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Unofficial translation of the Act No. 227/1997 Collection
[of the Acts of the Czech Republic]
in the text of amendments following from the Acts No. 210/2002, 257/2004,
296/2007, 126/2008, 227/2009 and 158/2010

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The Act
As of September 3, 1997
on Foundations and Funds and on Alterations and Supplements to Some Related Acts
(Act on Foundations and Funds)

The Parliament has passed the following Act of the Czech Republic:

PART ONE
FOUNDATIONS AND FUNDS

CHAPTER I
BASIC PROVISIONS

Article 1

- (1) An [endowed] foundation (hereafter referred to only as a “Foundation”) or a funding body [without endowment] (hereafter referred to only as a “Fund”) represent an accumulation of assets¹ established and incorporated according to this law for the purpose of achieving public benefit objectives. A public benefit objective is, in particular, the development of intellectual values, protection of human rights or of other humanitarian values, protection of the natural environment, monuments of culture and traditions, as well as the development of science, education, physical training and sports.
- (2) The Foundation or the Fund is a juridical person.
- (3) The name of the Foundation must contain the word “nadace” [meaning: “the Foundation with a registered endowment”]. The name of the Fund must contain the words “nadační fond” [meaning “the funding body without registered endowment” or “the Fund”]. Other legal bodies must not use these words in their official corporate name or commercial firm name.

Article 2

- (1) The total assets of the Foundations are divided into the Endowment and Other Assets of the Foundation.
- (2) For achieving the purpose of its establishment, the Foundation may use the Endowment revenues and its Other Assets. The Endowment is a monetary equivalent of a sum of both monetary and non-monetary endowed contributions and endowed donations explicitly incorporated into the Register of Foundations (hereafter only “the Register”).

¹See Article 18 par. 2 point b) of the Civil Code

- (3) For achieving the purpose of its establishment, the Fund may use all its assets.
- (4) For the purpose of this Act, “a Grant” is considered to be everything that was donated by the Foundation or the Fund in accordance with this Act and Bylaws of the Foundation or the Fund to a third person in order to achieve the purpose, for which the Foundation or the Fund was established.
- (5) For the purpose of this Act, “a Donation” is considered to be everything, what has been donated by a third person to the Foundation or the Fund with the aim of achieving the purpose, for which the Foundation or the Fund was established.

CHAPTER II ESTABLISHMENT AND INCORPORATION OF A FOUNDATION OR A FUND

Article 3

Establishment of a Foundation and a Fund

- (1) A Foundation or a Fund shall be established by a written agreement between founders or, in case of a single founder, by an establishment act or a testament (hereafter only “the Articles of Incorporation”). In the case when the Foundation or the Fund is established by an agreement, the Articles of Incorporation must be signed under office. In the case when the Foundation or the Fund is established by an establishment act or a testament, the Articles of Incorporation must be prepared in the form of a notary public record.
- (2) In the case when the Articles of Incorporation are not in a form of a testament, these should contain
 - a) The corporate name and headquarters address of the Foundation or the Fund,
 - b) The corporate name and/or commercial firm name, headquarters address and [incorporation] identification number of the founder (founders) or any document proving the incorporation of the foreign founder, be the founder a juridical person, or the first name, family name, and/or commercial name, personal identification number or date of birth and the address of permanent residence of the founder, be the founder a natural person,
 - c) Delimitation of the purpose for which the Foundation of the Fund is established; the specific purpose for which the Foundation or the Fund is established must be in compliance with a generally public benefit purpose,
 - d) The amount or the value of the endowed contribution which each of the founders pledges to deposit in the Foundation or the Fund; in case of a non-monetary contribution, the subject of the contribution must be defined and its value appraised by an licenced expert; securities must be either evaluated by an licensed expert or a person having the securities in custody according to a special law^{1a}
 - e) The number of members of the Board of Trustees, the first names, family names, personal identification numbers or dates of birth and the addresses of permanent residence of each member of the first Board of Trustees together with the specification of the way they should deal on behalf of the Foundation or the Fund,
 - f) The number of members of the Supervisory Board, the first names, family names, personal identification numbers or dates of birth and the addresses of permanent residence of each member of the first Supervisory Board or the first name, family name, personal identification number or date of birth and the address of permanent

^{1a}Article 8, par. 2, item b) and Article 8 par. 3 items a) and f) of the Act No. 591/1992 Coll., on Securities, in the text of the Act No. 362/2000 Coll.

- residence of the first Inspector, if the Inspector takes over the rights and obligations of the Supervisory Board,
- g) The specification of the rule, according to which the administrative expenditures of the Foundation or the Fund shall be limited in compliance with the Article 22 or a statement that such a rule shall be specified in the Bylaws of the Foundation or the Fund,
 - h) Identification of a person who takes the endowed contributions of the founder (founders) into custody until the incorporation of the Foundation or the Fund,
 - i) Conditions upon which the Grants will be provided and, if applicable, the determination of the circle of persons to whom the Grants may be provided or a statement that these matters shall be determined in the Bylaws of the Foundation or the Fund.
- (3) In case of establishing the Foundation or the Fund by a testament, the testament must contain the specification of the name of the Foundation or the Fund and the particulars as in the paragraph 2, points c), d), g) and i), as well as the identification of a person, who is authorized to appoint the initial members of the organs of the Foundation or the Fund or the Inspector, unless these persons are already identified in the testament, as appropriate, and who shall act in all other matters related to the establishment of the Foundation or the Fund (hereafter only “the Testimonial Administrator”). The testament, which does not satisfy the requirement stated above, shall be considered invalidated in the parts dealing with the will to establish the Foundation or the Fund.
- (4) The total value of the Endowment may not be less than 500,000 Czech Crowns and during the existence of the Foundation it may not fall below this value.
- (5) The Endowment may be formed only by monetary assets, securities, tangible and intangible property, as well as by other property rights and property values, which fulfill the requirement of a sustainable yield, and to which no chattel mortgage may be claimed.
- (6) The Other Assets of the Foundation or assets of the Fund may be composed exclusively from monetary assets, securities, real estates or corporeal chattels, or other property values on which no chattel mortgage are claimed.

