

**MUNI**  
**LAW**

# **Beneficiaries of foundation and trust-like structures: Czech perspective**

Kateřina Ronovská (Faculty of Law, Masaryk University, Brno)

Vlastimil Pihera (KŠB Law firm, Institute of State and Law of Academy of Science Czech Republic)

# Beneficiaries in Czech law

- Since 1.1.2014 – discussion about foundation and trust structures, position of the settlor/founder and trustee (foundation board) but not paid attention to position of beneficiaries
- Czech settlor/founder may reserve several rights, also the right to change the statutes (but not terminate the structure), comes closer to a single-member corporation
- It is not easy to define the „beneficiary“ (but we can try😊) and nature of their rights
- Beneficiaries of trusts (trust funds) vs. foundation funds

# Definition of the position of beneficiary (?)

- No legal definition
- *"anyone (a person in the legal sense) who can derive any economic benefit from the assets allocated to these structures"*
- concerns the definition of the right to benefit (but also the right to information, the right to dismiss board members, to exercise certain supervision, etc.)
- Czech Foundation law: does not regulate a position of beneficiaries of private foundation (fund)
- For public benefit purpose foundations: position of recipient of the grant/contribution (§353 CCC)- not applicable!

# Beneficiary in the regulation of Part III. CCC

- General „definition“ in Part III. CCC, where regulated administration of property of others:

*"Anyone who is entrusted with the administration of property that does not belong to him for the benefit of someone else (hereinafter referred to as the "beneficiary") is the administrator of someone else's property." (Art. 1400 CCC) – not a definition of beneficiary but at least something*

- Trust (like) law regulates position of beneficiaries of trust funds
  - Right to claim relevant benefit (1461/1 CCC) pursuant of the will of settlor
  - Right of supervision over the trust fund (§1463 CCC)

# Beneficiaries (theoretical categorisation)

- „Real“ beneficiaries
- "Potential" beneficiaries
- „Discretionary„ beneficiaries

And why is it important to distinguish these categories?

- Material legal determination of rights and obligations (right to benefit, right to information etc.)
- Procedural legal status - judicial protection of beneficiaries

# Inventing rights of beneficiaries

- Beneficiaries of trust funds and foundations – dichotomy?
- Beneficiaries of trusts – legal interest.
- The meaning of legal personality.
- Legal interest in the property of foundation?