

German law – certificate of inheritance

A certificate of inheritance (Erbschein) is a document issued by a Probate Court in Germany (Nachlassgericht) naming the heirs, their respective shares of the estate, and applicable restrictions.

The Erbschein is a public record which creates the presumption that its content is true and correct, i.e. that the persons named therein have in fact become heirs and that they are not subject to any restrictions other than those stated in the document. Third parties may rely on this presumption and engage in good faith dealing with the heirs named in the document (e.g. purchase assets from the estate, make payments on debts owed to decedent).

If you are the heir or beneficiary of a relative or friend who died in Germany or left property in Germany, you will need the certificate of inheritance in order to prove your entitlement to German government agencies, financial institutions, debtors and business partners of decedent.

German banks will not allow you to access accounts and transfer funds, clerks at the real property registry (Grundbuchamt) will not transfer the title of real property to you unless you can produce the certificate of inheritance (in addition they will request a so-called Unbedenklichkeitsbescheinigung, which is a release letter from the German IRS equivalent).

The application for certificate of inheritance is subject to strict formal requirements. To ensure compliance you will usually have the application notarized at the German Consulate General with jurisdiction over your domicile. You may have to produce extensive documentation in order to prove your right to inherit under a will or by intestate succession. Translations are likely to be required of documents which are not in German. In addition, an Apostille may be necessary for public records not issued by a German government agency.

The court fees and fees at the Consulate are set by law and will vary depending on the value of the estate.

The application package consisting of the application notarized at the German Consulate and the entire documentation supporting the application must be submitted with the proper Probate Court in Germany. In most cases, this will be the Probate Court with jurisdiction over decedent's last domicile.

If decedent was not domiciled in Germany the application may be filed where decedent's assets are located. The application can also be filed with the Probate Court in Berlin-Schöneberg.