Article 4

Bylaws of the Foundation or the Fund

- (1) The Bylaws of the Foundation or the Fund regulate the procedural rules for the organs of the Foundation or the Fund, determine the conditions for providing Grantor, if applicable, define the circle of persons to whom the Grants may be provided and the manner in which the granting decision shall be made, as well as other matters, which, according to this Act, should be dealt with in the Articles of Incorporation or and in the Bylaws of the Foundation or the Fund.
- (2) The Board of Trustees shall issue the Bylaws within 30 days from the incorporation of the Foundation or the Fund; the Bylaws may be altered exclusively by the decision of the Board of Trustees.
- (3) Unless stipulated otherwise by this Act (see Article 22 paragraph 2), the Bylaws of the Foundation or the Fund must be in full compliance with the Articles of Incorporation.
- (4) The Foundation or the Fund shall make the Bylaws available on request; everybody is entitled to examine it and make excerpts from it or transcripts of it.

The Incorporation of the Foundation or the Fund

Article 5

- (1) The Foundation or the Fund is considered to become the juridical person by the date of its incorporation into the Register. The Register is maintained by the court dedicated by a special Act² to maintain the Commercial Register (hereafter only “the Registering Court”). The Register is a public list; the Bylaws of the Foundation or the Fund and the Annual Report constitute parts of the Register files.
- (2) A proposal to incorporate the Foundation or the Fund into the Register shall be submitted by the founder or the Testimonial Administrator or a person authorized by these in written; the authenticity of the authorizing party has to be officially verified.
- (3) To the proposal to incorporate the Foundation or the Fund into the Register has to be attached the Articles of Incorporation, a document confirming that the monetary endowed contributions were paid. In the case of a Foundation there must be attached also a document proving establishment of a special bank account on which the monetary contribution has been deposited or a document confirming taking into custody the non-monetary endowed contribution issued by a person authorized to it according to the Article 6, Par. 2. Also attached must be a contract on administering the securities according to a special law^{1a}, if securities are forming a part of the Endowment and shall be managed by an authorized person, as well as the Penal Register Extracts for all members of the Board of Trustees, Supervisory Board or the Inspector; the Penal Register Extracts may not be issued before more than six months. In the case of the members of the Board of Trustees, the Supervisory Board or in the case of the Inspector, who do not reside permanently in the Czech Republic, a corresponding document of the country of their permanent residence shall be attached, which confirms that the person concerned was not lawfully sentenced for a willful criminal act; such a document may not be issued before more than six months.
- (4) The following data are entered into the Register:
 - a) The name, headquarters address and [Incorporation] Identification Number of the Foundation or the Fund; the Administrator of the Basic Register of Persons shall provide the [Incorporation] Identification Number to the Registering Court
 - b) The name and/or business firm name, headquarters address and [Incorporated] Identification Number of the founder (founders), if these represent a juridical person or the first name, family name and/or business name, Personal Identification Number or date of birth and the address of permanent residence of the founder (founders), if these are natural persons,
 - c) The purpose for which the Foundation or the Fund has been established,
 - d) The total value of the Endowment [of the Foundation] or, in the case of a Fund, the total value of any property contributions,
 - e) The first names, family names, Personal Identification Numbers or dates of birth and the addresses of permanent residence of members of the Board of Trustees and the specification of the way they should act on behalf of the Foundation or the Fund,
 - f) The first names, family names, Personal Identification Numbers or dates of birth and the addresses of permanent residence of members of the Supervisory Board or, in case when the Supervisory Board was not created, the first name, family name, Personal Identification Number or date of birth and the address of permanent residence of the Inspector,
 - g) The list of assets which form the monetary or non-monetary contributions or Donation to the Endowment [of the Foundation] with their description and values; [entered is also] the commercial firm name of the bank or of the branch of a foreign bank with the number of the account on which the monetary contribution

²See Article 200 of the Civil Procedure Code

of Donation are deposited, the data concerning the contract on management of securities according to the special law^{1a}, if a part of the Endowment is formed by securities managed according to the contract with an authorized person.

- (5) Unless stipulated otherwise by this Act, the matters relevant to the Register, its maintenance and procedures are to be dealt with, appropriately, according to the provisions of the Commercial Code and Civil Procedure Code dealing with the maintenance of Commercial Register and procedures relevant to it.

Article 6

- (1) In all matters related to the incorporation of the Foundation or the Fund up to the date of incorporation, the founders together or one of them, who has been authorized to such activities in written by other founders are entitled to act on behalf of the Foundation or the Fund. In the case of establishing the Foundation or the Fund by a testament, the authorized person is the Testimonial Administrator, beginning from the date on which the testamentary proceedings have been closed.
- (2) Up to the date of incorporation of the Foundation or the Fund, the endowed contributions [of founder(s)] shall be in custody of the person determined in the Articles of Incorporation; in the case when the Foundation or the Fund are established by a testament and unless stipulated otherwise by the testament, such a custodian is the Testimonial Administrator, beginning from the date on which the testamentary proceedings have been closed.
- (3) Liabilities resulting from the application of the paragraphs 1 and the property rights and other rights resulting from the application of the paragraphs 1 and 2 are transferred to the Foundation or the Fund by the date of its incorporation; the person which keeps the endowed contributions in custody is obliged to convey these to the Foundation or the Fund after its incorporation without unnecessary delay. The legal treatment of the transfer of property rights to real estates remains unaffected by this provision. In the case that the Foundation or the Fund is not incorporated, the person which keeps the endowed contributions in custody is obliged to return these to the founders without unnecessary delay, or, in the case when the Foundation or the Fund was established by a testament, to convey these to the heirs-at-law.

