



Centre for
Comparative Law



**The Centre for Comparative Law
Faculty of Law Charles University in Prague**

invites you to an international conference

on

FUNCTIONING OF TRUST

May 15 – 16, 2015

**Building of the Faculty of Law of Charles University, nám. Curieových 7, Prague 1,
Room No. 117, first floor**

AIM OF THE CONFERENCE

The international conference will build on the conference held in 2013, which inquired into the main categories of trust newly codified in the Czech Republic in the form of fiduciary fund. Our long-term project on trust continues with this conference on Functioning of Trust from a Comparative Perspective, which will look into the functioning of trust in depth. We will focus on four fundamental areas: asset of trust, control mechanisms of trust, corporate governance issues in relation to trustee, and finally the issues of trust in the context of international private law and recognition of a foreign trust.

First, regarding the issue of asset of trust (its ownership) we will focus foremost on the questions to whom the asset belongs and what is it that characterizes the asset of trust as a whole, in particular in the context of the Czech regulation of trust. A comparison with the understanding of ownership of the trust asset in the classic jurisdictions such as in England and other states, not last in the province of Québec, will be essential here.

Second, the conference will discuss the issue of corporate governance, focusing on rights and duties of a trustee a topic which is tightly related to the third one: supervision of the trust.

Third, the conference will further focus on the issues that are especially relevant for the Czech Republic, given its negative experience with funds in the 1990s, and which deals with problems of misuse of trust law, in particular to the detriment of creditors. The ownership of trust asset originates in a way that has not been familiar to the Czech legal system so far and that raises worries about frauds against a trust asset to the detriment of third parties. Therefore, we will focus on possible control mechanisms that might be available either through private law means (control mechanisms within the trust) or through public law means (registration; creation of a specialized supervisory agency).

Finally, the issues of conflict of laws and international civil process will be addressed. First, we will focus on the question of relevant legal order that governs the trust, and second, we will inquire into the issue of recognition of a trust created under a different jurisdiction.

Most of the issues will require a comparative perspective regarding possible solutions to the problems sketched above. The speakers at the conference come from traditional trust jurisdictions, as well as from the mixed jurisdiction of the Canadian province of Québec, whose Civil Code was the main source of inspiration for the Czech legislator, and from the continental jurisdictions, which have adopted either the institute of trust or a similar form of asset management into their legal system.

PROGRAM

May 15

I. 9.00 – 13.00

K. Schmidt: *Trust as a Legislative Challenge: Bipolar Relation vs. Quasi Corporate Status? - Two Basic Trust Models in Legal Practice and the Theory?*

A. Popovici: *Autonomous Patrimony and Legal Personality: Trust in Québec and Czech Law*
Coffee break 30 min

W. Swadling: *Trusts and Ownership: A Common Law Perspective*

V. Ambruz: *Duality of ownership: Trust in Czech law and in the laws of Curacao*
Discussion

II. 14.00 – 18.00

L. Smith: *The Duties of Trustees in Comparative Perspective*

A. Menyhárd: *The Trustee and the Position of Creditors. Hungarian Views Towards the Czech Concept*

C. Malberti: *Fiduciary Arrangements in Civil Law Countries: Framing the Role and the Duties of the Trustee*

Coffee break 30 min

L. Josková: *Position of a Trustee - Capacity to Be a Trustee, Right to Nominate a Trustee and Trustee's Duty of Due Managerial Care*

Discussion

May 16

III. 9.00 – 13.00

R. Kulms: *Trusts as Investment Vehicles*

A. Braun: *The risk of misusing trusts: some positive lessons from the Italian experience*

O. Breen: *Guardians of the Charitable Realm: Charitable Trust Supervision, Practice and Procedure in the Common Law World*

Coffee break 30 min

V. Pihera: *Trusts Hard to Tame. Money Laundering, Tax Evasion and Trusts*

Discussion

IV. 13.00 – 14.30

A. Dutta: *The 1985 Hague Trust Convention Pros and Cons*

L. Tichý: *Recognition of Foreign Trust*

Discussion

Close of the Conference

Open to public. There is no conference fee.

Registration and information: Ludmila Nováčková, e-mail: novackov@prf.cuni.cz