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**FORCED HEIRSHIP AND ASSET  
PROTECTION:**  
HOW LIECHTENSTEIN  
FOUNDATIONS AND TRUSTS  
PROTECT FAMILY WEALTH

Anyone wishing to preserve wealth across generations requires clear structures that continue to function after death and are not eroded by family conflicts or unforeseen claims. The transfer of assets into a Liechtenstein foundation or a Liechtenstein trust is an internationally established instrument for this purpose. In such planning, forced heirship claims by statutory heirs regularly arise, as well as the question of how these can be addressed and managed.

## 1. WHAT DOES FORCED HEIRSHIP MEAN?

Forced heirship constitutes a statutory minimum protection for close relatives in certain legal systems. It limits the freedom of the testator to decide freely who will receive their assets and ensures, in particular for children and spouses in many jurisdictions, a non-waivable minimum entitlement.

In practice, the mechanism generally operates as follows:

- The law first determines who would inherit what under the statutory rules of succession.
- The forced share represents a fraction of this statutory inheritance and is owed as a monetary claim.
- If the deceased made substantial gifts during their lifetime, these may under certain circumstances be added back when calculating the forced share in the form of a supplementary forced heirship claim.

If assets are transferred to a foundation or trust, forced heirs may view this as a gift that reduces their minimum entitlement. Professional planning therefore aims to structure the arrangement in such a way that such supplementary claims can be effectively limited.<sup>1</sup>

## 2. LIECHTENSTEIN STRUCTURAL ELEMENTS FOR FORCED HEIRSHIP PROTECTION

### 2.1 The two-year rule: why the timing of the transfer is crucial

Under Liechtenstein law, forced heirs may take certain gifts made by the deceased into account when calculating their forced share, including gratuitous transfers of assets to a foundation or trust. At the same time, the law establishes a clear temporal limitation: gifts to persons who are not forced heirs are disregarded if they were made more than two years before death.

For foundations and trusts this means:

- If assets are transferred gratuitously to a Liechtenstein foundation or trust,
- and the founder or settlor survives this transfer by more than two years,
- and Liechtenstein law governs the transaction, then forced heirs can generally no longer include these assets in the calculation of their forced share under Liechtenstein law.

### 2.2 Genuine relinquishment of wealth: the transfer must be real and effective

The two-year rule only applies if there has been an actual economic sacrifice. This requires that the founder or settlor meaningfully relinquishes economic control over the assets. If the founder instead retains extensive amendment, revocation or instruction rights, or continues to effectively control decisions, the law assumes that the assets remain attributable to the founder.

In such cases, the two-year period does not begin to run, or only begins once those rights are relinquished or upon death.

<sup>1</sup> See §§ 762 et seq. of the General Civil Code of 1 June 1811 (ABGB), LGBl. 1003.001, in particular §§ 778-783 ABGB.

In practice, this means in particular:

- The structure must be designed so that the founder or settlor does not retain rights or factual influence that could constitute improper influence over the foundation council.
- Additional bodies are often established, such as a foundation advisory board (protector), which the foundation council may consult on significant decisions and which may exercise general oversight. The same considerations apply to trusts.

In discretionary foundations and trusts, careful and consistently implemented structuring is therefore essential in order for the two-year period to begin running effectively and for forced heirship claims to be reliably excluded after a certain point in time.

### **2.3 The double filter: legal certainty through a two-stage review of claims**

In international situations, for example where a foreign entrepreneur establishes a Liechtenstein foundation, the decisive question is which law governs forced heirship and supplementary claims. Liechtenstein private international law (IPRG) generally links succession law to the nationality of the deceased unless a Liechtenstein probate procedure is conducted.

Article 29(5) IPRG introduces an additional double filter for claims against third parties who received assets from the deceased during their lifetime, typically foundations or trusts.

1. First, it is examined whether the applicable succession law provides a claim against the foundation or trust.
2. Second, such a claim must also be permissible under the law governing the acquisition of the asset transfer itself, which in the case of transfers to Liechtenstein foundations or trusts will generally be Liechtenstein law.

Article 29(5) IPRG<sup>2</sup> therefore operates in international constellations as a two-stage review of forced heirship or supplementary claims against the structure.

First, the applicable succession law must allow a forced heir to pursue a claim against the recipient of a lifetime transfer, such as a foundation or trust. Second, the claim must also be permissible under the law governing the transfer itself.

If one of these levels fails – for example because the relevant time limit has expired under Liechtenstein law – the protective effect of the structure increases significantly.

In practice, a supplementary forced heirship claim can therefore only succeed if both legal systems support the claim. If, for example, the two-year period has expired under Liechtenstein law or if there is no legal basis for such a claim under Liechtenstein law, the assets held in the foundation or trust remain protected in principle.