CHAPTER III

WINDING-UP AND TERMINATION OF A FOUNDATION OR A FUND

Article 7

- (1) The Foundation or the Fund terminates its existence on the date its file in the Register was invalidated. The termination of the Foundation or the Fund shall be preceded by its winding up with liquidation or, in the case when its assets are transferred to another Foundation or a Fund by merging with it, without liquidation. The liquidation shall not be applied if the insolvency motion was denied due to insufficient assets or if no assets are left with the Foundation or the Fund after the bankruptcy procedure was closed.
- (2) The Foundation or the Fund will be wound up
 - a) Upon attainment of the purpose for which the Foundation or the Fund was established on the date shown in the resolution of the Board of Trustees about the fulfillment of the purpose of the Foundation or the Fund,

- b) Upon the decree of the court on dissolution of the Foundation or the Fund on the date shown in such an decree, or otherwise on the date from which the decree becomes effective,
 - c) Upon declaration of bankruptcy or upon denial of the proposal on bankruptcy declaration due to insufficient assets of the Foundation or the Fund to cover the bankruptcy procedures costs.
- (3) The Fund shall be wound up also upon a decision of the Board of Trustees on its termination due to the depletion of its assets, namely to the date given in that decision.
- (4) Upon the proposal of a founder, the Testimonial Administrator, the Board of Trustees or a person which proves legal interest, the court will issue the decree on winding up the Foundation, if
- a) the Endowment does not permanently yield revenues and the Foundation has no other assets to be able to fulfill the purpose for which it was established the value of the Endowment became lower than CZK 500,000 and the Foundation did not decide within the term given in Article 23, Par. 12 neither on parlaying the Endowment from its Other Assets nor about merging with another Foundation
- (5) Upon a proposal of the Board of Trustees made in consensus with its founder, the court will issue the decree on winding up the Fund, if its property has been spent and thus the Fund is no more able to fulfill the purpose for which it was established. In the case when there is no founder and his/her rights as stipulated by this Act, the Articles of Incorporation or Bylaws of the Fund were not passed over to a legal successor, the court shall decide about the winding up of the Fund upon a proposal of the Board of Trustees or of a person which proves legal interest. Upon a proposal of a founder, the Testimonial Administrator or a person which proves legal interest, the court will issue the decree on winding up the Foundation or the Fund as well, if
- a) The Foundation or the Fund violates by its activity in a serious manner or repeatedly this Act, its Articles of Incorporation or its own Bylaws,
 - b) During the previous year there was not convened any single meeting of the Board of Trustees or the members of the governing bodies or the Inspector, if relevant, of the Foundation or the Fund were not elected to replace persons whose membership or function terminated more than a year ago, or
- The Foundation or the Fund does not fulfill the purpose for which it was established for a period of time longer than two years, specifically when the Foundation during that period of time did not distribute any Grants, and the Foundation or the Fund did not remedied the faulty behavior during the period of time set out for it by the court.

Article 8

Domestic unification of the Foundation or the Fund by a merge

- (1) The Boards of Trustees may decide on a domestic unification by a merge of Foundations under the condition that the purpose of the succeeding Foundation shall be parlayed by the Endowment of the disappearing Foundation. The Board of Trustees of the disappearing Foundation must decide on initiation of preparatory procedures for a domestic unification by a merge, when during its existence dropped the value of its Endowment below CZK 500,000 and the Foundation did not parlayed the value of its Endowment at least to the value of CZK 500,000 within the fiscal year, in which the diminution of the Endowment value occurred.

- (2) The Boards of Trustees may decide on domestic unification by merging of a Foundation with a Fund under the condition that the property of the succeeding Foundation is identical or similar to the purpose for which the disappearing Fund was established.
- (3) The Boards of Trustees may decide domestic unification by merging of Funds under the condition that the property of the succeeding Fund is identical or similar to the purpose for which the disappearing Fund was established.
- (4) The domestic unification by merging is not allowed, when the Articles of Incorporation stipulates so; this does not apply when the domestic unification by merging occurs in accordance with the Par. 1, last sentence.
- (5) The disappearing Foundations or Funds and the succeeding Foundation or Fund shall develop a project of the domestic unification by merging that must be made in written and must contain:
 - a) Names, legal forms, seats and Identification Numbers of participating Foundations or Funds
 - b) An overview of the Endowments of disappearing Foundation or an overview of the assets of the disappearing Fund and other liabilities; the plan may not be older than 3 months to the date when decision upon domestic unification by merging has been made.
 - c) The determining day of domestic unification by merging, which deems to be the day by which any act of the disappearing Foundation or Fund is deemed to be considered as an act on behalf of the succeeding Foundation or Fund. The determining day of domestic unification by merging may not precede by more than 12 months the day in which there has been submitted the proposal for incorporating the domestic unification by merging to the Register of Foundations and Funds.
- (6) The project of the domestic unification by merging must be approved by Boards of Trustees of all participating Foundations and Funds. After entering the domestic unification by merging into the Register, the project of domestic unification by merging may not be cancelled nor modified, neither may be the act of the domestic unification by merging deemed invalid or cancelled.
- (7) About the decision of the Board of Trustees of each participating Foundation or Fund there must be drawn up a notary public note, whose part is the project on domestic unification by merging.
- (8) In the files of the Register of Foundations and Funds the entries of the domestic unification by merging shall be made to the same date for all participating Foundations and Funds. Beginning from this moment are all rights and obligations of the disappearing Foundations or Funds deemed transferred to the succeeding Foundation or Fund.

Article 8a

- (1) If permitted by the Articles of Incorporation and under the condition that the value of all assets of the Fund is higher than CZK 1,000,000 and the property in value higher than CZK 500,000 satisfies the conditions for an Endowment as set in Article 3, Par. 5, the Board of Trustees of a Fund may with previous consent of the Supervisory Board or Inspector decide about a change of the legal form of the Fund to a Foundation.
- (2) The decision of the Board of Trustees of a Fund on the change of the legal form shall contain
 - a) The name, seat and Identification Number of the Fund
 - b) The name and seat of the Foundation after the change of legal form becomes effective

- c) First names, family names, birth number or birth date, if the birth number was not issued, and the residence address of the members of the Board of Trustees with the description of how they shall act on behalf of the Foundation
 - d) First names, family names, birth number or birth date, if the birth number was not issued, and the residence address of the members of the Supervisory Board or the Inspector.
- (3) About the decision of the Board of Trustees on the change of the legal form must be drawn up a notary public note.
- (4) After entering the changes of the legal form of the Fund into the Register of Foundations and Funds, the decision on the change of the legal form cannot be neither abolished nor changed, and the change of the legal form cannot be proclaimed as nonvalid or abolished.

