

# Asset Protection

A stroll through Europe

POELLATH+

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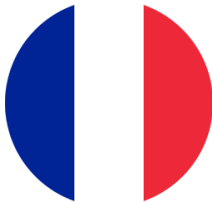
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**HORTEN**



Maëva Fortuné

**YARDS**



Josef Wächter

GASSER PARTNER

ATTORNEYS AT LAW

# What is asset protection?

Working definition:

*“Asset protection is an attempt to reduce, mitigate or eliminate the risk of an undesired event affecting certain assets by organising these assets in a certain way before such risks emerge.”*



Elements:

- management of identified risks
- active re-organization of assets
- precautionary nature of re-organization

# ASSET PROTECTION

IN RELATION TO FORCED HEIRSHIP – from a Swedish perspective

*Regulated in statutory law*

- Heir's compulsory share equals half of the statutory share
- Direct descendant(s) only
- Spouse is excluded

*Potential legal strategies*

- Will
- Corporate structures etc.
- Private foundation

*Essential considerations*

- Asset class
- Control and management
- Flexibility / foreseeability

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# Asset protection

## A few thoughts on the German perspective

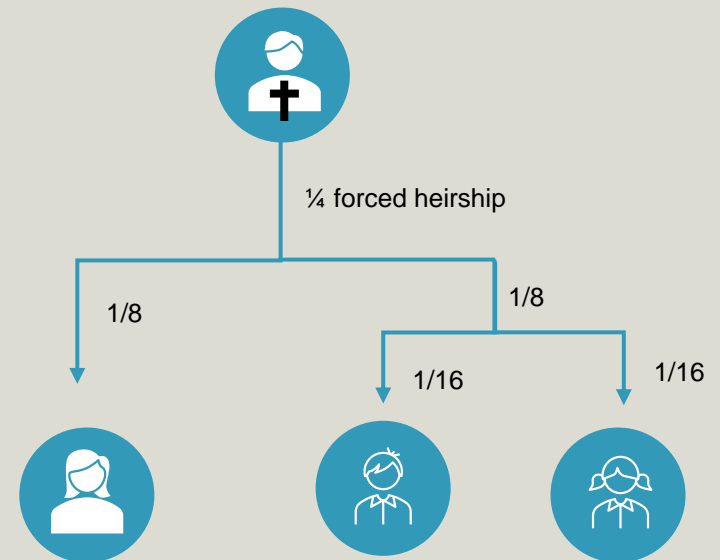
Principle, example, outlook

1. Principle: Private autonomy and statutory limits
2. Example: Testator's freedom and limit of ordre public (Federal Court of Justice, 2022)
3. Outlook: Limit regarding choice of law as a limit to alternatives:  
Lifetime transfer of assets?



# Denmark

- In 2008, the legitimate portion of the descendant's estate was reduced from  $\frac{1}{2}$  to  $\frac{1}{4}$
- Spouses and "life heirs" (children, grandchildren etc.)
- Limitation of legitimate portion to life heirs to DKK 1,450,000 (2024 level) per heir
- Protection of assets; tax free transfer between spouses, administration clauses and foundations



