

How to make a will in Spain

Is an English will valid in Spain? What should I do if my husband dies and he didn't leave a will? Do heirs living abroad need a NIE to claim their assets? These and many other questions were answered in the conference given by the Town Hall and sponsored by Caja Murcia last Wednesday, where the local Notario, Antonio Jiménez Clar, answered many questions to the varied European audience that attended.



There are many ways of writing out a will or last testament. It can be made out as a private document, which must be legalized to become valid. There are Closed Wills, sent in an envelope to the Notario, but these must be validated in court. And finally there are Open Wills, done at the Notario's office, which cost only 70€ and guarantee that everything is legal.

The Spanish law states that the succession of a person is governed by one's personal law, that is, the law of one's own nationality. Although British Law governs the succession of British people who reside in Spain, some aspects are influenced by Spanish Law such as Inheritance Tax, and the Administration of Estates.

To inherit in Spain you need to present several different legal documents:

1. The death certificate, (you may have to wait 15 days)
2. Certificate from the Registry of last Wills
3. Deceased person's insurance policies
4. Copy of the last will of the deceased
5. "Copia Simple" of property owned
6. Bank details, Life insurance, information on vehicles owned, debts and funeral costs

According to Valencian Law, if a person has resided legally (has a residencia and pays regular income tax) in the Valencian region for at least 5 years, the spouse has 99% exemption from inheritance tax. Others must pay anywhere from 15 to 20% tax on goods inherited. Amounts of up to 40.000€ (be it goods or money) inherited by each child of the deceased are exempt from inheritance tax.

To be able to receive an inheritance of Spanish properties, it is compulsory to have a NIE number. This is because you need to be registered fiscally in Spain to make financial transactions of any assets, be they goods, properties or money. If heirs live abroad, they can go to the Spanish Consulate (if not, the Embassy), whichever is the Spanish administration abroad, to obtain necessary certificates. Also, it is

possible to give someone else a power of attorney for legal representation.

In case that the deceased made no will, neither in Spain nor in his own country, the surviving family members can make a "Declaración de herederos" or declaration of inheritors. In this document, signed in front of a Notario, they state their claim on the deceased's properties. This is then published in official boards, so any other possible inheritor can come forward to make their claim. If after 20 days no one else has claimed to be an heir, then the "Declaración de herederos" is considered legally as a proper will. Alternatively, probate could be obtained from the deceased person's country of origin. This document would also be accepted by the Spanish authorities.

A member of the audience asked about the legal situation if there was inheritance between two, unmarried partners. The answer was that they would be taxed as non-relatives.

Another question that arose referred to when one has more than one property in more than one country. It is possible to make different wills in each country, or one which covers all properties in all countries - preferably made in the country of origin - But the simplest and cheapest option would be to make a will in each country where you have properties.

On the other hand, if you have already prepared your will in your own country, it's best not to change it just because you came to live in Spain. The making of a will can be a long process, and switching it suddenly to another country might result in changes that are not desired.

For any other questions, you can ask your local Notario or be assessed by your bank. Caja Murcia has an email especially for EU residents: euroresidents@cajamurcia.com, or you can go directly to your local Caja Murcia and be informed.

The Councillor in charge of foreign affairs, Doris Courcelles, announced that this is the first of the conferences designed to inform foreigners of different legal and administrative aspects necessary for foreigners to know when living in Spain.

This conference will be repeated next Tuesday 12th at 12 noon, at l'Espai La Senieta of Moraira.

More information at:

http://www.residenteseuropeos.com/testamento_en.php

<http://www.ua.es/aedire/amandawills01.html>

<http://www.ua.es/aedire/amanda.apostille01.html>

<https://portal.cajamurcia.es/>

http://www.residenteseuropeos.com/index_en.php