### **2.4 Choice of law as a planning instrument**

The IPRG provides additional structuring options, particularly for foreign founders:

- In transfer agreements – for example when establishing a foundation, making gifts or creating a trust – Liechtenstein law can often be chosen as the governing law so that the protective rules of Liechtenstein relating to gifts and forced heirship apply.
- In a testamentary disposition, a foreign testator may partially subject their succession to the law of the state of their last habitual residence if the requirements of Article 29(3) IPRG are met.

Such choice-of-law options allow careful coordination between the law of nationality, the law of residence and Liechtenstein law. However, they should always be considered in the context of the overall family and tax situation.

<sup>2</sup> Private International Law Act of 19 September 1996 (IPRG), LGBl. 1996 No. 194.

### 3. INTERNATIONAL ATTRACTIVENESS AND ENFORCEMENT PROTECTION

Another important advantage of Liechtenstein as a jurisdiction lies in the procedural predictability regarding the recognition and enforcement of foreign civil judgments.

Liechtenstein is neither part of the EU Brussels I system nor a contracting state of the Lugano Convention. Foreign civil judgments are therefore generally not directly enforceable in Liechtenstein.

This means in practice:

- A judgment obtained abroad regarding forced heirship claims will not automatically be enforced in Liechtenstein, with the exception of Swiss and Austrian judgments.
- As a rule, the claim must be brought in separate proceedings before the Princely Court of Justice in Liechtenstein, which typically shifts the dispute into the Liechtenstein legal framework.
- In those proceedings, the Liechtenstein court independently reviews whether and to what extent a claim exists under Liechtenstein law, particularly under the double filter and the two-year rule.

In practice, this increases predictability, as forced heirship risks can be addressed and managed at an earlier stage not only from a substantive legal perspective but also from a procedural strategy standpoint. As a result, founders and settlors benefit from a high degree of legal certainty when using Liechtenstein foundations and trusts to mitigate forced heirship risks.

#### Forced heirship and asset protection using Liechtenstein structures

- Forced heirship rights exist in many jurisdictions as statutory minimum protection and may trigger financial claims by children and – depending on the system – spouses regardless of the wording of a will. These rights can conflict with long-term wealth planning.
- Liechtenstein foundations and trusts provide an internationally established structural framework because forced heirship risks can be managed not only through substantive law but, in cross-border situations, also through a clear conflict-of-laws framework and forward-looking implementation.
- A central lever is the timing of asset transfers. Transfers made sufficiently early may, depending on the group of beneficiaries and the structure chosen, result in supplementary claims under Liechtenstein rules being enforceable only under very limited conditions.
- It is equally important that the transfer is genuine, meaning that it constitutes a real relinquishment of wealth. Anyone who retains excessive control risks that limitation periods will not begin to run or that the structure will prove less effective in a dispute than it appears on paper.
- In international situations, a two-stage review of claims also applies. Forced heirship claims against a structure are typically only realistic if they are supported both by the applicable succession law and by the law governing the transfer itself. If one level falls away, predictability and the protective effect increase.

#### 4. FORCED HEIRSHIP RULES IN INTERNATIONAL COMPARISON

Legal systems differ significantly in how far freedom of testamentary disposition may extend. The following overview provides an initial point of reference:

The comparison shows that Liechtenstein forms a bridge between the rigid forced heirship systems of continental Europe and the broad testamentary freedom of Anglo-Saxon jurisdictions. While classical forced heirship regimes often leave little room for individual succession planning, the Liechtenstein structure allows a forward-looking balance. It provides clear limitation periods and transparent conflict-of-laws connections that protect the founder's intentions while still respecting the legitimate core of family protection.

Region	Jurisdiction	Characteristics of Forced Heirship Law
<b>Central Europe</b>	Germany, Liechtenstein, Austria, Switzerland	Clear forced heirship quotas in favour of the core family. Switzerland reduced these quotas in 2023, but the system remains in place.
<b>Northern Europe</b>	Sweden, Norway, Finland, Denmark	Generally greater testamentary freedom, with partially reduced or differently structured forced heirship rights. Family protection exists but is often less strict than in traditional continental European forced heirship systems.
<b>Eastern Europe</b>	Poland, Czech Republic, Hungary	Many countries provide forced heirship claims following the continental European model, often focusing on children and spouses and sometimes parents. The circle of beneficiaries may be narrower and the quotas more moderate.
<b>Southern Europe</b>	Italy, France, Monaco	Strict forced heirship regimes. A large portion of the estate is reserved for the family and may only be disposed of to a limited extent.
<b>Anglo-Saxon jurisdictions</b>	United Kingdom, United States (except Louisiana)	Extensive testamentary freedom without fixed forced heirship quotas. Courts may intervene where close relatives have been inadequately provided for (family provision).
<b>Crown Dependencies</b>	Jersey, Guernsey	Special firewall provisions in trust legislation designed to prevent foreign forced heirship or inheritance rules from affecting trusts established in those jurisdictions.
<b>Asia</b>	China, Singapore, Hong Kong	Generally high freedom of disposition. Singapore generally does not recognise forced heirship quotas. Hong Kong also allows broad testamentary freedom but permits judicial correction where dependants have been insufficiently provided for.
<b>MENA region</b>	Saudi Arabia, United Arab Emirates	Succession law based on religious rules (forced heirship under Sharia) with fixed inheritance shares. In the UAE, non-Muslims now have certain options, including choice-of-law mechanisms in specific legal zones.