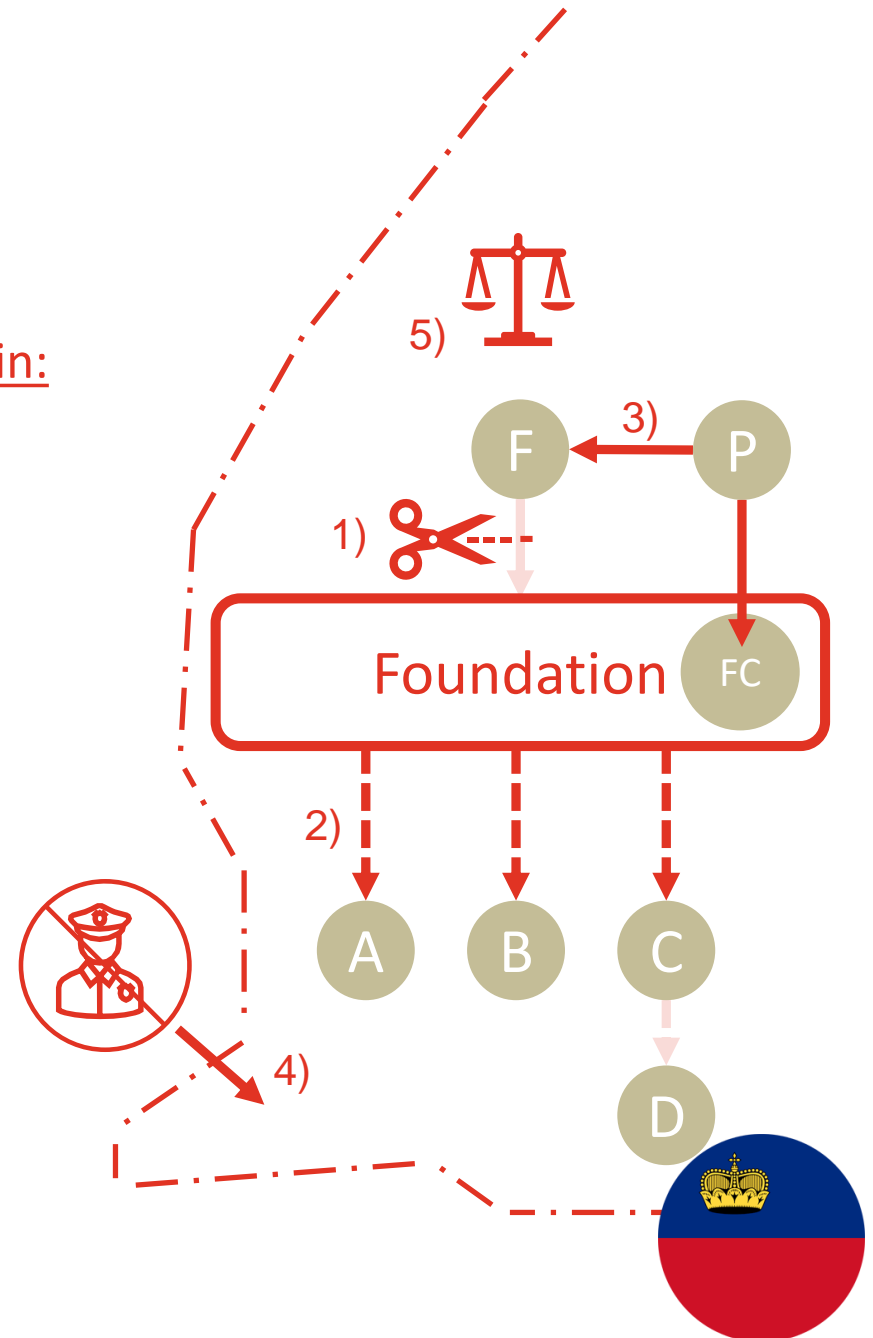
# ASSET PROTECTION - FRENCH PERSPECTIVE



# Liechtenstein

## Means of asset protection in Liechtenstein:

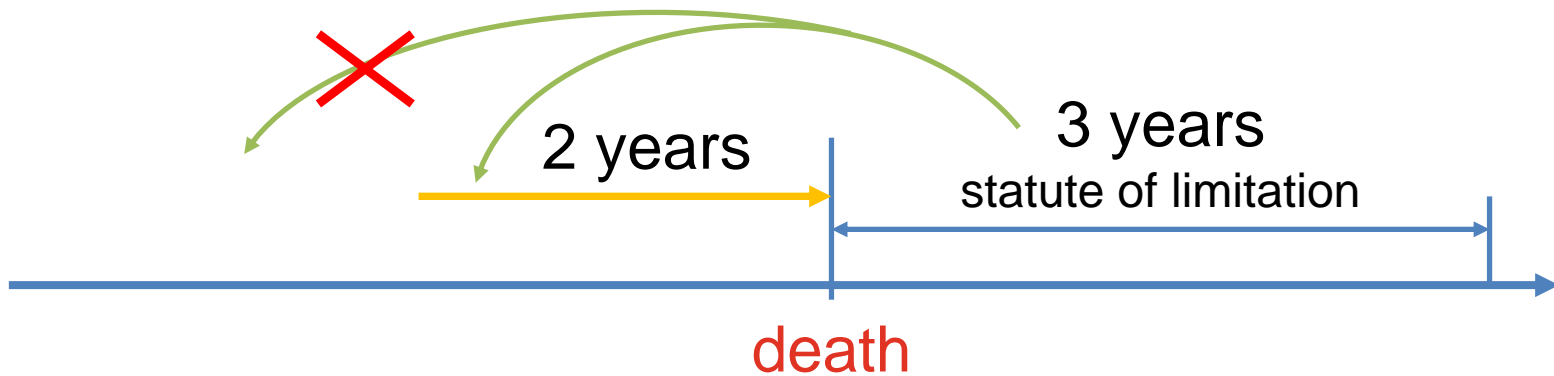
- 1) Cutting loose
- 2) Remove actionable claims
- 3) Involve other people
- 4) Use high level of legal protection
- 5) Protection through choice of law





# Liechtenstein

Challenging endowments based on forced heirship:



Art. 29 (5) IPRG: double filter

Nota bene: Assets must be located in Liechtenstein!



# Panel discussion