

# Stress-test: Liechtenstein between transparency and asset protection

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## Abstract

Transparency is certainly good for people who are entitled to information, but not everybody is entitled to all information! Under the hypocritical pretext of transparency, the privacy of individuals and families is being progressively eroded. Data protection by the authorities no longer functions. Media receive any information they want. The desire for asset protection emanates from a simple reason and is historically documented: Assets are at risk! Because of the increasing political and economic uncertainty, the need for appropriate solutions will further increase in the future.

## Key points

- Transparency is probably one of the most misused words.
- It is a fact that authorities continuously wish to extend their control over citizens.
- The more general ‘voyeurism’ increases under the label of transparency, the more asset protection is required through adequate legal structures.
- A jurisdiction which wants to offer asset protection must show proof of many years of economic and political stability and have the appropriate legal foundations, knowledge, and infrastructure with which asset protection systems can be implemented and administered.

## Transparency

‘Transparency’ is probably one of the most misused words. Generally, transparency is acknowledged as something good. However, expressions which are perceived as good, are also an ideal pretext for hidden agendas. Transparency is certainly good for people who are entitled to information, but not everybody is entitled to all information!

Unfortunately, we have seen bad examples: under the pretext of transparency, even democratic governments are procuring information on their own citizens (in their own countries as well as abroad) by means of questionable legality or are bending

human and frequently even constitutional rights to privacy.

As governments constitute such a bad example, it is not surprising that the majority of people are very pleased with other illegal forms of transparency provided by institutions such as Wikileaks. Exaggerated transparency can lead to a danger for private persons and families.

Under the hypocritical pretext of transparency, the privacy of individuals and families is progressively being eroded. It is a fact that authorities continuously wish to extend their control over their citizens and their respective finances. Therefore, they gather

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information by questionable means. The aim appears to justify the means. This certainly jeopardizes confidence in the legal systems, but in reality hardly helps to uncover criminal activities.

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Data protection by authorities no longer functions. Media can access any information they want. Possible reasons for this might be that either the authorities themselves use the so-called 'yellow press' in cases where their own inquiries do not lead to the desired result or that the authorities use the media to increase their pressure on citizens. Any disclosure of the financial situation of richer families fuels the envy-factor. And for some media, in fact, such news are 'good news' because they sell well. Any curiosity or sensation is very popular and the picture of the 'evil capitalist' confirms a common prejudice. This trend is most regrettable and also frustrates high-quality investigative journalism.

Jealousy almost always is to be found within the environment of successful and well-to-do individuals and families. Too much disclosure of their financial situation can have very negative effects: it attracts criminals with the danger of theft, robbery, and kidnapping. It can have a 'spoiling effect' and fuel expectations of acquaintances and relatives.

## Asset protection

The more a general 'voyeurism' increases under the label of transparency, the more asset protection through adequate legal structures is required. The desire for asset protection arises from a very simple reason and is historically documented: Assets are at risk! As set out before, risk ranges, for example, from extravagance by family members or family problems (such as divorce) to economic instabilities, political

risks, confiscatory tax measures, and attacks by alleged creditors. For all of these reasons, measures in the field of asset protection are indispensable! Because of the increasing political and economic uncertainty, the need for appropriate solutions will further increase in the future. At the same time, the fact that private assets comprise not just a private, but also an economic component, speaks in favour of asset protection: private assets have a positive effect on the overall economic development of a state. This is because private assets tend to be invested with a long-term focus. As a result, these assets contribute considerably to the well-being of companies and institutions as well as to social development.

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Over the past decades, the Liechtenstein financial centre has developed into a jurisdiction for asset protection. The fundamental part of all financial transactions involves questions of asset protection—irrespective of whether this involves trustees, banks, asset managers, insurance companies, or investment funds. The client wants to know that his assets are safe. Thus, a jurisdiction which wants to offer asset protection must, firstly, show proof of many years of economic and political stability and, secondly, must have the appropriate legal foundations, knowledge, and infrastructure with which asset protection systems can be implemented and administered. Many European countries are not equipped for asset protection and long-term asset planning. Liechtenstein possesses the necessary legal framework and guarantees legal and planning certainty. Legal certainty forms the basis of asset protection.

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## The common misunderstanding

There is a major misunderstanding about Liechtenstein and its structures, particularly the Liechtenstein Foundation. The misunderstanding prevails that Liechtenstein structures only serve to avoid paying tax. However, the opposite is the case. For almost 100 years, Liechtenstein structures have provided long-term and cross-generational preservation of assets and protected the legitimate private sphere. The repeatedly expressed opinion that fiscal aspects are the sole motivator for offshore structures is quite simply untrue.

Liechtenstein is very well equipped to provide solid asset protection structures on an international level which are compliant with the laws and tax rules. A good asset protection structure, like a Liechtenstein

Foundation or Trust, separates the assets from the beneficiaries. In that way, increased privacy is achieved and the assets cannot directly be allocated to the beneficiaries. Liechtenstein has concluded a number of international agreements on tax information exchange and will complement them with Double Taxation Treaties. As a consequence, Liechtenstein can also demand from its contracting counterparties the recognition of its asset protection structures. In the future, Liechtenstein will continue to offer an excellent environment for asset protection and will further develop its expertise in this field. The question is not whether Liechtenstein will pass the stress-test between transparency and asset protection. Instead, the recurring breach of the fundamental right to privacy should rather be questioned.

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