

Abstract

This rigorous thesis titled Foundation and benevolent fund is divided into ten chapters and its extent has reached one hundred and twenty-four standard pages of plain text. The aim was to describe one of the most typical legal person i.e. foundation and benevolent fund from doctrinal as well from theoretic point of view.

Opening chapter is dealing with division of legal persons concerning their theoretical classification between legal persons of private law and legal persons of public law. Simultaneously the chapter is aimed at detailed elaboration and specification of conceptual characteristic of entities of private law. The entire opening chapter is interconnected with issues related to general conception of legal persons from the point of view of the most significant theories i.e. theory of fiction and theory of real united entities.

In second chapter we have essayed to describe historical perspectives of development of foundation. Regarding historical perspectives we have started from the historical background of Roman law period and we have reached the codification works set in 19th century (in particular ABGB). Establishment of Czechoslovakian legal system was not omitted either and through the presentation dealing with repression of foundation law in the period on second half of the 20th century we have ended our presentation in the post 1989 period.

The third chapter is dealing with theory of non-profit sector, whereas, for the purposes of this thesis, a specification of entities considered and defined as subjects of non-state and non-profit sector as per definitions of authors Salamon and Anheiner, is believed to be crucial. Furthermore, in this chapter, the concept of public benefit purpose which nowadays grows in its importance is herein analysed.

The subject matter of fourth chapter is specification of basic conceptual characteristic of Foundation and benevolent fund and noticing of their identical and differences with respect to the valid legislation contained in ZONNF.

The fifth chapter stresses not only substantive but also procedural issues of establishment or as the case may be forming of foundation and benevolent fund. Subsequently various method of state position regarding the issue of registration of legal persons are elaborated. Two methods of establishment of Foundation and benevolent fund are specifically dealt with – inter vivos and mortis causa.

In sixth chapter we are confronted with dissolution and liquidation of foundation. The attention is brought to a transformation of such entities in the sense of last amendment of ZONNF.

The seventh chapter deals with internal bodies of legal persons. Specifically in relation to Foundation and benevolent fund, rise of membership and extinction of membership in board of directors and supervisory board is elaborated.

The eight chapter is concerned with legal status of property of Foundation and benevolent fund as well as with its activities and management.

The ninth chapter deals with new conception passed by new code of private law regarding all legal persons, with significant regard to the Foundation and benevolent fund and to newly introduced trust fund.

The tenth and last chapter is concerned with sources of inspiration found in foreign legal systems with respect to foundation law, in particular the legal system of Germany and Austria. Conclusion is dedicated to emerging institute of European law – European foundation.