Article 9

Liquidation of a Foundation or a Fund

- (1) Unless stipulated otherwise by this Act, the special Law³ regulates the liquidation of the Foundation or the Fund.
- (2) The Liquidating Officer shall be appointed by the Board of Trustees of the Foundation or the Fund with the exception of the case when the Foundation or the Fund are wound up according to Article 7, paragraph 2, items c) and d), in which case the Liquidating Officer shall be appointed by the court. When the Board of Trustees does not appoint the Liquidating Officer without unnecessary delay, the court shall appoint the Liquidating Officer even without any proposal.
The appointing agent determines the compensation for the Liquidating Officer.
- (3) The procedure of liquidation is to be determined by the Liquidating Officer in such a way as to turn the assets into cash only to such a degree, as found necessary for covering the liabilities of the Foundation or the Fund.
- (4) Unless specified otherwise by the Articles of Incorporation, the Liquidating Officer shall offer the liquidation balance to a Foundation or a Fund with identical or at least similar purpose; when the Liquidating Officer does not find such a Foundation or a Fund, or when the identified Foundation or the Fund refuses to accept the offered liquidation balance, the Liquidating Officer shall offer the liquidation balance using an announcement published in a nation-wide daily newspaper firstly to other Foundations, then to other Funds; the Liquidating Officer shall primarily transfer the liquidation balance to the Foundation or to the Fund with a purpose closest to the original one of the liquidated Foundation. If no Foundation nor Funds are willing to accept the liquidation balance, the Liquidating Officer shall offer the liquidation balance to the municipality where the Foundation or the Fund has its seat. If the municipality does not accept the offer within 60 days from the receipt of that offer, the liquidation balance shall be conveyed following this period of time to the State. The recipient of the liquidation balance must use it for achieving public benefit objectives.
- (5) The propositions of the Par. 4 shall not be applied in the case, when the Foundation or the Fund have received a purpose-bounded financial subsidy from the European Communities or its bodies or organizations within a framework of financial assistance. In such a case the Liquidating Officer shall decide about the disposition with the liquidating balance after obtaining assent of the relevant state administration authority.

³Article 70 and following of the Civil Code.

CHAPTER IV

INTERNAL BODIES OF THE FOUNDATION AND OF THE FUND

The Board of Trustees

Article 10

- (1) The Board of Trustees maintains the assets of the Foundation or the Fund, it controls the activity and it decides on all matters of the Foundation or the Fund; the Board of Trustees is the statutory body of the Foundation or the Fund.
- (2) The exclusive field of actions of the Board of Trustees includes:
 - a) to issue the Bylaws and decide on its alternations,
 - b) to approve the budget and its alterations,
 - c) to approve the annual balance-sheet and the Annual Report on activities and economy (hereafter only “the Annual Report”).
 - d) to decide on approving the project of domestic unification by merging unless the domestic unification by merging is excluded by the Articles of Incorporation,
 - e) to elect new members of the Board of Trustees and of the Supervisory Board or the Inspector, as appropriate, unless specified otherwise by the Articles of Incorporation, and to decide on the recalling the member of the Board of Trustees, member of the Supervisory Board or the Inspector from the membership or the function, if he or she ceases to fulfill the conditions set up for the membership or the function, and to elect from within members of the Board of Trustees its Chairperson,
 - f) to determine the compensation for serving as a member of the Board of Trustees, the Supervisory Board or in the function of the Inspector,
 - g) to decide on the enhancement or devaluation of the Endowment equity value under the conditions stipulated by this law.

Article 11

- (1) The Board of Trustees must consist of at least three members. Unless specified otherwise by the Articles of Incorporation, the number of members of the Board of Trustees must always be divisible by three.
- (2) The member of the Board of Trustees may only be a natural person eligible to judicial acts, irreproachable, and such that neither the person nor a person close to it is in a working relation or a similar one to the Foundation or the Fund.
- (3) For the purpose of this Act, a person is considered to be irreproachable, if not lawfully sentenced for a willful criminal act. The status of being irreproachable must be proved by presenting the Penal Register Excerpt or an appropriate document issued by the state of permanent residence of the person in question,
- (4) Neither a natural person nor a person close to it may serve as a member of the Board of Trustees, if any assets for achieving the purpose of the Foundation or the Fund were granted to the person; similarly, a member of the statutory or supervisory body of a juridical person may not serve as a member of the Board of Trustees, if the assets for achieving the purpose of the Foundation or the Fund are granted to the juridical person in question.

Article 12

- (1) Unless stipulated otherwise by this Act or by the Articles of Incorporation, the term of service of a member of the Board of Trustees continues for three years. Unless specified otherwise by the Articles of Incorporation, the repeated election of the member of the Board of Trustees to another term of service is possible.
- (2) If the service of a member of the Board of Trustees is terminated before the regular end of term, the Board of Trustees elects a new member on the vacant place; the term of service of this member ends at the same date, as would end the term of service of the member, whose membership has terminated, unless specified otherwise by the Articles of Incorporation.

Article 13

- (1) The founder, or the Testimonial Administrator shall appoint the initial members of the Board of Trustees, unless they were appointed in the testament.
- (2) Unless specified otherwise by the Articles of Incorporation, after the appointment of the initial members of the Board of Trustees, the names are drawn of one third of the members of the Board of Trustees, whose term will last for one year and one third of the members of the Board of Trustees, whose term will last for two years from the date of their appointment. The Board of Trustees shall elect new members onto places made vacant after these initial terms; the term of service for the new members will last for three years, unless the Articles of Incorporation specify the length of the term otherwise. The Articles of Incorporation may stipulate, that a certain number of members of the Board of Trustees shall be elected on recommendation of certain juridical or natural persons determined by the founder or testator.

Article 14

- (1) The Chairperson convokes and presides the proceedings of the Board of Trustees.
- (2) Unless specified otherwise by the Articles of Incorporation, the decision of the Board of Trustees is valid, when a majority of its members votes for it. When voting for a resolution, the votes of all members of the Board of Trustees are equal. In the case of a tie vote, the vote cast by the presiding person decides.

Article 15

- (1) The membership in the Board of Trustees is terminated by
 - a) elapsing of the term of service,
 - b) death,
 - c) decision on recalling the member when he/she ceases to fulfill the conditions stipulated for the membership or when he/she violates in a serious manner or repeatedly this Act, the Articles of Incorporation or the Bylaws of the Foundation or the Fund, or even for other reasons, whenever such conditions are specified in the Articles of Incorporation,
 - d) resignation.
- (2) The Board of Trustees shall decide on recalling its member for reasons stipulated by this Act not later than one month since the day, when it was informed about the reason for recalling the member, but not later than six months since that reason came into existence. In the case when the Board of Trustees does not take the decision on recalling the member in the given period of time, the act of recalling the member shall be executed by the decision of the court, which acts upon the proposal of a member of the Board of Trustees, a member of the

Supervisory Board, a founder, the Testimonial Administrator of the testament on base of which the Foundation or the Fund was established or any person which proves legal interest.

