system. As the *commodatum* motivated by the interest of the lender is accepted on the basis of the liability criteria defined in the Digesta, I treated this as a separate case in the analysis and found that the application of the general rules of termination are not to be applied in the case of exceptional liability.

During the analysis, I highlighted the connections between deploying a keeper and the possibility of contract extension (Ulp. D. 13, 6, 5, 14). With the help of the regularities emerging from the sources, I followed a „system" regarding the question of the early termination of the loan for use, which seems to be well developed and appropriate due to the eternal principles.

Compared to the rules of Roman law, I have found that the German Civil Code also distinguishes between fixed and indefinite loans for use, and recognizes the possibility of early recovery by termination rules, but does not accept the case of an extraordinary loan for use agreement concluded in the interest of the lender. This is somewhat balanced by the inclusion of the *clausula rebus sic stantibus*, as the parties' circumstances are sufficiently taken into consideration when it comes to termination.

Thus, if the expiry date of a contract for free use has not been specified, or if it has been indicated, but circumstances have subsequently arisen which may justify taking back the thing, the relationship of trust between the parties and the free nature of the transaction justify determining the grounds for termination as widely as possible.

In the case of an indefinite term, the conceptual element of the *precarium* comes into play, as it allows for recovery at any time without a time and purpose requirement, but in my opinion a sufficiently narrow framework must be set for its unrestricted applicability.

3. In the third chapter, as in the sources of classical Roman law, the differentiation of the term *gratis habitare* used for free housing and *commodatum*, the juxtaposition of *utendum dare* and *commodare*, the lending for use of immovables and rights, and the applicable actions have raised a number of issues. Examining the possible meanings of *gratis habitare*, the possibility of interpreting it as a *commodatum* and as a donation arose, as well as its relation to the right to housing (*habitatio*). The interpretation as a donation, quoting Pomponius' opinion, was only touched upon briefly in the study of Roman law; its detailed analysis took place in the part of the chapter describing German case-law, due to the timelessness of the arguments concerning classification difficulties.

Regarding the argument arising in the defining Roman law source (Ulp. D. 13, 6, 1, 1) I first recorded the thoughts of individual scholars on the terms *utendum dare* and *commodare* used in connection with immovable properties. Labeo interpreted the concept of *commodare* within the terms of *utendum dare*, meaning he did not accept the lending for use of immovables, but Ulpianus no longer questioned the application of *commodatum* regarding land and buildings connected to it, and Vivianus acknowledged the possibility of lending a *habitatio*.

The significance of the distinction was shown by the possibility of bringing an action under a loan for use agreement: in his principles in Ulp. D.19, 5, 17, Vivianus draws the appropriate conclusion from his previous position that the *actio commodati* is available in the case of free habitation, but Ulpianus suggests the *actio praescriptis verbis* as a safer solution. Besides rejecting doubts about gratuitousness, I have found the right of action to be an explanation of Ulpianus' opinion. If we assume that at the time of Labeo the recognition of free housing as a *commodatum* was uncertain, then Ulpianus could practically advise the parties on the *actio praescriptis verbis*, which led to a more certain result, and could not fail on the question whether the loan for use existed at all.

Researching the reasons for the legal scholar's caution, an interpretation proposal related to Vivianus' opinion was raised, referring to the classical-era lending of the right of housing (*ius habitationis*). Based on the possible meanings of *habitatio* and the term *amplius* used in connection with Vivianus' opinion, I do not rule out the possibility that in the source text the scholar suggests that he accepts the right to housing as *commodatum* in addition to immovables, so the *actio commodati* is without doubt in his eye. Due to the coherence of the sources, there is no reason to doubt that in the time of Ulpianus immovables could have been the subject of *commodatum*.

In the course of my analysis, I addressed the possibility of distinguishing between *commodatum* and *gratis habitare* based on the fact that these two legal institutions were applied to transfers of different durations, but in the absence of evidence, I believe we might agree with Ulpianus' and Vivianus' view, according to which *gratis habitare* seems to be one way in which *commodare* be applied.

However, I think it is conceivable that they saw the subject of the loan for use in the case of free housing in a different way: Ulpianus accepted immovables as the subject, while Vivianus also accepted the right to housing as subject of the loan for use. Accordingly, it seems logical that Vivianus explicitly considered the *actio commodati* to be available, since in neither case does he doubt the existence of the *commodatum*, while Ulpianus suggests the

„safer" *actio praescriptis verbis* instead; his doubts may be explained with the argument outlined by Labeo, or with the theory of Vivianus about the loan for use of rights.

In German legal practice the core of the disputes about the free use of immovable property lies in the question whether it shall be considered as a loan for use or an endowment. Due to the inconsistent case law of the Bundesgerichtshof (BGH) and its long-lasting uncertainty, I considered it worthwhile to examine this issue more thoroughly.

