

CERTIFICATES OF FOREIGN LAW



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“(...) THE NOTARY NEEDS TO PROVE, IN ACCORDANCE WITH FOREIGN LAW, THAT THE WILL, IF THERE IS ONE, IS VALID IN TERMS OF ITS FORM AND CONTENT.”

A succession that occurs in Portuguese territory may be subject to a foreign law.

This happens, for example, if the deceased had a foreign nationality and chose the law of that nationality as the law applicable to his succession, under the European Succession Regulation.

In Portugal, to prove the status of beneficiary of someone who has died, it is necessary to obtain a notarial deed of entitlement of heirs. This is a special public deed that proves the status of heir and allows the person who is the beneficiary of the estate to perform a series of acts relating to the assets of the estate.

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In the case of the deed of entitlement of heirs, if a foreign law is applicable, article 85, paragraph 2 of the Notarial Code provides as follows:

2 - When the law regulating the succession is not Portuguese and the notary is not familiar with it, the deed must be accompanied by a suitable document proving the aforementioned law.

To this end, the Notary needs to prove, in accordance with foreign law, that the will, if there is one, is valid in terms of its form and content. Based on this information, the Notary can then proceed and entitle the heirs under the applicable foreign law.

The appropriate supporting document is a certificate of law, issued by a lawyer with valid registration with the respective foreign Bar Association and registered as a consultant at the Consulate of the foreign country in Portugal.

In order to issue the certificate of law, it is necessary to present the documents relating to the situation in question, namely the death certificate, the will and the documents proving the degree of kinship of the deceased with the respective heirs. The signature of the foreign lawyer is certified under the terms of the law, based on the Consular registration, and this document is filed by the respective Notary together with the deed of entitlement of heirs.

“WITH THE INCREASING GLOBALIZATION OF SUCCESSIONS, THE NEED TO RESORT TO THESE MEANS OF PROOF OF FOREIGN LAW HAS BEEN INCREASING EXPONENTIALLY.”



With the increasing globalization of successions, the need to resort to these means of proof of foreign law has been increasing exponentially.

At TPA, due to our qualification as English Solicitors, we have been issuing these certificates of law relating to the jurisdiction of England and Wales and are qualified to do so through our registration with the British Consulate in Lisbon.