Article 16

If a Foundation or a the Fund has no statutory body due to the termination of the membership in the Board of Trustees or if due to the lower number of members the Board of Trustees had lost its decision making ability, the court shall appoint new members of the Board of Trustees upon a proposal of a founder, the Testimonial Administrator, the Supervisory Board or even without any proposal.

The Supervisory Board

Article 17

- (1) The Supervisory Board is a reviewing body of the Foundation or the Fund.
- (2) The Supervisory Board must be established whenever the value of the Foundation's Endowment equity or the total value of assets of the Fund is greater than CZK 5,000,000. In other cases, the Supervisory Board may be established, if it is presumed so by the Articles of Incorporation or the Bylaws of the Foundation or the Fund.
- (3) The Supervisory Board, in particular,
 - a) Oversees the compliance with the conditions set up for providing Grants and checks, whether the accounting books of the Foundation or the Fund are kept as required by the law,
 - b) Reviews the annual balance-sheet and the Annual Report,
 - c) Looks after the compliance of activities of the Foundation or the Fund with the law, the Articles of Incorporation or the Bylaws of the Foundation or the Fund,
 - d) Notifies the Board of Trustees about discovered inconsistencies and proposes recommendations concerning ways of remedy
 - e) At least once a year submits to the Board of Trustees its report on results of its reviewing activities.

Article 18

- (1) In connection to executing its reviewing capacity, the Supervisory Board is authorized, in particular,
 - a) to review the accounting books and other documents related to the Foundation or the Fund,
 - b) to convene an extraordinary session of the Board of Trustees, if this is in the interest of the Foundation or the Fund and if the Board of Trustees does not take action itself.
- (2) The members of the Supervisory Board have the right to participate on the sessions of the Board of Trustees and they must be given floor for expressing themselves, whenever they request it.

Article 19

- (1) The function of the member of the Supervisory Board is incompatible with the function of the member of the Board of Trustees or the person, which is entitled to act as a representative of the Foundation or the Fund.
- (2) The Articles 11 to 15 of this Act apply to the members of the Supervisory Board, similarly, with the exception of the right to elect new members of the Supervisory Board (Article 12, Par. 2).

Article 20

- (1) In the case when the Supervisory Board is not established, it is the Inspector who executes its functions according to the Articles 17 and 18 of this Act.
- (2) The functions of the Inspector shall be accomplished under conditions stipulated in the Article 11 Par. 2 to 4, Article 12, Article 13 Par. 1 and 3, Article 15 and Article 19 Par.1 of this Act, as appropriate.

CHAPTER V USAGE OF THE ASSETS OF THE FOUNDATION OR THE FUND

Article 21

- (1) The assets of the Foundation or the Fund may be used only in accordance with the purpose and conditions set up in the Articles of Incorporation or in the Bylaws of the Foundation or the Fund in a form of a Grant or to cover expenditures related to other activities serving to the fulfillment of the purpose of the Foundation or the Fund, and to cover the expenditures related to the administration of the Foundation or the Fund.
- (2) The expenditures related to the administration of the Foundation or the Fund must be accounted for separately from accounting for the Grants. The expenditures related to the administration of the Foundation or the Fund include, in particular, the expenditures connected with the maintenance and increasing the value of the assets of the Foundation or the Fund, the expenditures related to the promotion of the purpose of the Foundation or the Fund and the expenditures related to the operational costs of the Foundation or the Fund, inclusive compensations for the execution of functions paid to the members of the Board of Trustees, the Supervisory Board and the Inspector, whenever appropriate.
- (3) The Grant given by the Foundation or the Fund in accordance with the purpose for which the Foundation or the Fund was established must be used by the person to which it was granted (hereafter “the Grantee”) in accordance with the conditions set by the Foundation or the Fund; in case of non-compliance [with such conditions], the Grantee is obliged to return the Grant or its monetary equivalent within the period of time set to it by the Foundation or the Fund.
- (4) On request of the Foundation or the Fund, the Grantee is obliged to prove in what manner and for what purpose the Grant has been used.
- (5) Neither the members of the bodies of the Foundation or the Fund nor the Inspector may become Grantees.
- (6) The Foundation or the Fund may not participate in financial support of political parties or political movements.

Article 22

- (1) The Articles of Incorporation or the Bylaws of the Foundation or the Fund must determine one of the following rules restricting the expenditures related to the administration of the Foundation or the Fund:
 - a) The total yearly expenditures of the Foundation or the Fund related to the administration of the Foundation or the Fund may not be greater than a certain percentage of the revenues from the Endowment [of the Foundation] or of the revenues of the property of the Fund
 - b) The total yearly expenditures of the Foundation or the Fund related to the administration of the Foundation or the Fund may not be greater than a certain percentage of the value of the sum of Grants provided during that year.
 - c) The total yearly expenditures of the Foundation or the Fund related to the administration of the Foundation or the Fund may not be greater than a certain percentage of the Endowment equity value [in the case of the Foundation] or of the overall assets equity value of the Fund as evaluated to the 31. December of the same year, respectively.
- (2) The rule determined according to the Par. 1 may not be altered for a period of time of at least 5 years. The decisive period of time according to the Par. 1 is the calendar year.

Article 23

- (1) With the exception of renting the real estate property, organizing lotteries, raffles, public collections, and engaging in cultural, social, sportive and educational events, the Foundation or the Fund may not participate on any business activities in its own name. A Foundation or a Fund must not use their assets for acquiring capital equity in other juridical persons, unless this Act stipulates otherwise.
- (2) The property of the Foundation or the Fund may neither serve as a building lien nor as a security of any other liability.
- (3) The Endowment [of the Foundation] may not be alienated when stipulated so by the founder or donator; in other cases it is possible to dispose with it, including the change of the composition of the Foundation's Endowment, but exclusively in accordance with the purpose of the Foundation and following the best tending practices. The Foundation is obliged to deposit the monetary assets forming a part of its Endowment on a special account at a bank or at a branch of a foreign bank operating on the territory of the Czech Republic^{3a}, or to use these
 - a) to buy investment tools^{3b} issued in a member state of the Organization of Economic Cooperation and Development (hereafter only "OECD"), specifically the following investment tools denominated in the Czech or foreign currency:
 1. the tools of the monetary market,
 2. bonds and other securities representing a debtor's statement, admitted on a regulated stock market of the member state of OECD,
 3. shares of open unit funds, respectively shares issued by units of collective investments others then of a closed type, whose statute limits the investments into company shares and similar tools up to a cap of 30 percent
 4. shares of other open unit funds, or shares issued by units of collective investment of other then of a closed type,
 5. bonds issued by governments or central banks,
 - b) to buy real estates.

