

Procedural Aspects of a Trust Fund

Abstract

The thesis focuses on the analysis of procedural aspects of the Czech trust fund, which remains a relatively novel legal construct within the Czech legal system, having drawn inspiration from the Québécois fiducie and the Anglo-American trust. In accordance with its objective, the thesis identifies problematic areas in the current legal regulation and practice, arising primarily from the absence of legal personality of the trust fund, and proposes possible solutions. As a non-subject, the trust fund does not appear in legal proceedings in its own name but is represented by the trustee or other associated persons, which gives rise to a number of specific procedural situations that must be addressed.

The thesis systematically examines the procedural standing of the trust fund in civil proceedings under the Code of Civil Procedure and the Act on Special Judicial Proceedings. It analyses issues such as procedural succession, the plurality of trustees, the absence or procedural inactivity of the trustee, and proposes the concept of a so-called “trust unit” as a *sui generis* procedural subject composed of the trustee and the trust fund administered by them. The author considers this concept a functional tool for capturing the specific procedural position that lacks a direct equivalent in Czech law.

Attention is also given to the practical implications of the absence of subjectivity on legal representation, the transfer of rights, the division between contentious and non-contentious proceedings, and questions of court jurisdiction. The thesis reflects on current case law and doctrinal interpretations and formulates *de lege ferenda* proposals, including an explicit amendment of the procedural status of the trust fund by granting it procedural capacity. Special attention is devoted to proceedings in which the trust fund lacks an appointed trustee at the relevant moment, and to proposals aimed at ensuring the protection of third-party rights in such cases without infringing the right to a fair trial.

The results of the analysis demonstrate that the current procedural regulation does not fully meet the needs of legal practice nor the potential of trust funds as a flexible asset management instrument. Adoption of the proposed measures could contribute to greater legal certainty and procedural efficiency in judicial proceedings concerning trust funds

Keywords: trust fund, procedural law, procedural capacity