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Introduction

The Czech Republic adopted a new Civil Code in 2012 and it has been in force from 1 January 2014. The Code regulates the institution of trust in sections 1400–1474 in the part dealing with absolute property rights. The Czech Republic has thus joined those continental legal orders that have adopted, in substance, a pure Anglo-Saxon legal institution of trust. In the case of the Czech Republic, the model for its regulation was the regulation of trust in the Canadian province of Québec and therefore we may talk about an 'indirect' transposition. Similar to the experience in other states of the continental tradition, the decision to adopt the Anglo-Saxon institution of trust in the Czech Republic was highly controversial, not so much during the drafting and the legislative process as after its enactment. This is true despite the fact that certain institutions, partly providing the effects the institution of trust brings, had been known to the Czech legal system already before the new law was enacted, for example the regulation of endowment (charitable) fund or provisions on management of property of others. There have been attempts to abolish the new institution of trust entirely or, at least, to substantially tighten its regulation (e.g. requirements on registration and state supervision) following fears of its possible abuse. Recently, a moderate bill imposing new obligations regarding registration of trusts has been submitted to the legislative process.

Following the enactment of the new Civil Code and introduction of the trust to the Czech legal system, the Centre for Comparative Law of Charles University Prague has started a relatively large research project inquiring into theoretical and comparative issues and practical consequences of the new institution. The Centre organized so far two international conferences and a colloquium and published an edited volume on Trust and Comparable Institutions in Europe (Charles University 2014).

The contributions in this special issue of the European Review of Private Law were presented at an international colloquium held on 15 and 16 May 2015 in Prague. The colloquium brought together academics from different legal cultures. This issue attempts to show the variety of trust and trust-like institutions in continental Europe, England, and Québec. In the German legal system, the Treuhand is one of the major tools for asset management; the Luxembourg concept is partly different from the French understanding of a trust-like institution; a specific situation exists in Italian law, which uses the Hague Trust Convention as the legal basis; the Dutch regulation also contains some

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specificities. The analyses of academics from Quebec are significant for their comparison between the Quebec model and its Czech implant. For a continental lawyer, the study on the concept of ownership in English law, the cradle of trust, is of utmost interest. The Irish contribution then shows possible variations regarding the regulation of charitable trust.

The structure of the special issue follows the pattern of the Prague's colloquium and the individual contributions are sorted into four parts. The contributions of Alexandra Popovici, William Swadling, Wino van Veen and Hjalmar Duin, Karsten Schmidt, and Vladimír Ambruz focus on issues of ownership and capacity to act on behalf of the trust towards third persons.

A second part with contributions from Lionel Smith, Corrado Malberti and Lucie Josková, deals with the duties of the trustee and the relationship between trustee, settlor, and beneficiary, and further with the relationship between trustee, or trust, and trustee's creditors, or creditors of the trust.

In the third part, Rainer Kulms, Alexandra Braun and Oonagh Breen focus on fundamental questions of functioning of trusts and risks associated with these tasks. They ask to what extent the functioning of a trust shall be regulated by means of private law as well as public law. The contributions agree that the level of regulation depends on the type of trust.

Finally, the contribution of Luboš Tichý enquires into an important issue, which has come to the spotlight particularly in Italy, and that is whether a trust created in one legal order may legally function in another legal order (the question of recognition of foreign trust). The issue is highly specific and differs in many aspects from classic rules of recognition, which we usually understand as the recognition of foreign judicial and administrative decisions.

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