Thus, after describing the possibilities of interpretation as a gift – the donation of possession and use, the construct of cost savings, and the construct of a fictitious rent waiver – I drew attention to the fact – with the help of the literature and the criticism of judicial practice – that this qualification may result in undesired dogmatic and practical consequences that could question the whole system of contracts.

I highlighted the boundary between donation and loan for use by emphasizing the concept of the time factor and the benefit.

Although the BGH now seems to be right and confident in arguing for free habitation as a loan for use, the conditions and extent to which certain rules of donation can be extended to lending of immovables remain an exciting practical problem.

As a solution, besides analogy, fiction based on the pomponian theory may be applicable. In my view, the former – in the absence of regulatory gaps for loan for use – needs to be narrowed down; and if we look at the other way and accept the fictitious rent waiver construct – thereby trying to extend rules of donation with the help of non-existent facts – we would basically have to apply all the provisions of that contract, the methodological basis of which can hardly be justified.

4. The fourth chapter, which examines the limits of liability and risk bearing, focused on exceeding the boundaries of use in several dimensions: the object, the time factor, and the subjects.

During the analysis of the antique sources, I put into logical order the exceptional rules governing the lender of the bearing of risk in connection to improper use, to which I used the topic's rich and colourful case-law.

Thus, in the first part of the study, starting from the liability rules, I presented the essence of the custodia-liability of the *commodatarius*, established the significance of a differing agreement between the parties, and assessed the exceptional forms (Ulp. D. 13, 6, 5, 10) under the *utilitas*-principle, with special emphasis on the transfer of risk.

The primary sources of Roman law cited (Ulp. D. 13, 6, 5, 7; Ulp. D. 13, 6, 5, 8; Gai. 13, 6, 18 pr.) showed that the unauthorized use of the thing subject to the *commodatum* –

thus reaching the „boundary" of use – usually leads to a breach of contract by the *commodatarius*, to *furtum usus* (Gai. 3, 196), and as the debtor of the tortious obligation he is liable irrespective of fault for the impossibility through force majeure of the specific service, and bears the risk of the destruction of the thing, so that there is no place to apply the principle of *casum sentit dominus*.

In the absence of a stipulation of the purpose of use, I examined the case of „irregular" *commodatum (commodatum ad pompam vel ostentationem*) and unauthorized transfer to a third party in terms of misuse. Thereby I concluded that the agreement of the parties may override the intended use and that the illegality of the transfer of the object of the loan for use to a third party – similar to non-contractual use due to *furtum usus* (Gai. D. 47, 2, 55, 1) – results in the transfer of risk to the borrower.

Regarding liability, the provisions of German law on loan for use prove to be similar in many respects to the rules developed by Roman jurists, so the drawing of parallels on this issue seemed quite obvious. For example, the rules of modern German law also stipulate the liability of the borrower for all faults, as well as the possibility for the parties to agree otherwise. The Roman scholars saw the bottom limit in intent, while in German case-law we can find the exclusion of slight negligence. The BGB accepts liability for *casus* – as opposed to the general rule of the antique custodia-obligation, which also refers to one form of chance – in cases where the borrower is late in returning the thing, unless the damage would have happened anyway if he was in time, or if his unlawful conduct leads to a lasting lawlessness which contributed to the impossibility. If we consider chance specifically as *vis maior*, then a parallel can be drawn.

According to the wording of the German Civil Code, the borrower is not liable for damages caused during the contractual use of the object, so causing damage or destruction within these limits is „justified". In this context, too, I have caught the interpretation of lack of conformity as exceeding the limits of use, in which case it proves to be sufficient if the fault relates to unlawful conduct and there is a causal link between the breach of the obligation and the damage, according to the case-law.

The limits of the question of overstepping the circle of persons in German law I have shown through the introduction of the parties' agreement and the admissible cases of transfer to a third party.

5. The fifth chapter of the dissertation focuses on the line between free delivery and an onerous contract, and the connection between these.

During the analysis of Roman law sources I first examined the cases of free trial – as can be seen with one of the ancillary agreements of the sale's contract, *pactum displicentiae* –, and in regard to its form with suspensive condition that assumes a short trial period I found that the theoretical possibility of the application of the rules of the gratuitous use of things cannot be ruled out with certainty, because it supposes a legal relationship similar to *commodatum*.

In the course of the analysis, I came to the conclusion that, based on the cases of rents stipulated for the trial period and on the possibility of an alternative combination of sales and leases, a parallel can be drawn, so that sales and *commodatum* can have an alternative relationship when requirements are met. One of the counterarguments raised in the literature, the existence of the transferor's interest, does not conceptually preclude the acceptance of the loan for use – according to the sources, as they exceptionally allow a *commodatum* motivated by the interest of the lender.

