

Summary:

I chose the topic of my master's thesis considering the recency of the subject according to the recodification of private law. Legal institute of trust has been in Czech lands since 19th century and nowadays it experiences its controversial return. Although the recent legal form of trust is defended by authors of the new Civil Code, experts criticise it roughly and there are ongoing negotiations about abrogation of the legal institute or about its amendment.

This thesis is composed of ten thematic chapters. After the introduction I explain the origin of the legal institute of trust in Roman law, specifically in the form of fideikomis and its development. As the legal form results from The Civil Code of Québec highly influenced by the legal institute of trust, I focus on the legal institute of trust in common-law countries in the third chapter. I also dedicate one chapter to The Civil Code of Québec, as it was the main source of inspiration for Czech legislators. For a period of absence of the legal regulation of the trust in Czech law, according to the Hague Convention it was possible to create foreign trusts on the territory of the Czech Republic. For that reason I discuss the legal regulation of trusts abroad in chapter five. Sixth and seventh chapter is dedicated to the regulation of trust in the new Civil Code and functional utility of the trust on the part of both obligor and obligee. In the following chapter I am dealing with the question of tax burden of trusts in the Czech legal environment.

In my thesis I am trying to point out certain defects contained in the current legal regulation of trusts, so I discuss the opinion of experts in the ninth chapter. Conclusion deals with suitability of this legal institute for the Czech society, but only in case of its amendment and where the new regulation will reflect the evolution of the society on last fifty years which was, in my opinion, forgotten by the author of the current legal regulation.