



**Conference proceedings  
16th International Scientific Conference**

**“Law in Business  
of Selected Member States  
of the European Union”**

**October 17, 2025, Prague, Czech Republic**

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(editor)

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*16<sup>th</sup> International Scientific Conference*  
*„Law in Business of Selected Member States*  
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## Foreword

Dear Ladies, Dear Gentlemen,

These conference proceedings constitute a selection of papers submitted to the 16th International Scientific Conference "Law in Business of Selected Member States of the European Union" which was organized by the Department of Business and European Law, Faculty of International Relations, Prague University of Economics and Business, Czech Republic 17 October 2025. The conference hosted participants from all across Europe (Germany, United Kingdom, Slovakia, Greece, Hungary, Latvia, Lithuania and the Czech Republic). The conference was held in a hybrid format, being streamed online for those who could not join the conference venue in person and to reach a wider audience. All papers passed double blind peer review and were checked for their originality using the iThenticate software developed by Turnitin kindly provided by the Prague University of Economics and Business.

The conference has been supported by the Internal Grant Agency Project No. IG 37/2025 "Law in Business in Selected Member States of the European Union (XVI. ročník)" of the Prague University of Economics and Business.

The conference organizers will be happy to welcome both international academics and practitioners to the 17th conference to be held in 2027 in Prague. For more information on the call for papers for the upcoming conference please check the conference webpage at <https://lawinbusiness.vse.cz/>.

On behalf of the Scientific and Organizational Committee of the conference I would like to wish you an enjoyable read and inspiration for your own research.

*Anna Kretková*

*Chair of the Organization Committee of the Conference*

# The Trust Fund as an Instrument of Asset Management and its Prospects in the Legal Order of the Slovak Republic<sup>1</sup>

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**Abstract:** The paper focuses on the analysis of the fiduciary fund as a specific form of asset management. It draws on foreign legal frameworks (in particular Czech and French law, as well as the Anglo-Saxon trust), where this institute is already recognised and applied. It assesses the possibilities of its incorporation into the Slovak legal order, considering the historical development of the legal environment in Slovakia. This paper employs a functional-comparative approach to evaluate the feasibility of introducing a fiduciary fund into Slovak law. The research question is whether such an institution can enhance legal certainty and asset protection without undermining the unitary concept of ownership. The aim is to evaluate the extent to which the introduction of the fiduciary fund can strengthen the flexibility of asset management, enhance the protection of beneficiaries' interests, and provide both businesses and private individuals with a new instrument of legal certainty. Particular attention is paid to issues concerning the commercial law character of the fiduciary fund, its potential overlaps and conflicts with existing legal institutions, and the possible risks of abuse. The paper also seeks to formulate *de lege ferenda* proposals concerning the prospects of introducing the fiduciary fund in Slovakia.

**Keywords:** Trust. Fiduciary fund. Asset management.

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## 1. Introduction

The administration of foreign property is a traditional but constantly evolving element of the legal system. Its primary purpose is to strike a balance between the need to protect the owner or beneficiary and the need to allow for the flexible disposal of property through a third party. The Slovak legal system recognises several institutions that partially fulfil this function, ranging from general legal regulations on the administration of third-party property to special forms of foundations or legal relationships. However, there is still no comprehensive mechanism enabling the separation of property from the owner and its purposeful transfer to the administration of a third party, with consistent protection of the interests of beneficiaries.

In the international context, such an institution is primarily the Anglo-Saxon trust, which has become one of the most important export products of the common law. This

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<sup>1</sup> This article was prepared as part of the grant project UGA-15-PDS-2025 "Challenges and prospects for the legal regulation of foreign asset management (fiduciary) in the legal system of the Slovak Republic" funded by the EU NextGenerationEU Recovery and Resilience Plan for Slovakia under the project No. 09I03-03-V05-00009.

model has also found resonance in continental legal systems, which have long rejected the dualistic concept of ownership but are gradually introducing institutions of a similar nature. The Czech Republic adopted a trust fund as part of the recodified Civil Code, i.e., Act No. 89/2012 Coll., France introduced a fiducia, and many other countries use contractual or specific hybrid mechanisms (e.g., the German and Austrian *Treuhand*). These foreign experiences show that the need for such an instrument is not only practical but also legislatively feasible, even in a continental environment. However, the reception of such institutions in civil law jurisdictions has never been a simple legislative import but a selective adaptation conditioned by the domestic property-law principles and the concept of ownership unity.

