

Disputes over Liechtenstein foundations

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Liechtenstein foundations are widely used by international families, often with bank accounts in Switzerland. When family members disagree, disputes usually turn on information, the conduct of the foundation board and the interpretation of the foundation documents.

1 The legal framework

Liechtenstein foundation law is contained in the Persons and Companies Act, whose foundation provisions were comprehensively revised with effect from 2009. Private-benefit foundations are in many cases not subject to ongoing supervision by the foundation supervisory authority, unless the founder opts for it, while public-benefit foundations are supervised. Foundations established before the revision may still be affected by transitional rules, so the date of establishment and later amendments matter.

2 Information rights of beneficiaries

Beneficiaries generally have a statutory right to information and inspection concerning their rights, including access to the foundation documents and, to an extent, the accounts. These rights can be restricted in certain constellations, for instance where the founder has reserved the right to revoke the foundation, and the details depend on the documents and on whether the person is a beneficiary with an entitlement or merely a potential recipient. Where the board refuses information, beneficiaries may apply to the Liechtenstein courts.

3 Court supervision

The Liechtenstein courts may, on application, take supervisory measures in respect of a foundation, typically in non-contentious proceedings. Such

measures may include ordering information, reviewing board decisions, or in serious cases removing members of the foundation board. The court will generally examine whether the board acted in accordance with the foundation documents and the purpose of the foundation.

4 Typical claims

Frequent issues include disputes over the validity of amendments to by-laws, the exercise of discretion in distributions, conflicts of interest of board members and claims that assets were transferred to the foundation to defeat heirs or spouses. Heirs in other countries may argue that contributions to a foundation should be included in their compulsory portions, which raises questions of applicable law and of the recognition of judgments in Liechtenstein. Assets held with Swiss banks add a further layer, since any measures against those assets will require a basis in Swiss procedural law.

5 What pays off in practice

- **Obtain the full set of documents** including by-laws, supplementary by-laws and board resolutions.
- **Clarify your status** as beneficiary, since information rights depend on it.
- **Plan for two jurisdictions** when foundation assets are booked with Swiss banks.

6 How Ressos Legal helps

I advise beneficiaries, founders and board members on disputes involving Liechtenstein foundations with Swiss assets and work with Liechtenstein counsel where proceedings there are needed. [Contact me](#) for a first conversation.

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