

TRUSTS IN PRIVATE INTERNATIONAL LAW

ABSTRACT

This thesis aims to expound and analyse the trust legislation in the context of International Private Law as well as to describe its key features in Czech Private Law for particular purposes. The first chapter summarizes the development of trust and description of its historical forms. The second chapter is dedicated to the thorough description of Czech substantive law on trusts governed by the Civil Code and the legislation contained in Act on the Public Registers of Legal and Natural Persons and on the Register of Trusts and Act on the Register of Beneficial Owners. Slight deficiencies have been encountered in national legislation, for instance, the incompatibility of Act on the Register of Beneficial Owners, Act governing private international law, and Act on the Public Registers of Legal and Natural Persons and on the Register of Trusts when it comes to foreign trusts or the unsatisfactory regulation of the administration of trusts by legal persons. The third chapter, devoted to the Private International Law, not only interprets the statutory provisions contained in the Act on Private International Law but also analyses the European Private International Law and the Hague Convention on the Law Applicable to Trusts and on their Recognition from 1985. In this chapter, a conclusion has been made that Czech trusts are eligible for recognition in legal jurisdictions that are parties to the Hague Convention. Moreover, a resolution has been proposed by the author to enact a directly applicable EU regulation on trusts containing the applicable conflict-of-law provisions. The fourth chapter focuses on the trust law of New Zealand and Liechtenstein and introduces preferable practical aspects of local regulation in contrast to the Czech one. A conclusion has been made that the express trusts set up in these jurisdictions can be recognized under Czech law as well as established from Czech territory, provided that the appropriate choice of applicable law has been made.

KEY WORDS

trust, conflict of laws, applicable law, recognition