This article aims to analyse the possibilities of introducing a trust fund into the Slovak legal system. Attention will be focused on comparative starting points, the identification of potential conflicts with existing legal institutions, and the assessment of benefits and risks. Emphasis will be placed on the question of whether a trust fund could enhance the flexibility of asset management, improve the protection of beneficiaries, and contribute to legal certainty for business practice and private individuals. The analysis will be based on a systematic and comparative methodology of legal regulations, supplemented by considerations *de lege ferenda*, intended to stimulate professional discussion on the prospects of introducing this institution into the Slovak legal environment. Methodologically, the paper employs a comparative and functional analysis of selected foreign legal frameworks (Czech, French, and Anglo-Saxon) to assess their transferability to the Slovak legal order. This approach enables not only a descriptive overview but also an assessment of potential efficiency and compatibility. The analysis also seeks to determine whether the introduction of a trust fund would represent a true functional equivalent of foreign fiduciary mechanisms or rather a *sui generis* institution adapted to the specific features of Slovak private law.

## 2. HISTORICAL AND THEORETICAL BACKGROUND

The concept of entrusting property to a third party for the purpose of securing specific interests has been recognised in Roman law. The Roman institution of fiducia represented the transfer of property based on trust (e.g., for security or administration), whereby ownership was outwardly vested in the acquirer but bound by trust to the original owner.<sup>2</sup> Similarly, a fideicommissum made it possible to secure inheritance arrangements through a trust-based bequest. It can be concluded that Roman fiducia (literally trust, reliability) represented the transfer of Quirite ownership of an item in the form of symbolic mancipation (*nummo uno*) to a trustee (*fiduciarius*), who at the same time undertook, by a special agreement (*pactum fiduciae*), to transfer it back after the purpose pursued by the parties had been fulfilled.<sup>3</sup> These foundations later evolved into various forms, differing according to the cultural and legal environment.<sup>4</sup> From

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<sup>2</sup> SALÁK, Pavel. *Základy římského práva* [online]. Brno: Masarykova univerzita, 2024, p. 107 [viewed 19 September 2025]. Available from: <https://science.law.muni.cz/knihy/monografie/salak-rimske-pravo-soukrome.pdf>

<sup>3</sup> MLKVY, Matej. Trust v rekonifikovanom civilnom práve? *Historia et theoria iuris* [online]. 2021, **13**(2), p. 50 [viewed 18 September 2025]. Available from: [https://www.flaw.uniba.sk/fileadmin/praf/HTI\\_2021-II.pdf](https://www.flaw.uniba.sk/fileadmin/praf/HTI_2021-II.pdf)

<sup>4</sup> TUROŠÍK, Michal. Význam Rímskeho práva v moderných právnych poriadkoch. In: *Právny poriadok Slovenskej republiky po 25. rokoch: zborník príspevkov z medzinárodnej vedeckej konferencie "1. Banskobystrické*

a functional perspective, these historical forms demonstrate that the separation of legal title and beneficial ownership can serve both protective and economic functions – an aspect that later became central to modern fiduciary instruments.

In the territory of historical Hungary, fideicommissum arrangements and specific forms of trust mechanisms appeared, which served to preserve family property or to fulfil specific purposes. However, the Czechoslovak legal system after 1918 did not adopt trusts or similar institutions, mainly because of their Anglo-Saxon roots and incompatibility with the monistic concept of ownership. Socialist law was oriented more toward collective forms of ownership, and institutions based on personal trust between private entities receded into the background.

