

Disputes over estates and structures

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The wealth of the families of Zug is not immune to disputes. Disputes over estates, trusts and family companies are among the most bitter and the most expensive that the practitioner encounters. The heirs may contest the validity of a will, claim their compulsory portions, challenge lifetime gifts that reduced the estate, or dispute the valuation of assets. The beneficiaries of a trust may challenge the trustee's exercise of discretion, demand information or seek the removal of the trustee. The shareholders of a family company may fight over its control, its dividend policy or the succession in its management.

Swiss law provides the instruments for these disputes: the action for reduction to restore the compulsory portions, the action for annulment of a will, the action for the division of the estate, and the actions of company law.¹ Because the courts of the last domicile of the deceased have jurisdiction over successions, the courts of Zug decide the disputes over the estates of the wealthy residents of the canton, unless a foreign jurisdiction is competent. The revision of succession law in 2023 has changed the calculation of the compulsory portions. It will affect the disputes over estates of persons who died after that date.

Disputes over trusts raise the additional difficulty that they involve foreign trust law, which the Swiss courts must apply under the Hague Convention and the Private International Law Act, often with the help of legal opinions on the foreign law. The practitioner who advises in such disputes must combine the knowledge of Swiss procedure with the knowledge of the trust law of the relevant common law jurisdiction.

The prevention of disputes is often more valuable than their resolution. Clear wills and inheritance contracts, the involvement of the heirs in the planning of the succession, the use of family charters and governance structures, arbitration clauses in the articles of family companies and in trust instruments, and the professional administration of the family's

structures reduce the risk of conflict. The practitioners of Zug increasingly see their role as advisers to the family as a whole, whose aim is to preserve the family's cohesion as well as its wealth.

1 Notes

1. ZGB, text via [swissrights.ch](https://www.swissrights.ch): action for reduction by heirs who receive less than their compulsory portion (Art. 522, as amended with effect from 1 January 2023), action for annulment of a disposition mortis causa (Art. 519) and the right of every co-heir to demand the division of the estate (Art. 604). ↩

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