

MAKING A WILL IN SPAIN IS ESSENTIAL

According to our legal and professional experience, there are many reasons for advising our clients to sign a Will before a Notary Public in Spain with regard to their property in Spain.

You cannot imagine how complex it may be for the heirs of a deceased to formally take the assets situated in Spain (properties, current account deposits, insurances, company shares or stakes ... etc). when the only Will available is the one made by the deceased in his/her country of origin, or even worse, when the deceased did not make a Will in his/her country of origin.

In order for the heirs to take the said assets when the Will has been granted in the deceased's country of origin, the heirs must have a number of documents legalized in the said country. For example, if the deceased is British, documents such as the probate and the grant of probate, among others, are required in order to distribute and formally take the property of the deceased in Spain between the heirs, in accordance with the Will made in the deceased's country of origin.

However, if the deceased had not even made a Will in his country of origin, the procedure turns out to be more complex, as the rules of intestacy in Spain would be the ones applicable. According to which, only the deceased's descendants and his/her widow/er would have inheritance rights, and the consent of all the interested parties would be required.

Therefore, the importance of making a Will in Spain is based on:

- 1) Economic reasons: if you make a Will in Spain, the inheritance proceedings will be more economic for you heirs, as they will not have to apply for any documents in your country of origin.

- 2) Time saving: If you have not made a Will in Spain, it will take longer to obtain all the necessary documents; on the same line, in the absence of a Will on the deceased's country of origin, the intestacy procedure in Spain will take several months.

- 3) Family reasons: Easier legal procedures makes everything more agile and less stressing for the heirs.

To finish with, I must remind you that inheritance in Spain is subject to Inheritance Tax. Different regulations apply in each region. In Andalusia, there are a number of benefits and exemptions for a resident who dies in Andalusia, provided certain requirements are met. Therefore, residing in Andalusia (which differs from fiscal residency or from obtaining the residency card) can save a lot of money tax wise. I can assure you that I know of many people who have been living in Andalusia for a long time, and whose heirs will not be able to receive such Inheritance Tax benefits and exemptions for not having sought professional advice.

In conclusion, if you have any assets in Spain, always make a Will and get professional advice. A professional will study your personal and family circumstances properly in order to draft a Will that suits your interests, minimizing at the same time the tax implications for your heirs.