On a theoretical level, fiduciary institutions can be characterised as relationships based on trust, in which economic interests are separated from legal title. This concept became particularly important in common law, where the dualistic concept of ownership enabled the emergence of the trust as an autonomous institution. In continental legal systems, solutions were sought that respected the principle of unified ownership while still enabling similar functions through contractual or statutory arrangements.<sup>5</sup>

A trust is an example of a fiduciary relationship, which is generally characterised by the fact that the fiduciary acquires at least formal rights as an independently authorised person from the trustor but cannot permanently and fully exercise these rights for their own benefit, but for the benefit of the trustor or a third party. The fiduciary thus has a formal legal title and duty of administration in relation to the rights or assets thus transferred. However, the benefit accrues to the settlor or a third party designated by the settlor (the beneficiary).<sup>6</sup> The term "trust" is generally understood to refer to a relationship between persons, one of whom manages property and the other of whom enjoys the benefits thereof.<sup>7</sup> The essence of a trust lies in imposing obligations under "equity law" on the person who is the "legal" owner of the property (trustee) to act in good faith in transactions with the property for the benefit of another person (beneficiary) who is primarily interested in obtaining the benefits of that property. The trustee holds the property on behalf of the beneficiary, subject to the terms and conditions applicable to the trust.<sup>8</sup>

In relation to foreign legislation, reference can be made to Czech legislation, where Act No. 89/2012 Coll. The Civil Code, as amended, introduced the institution of a trust fund (*svěřenský fond*), with its legal regulation contained in Sections 1448–1474. This fund

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*dni práva" usporiadanej pri príležitosti 20. výročia založenia Právnickej fakulty Univerzity Mateja Bela v Banskej Bystrici, 11.–12. novembra 2015.* Banská Bystrica: Vydavateľstvo Univerzity Mateja Bela – Belianum, 2015, p. 580.

<sup>5</sup> JOSKOVÁ, Lucie, and Lukáš PĚSNA. *Správa cizího majetku*. Prague: Wolters Kluwer, 2017, p. 107.

<sup>6</sup> KLAUSING, Friedrich. Fiduziarische Rechtsgeschäfte, einschl. Sicherungsübereignung. In: Franz SCHLEGEL-BERGER, ed. *Rechtsvergleichendes Handwörterbuch für das Zivil- und Handelsrecht des In- und Auslandes*. Berlin: Vahlen, 1931, p. 370.

<sup>7</sup> DAUDRIKH, Yana. Trust ako právny inštitút – vybrané právne aspekty. In: *Inovatívne formy tvorby peňažných fondov a ich prevodov* [online]. Bratislava: Právnická fakulta Univerzity Komenského v Bratislave, 2018, p. 27 [viewed 18 September 2025]. Available from: [https://www.flaw.uniba.sk/fileadmin/praf/Pracoviska/Katedry/KFP/Otazky/Zbornik\\_Inovativne\\_formy\\_tvorby\\_penaznych\\_fondov\\_a\\_ich\\_prevodov.pdf](https://www.flaw.uniba.sk/fileadmin/praf/Pracoviska/Katedry/KFP/Otazky/Zbornik_Inovativne_formy_tvorby_penaznych_fondov_a_ich_prevodov.pdf)

<sup>8</sup> THOMAS, Geraint, and Alastair HUDSON. *The Law of Trusts*. 2nd ed. Oxford: Oxford University Press, 2010, p. 13.

can be defined as a legal relationship established by the founder, whereby the property is entrusted to the control of the administrator for the benefit of the beneficiary or for a specified purpose. This fund does not have legal personality, but it is a separate property substrate separate from the property of the founder and the administrator. In other words, a trust fund is neither a legal entity, a contractual relationship, nor a form of ownership, even though it bears elements of all these entities.<sup>9</sup>

In 2007, the French Civil Code introduced the *fiducia*, which has two basic forms: *fiducie-gestion* (asset management) and *fiducie-sûreté* (securing a claim). Unlike the Czech fund, this is an institution where the transfer of assets is tied to a specific purpose, and the status of the administrator and beneficiary is contractually defined. *Fiducia* is primarily used in commercial practice, and its application is strictly regulated, encompassing tax rules and transparency requirements.<sup>10</sup>

### 3. CURRENT LEGISLATION IN THE SLOVAK REPUBLIC

Slovak law does not recognise a separate fiduciary institution, such as a trust fund or trust, mainly because the Slovak legislation is based on the theory of unitary ownership and does not contain general provisions on trusts or fiduciary relationships. Private law does not permit the separation and earmarking of a specific part of assets without the establishment of a separate legal entity. In the current Slovak legal system, several legal institutions can be identified that perform some of the functions of a trust or fiduciary; however, it is not possible to identify a single legal institution that fully replaces this role.