^{3a}Act No. 21/1992 Coll., on Banks, in the text of later amendments

^{3b}Act No. 256/2001 Coll., on Business of the Capital Market

- (4) The total value of the following investment tools must not be higher than 30 percent of the total value of the Endowment equity:
 - a) Investment tools issued in a foreign currency,
 - b) Shares of open unit funds or shares issued by units of collective investment others than of a closed type, with the exception of those described in Par. 3, item a) part 3, and
 - c) bonds, whose equality assessment rating issued by a rating agency registered or licensed according to the directly applicable regulation of the European Union on rating agencies^{3c}, does not reach the comparable category as the Czech Republic or which are not irrevocably and unconditionally guaranteed by a country or another subject with their rating reaching at least the equality rate of the Czech Republic.
- (5) Monetary assets forming a part of the Endowment must not be lent.
- (6) A Foundation may
 - a) Buy capital participation on stock holding companies within the scope stipulated by this Act,
 - b) Become a founder of a public benefit corporation^{3d}.
- (7) The total scope of the capital equity participation of a Foundation on stock holding companies must not exceed 20 per cent of the total value of the assets of the Foundation after subtracting its Endowment equity value. The Foundation may buy and sell the listed securities only at regulated stock markets. The share of the Foundation on the equity of a stock holding company may not exceed 20 per cent of the total equity of that stock holding company.
- (8) A Foundation or a Fund must not be a partner to a public business company, a special limited partner of a commendite, silent partner, or a member of a cooperative whose members have discharging obligations for covering losses of the cooperative higher than the membership contribution, or must not be a member of other juridical person, if such a member is liable for commitments of that person.
- (9) When selling the property of the Fund or when renting real estates, which form a part of the property of the Foundation or the Fund, the buyer or renter must be a member of the Board of Trustees, a member of the Supervisory Board or the Inspector, as appropriate, or any person closely related to these³ or a juridical person, in a statutory body of which operates a member of the Board of Trustees or of the Supervisory Board or the Inspector of the Foundation or the Fund.
- (10) The value of the Endowment equity shall be parlayed by
 - a) Contribution of assets described in Article 3, Par. 5 if they constitute a Donation.
 - b) Contribution of monetary assets and securities (investment tools) described in Article 23, Par. 3, or
 - c) Contribution of a property rights to a real estate.
- (11) If during the existence of the Foundation the value of its Endowment drops below the value entered in the Register, the Foundation shall proceed by parlaying the value of the Endowment equity to the registered value. If the parlay to the registered value does not occur within two years from the end of the fiscal year in which the drop appeared, the Foundation is obliged to decide on devaluation of its Endowment equity value correspondingly to its real value within three years from the end of the fiscal year in which the drop of the Endowment equity value took place.

^{3c} See the Regulation of the European Parliament and the Council of the ECs No. 1060 from September 16, 2009, on Rating Agencies

^{3d} Act No. 248/1995 Coll., on Public Benefit Corporations and on the changes and amendments of some other laws.

³ See Article 116 of the Civil Code.

- (12) When during the existence of the Foundation the value of its Endowment equity drops below CZK 500,000 and the Endowment equity value has not been parlayed to at least CZK 500,000 within one year from the end of the fiscal year in which the drop appeared, the Board of Trustees of the Foundation is obliged to decide about the proposal on domestic unification by merging the Foundation with another Foundation according to the Article 8, Par.1, or to submit to the court a proposal for winding up the Foundation.

CHAPTER VI BOOK-KEEPING AND ANNUAL REPORTING

Article 24

Book Keeping

- (1) Foundation and Fund keep their accounting books according to special regulations.⁵
- (2) The annual financial report of a Foundation must be submitted to auditing by a licensed auditor. The annual financial report of a Fund must be audited for the fiscal year, in which the total value of expenditures or earnings of the Fund exceeded CZK 3,000,000 or when total value of the assets of the Fund exceed CZK 3,000,000.

Article 25

- (1) The Foundation or the Fund prepares an Annual Report in the term determined by the Board of Trustees, or foreseen in the Bylaws of the Foundation or the Fund; however, this shall not be later then in six months following the end of the evaluated period of time. The evaluated period of time shall be a calendar year or, in the case of the first Annual Report, the time elapsed from the date of incorporation of the Foundation or the Fund to the end of the calendar year, in which the Foundation or the Fund was incorporated.
- (2) The Annual Report should contain the review of all activities of the Foundation or the Fund accomplished during the evaluated period of time accompanied by evaluation of those activities. This includes, namely, the following:
 - a) An overview of the assets of the Foundation or the Fund and of the liabilities of the Foundation or the Fund,
 - b) An overview of donors contributing individual donations to the Foundation or the Fund in a value exceeding 10,000 Czech Crowns; in case when a donor requests anonymity to be respected, its anonymity must be maintained
 - c) An overview of how the property of the Foundation or the Fund has been used,
 - d) An overview of the Grantees who were granted any assets for a purpose for which the Foundation or the Fund was established in a Grant value exceeding CZK 10,000; attached must be an evaluation of whether and how the grant has been used; in the case when the Grant was given to a natural person for the purpose of covering the health or other humanitarian needs and that person asks for anonymity, the anonymity of that person shall be preserved,
 - e) The evaluation of how the Foundation or the Fund manages to adhere to the rule that limits the expenditures for its administration (see Article 22),
 - f) The evaluation of basic items in the annual balance-sheet and the proclamation of the external auditor extended by any information of serious importance excerpted from the auditor's report; the annual balance-sheet should form an appendix to the Annual Report.

- (3) In the case when some facts are revealed after the Annual Report has been published, which would require a correction in the report, the Foundation or the Fund are obliged to make and publish such a correction without unnecessary delay.