Based on the principles in Ulp. D. 19, 5, 20 pr. also examined the possible actions besides *actio venditi*, and found that *actio praescriptis verbis* being proposed by the scholar in the legal case instead of *actio commodati* – considering the cases of free use of immovable property – does not seem surprising, and can be explained with Ulpianus' caution.

Concerning the cases of free trial where in the absence of a sale there is only a purchase offer or the case of the so-called *inspiciendum dare*, I consider the existence of the *commodatum* wholly acceptable. In these cases, the sale cannot stand in the way of the acceptance of the free use of things, since not even the form with a suspensive condition was concluded. The interpretation of the free trial independent from sale as *commodatum* can be proven by the pomponian fragment titled „*Commodatum vel contra*" (Pomp. D. 13, 6, 13, 1) in my opinion.

Through the examination of further ancillary agreements to the sales contract, in connection with the *lex commissoria* and *in diem addictio*, as a counterpart to the alternative combination, I found an example of a cumulative combination of sale and *precarium* in the light of antique sources, in which the priority of sale was overridden only by non-payment (Ulp. D. 43, 26, 20) or by the appearance of a better buyer (Ulp. D. 43, 24, 11, 12).

In the case of a sale with *in diem addictio*, the possibility of a legal construction in which the land in the legal case was transferred to the buyer at the same time as a *precarium* and as a lease arose. This solution can be explained with the function of *precarium* to protect possession as elaborated on in the first chapter, and aims to strengthen the position of the

seller: it prevented the acquisition of ownership over and adverse possession of the thing handed over as *precarium*, and made enforcing the maintained ownership easier.

Based on the sources, it can be stated that the *precarium* – in connection with the sales contract – ultimately proved to be able to promote the buyer's willingness to pay the purchase price.

The German case law analysed in the second half of the chapter has shown that there are cases where the possibility of loan for use is clearly accepted in connection with an onerous contract, for example as an ancillary service to a sales contract, and other cases where differentiation is needed.

With regard to the test drive as a free trial, I found that its assessment was far from obvious, the question led back to one of the important dilemmas of the first chapter, as the rules applicable to the test as a means leading to a potential sales contract seem to depend on whether the transaction falls under the category of favour or contract.

In the dissertation I aimed to present the theoretical and practical problems related to the free use of things, especially the loan for use, in which I integrated the examined questions into a system that can be interpreted in several dimensions and focuses on the boundaries that also mark the individual chapters. Looking at antique *casus* and modern German jurisprudence helped shed light on the perpetuity of the problems, so that the findings in the dissertation can also serve as a starting point for further research in Roman law and modern private law.

IV. 1. List of publications in the topic of the doctoral thesis

CSOKNYA Tünde Éva: Észrevételek a haszonkölcsön megszűnéséről egy paulusi Digesta-fragmentum alapján (Paul. D. 13.6.17.3) [Comments on the termination of the loan for use based on a paulian Digest-fragment (Paul. D. 13.6.17.3)], in: ÁDÁM Antal (szerk.): *PhD Tanulmányok 10.*, Pécs, PTE ÁJK Doktori Iskola, 2011, 91–115. p. [Antal ÁDÁM (ed.): *PhD Studies 10.*, Pécs, University of Pécs, Faculty of Law, Doctoral School, 2011, 91-115. p.]

CSOKNYA Tünde Éva: A szerződésellenes használat és a veszélyviselés összefüggései a római haszonkölcsönnél egy ulpianusi töredék alapján [Connotations between use contrary of agreement and risk bearing in Roman loan for use based on Ulpian's fragment] (Ulp. D. 13,6,5,7), *JOG ÉS ÁLLAM* 18 (2013), 157–163. p.

CSOKNYA Tünde Éva: „Cuius esset periculum?" Veszélyviselés szerződés-, illetve rendeltetésellenes használat esetén a római commodatumnál [Risk bearing in the Roman commodatum in the case of use contrary of agreement and misuse], in: ÁDÁM Antal (szerk.): *PhD Tanulmányok 12*., Pécs, PTE ÁJK Doktori Iskola, 2013, 37–59. p. [Antal ÁDÁM (ed.): *PhD Studies 12.*, Pécs, University of Pécs, Faculty of Law, Doctoral School, 2013, 37–59. p.]

CSOKNYA Tünde Éva: A használat céljában való megállapodás jelentősége a commodatumnál [The significance of the agreement of use in the case of commodatum], in: P. SZABÓ Béla – ÚJVÁRI Emese (szerk.): *Universitas „unius rei": Tanulmányok a római jog és továbbélése köréből*, Debrecen, Debreceni Egyetem Marton Géza Állam és Jogtudományi Doktori Iskola, 2014, 53–71. p. [Béla P. SZABÓ – Emese ÚJVÁRI (eds.): Universitas „unius rei": *Studies of the Roman law and its survival*, Debrecen, University of Debrecen Marton Géza Faculty of Law, Doctoral School, 2014, 53–71. p.]

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