Certain parallels can be drawn between the legal regulation of foundations and the management of assets for public benefit purposes, as permitted by Section 2(1) of Act No. 34/2002 Coll. on Foundations, as amended. A foundation is a legal entity with separate assets, but its purpose and rigid regulation make it less flexible than a trust or trust fund.

There was an initiative within Slovak legislation to amend the legal regulation of foundations, which would have enabled the establishment of so-called private foundations, the purpose of which would have been to support private purposes. Private purposes were to be understood primarily as providing for the needs of the founder, his family, close persons, and trustees designated in a fiduciary declaration, covering the costs of upbringing, education, medical treatment, household equipment, or support for these persons, and transferring the assets of a private foundation for use. At the same time, the private purpose could not be contrary to good morals and could not serve exclusively to support business. The legal regulation in question was intended to compensate for the absence of a legal regulation of trust funds or trusts, but the legislature did not adopt it.<sup>11</sup>

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<sup>9</sup> JOSKOVÁ, Lucie, and Lukáš PĚSNA. *Správa cizího majetku*. Prague: Wolters Kluwer, 2017, p. 109.

<sup>10</sup> SVEJKOVSKÝ, Jaroslav, Radan MAREK, et al. *Správa cizího majetku v novém občanském zákoníku. Komentář. § 1400-1474*. Prague: C. H. Beck, 2015, p. 375.

<sup>11</sup> Proposal by Anna Andrejiovová and Miloš Svrček, members of the National Council of the Slovak Republic, for the enactment of a law amending and supplementing Act No. 34/2002 Coll. on foundations and on amendments to the Civil Code, as amended, and amending and supplementing certain acts was discussed at the 90th session of

Compared to the Czech and French solutions, the Slovak framework remains purely entity-based and does not allow the flexible segregation of assets for a defined purpose. This structural limitation explains the absence of trust-like mechanisms in domestic practice. This rigidity also limits the ability of Slovak law to accommodate more complex asset-holding arrangements used in private wealth management or succession planning, which places domestic legal practice at a comparative disadvantage.

Although the Slovak legal system recognises several institutions with an administrative element as one of the distinctive features of trust funds, there is still no specific instrument in the Slovak legal system that would allow assets to be separated from the legal sphere of the founder and, at the same time, manage flexibly for the benefit of the beneficiaries.

Examples of legal institutions with an administrative element can be found primarily in the area of contractual obligation law, where one of the functions of a trust or trust fund is to secure the affairs of another person acting in its own name, but in the interest and on behalf of another person, can be fulfilled, for example, by a commission contract regulated by Act No. 513/1991 Coll. Commercial Code, as amended.<sup>12</sup>

#### **4. PROSPECTS FOR THE LEGAL REGULATION OF TRUST FUNDS IN THE SLOVAK REPUBLIC**

A comparison with other countries shows that the Slovak legal system lags behind in terms of sophisticated asset management options. While the Czech Republic and France have a legislative framework that allows for the purpose-specific allocation of assets, Slovak law is limited to traditional forms of asset allocation. It thus loses its appeal for entities that could otherwise use Slovakia as a favourable environment for managing family or business assets.

The potential of trust funds in Slovak law is evident in various areas of law. One of the key benefits of a trust fund is the protection of minor children or other vulnerable individuals who are unable to manage their assets independently. The founder could allocate part of the assets to the fund, with the administrator being obligated to manage them for the benefit of the minor until they reach the age of majority or another specified age. Similarly, the fund could also serve as an estate planning tool – for example, to preserve a family business that would otherwise have to be divided among several heirs. A trust fund would allow business activities to continue without the need for transformation or sale of shares.

