Iván Siklósi, A nemlétez?, érvénytelen és hatálytalan jogügyletek elméleti és dogmatikai kérdései a római jogban és a modern jogokban, (Budapest: ELTE Eötvös Kiadó, 2014; with detailed summary in English)

I. An imposing doctoral thesis, defended in 2013, served as the basis of this elegantly produced work.

Regarding the various interpretations of the above-mentioned concepts, the author's main purpose has been—following a brief historical analysis of the concepts of juridical act and that of the concept of contract—to clarify and to systematize the concepts of inexistence (existence), invalidity (validity), and ineffectiveness (effectiveness) of juridical acts. In addition, special scientific problems related to these concepts are treated (e.g. the applicability of the modern concept of the inexistence of contract in Roman law; the raison d'être of the dogmatical construction of contractual inexistence; the formation of the modern concepts of nullity and annulment and the applicability of these legal categories in Roman law; the problems of elimination of the causes of invalidity in Roman law as well as in its subsequent fate; the dogmatical questions of partial invalidity; the theoretical problems of the ineffectiveness of juridical acts; the dogmatic problems of the revocation of will).

II. As for the methods of the research, the quite complex choice of topic—with special regard to the Roman law research—needed the application of a complex scientific method which is dogmatical on the one hand and historical on the other. Although the dogmatic method has enjoyed priority, a kind of "mixed" methodology of dogmatical and historical approach was applied.

III. Siklósi distinguished four levels of ability for producing legal effects:

1. Inexistence—when the legal transaction is not able to produce any typical legal effect; it does not exist in the contractual sphere.

2. Invalidity—when the legal transaction exists but it is not able to produce the intended legal effects.

3. Ineffectiveness (in strict sense)—when the juridical act without any legal fault could produce the intended legal effects, but only potentially and not actually.

4. Effectiveness (in strict sense)—when the valid legal transaction is actually producing the

intended legal effects.

At the first level, the "juridical act" is not able to produce any "typical" legal effects. At the fourth level, however, the existing, valid, and effective juridical act is able to produce actually and in fact is producing the "typical" and intended legal effects. This system can be regarded perhaps the most important scientific achievement of Siklósi's research.

IV. As for the structure and content of the book, following the Introduction (Chapter I) on the topic, purpose, and methods of the book, in Chapter II the author analyses some important questions related to the concept of juridical act and contract in Roman law and in the doctrine as well in the codes both in Europe and outside Europe. The essence of the concept of juridical act—which was not elaborated by Roman jurists—was described with terms "agere", "gerere", and "contrahere" in Roman law. In this regard, for instance, a famous text by Ulpian (D. 50, 16, 19) has been deeply analysed. As for the formation of the modern concept of juridical act, the author emphasized that its roots can be traced back before the Pandectist legal science (see the definitions of Althusius, Nettelbladt, and Harpprecht from the earlier centuries). Regarding Roman law sources, the author focused, inter alia, on the importance of contractual form and will, on the distinction of *contractus* and *pactum*, and on the development of the concept of contract in Roman law sources, giving an overall summary of the virtually boundless literature. Following that the formation and development of modern concept of contract, the principle of contractual freedom, and the roots of *pacta sunt servanda* principle in canon law as well as in Dutch and French jurisprudence were treated, with also regard to the modern legal systems.

In Chapter III the author is dealing with the problems of inexistence of the contract in Roman law and in modern (contemporary) legal systems. On the basis of numerous relevant sources of Roman law (fontes iuris Romani) the author inquires whether the modern concept of inexistence of contract was applicable in Roman law, and differentiates between inexistence and invalidity. In addition, the legal consequences of the inexistence of contracts in Roman law and in its subsequent fate are also dealt with. It is worth mentioning that—contrary to invalidity—the inexistence of contract is not to be regarded as an unlawful situation. According to Siklósi's opinion, the "inexistence" of a contract in the contractual sphere means inexistence regarding the lack of the so-called *äußerer Tatbestand*. This consideration could help us to distinguish between inexistence and invalidity of juridical acts, which problem was also investigated in the context of modern legal systems.

In Chapter IV—which can be considered as the central and the most elaborated part of the

book—some dogmatical and terminological questions related to invalidity of contracts are investigated. In this chapter the modern (contemporary) concept of invalidity of juridical acts, its applicability to Roman law related research, the formation and development of the distinction between nullity and annulment, the disputed questions of the elimination of the causes of invalidity, and the problems of partial invalidity are treated. The terminological inconsistency and the great variety of Roman law sources concerning invalidity deeply affected the modern legal terminology in this respect. Considering the terminology of invalidity in modern legal systems the author distinguished between a "German-type" and a "French-type" terminology. As for elimination of the cause of invalidity, the legal construction of *laesio enormis*—which can be regarded, according to the author's opinion, as one of the cases of annulment according to *ius civile* in Roman law—and then the legal constructions of convalescence and conversion of juridical acts were investigated in Roman law as well as in its subsequent fate. Finally, the dogmatical questions of partial invalidity of contracts were treated in Roman law and in its subsequent fate. According to Siklósi, partial invalidity of a juridical act can only be recognized when the contractual will and, therefore, the juridical act itself can be divided into different autonomous parts and, additionally, when it is backed by the interests of the parties.

In Chapter V the author is dealing with some theoretical, dogmatical, and terminological problems of ineffectiveness of juridical acts with special regard to the revocation of will from the point of view of legal doctrine.

Finally, in Chapter VI of the book the most important conclusions and the possible utilization of the scientific results are summarized.

V. The work is supplemented by a detailed English language summary, a list of abbreviations, a list of the most relevant sources, and a multilingual bibliography.

In our opinion, the system of concepts developed in this book can be useful for lawyers working both in theory and practice, and not only for civil lawyers but also for the experts of other legal branches (e.g. constitutional law, administrative law, law of civil procedure).