



## LEGALIZATION OF FOREIGN DOCUMENTS IS NOT A REQUIREMENT FOR ITS AUTHENTICITY

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On 7th July 2022, the Lisbon Court of Appeal consider that, unless there are reasonable doubts as to their authenticity, the legalization of documents issued in a foreign country is not a requirement for their authenticity.

According to the Portuguese legislation in force, for documents issued in a foreign country to be considered legal under Portuguese law, they must bear the signature of the public official and be certified by a Portuguese diplomatic or consular agent in the respective country, as well as be authenticated with the respective consular seal.



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However, Portugal was one of the signatories of the "Convention Abolishing the Requirement of Legalisation for Foreign Public Documents ", concluded in Hague on 5th October 1961, therefore, without prejudice to the legislation in force, the legalization is not a requirement for the authenticity of the document, which is only necessary when there are reasonable doubts regarding its authenticity.

This issue was recently discussed in the Lisbon Court of Appeal, in a case where the Claimant was seeking a declaration of insolvency of the Defendant, but it was found that the Defendant had died years before, and so his death certificate was presented. However, the Claimant did not accept it as proof of the Defendant's death, since it did not contain the Portuguese consular seal in Guinea Bissau, as required by Portuguese law.

The Court considered that, since the Defendant's death had already been addressed in another previous case and the document in question had already been recognized, nor was there any doubt that the document was not accurate, there were no reasons to doubt the authenticity of the document.

The Claimant appealed, and the Lisbon Court of Appeal summarily considered that, as Portugal is one of the signatory countries to the above mentioned Convention, only if doubts arise about the authenticity of the document could its legalization be required, and in this case, the certificate in question confirmed all the elements regarding the death of the Defendant, as well as the characteristics that it had been issued by the official entity of Guinea Bissau; only the recognition of the signature of the public official that should be authenticated with the consular seal was missing. And since the Plaintiff was unable to raise any doubts he had about the authenticity of the certificate, the Court concluded that the steps required for the legalization of the certificate were useless and unnecessary.

The truth is that the legalization of foreign documents does not offer any guarantee of the authenticity of the document; the document can be false and still have the signature of the public official recognized, so the legalization of documents only serves to recognize the signature of the public official who signed it, and not the veracity of the content of the document itself.



Following the Court's conclusion and without prejudice to the legislation in force, all documents issued in a foreign country do not need to be legalized in order to have the same legal value as documents issued in Portugal, unless there are well-founded doubts regarding their authenticity.