

GÉZA MARTON (1880–1957)



Géza Marton, one of the most significant and internationally respected Hungarian romanists of the 20th century, obtained his doctorate in law in Budapest in 1903. During the 1904/1905 academic year, he studied law in Paris, completing the Cours de droit romain at the Sorbonne. In Paris, he was influenced by the scholarly work of Paul Frédéric Girard (1852–1922). After completing his studies, Marton worked as a trainee lawyer and a lawyer. In 1907, he was appointed professor of Roman law at the Reformed Law Academy in Máramarosziget. He conducted scientific research in Berlin in 1908 and in Paris in 1910. In 1911, he obtained his private lecturer qualification in Budapest. From the end of 1917, he became a professor at the Reformed Law Academy in Debrecen in 1921, where he was a professor at the Department of Roman Law from 1921 to 1925 and from 1927 to 1937. From 1927 to 1957, he was a professor at the Department of Commercial and Exchange Law. He served as dean of the law faculty in the 1926/28 and 1936/37 academic years. From 1937 until his death, he was a professor of Roman law at the University of Budapest. In 1948/49, he served as the dean of the faculty of law. He taught for a total of almost one hundred semesters, mainly Roman law and, to a lesser extent, commercial law.

Marton's teaching activities and popular textbook contributed significantly to the strengthening of Roman law in the curricula of Hungarian universities. The first edition of his textbook (*A római magánjog elemeinek tankönyve* [Textbook on the Elements of Roman Private Law]) was published in Debrecen in 1922, and it was then used by law students for decades in numerous editions, thus serving as the basis for the study of Roman law in Hungary for nearly half a century. The seventh edition was published in 1957 and significantly contributed to the survival of how to perceive the foundations of European civil law during the socialist period.

Marton, who was primarily a romanist, combined research on the development of the doctrine of liability in Roman classical and post-classical law with efforts to develop a uniform (monist) system of liability in modern private law. Marton devoted almost his entire academic career to thoroughly exploring these areas. His studies on the liability system in classical Roman law, most of which were written in Hungarian, traced the development of the concept of liability and gave rise to his lifelong struggle against the principle of fault, which he considered too narrow, drawing on the results of comparative law.

His 1926 study entitled "*Verschuldensprinzip – Verursachungsprinzip*" can be considered as the first attempt to establish the foundations of uniform civil liability. In this, Marton demonstrated that the principle of fault is too narrow to fully establish civil liability. At the same time, he rejected the principle of causality proposed as a replacement for the principle of fault, as it would be too broad to establish liability. By developing new perspectives, Marton sought to create a certain synthesis and thus elaborate and explain the principle of civil liability lying between the principles of fault and causation. His main starting points were the need for prevention and consideration of the principle of interest. In his opinion, dangerous activities carried out in one's own interest may establish liability and increase its level. Furthermore, he considered the economic capacity of the party to bear the burden to be an additional factor to be taken into account, as it may influence the amount of damages to be compensated. According to Marton, the various aspects and elements of responsibility are linked by utility, or "*utilitas – Utilität*", meaning that the responsibility system to be developed must take into account the interests of society above all.

What makes this study epoch-making is that, starting from the flaws of the classical concept of responsibility, it outlines the foundations of a completely new, radically different and theoretically sound system of responsibility. The new theory of liability (the Marton system) based on his research into Roman law was further developed in his 460-page monograph on liability published in French, in 1938, titled: *Les Fondements de la responsabilité civile : révision de la doctrine, essais d'un système unitaire* (Paris, Recueil Sirey).

In the first part of the work, after a detailed analysis of Roman, German and French legal developments, he systematically criticised fault-based liability, then examined the theory of strict liability, outlining the principles of establishing and determining liability. Marton saw that these principles had not been examined in terms of their uniformity or their interaction. In the second part of the work, he presented the foundations of his own uniform system of responsibility with more detail and precision. In his work, Marton essentially expressed the view that in civil law, the basis of liability can only be objective, but that this objective liability can be modified by various factors (prevention, justice, legal certainty, risk factors, etc.). If the book had not been published on the eve of World War II, it might have had a much greater impact and influenced the development of civil liability on the European continent. Even so, it did have an impact, and Marton immediately became one of the leading authorities on compensation law.

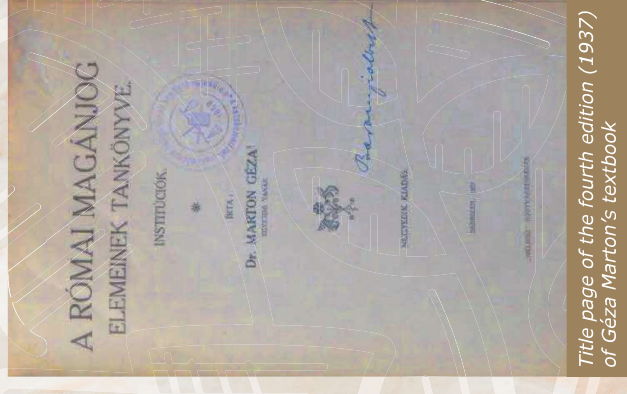
However, he could not convince his contemporaries of his theories, not even in his own country. This was despite the fact that in an important summary of Hungarian private law at the time, "*Magyar magánjog*" (Hungarian Private Law), which was later published in six volumes, the editor-in-chief, Károly Sziladits gave Marton the opportunity to explain his system of liability (right to compensation, liability for non-contractual damage), which thus became common knowledge in the Hungarian legal community. During the last decade of his life, Marton drafted several versions of legislation for the chapter on compensation in the Civil Code that was being prepared.

He also summarized his theories on civil liability in another work, a study entitled "*Versuch eines einheitlichen Systems der zivilrechtlichen Haftung*", which was published posthumously in the Archiv für die civilistische Praxis in 1963.

Marton was elected a corresponding member of the Hungarian Academy of Sciences in 1939. He delivered his inaugural lecture entitled '*The Contemporary Value of Roman Law*' at the Hungarian Academy of Sciences on 13 April 1942. Eötvös Loránd University awarded him an honorary doctorate in 1957, and in the year of his death, he received the Kossuth Prize, the highest state award at that time.

His students included distinguished Hungarian romanists as Károly Visky, Róbert Brósz, and János Zlinszky, who, together with others, had a significant impact on the teaching of Roman law and Hungarian Romanist research in the second half of the 20th century.

In his opening lecture at the conference organised by the Société Fernand de Visscher pour l'histoire des droits de l'antiquité (SIHDA) in Miskolc in September 1991, entitled "*Questions de responsabilité dans le monde antique*", Carlo Augusto Cannata paid special tribute to Géza Marton's work and ideas on responsibility.



Title page of the fourth edition (1937) of Géza Marton's textbook