A trust fund could also play a role in resolving the bankruptcy of natural or legal persons. During restructuring, part of the assets could be placed in a fund, whose administrator would ensure their proper use to satisfy creditors. Such a solution could increase transparency and reduce the risk of deliberate asset stripping by the debtor. On the other hand, it is also possible to protect part of the assets of a natural or legal person

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the National Council of the Slovak Republic on 18 May, 2023. However, in the first reading, it was decided that the National Council of the Slovak Republic would not continue deliberating on the draft act.

<sup>12</sup> KUBINEC, Martin, et al. *Obstarávatel'ské zmluvy*. In: *Obchodné právo II : Obchodné záväzky* [online]. Banská Bystrica: Vydavateľstvo Univerzity Mateja Bela – Belianum, 2025, p. 310 [viewed 18 September 2025]. Available from: <https://doi.org/10.24040/2025.9788055722382>

from the effects of insolvency proceedings or enforcement actions against the assets of the trust fund's founder. The Czech experience demonstrates that such use of trust funds in insolvency proceedings is rare but conceptually feasible, whereas French practice strictly limits the fiduciary's discretion to prevent asset shielding.

Ultimately, the trust fund could also function as a specific security mechanism. The debtor could allocate certain assets to the trust fund for the purpose of securing the creditor's claim, and the fund manager would be obliged to dispose of these assets exclusively in accordance with the agreed terms and conditions. Such a solution would provide a higher degree of legal certainty than traditional security instruments (e.g., liens), as the set-aside assets would be separated from the debtor's other assets and would not be subject to the debtor's disposal.

The introduction of a trust fund could also broaden the range of legal forms available for public benefit activities. Unlike foundations, a fund would allow for greater flexibility in determining the purpose and management of assets. For example, the founder could set up a fund to support education, culture, or healthcare, while the administrator would have statutory obligations to ensure the effective use of the funds. The introduction of the fund could also strengthen the legal certainty of beneficiaries, as their claims against the administrator would be clearly defined. In assessing these prospects, the Czech experience shows that the legal effectiveness of the trust fund depends not only on codification but also on clear fiduciary duties and public control mechanisms. Without these, the instrument risks degenerating into a mere tool for ownership separation.

On the other hand, the introduction of the fund would not be without any risks. A conflict could arise with the legal regulation of foundations that perform similar functions. Interaction with commercial companies is also questionable, as the fund could serve some business purposes without the obligations that traditional commercial corporations have, and the legal regulation would clearly have to reflect the traditional differences between the various traditional legal institutions.

One of the most significant risks associated with establishing a trust fund is its potential misuse for non-transparent purposes. Experience with foreign regulations suggests that trust funds can be used to conceal actual ownership, thereby weakening public control and increasing the risk of corruption, money laundering, and the associated potential threat of financing criminal activities. Any future Slovak regulation would therefore need to align with EU anti-money laundering (AML) standards, particularly Directive (EU) 2018/843, which already imposes transparency obligations on trust-like arrangements.

Another problem is the tax status of the fund. If the fund did not have legal personality, it would be necessary to determine precisely who the tax subject is and what the tax obligations of the administrator, beneficiaries, or founder are, particularly in relation to income tax, as it can legitimately be expected that income from the management of assets allocated to a trust fund would be subject to tax.

Public registration is also an important issue. Without a register, it would be impossible to effectively monitor the existence of funds, their purposes, and the identities of trustees and beneficiaries. However, the introduction of a register is associated with costs and concerns regarding privacy protection. About privacy protection, it is also

necessary to refer to the judgment of the Court of Justice of the European Union in joined cases C-37/20 WM and C-601/20 Sovim SA v Luxembourg Business Registers of 22 November 2022.<sup>13</sup>