## 5. LIECHTENSTEIN COMPARED WITH JERSEY

Liechtenstein and Jersey are among the leading jurisdictions worldwide for asset protection structures but follow different legal approaches regarding forced heirship rules.

For many continental European founders, the Liechtenstein approach is particularly compatible in cross-border situations because it is based on a coherent conflict-of-laws framework rather than purely defensive rules.

For founders from common law jurisdictions such as the United States or the United Kingdom – where forced heirship rules either do not exist or are significantly weaker – Liechtenstein structures can

also be implemented without the need for additional firewall provisions.

For founders from Sharia-based legal systems, which combine strict inheritance quotas with the desire for flexible succession solutions, Liechtenstein offers a pragmatic alternative. Structures can be designed so that asset transfers are legally valid under civil law and secured under conflict-of-laws principles while allowing the influence of religious inheritance rules in the home jurisdiction to be addressed in a transparent planning process.

In many constellations, the protective effect of Liechtenstein structures is therefore at least as strong as that of Jersey, but is achieved through clearly justified legal connections and limitation periods.

Aspect	Liechtenstein	Jersey
<b>Legal nature</b>	Civil law jurisdiction with codified foundation and trust law.	Common law jurisdiction with a highly developed trust law framework.
<b>Protection mechanism</b>	Combination of the two-year limitation period, the concept of genuine relinquishment of wealth, and the double filter under Art. 29(5) IPRG.	Explicit firewall provisions in trust legislation providing that foreign forced heirship rules and conflicting judgments do not affect the validity or administration of a Jersey trust.
<b>Enforcement of foreign judgments</b>	Not a member of the Lugano Convention. Recognition and enforcement of foreign judgments occur only under national law and bilateral treaties.	Close connection to the British legal sphere. Foreign decisions – particularly English ones – may receive greater consideration, although the firewall acts as an important barrier.
<b>Doctrinal approach</b>	Conflict-of-laws-based system with transparent dual connecting factors (succession law and the law governing the transfer), which is easier to explain to continental European courts.	Focus on excluding foreign forced heirship rules in trust matters. In certain cases this may encounter reluctance in foreign jurisdictions.

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## 6. WHAT MAKES A SUCCESSFUL STRUCTURE?

Even the best legal framework only produces results if the structure is implemented consistently and with foresight.

In practice, the following aspects are particularly important:

- Early planning: Asset transfers should occur sufficiently early so that limitation periods begin to run and supplementary forced heirship claims can be controlled.
- Clear governance structure: The foundation council, advisory board (protector) and other bodies must be structured so that they operate independently and the founder cannot dictate individual decisions. The same applies to trusts.
- Carefully considered choice of law: Choice-of-law clauses in transfer agreements and testamentary dispositions should be used strategically to achieve the desired level of protection while remaining compatible with the founder's home legal system.

A typical example is an entrepreneur transferring operating companies and financial assets into a Liechtenstein discretionary foundation, waiving controlling special rights, appointing independent governing bodies and coordinating the choice of law with their home jurisdiction. Once the relevant limitation periods have expired and the double filter applies, later supplementary forced heirship claims brought by heirs against the foundation in Liechtenstein will – if possible at all – only be enforceable to a limited extent.

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## 7. FS+P AND THE AUTHORS – EXPERTISE FOR YOUR ASSET PROTECTION

FS+P AG is a fully licensed fiduciary and advisory firm in Liechtenstein specialising in the structuring, administration and protection of wealth across generations. Its core competencies include the establishment and administration of foundations and trusts, succession and wealth planning, and legal, tax and regulatory advice in complex international mandates.

The firm works closely with leading law firms, banks, asset managers and other specialists and combines technical excellence with practical, client-oriented implementation.

Dr. Marco Felder is founding partner and managing director of FS+P. He is recognised for his expertise in Liechtenstein foundation and corporate law as well as in international tax and succession planning and has many years of experience in designing sophisticated wealth structures.

Bergt Law advises at the intersection of international succession planning, foundation and trust law, corporate structuring as well as regulatory and cross-border compliance. The firm focuses on sustainable solutions in sensitive wealth and family situations, particularly where forced heirship issues, asset protection, governance and international enforcement risks intersect.

Dr. Josef Bergt is Managing Partner of Bergt Law. His expertise includes corporate, foundation and trust law, financial market regulation and compliance as well as the legally secure design of complex national and cross-border structures.

Together, the authors combine in-depth academic expertise with extensive practical experience in addressing forced heirship risks and asset protection structures.



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