

Forced heirship in Switzerland after the 2023 reform

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Swiss succession law protects close relatives through compulsory portions, which a testator cannot simply override by will. The reform of the Swiss Civil Code that entered into force on 1 January 2023 reduced these portions and thereby widened the share of the estate that can be left freely. For international families with assets in Switzerland, the new rules often open planning options that did not exist before.

1 Who is protected under the current rules

Under the Swiss Civil Code (CC), the persons entitled to a compulsory portion are the descendants and the surviving spouse or registered partner. Since the reform, the compulsory portion of descendants amounts to half of their statutory share, and the same fraction applies to the spouse or registered partner. Parents no longer have a compulsory portion, which matters in particular for childless couples who wish to benefit each other as fully as possible.

Anyone who is not a protected heir, including siblings, can therefore be excluded entirely by will or inheritance contract, provided the formal requirements are met.

2 The freely disposable portion in practice

The part of the estate that is not tied up by compulsory portions is the freely disposable portion. A simple example illustrates the effect: where a married person leaves a spouse and children, the statutory shares are, as a rule, one half each. The compulsory portions are then one quarter each, so that half of the estate may be allocated freely, for instance to the spouse, to one child, to a charity.

The calculation becomes more demanding when lifetime gifts, life insurance policies or matrimonial property claims are involved, since some

of these items are added back to the estate for the purpose of determining compulsory portions.

3 Divorce proceedings and the spouse's entitlement

The reform also addressed the position of a spouse during pending divorce proceedings. Under certain conditions, a spouse involved in such proceedings may lose the compulsory portion if the deceased dies before the divorce is final. The precise requirements should be checked in each case, because they depend on how and when the proceedings were initiated.

4 Actions for abatement

If a will, an inheritance contract or certain lifetime gifts infringe a compulsory portion, the dispositions are not void. The protected heir must instead bring an action for abatement before the competent court, which reduces the excessive dispositions to the extent necessary to restore the compulsory portion. Without such an action, the dispositions remain effective.

The law sets relatively short time limits for these claims, which begin to run once the heir has knowledge of the infringement. Heirs who suspect that they have been disadvantaged should therefore seek advice promptly.

5 Wills drafted before 2023

Wills and inheritance contracts drawn up under the old law remain valid, but the new compulsory portions apply to deaths occurring after the reform took effect. Wording such as "my children receive their compulsory portion" may today produce a different result from the one originally intended, so older documents deserve a review.

6 What pays off in practice

- **Review existing wills.** Documents signed before 2023 may allocate more or less than the testator now wishes.
- **Think in quotas and values.** A clear calculation on the basis of the current assets shows how much freedom actually exists.
- **Consider the matrimonial regime together with succession.** In Switzerland the two are closely linked and are best planned in one step.

7 How Ressos Legal helps

I advise families and individuals on structuring their estates under Swiss forced heirship rules, including calculations, will drafting and the defence or assertion of abatement claims. [Contact me](#) for a first conversation.

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