

ARE YOU LETTING SPAIN DECIDE WHO RECEIVES YOUR ASSETS?

By Dimas Cuesta Montejano

Do you have assets in Spain? Though a British Will is recognised under Spanish law and the Hague Convention, it can be an extremely lengthy and complicated process for the benefactor to receive their inheritance, often resulting in expensive legal and translation fees. If a Spanish Will has not been settled and registered in the Last Wills Central Registry in Madrid, your beneficiary would pass through a highly bureaucratic process and **your Will may be ignored entirely.**

To use a British Will in Spain requires the benefactor to obtain a Grant of Probate no matter the size of the assets; this will also require translation and legalisation at the foreign and commonwealth office. If you die as a resident in Spain with no assets in England then the Grant of Probate is even more difficult to obtain and a special procedure would be required in English Court. This normally costs an average of 20,000 GBP but is dependent on your level of assets.

Most importantly, and far too often overlooked, is that if you are resident in the UK with assets only in Spain then the Spanish forced heirship rules will

apply, contesting your British Will in Court and voiding it. Though in the UK you are able to leave assets to whom you wish, in Spain there are specific rights for protected heirs such as dependents. Amongst other things forced heirship rules impose that a minimum of two thirds must be left to the children and that a life interest on one third must also be left to any surviving spouse. This means that less than a third of your assets will remain in your decision.

Having a Spanish Will is highly advisable, and allows you to ensure peace of mind that your chosen benefactors will receive what they are due without adding further stress to the situation. Also if you are concerned about the potential application of Spanish forced heirship rules, there are estate planning structures that help very efficiently to avoid these problems depending on your particular circumstances. If you require advice or a second opinion about Estate Planning and Inheritance Tax, or you are wishing to contest an invalid Will, please contact me at Lexland Abogados to arrange a free consultation meeting where we may discuss your options.

Dimas Cuesta Montejano has been practising law for many years, working across both London and the Costa del Sol, now a Partner and founder of Lexland Abogados. He has vast experience within Real Estate law, Civil Law and Financial planning, giving specialist advice to individuals, with a high focus on expats.

He is an authorized practitioner listed at the Commercial Spanish Courts and the Spanish Bar Association and also a member of the International Bar Association under the SIRC. Dimas publishes articles in relation to his areas of expertise and has even carried out teaching experience at the University of Málaga with his highly valued advice.



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