Suppose the Slovak Republic were to introduce a trust fund. In that case, there are two basic models: either the institution would be regulated directly in the Civil Code, or a special law would be adopted. The first option would ensure systematic integration into private law, while the second would provide greater flexibility in creating special rules. In this context, however, it should be emphasised that the draft codification of the new Civil Code published by the Ministry of Justice of the Slovak Republic does not contain a comprehensive legal regulation of the administration of foreign property or the introduction of the institution of a trust fund, or a trust or similar legal institution that would reflect elements of this legal institution.<sup>14</sup>

## 5. CONCLUSION

Considerations regarding the introduction of trust funds into Slovak law cannot be reduced solely to the technical transposition of foreign models. Experience from the Czech Republic and France shows that establishing a legislative fund is only the first step; the decisive factor is its practical implementation, including the establishment of transparent rules and the introduction of effective control mechanisms. The analysis confirms that the Slovak legal system meets the basic preconditions for the functional transplantation of fiduciary institutions, but requires targeted adjustments in property, tax, and registration law. The Slovak environment is particularly sensitive to the issue of abuse of legal forms to circumvent obligations and conceal ownership, which places high demands on legislative precision and supervision of this institution.

The introduction of the trust fund institution could have several positive effects. In the area of private law, it would enable more effective intergenerational management of family assets, provide better protection for minors or other vulnerable beneficiaries, and open new opportunities for charitable or cultural purposes. In commercial law, it could serve as a tool for securing and managing investment structures, and its introduction would also have a significant impact on insolvency law. In a broader sense, it could contribute to increasing the competitiveness of the Slovak legal environment and harmonising it with modern trends in Europe.

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<sup>13</sup> On this issue, see, for example, KUBINEC, Martin, et al. Vplyv rozhodnutia Súdneho dvora Európskej únie vo veci plošného odhaľovania informácií o konečných užívateľoch výhod na právny poriadok Slovenskej republiky. *Právny obzor* [online]. 2023, 106(5), 447–460 [viewed 17 September 2025]. Available from: <https://doi.org/10.31577/pravnyobzor.2023.5.05> alebo ZIGO, Daniel. Limity publicity verejných registrov. In: *Bratislavské právnické fórum 2023: transparentnosť vo finančnom a obchodnom práve* [online]. Bratislava: Právnická fakulta Univerzity Komenského v Bratislave, 2023, pp. 4–20 [viewed 17 September 2025]. Available from: [https://www.flaw.uniba.sk/fileadmin/praf/Veda/Konferencie\\_a\\_podujatia/BPF/2023/BPF\\_2023\\_Financne\\_pravo.pdf](https://www.flaw.uniba.sk/fileadmin/praf/Veda/Konferencie_a_podujatia/BPF/2023/BPF_2023_Financne_pravo.pdf) alebo LUKÁČKA, Peter, and Daniel ZIGO. Current challenges in identifying the ultimate beneficial owners and the register of public sector partners. In: *Právo – obchod – ekonomika 13: zborník vedeckých prác* [online]. Košice: Univerzita Pavla Jozefa Šafárika v Košiciach, 2024, pp. 267–281 [viewed 17 September 2025]. Available from: <https://doi.org/10.33542/POE-0389-0>.

<sup>14</sup> The draft codification of the new Civil Code published by the Ministry of Justice of the Slovak Republic is available at <https://www.justice.gov.sk/agenda-ministerstva/kodifikacia-sukromneho-prava/>.

On the other hand, the risks cannot be overlooked. The introduction of a fund without a clearly defined register, tax regulations, and transparent rules could weaken legal certainty and create room for unfair practices. For this reason, legislative considerations should be approached with both caution and ambition. It is worth considering the opening a professional discussion on the introduction of a trust fund or a similar legal institution into the legal system of the Slovak Republic.

In conclusion, a trust fund has the potential to become a modern and valuable tool in Slovak legal practice. The comparative findings suggest that a potential Slovak trust fund should combine the functional flexibility of the Czech model with the transparency and control standards of the French fiducie. Such a hybrid approach would ensure both the economic usability and the prevention of misuse. However, its success will depend on the extent to which the legislation manages to strike a balance between flexibility and protection against abuse, and on the willingness of the legal community and state authorities to accept and responsibly implement this institution.

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