

THE ADVANTAGES OF MAKING A SPANISH WILL

If you or your clients own real estate, money, securities, or chattels in Spain, you should consider making a Spanish Will.

Obtaining probate in Spain without a Spanish Will means incurring extra costs, and will also take some extra time to secure. Saving time will ensure that your or your client's heirs will be able to file Spanish IHT within the limitation period without attracting penalties and further legal fees.

All Spanish Wills are registered at the National Spanish Will Registry. This means that no one will be able to apply for probate in Spain without having first obtained a certificate from the Spanish registry.

Notes on Spanish succession law

In determining which law applies to succession, Spanish law provides that the applicable law is the national law of the deceased at the time of death, whatever the nature of the assets and wherever they are located.

English law refers to the law of the country of location (*lex situs*) in relation to succession to immovable assets, and the law of domicile in relation to moveable assets. If the property is an immovable asset situated in Spain then it is our understanding that English law refers back to Spanish law.

The Spanish Supreme Court has rejected legislation referrals on the basis that it runs contrary to the principle of unity of succession (a basic principle of Spanish succession law meaning that only one law shall govern the succession to all property of a deceased person, irrespective of the nature and situation of the property in question). In these cases, the Spanish court applied the law of nationality, free from any claim of forced heirship under Spanish law. In other cases, legislation referral has been accepted by the Spanish court so that Spanish law (and the forced heirship rules) applied to the succession of the estate, rather than the deceased's national law. For this reason, you should seek advice as to how the rules apply in relation to your or your **client's particular situation**.

Our understanding of Article 22 of Brussels IV is that a person can choose to apply the law of any nationality that he has at the time of making the choice or at the time of death. Although England has opted out of the Succession regulation, you will need to consider whether your client is a British national, although he may also have had a second nationality (or a third!).

Why us?

Having in place a validly executed Spanish Will (coexisting with your English Will, if it exists) requires the legal expertise and in-depth knowledge of cross-border succession rules.

We strive at all times to offer an accessible, affordable, personal service. You can get in touch with us in person, via phone, email, text, website or other social media in English, without being "lost in translation".

Our London office has developed a strong, long standing, and successful probate practice since our founding in 1984, and we are duly registered with the Solicitors Regulation Authority to assure our clients benefit from a responsive, professional and helpful service with a professional indemnity cover.