



The right to compulsory portion in the Baltic States - a comparison

Disinheritance plays a central role in estate planning and inheritance disputes. The right to a compulsory portion protects the claims of close relatives to a legally determined share of the inheritance, even if the entitled relatives were not named as heirs in the will or were explicitly excluded from it. Withdrawal of the compulsory portion is possible only in special circumstances and is usually subject to judicial review.

The following article compares the regulations in Latvia, Lithuania and Estonia and highlights structural similarities as well as differences that should be taken into account both during estate planning and in a case of inheritance.

Latvia

Under Latvian inheritance law, spouses, descendants and, if there are no descendants, relatives in the ascending line are entitled to a compulsory portion.

The compulsory portion is generally half of the statutory inheritance share. A special feature of Latvian inheritance law is that the testator's legacy is not counted towards the compulsory portion, unless the testator does not make any provision to this effect. This means that the beneficiary can receive both the legacy and the compulsory portion.

The claim to the compulsory portion must be asserted within one year of becoming aware of the claim, but no later than 10 years after the death of the testator.

In general, withdrawal of the compulsory portion is only possible if there is a serious reason. Latvian inheritance law, in comparison to Lithuanian and Estonian law, recognizes a greater number for completely disinheriting a relative, including the exclusion from their compulsory share. In addition to causing harm to the health or honor of the decedent or their spouse, a wasteful or immoral lifestyle may also lead to exclusion from the compulsory share. Furthermore, cases where a relative has left the decedent in a helpless state, despite having the ability to provide assistance, have already been addressed by the courts. In addition, another regulation (Article 431) includes provisions specifically addressing the exclusion of the spouse from the compulsory share. For instance, the spouse may be disinherited in the case of adultery.

In order for the compulsory portion to be withdrawn, the reason for the withdrawal must always be expressly stated in the will and there must be no subsequent reconciliation with the beneficiary.

Lithuania

In Lithuania, only certain close relatives are entitled to a compulsory portion in accordance with the statutory provisions only the dependent children, spouses and parents of the deceased.

The compulsory portion is half of what the person would have inherited by law if there was no will. Similar to Latvia, a legacy is not counted towards the compulsory portion unless the will specifically states so, or the testator has clearly mentioned this in their final wishes.

The person entitled to a compulsory portion in Lithuania must act quickly after the inheritance; the claim must be made within three months, though the court may extend the deadline upon request if it's missed. This period also begins when the person becomes aware of their claim and the estate.

The testator can reduce or even completely withdraw the compulsory portion under certain circumstances if there are valid reasons, such as serious misconduct by the beneficiary of the compulsory portion towards the testator in the form of deception. If the beneficiary has intentionally prevented the testator from creating or changing a will, this can also be a reason. Only the testator can decide to remove the compulsory portion, but an heir can help by defending this decision later.

Estonia

A unique aspect of Estonian law is that the right to a compulsory portion is only granted to descendants, parents, or spouses who would inherit according to the legal order if the deceased was obligated to support them or if the deceased reduced their share below what they would have received by law.

In Estonia, the compulsory portion is also half of the statutory inheritance share that the heir would have received

without a will. Previous legacies left by the deceased are also considered when calculating the compulsory portion. If these legacies exceed the compulsory portion, the right to it is forfeited. The person entitled to the compulsory portion has three years from the time they become aware of the inheritance to claim their right from the heirs. The claim expires after ten years at the latest.

Regarding the deprivation of the compulsory portion, this is also possible in Estonia if the beneficiary has committed a crime against the deceased, a spouse or registered partner, or a relative in the ascending or descending line. Another reason could be the intentional and significant violation of a maintenance obligation. Just like in Latvia and Lithuania, it is formally required that the reason for the deprivation of the compulsory portion is stated in the testamentary declaration. Under Estonian law, also a partial deprivation of the compulsory portion can be arranged.

This overview demonstrates—without claiming to be exhaustive—that while there are structural similarities, significant differences exist in the enforcement and assertion of compulsory portion rights. In individual cases, these differences and a detailed examination of the specific requirements will be crucial. Feel free to contact our team for assistance with any questions regarding compulsory portion rights or other inheritance matters.

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