

# **Trust fund as an offender**

## **Abstract**

This diploma thesis deals with a question whether a trust fund can be considered as an offender (subject of a crime). This matter is closely related to the legal definition of this institute, especially in the context of legal persons with emphasis on the assessment of the legal personality. Although it may seem that the matter regarding the absence of the legal personality of trust has already been clarified, this topic is still broadly discussed at the expert level.

The first part of this diploma thesis focuses on a theoretical analysis of a trust fund, comparison a trust fund with legal persons and assessment of the matter regarding the absence of legal personality of trust fund. The essence of this thesis, i.e. assessment whether a trust fund can be subsumed under the relevant provisions of the Criminal Code or the Act on Criminal Liability of Legal Persons and therefore considered as an offender (subject of crime), follows the conclusions of the theoretical analysis of trust fund. The following part of this diploma thesis is focused on the possibility of misuse of a trust fund for committing criminal activities and legal instruments designed to prevent this risks.

The text of this diploma thesis is structured into an introduction, five chapters and a conclusion, with some chapters divided into subchapters and sections. The introduction defines the subject matter of this diploma thesis, goals to be achieved, systematics and methodology. The first factual chapter defines a trust fund in the Czech legal system, its relationship to legal persons with emphasis on the assessment of the matter of absence of legal personality. In the next chapter, it is assessed whether the relevant provisions of the Criminal Code and the Act on Criminal Liability of Legal Persons can be applied to the trust fund. The third individual chapter identifies the risks of misuse trust funds for illegal activities, including detailed analysis of selected criminal offences. In the fourth chapter of this diploma thesis, possibilities of prevention related to the risks of misuse of trust funds are given. This part focuses in detail on the duty of trust fund registration and beneficial owner registration. The last chapter is focused on the considerations on the need to adopt new legislation in the light of the conclusions drawn in the previous parts of this diploma thesis. In the conclusion, the fulfillment of the goals set up in the introduction is evaluated and the main findings are summarised.

**Key words: trust fund – offender – legal personality**