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## REAL ESTATE DONATION PER HISTORIAM ET DE LEGE LATA

*Summary:* The institution of donation has existed for centuries, and real estate donation deserves special attention. The Roman law regulations are for the most part a model of the modern law. The Roman law distinguishes the donation before marriage (*donatio ante nuptias*), in the case of marriage (*d. Propter nuptias*) and in the case of death (*d. Mortis causa*). The medieval understanding differs significantly from the Roman one, which can be seen in the example of Croatian medieval documents that were influenced by Venetian and Germanic law. The paper analyzes formulations of donation in documents, revocability, donation for the benefit of the Church and remuneration (*remuneratio*) which makes the donation irrevocable, but also opens the possibility of covert sale. Documents in the medieval Bosnian state are based on the saying that the land is donated with all decency, affiliation and unfree persons, so it is possible to call a document in medieval Bosnia, according to its legal nature, a vassal contract. The Ottoman legal system is based on the sultan's supreme right over the land he grants for use. Modern codifications, such as the Austrian General Civil Code mean a return to the principles of the Roman law. Authors compare the donation restrictions and unlimitations in the past with the restrictions in the Austrian General Civil Code. The specificity of the donation/gift agreement in the law of Bosnia and Herzegovina is the lack of regulation by the current Law on obligations and the direct application of the legal rules of pre-war regulations, especially Chapter 18, §§ 938-956 of the Austrian General Civil Code.

*Keywords:* donation, real estate, restrictions, Roman and medieval law, BiH, the Austrian General Civil Code, *de lege lata*.