

Table of Contents

Introduction	11
1. Research Subject	11
2. State of Research	14
3. Aim and Structure	22
4. Methodology.....	24
 1 Utilitas: Terminological and Axiological Aspects	28
1.1 <i>Utilitas</i> as an Ambiguous Concept	28
1.2 <i>Utilitas</i> among Values: Meaning of the Term in Non-Legal Sources	35
1.2.1 <i>Utilitas</i> in Cicero's Writings	35
1.2.2 <i>Utilitas</i> according to Horace	43
1.3 <i>Utilitas</i> as Integral to the <i>Ius</i> in Jurists' Thought.....	48
1.3.1 <i>Ars iuris</i> and <i>utilitas</i>	48
1.3.2 <i>Aequum, bonum, utile</i>	56
1.4 Summary	66
 2 Utilitas as a Guideline for Legal Interpretation	68
2.1 <i>Utilitas</i> from the Orator's Perspective.....	68
2.2 <i>Utilitas</i> from the Jurist's Perspective	72
2.2.1 Characteristics of Jurists' Activity (D.1,1,1,pr.-1)	72
2.2.2 <i>Duae positiones: publicum et privatum</i> (D. 1,1,1,2)	77
2.3 <i>Utilitas publica</i> and <i>utilitas singulorum</i>	89
2.3.1 <i>Utilitas publica – utilitas singulorum</i> Relation in Intellectual Tradition ..	89
2.3.2 <i>Utilitas publica, utilitas singulorum</i> and Legal Thinking	95
2.4 Summary	101

3 Utilitatis causa Interpretation	103
3.1 <i>Ex utilitate, non ex scriptione interpretari</i>	103
3.2 Jurisprudence <i>contra scriptum</i> Decisions	115
3.2.1 <i>Ex utilitate, non ex (subtili et stricta) ratione interpretari</i>	115
3.2.2 Breaking the Unambiguity of a Normative Entity	128
3.2.2.1 <i>Utilitas</i> or <i>utilitates</i> ?	138
3.2.3 Breaking the Unambiguity of a Linguistic Expression	146
3.2.3.1 Covering a Wider Context with the Term	146
3.2.3.2 Verifying Legal Classification	153
3.2.3.3 Modifying the Group of Addressees of the Legal Norm	155
3.2.4 Interpretation of Declarations of Intent	162
3.3 Jurisprudence <i>supra scriptum</i> Decisions	168
3.3.1 Syllogismus	168
3.3.2 Interpretation of the Law	169
3.3.3 Interpretation of Declarations of Intent	177
3.4 <i>Utilitatis causa</i> Decisions and <i>ius singulare</i>	185
3.5 Summary	190
Conclusions	193
Appendix	201
Tables, Charts, and Graphs	221
List of Abbreviations	227
Index of Sources	229
References	241