Article 26

- (1) The Foundation or the Fund shall deposit the Annual Report not later than 30 days after its approval by the Board of Trustees or its correction according to the Article 25 Par. 3 of this Act into the collection of files maintained at the Registering Court.
- (2) Everybody has the right to see the Annual Report and make transcripts and excerpts of it.
- (3) The Articles of Incorporation or the Bylaws of the Foundation or the Fund may determine additional way how to publish the Annual Report.

CHAPTER VII FOREIGN FOUNDATIONS AND FOREIGN FUNDS

Article 27

- (1) Unless stipulated otherwise by this Act or by a special law⁴, the juridical person with headquarters outside of the Czech Republic, which is a Foundation or a Fund according to the law of the state of its permanent seat (hereafter only “the Foreign Foundation”), may develop its activities on the territory of the Czech Republic under the same conditions and in the same scope as Foundations or Funds incorporated according to this Act, unless specified otherwise by a special law⁶ or his law.
- (2) The permission for a Foreign Foundation to develop its activities in the Czech Republic begins on the day of incorporation of its branch established on the territory of the Czech Republic into the Register and it terminates by the day of invalidation of the branch entries in the Register.
- (3) The Registering Court shall register the branch established on the territory of the Czech Republic if its purpose is in accordance with the Article 1 Par.1 of this Act.
- (4) The proposal for incorporation of the branch of a Foreign Foundation shall be submitted by the Foreign Foundation; the proposal shall be accompanied by the Bylaws of the branch, a document showing, that the Foreign Foundation was incorporated as a legal body and that the value of the endowed contribution corresponds to the requirements of this Act.

PART TWO ALTERATION AND AMENDMENTS TO THE CIVIL CODE

Article 28

The Act No. 40/1964, the Civil Code, [in the writing of later amendments until Act No. 94/1996] is herewith altered and amended as follows:

1. Articles 20b to 20e, including the heading, are cancelled.
2. In the Article 476d, paragraph 1, the full point at the end is omitted and the following text is added: “and when it must have the form of a notarial deed.”.

⁴E.g. Article 17 of the Act No. 219/1995, on the Use of Foreign Currencies.

[Note: By these amendments, the previous regulation of foundations, as given by the Civil Code Articles, is being replaced by this special Act].

PART THREE AMENDMENTS TO THE CIVIL PROCEDURE CODE

Article 29

The Act No. 99/1963, the Civil Procedure Code [in the writing of later amendments until Act No. 202/1997 and resolutions of the Constitutional Court of the Czech Republic until No. 296/1996] is herewith altered and amended as follows:

In the Article 9, paragraph 2, item j), the full point at the end is replaced by a colon and the new item k) is added, which reads, including the footnote No. 1a) as follows:

[“The following cases are to be handled by the court relevant for the headquarters of the legal body...]

k) the case of winding up the Foundation or the Fund and liquidation of its assets, the case of appointing the Liquidating Officer of the Foundation or the Fund and the case of appointing new members of the Board of Trustees of the Foundation or the Fund ^{1a)}

1a) See Article 7, paragraph 3 to 5, Article 9, paragraph 2 and Article 16 of the Act No.227/1997, on Endowed Foundations and Funding Bodies and on the alternations and amendments of certain related Acts (Act on Foundations and Funds).”.

[Note: By this amendments, the notions of the Foundation or the Fund are introduced into the Civil Procedure Code.]

PART FOUR

AMENDMENT OF THE ACT OF THE CZECH NATIONAL COUNCIL No. 546/1991, ON COURT PROCEDURE FEES, IN THE WRITING OF LATER AMENDMENTS

Article 30

The Act of the Czech National Council No. 549/1991, on Court Procedure Fees, [in the writing of later amendments until Act No. 209/1997] is herewith amended as follows:

In the Article 11 paragraph 2 item k), the full point at the end is replaced by a colon and items l) and m) are added, which read as follows:

[“The following cases are except from the court procedure fees ...]

l) [those] related to the incorporation of the Foundation or the Fund into the Register of Foundations,

m) [those] related to the incorporation of the Public Benefit Company into the Register of Public Benefit Companies”

PART FIVE

AMENDMENT OF THE ACT OF THE CZECH NATIONAL COUNCIL No. 357/1992, ON THE HERITAGE TAX, THE TAX ON DONATIONS AND THE TAX FROM TRANSFER OF TITLE TO REAL ESTATES , IN THE WRITING OF LATER AMENDMENTS

Article 31

The Act of the Czech National Council No. 357/1992, on the Heritage tax , the Tax on Donations and the Tax from Transfer of the Title to Real Estates [,in the writing of later amendments until Act. No. 203/1997] is herewith amended as follows:

In the Article 20 paragraph 4, item c), the full point at the end is replaced by a colon and the item d) is added, which read as follows:

[“The following property transfers are exempt from the heritage tax and from the tax from property transfer

...]

d) [assets granted] by a Foundation or a Fund, as well as any property granted by a Foundation or a Fund in accordance with the purpose and conditions set in its Articles of Incorporation or in its Bylaws”.

PART SIX

THE AMENDMENTS TO THE ACT OF THE CZECH NATIONAL COUNCIL No. 586/1992, ON INCOME TAX, IN THE WRITING OF LATER AMENDMENTS

Article 32

The Act of the Czech National Council No. 586/1992, on Income Tax [,in the writing of later amendments until Act No. 210/1997] is herewith amended as follows:

“

1. In the Article 18, paragraph 7 the words “nadační fondy [Funds]” are added after the word “nadace [Foundations]”
2. In the Article 19, paragraph 1,item p), the full point is replaced by a colon and an item r) is added, which reads, including the footnote 57), as follows:
[“The following items are exempt from the corporate income tax:]
r) revenues which follow from renting the real estates forming a part of the Endowment [of the Foundation] and which are filed in the Register of Foundations and Funds, revenues which follow from securities forming a part of the Endowment [of the Foundation] and which are filed in the Register of Foundations and Funds, revenues which follow from the interest rate of monetary assets forming a part of the Endowment [of the Foundation] and which are filed in the Register of Foundations and Funds, under the condition that these assets are deposited on a special account at a bank, revenues which follow from author’s rights and patent rights that form a part of the Endowment [of the Foundation] and which are filed in the Register of Foundations and Funds; the

exemption is not applied to those incomes, which were used in contrary to the special law⁵⁷

57) Act No. 227/1997, on Foundations and Funds and on the Alterations and Amendments of Certain Related Acts (Act on Foundations and Funds).”.

