

Summary

The purpose of this thesis is to describe the functioning of trust in the common law jurisdictions and its expansion to the civil law countries. It also focuses on the brand new Czech institute “Svěřenský fond” (trust fund) introduced by the new Czech Civil Code and aims to analyse its nature in regard to its trust context. The thesis is composed of three chapters, each of them dealing with different set of “trust” issues.

Chapter One is descriptive. It deals with the history of fiduciary relationships in the Roman, medieval, Austro-Hungarian and Czechoslovak law as well as the current statutory provisions governing administration of property of others and trust funds in the Czech Republic. It also addresses a number of current ambiguities that have arisen from the recent re-codification.

The Second chapter is comparative. Part One includes introductory remarks concerning comparative law issues. Part Two describes the nature and functions of trust in the common law jurisdictions and explains the trust taxonomy. Parts Three and Four provide an outline of several mixed jurisdictions as well as civil law jurisdictions and maps their approach to trusts.

Chapter Three is analytical. First part examines the theoretical discrepancies in the civil law and common law notions of property along with other “incompatibilities” of trusts in civil law countries. Second part analyses whether the trust fund is a trust and reaches the conclusion that it can be viewed as a *trust-like* institute. The main aim of the thesis, to characterise the trust fund, has been reached. Final part of the chapter addresses prospective challenges concerning trust funds and Czech succession law, tax law, insolvency law etc.

The Conclusion provides a summary of the thesis and suggests future developments in the field of trust funds. Constructive trust funds and reception of foreign jurisprudence are viewed as being of crucial importance.