

ABSTRACT

Trust Fund in Business Relations

Author: Milan Sýkora

Supervisor: prof. JUDr. Stanislava Černá, CSc.

This diploma thesis deals with transplantation of trusts into the Czech Civil Code in the form of “*svěřenský fond*” (fiduciary fund) and with possibilities of this instrument in the world of commerce. The essential question is whether *svěřenský fond* is capable of replacing Anglo-Saxon trust in the following standard financial transactions: (i) syndicated loans, (ii) issues of bonds, (iii) subordination, (iv) securitization and (v) collective investment. In total, this thesis comprises of seven chapters, including the Introduction and the Conclusion.

After an introduction, uncommonly, a prologue follows. This Prologue outlines a new, unusual instrument of the Czech law – *svěřenský fond*. It refers to the particular legislation and outlines questions that arise with this recently transplanted device.

The third chapter defines trust using comparative law and deals with its historical development both on the British Islands and in the civil and mixed jurisdictions. The second subchapter argues that the so-called obstacles of trust reception into civil law are not based on solid arguments. Further, I describe experience of trust reception in selected civil law and mixed jurisdictions.

In the fourth chapter, I focus on trusts in the world of commerce. The first subchapter is dedicated to evolution of trusts as of instruments of commerce. The second subchapter deals with the role of trusts in the above described financial transactions.

The fifth chapter reveals how *svěřenský fond* was legislated and describes its regulatory framework. The most important features of this Quebec transplant are

discussed. Furthermore, I deal with some essential questions of functioning of *svěřenský fond* – its legal substance, internal relations, external relations and liability for breach of trust.

The sixth chapter is dedicated to application of *svěřenský fond* into transactions described in the fourth chapter. I examine if it is possible to substitute the Anglo-Saxon trust with *svěřenský fond* in these transactions.

To conclude my thesis, I summarize the most important observations regarding the use of *svěřenský fond* in the world of commerce and point out the main benefits and disadvantages of the newly introduced trust device.