

## Trusts with special regard to their foundation and administration

### Abstract

The purpose of my thesis is to analyse foundation and administration of trusts in the Czech Civil Code with respect to the main theoretical issues such as *essencialia*, *naturalia* and *accidentalia negotii* of the primary foundation legal document which is called "statut". I also concentrate on the status of beneficiary, but mainly on the rights and duties of the administrator of the trust. The reason for my research is to develop a system concerning the elementary questions relating to the legal life of the trust, to tackle main theoretical problems and to distinguish between significant phases of its existence and its administration. The thesis is composed of three chapters, Chapter Two being most detailed. Chapter one which is subdivided into three parts is dealing with preliminary questions such as the concept of trust and its history and international variation of similar institutes such as *fiducie*, *treuhand* and common law trust. Chapter One is introductory and defines the concept of trust: it is quasi legal subject made of structure of rights and duties towards autonomous assets and of rights and duties concerning its administration in *largo sensum*. Chapter Two examines relevant Czech legislation involving trusts, primarily the provisions of the Czech Civil Code concerning their foundation and administration in specific. The chapter consists of six parts. Part One focuses on subsidiarity of the provisions concerning administration of alien assets. Part Two investigates foundation and constitution of trusts. Part Three which is the core of the diploma thesis with Part Four addresses the issue of foundation legal acts of trusts. Part Three is subdivided into three parts and provides an outline of statut, contract, heritage legal acts and statement. Part Four investigates the administration of the trusts. Part Four concentrates on problems resulting from difficulty of subsidiary application of general rules of administration of alien assets. Mainly, there are issues concerning administrator of the trust explained in systematic manner with solutions of main theoretical problems such as the end of administration and end of a trust. Chapter Three concludes the issue with final remarks about the main Czech authors dealing with trust and the width of topic of trust which need further analysis concerning other areas of law (financial, commercial, etc.). The main aim of the thesis was to systematize the provisions of the foundation legal acts of trusts and to systematize the rights and duties of administrator of a trust and to deal with main theoretical problems such as conflict of trusts *mortis causa* and law of succession and relation of the administrator with founder, beneficiary and person provided with supervision, not omitting the relation with the court. The main aim of the thesis has been reached. I suppose that without relevant court decisions there is higher opportunity to develop a systematic approach toward trusts which would such decisions inspire; the suggestion of legislative changes are at most not highly vital, with one exception which is the asset tracing.