[Note: Point 1 above defines the same conditions for both Foundations and Funds with respect to the corporate income tax reduction, as it was in force for foundations established before January 1, 1998. Point 2 provides special tax exempt for revenues of the endowment of a Foundation.]

PART SEVEN

ALTERATION OF THE ACT No. 563/1991, ON ACCOUNTING, IN THE WRITING OF LATER AMENDMENTS

Article 33

The Act No. 563/1991, on Accounting, in the writing of the Act No. 117/1994 is herewith amended as follows:

In the Article 9, paragraph 1, item d) the word “nadace [Foundations]’ following the words “sdružení právnických osob [association of juridical persons]” is to be replaced by the words “nadační fondy [Funds]”.

[Note: By this amendment, the possibility to use the one entry accounting procedure is limited to the Funds, while the Foundations must use the regular double entry accounting procedures]

PART EIGHT

ALTERATION OF THE CZECH NATIONAL COUNCIL ACT No. 102/1992, WHICH REGULATES CERTAIN MATTERS RELATED TO THE IMPLEMENTATION OF THE ACT No. 509/1991, ON ALTERATIONS AND AMENDMENTS OF THE CIVIL CODE

Article 34

The Czech National Council Act No. 102/1992, which regulates certain matters related to the implementation of the Act No. 509/1991, on alterations and amendments of the civil code is herewith amended as follows:

Article 12 including the footnote No. 8 is omitted.

[Note: By this amendment of the Civil Code, beginning from January 1, 1998, the District Office of the State Administration ceases to be a registering place for foundations.]

PART NINE
THE TRANSITORY AND TERMINAL REGULATIONS

Transitory regulations

Article 35

- (1) The foundations established according to the hitherto effective laws shall be considered Foundations or Funds in accordance to this Act, if the statutory body of the foundation submits , within the time limit of 12 months since this Act becomes effective, a proposal for incorporation into the Register, as required by this Act, including the document proving the required minimal value of the Endowment equity [of the Foundation] to the date of the proposal submission and including the amended Bylaws of the Foundation or the Fund and Penalty Register Excerpts for the members of the Board of Trustees, of the Supervisory Board or the Inspector, whichever is appropriate. The statutory body of the Foundation or the Fund shall forward one of the original writings of the proposal for incorporation to the District Administration Office, and, in the Capital Prague, to the City District Administration Office at which the foundation was registered (hereafter only “the District Office”).
- (2) The statutory body of the foundation established according to the hitherto effective laws may decide on merging with another foundation established according to the hitherto effective laws under the condition, that the purpose of the receiving foundation is identical or similar to the purpose for which the merging foundation was established. As for merging procedures, the Article 7, paragraph 1, Article 7, paragraph 2 item b) and Article 8, paragraphs 4 to 7 are to be applied in an appropriate manner, understanding the notions “the Articles of Incorporation” as “the Bylaws of the Foundation”, ”the Register” as “the List of Foundations Maintained at the District Office” and “the Registering Court” as “the District Office which Registered the Foundation”. The Accepting Foundation is obliged to act according to the paragraph 1 of this Article, including the time limit set in it, in which the proposal for incorporation according to this Act must be forwarded.
- (3) The statutory body of the foundation established according to the hitherto effective laws may decide on transformation into a public benefit corporation. The transformation into the public benefit corporation is considered to be effective from the date of its incorporation. To the date of incorporation of the public benefit corporation, all property, rights and obligations of the foundation established according to the hitherto effective laws are transferred without liquidation on this public benefit corporation. The public benefit corporation incorporated in the above way shall report its incorporation without delay to the District Office, which registered the hitherto existing foundation.
- (4) Instead of forwarding the proposal for incorporation according to the paragraph 1 or proceeding according to the paragraph 2 or 3 of this Article, the statutory body of the foundation established according to the hitherto effective laws may in the term of 12 months since this Act becomes effective decide on winding up the foundation and liquidation of its assets. The entry into the liquidation process shall be reported to the District Office. After completing the liquidation of assets, the Liquidating Officer shall report to the District Office the termination of the foundation. As for the settlement of the liquidation balance, the provisions of this Act shall be used as appropriate.
- (5) After idle expiration of the deadline according to the paragraphs 1 or 4, or in the case when the proposal for incorporation has been refused, the District Office shall terminate the existence of the foundation and shall order the liquidation of its assets. The District

Office shall appoint the Liquidation Administrator. As for the settlement of the liquidation balance, the provisions of this Act shall be used, as appropriate.

- (6) Until the date of incorporation according to the paragraph 1, or until the termination of the foundation according to the paragraphs 2 to 5, the legal relations of the foundation established before this Act becomes effective are regulated by the hitherto effective laws, unless stipulated otherwise by this Act.
- (7) To the date of incorporation of the Foundation or the Fund into the Register, the Foundation or the Fund shall complete the extraordinary balance-sheet.

Article 36

- (1) The organizations with a foreign element which are developing their activities in the Czech Republic according to the special law⁷, who have a nature of a Foreign Foundation according to this Act, may forward a proposal for incorporation into the Register according to the Article 27 of this Act accompanied with the documents specified in that Article, but not later than 12 months since this Act becomes effective. One of the original writings of the proposal for incorporation shall be forwarded by the organization with a foreign element to the Ministry of Interior.
- (2) After idle expiration of the deadline according to the paragraph 1, or in the case when the proposal for incorporation is refused by the Registering Court, the permission to develop activities in the Czech Republic for the organization with a foreign element issued according to the special law⁷ ceases to be effective.

Article 37

Validity of the Act

This Act becomes effective beginning from January 1, 1998.

[Amendments following from the Act No. 227/2009 Coll. Become effective on July 1, 2010.]

Miloš Zeman s.m.

Václav Havel s.m.

Václav Klaus s.m.

* * * * *

©Translation: Petr Pajas, 31 July 1998 corrected and amended on July 1, 2011.

⁷ActNo.116/1985,onConditionsforActivitiesofOrganizationswithaForeignElementintheCzechoslovakSocialistRepublic,inthewordingoftheActNo.157/1989.