

Legal Status of the Settlor of a Trust

Abstract

The thesis focuses on the legal regulation of the settlor of a trust within the Czech legal system. The settlor sets aside part of his property and entrusts the trustee with the property. The set-aside property constitutes a separate and independent ownership. Its administration is governed by law and rules defined by the settlor. The aim of the thesis is to analyse the legal status of the settlor and to identify possible difficulties arising from the legal regulation.

The first two chapters of the thesis contain a definition of the Czech trust and a brief overview of the process of its incorporation into the Czech legal system. The legal regulation of trusts under Czech law was inspired by the legal regulation of the trust of the Canadian province of Quebec.

The third chapter covers the purpose of a trust. The settlor sets aside property into the trust for a private or publicly beneficial purpose. The administration of the assets must always be in accordance with the purpose of the trust.

The fourth chapter focuses on the process of creating a trust. It deals with the difference between creating a trust during the settlor's lifetime and creating it through a disposition *mortis causa*.

The subject of the fifth chapter is a definition of the trust's by-laws and its importance for the administration of the trust. By-laws are issued by the settlor of the trust.

The sixth chapter introduces the settlor. It covers a definition of the settlor, settlor's motivation for creating a trust, the eligibility to be a settlor, the plurality of settlors and the consequences of a death or dissolution of the settlor.

Chapters seven and eight focus on the other persons involved in a trust, the trustee and the beneficiary. It is the settlor who appoints the trustee and the beneficiary or provides another mechanism for selecting such persons. The rules established in the by-laws by the settlor affect the position of these persons throughout the entire duration of the trust. The settlor may also assume any of these roles, subject to other conditions.

The ninth chapter focuses on the legal status of the settlor after the creation of the trust. It covers settlor's right of supervision over the administration of the trust and his rights in relation to the assets in the trust. It includes an analysis of the right to expand settlor's rights

beyond the statutory regulation. A substantial part of the chapter discusses changes to the trust, particularly changes to its by-laws. Emphasis is placed on the issue of amendments to the by-laws by the settlor. Lastly, the chapter covers the role of the settlor in the extinction of the trust.

The thesis concludes with an assessment of the legal status of the settlor and points to the lack of legal certainty regarding certain aspects of his status.

Keywords: trust, settlor, by-laws, civil code