



Information on German certificate of inheritance And European certificate of succession

1. What is the purpose of a certificate of inheritance?

Have you become an heir and estate is located in Germany and/or another EU country? Under German law, the estate of a deceased person is transferred directly to the heir or heirs. In order to be able to dispose of an estate in Germany (e.g. in real estate or other matters), a certificate of inheritance or a certificate of executorship issued by a German probate court is frequently required.¹ The certificate of inheritance is issued by locally competent the German probate court.

2. In which cases do I require a certificate of inheritance?

You can file an application for a certificate of inheritance or a certificate of executorship issued at the German Consulate General Toronto if you live in Canada, are an heir or executor of a will and estate is located in Germany. If the deceased died before 17 August 2015, only a German certificate of inheritance can be applied for. The applicable law of succession is determined by the nationality of the deceased.

If the deceased died on or after 17 August 2015, the succession is assessed in all member states of the European Union - with the exception of Great Britain, Ireland and Denmark - according to the EU regulation on the Law of Succession (EuErbVO). This changed two relevant facts: on the one hand, the applicable law of succession is determined by the last habitual residence of the deceased; on the other hand, the European Certificate of Succession, which is equally valid in all member states of the EuErbVO, was created as uniform proof of inheritance. A prerequisite for the granting of the certificate is that the estate's assets are located in at least two member states of the European Union.

¹ In the following the term certificate of inheritance shall include certificate of executorships

3. Do I need a certificate of inheritance or certificate of executorship?

Canadian and German inheritance law are fundamentally different. German estate law, for example, provides that the estate of a person is transferred directly to the heir or heirs at the time of a person's death, whereas in Canadian provinces and territories the requirement of administration of the estate by an administrator or executor (in Québec: liquidateur) is mandatory. As a rule, the heirs apply for a certificate of inheritance for the estate located in Germany. In cases of testamentary succession in which the Canadian executor or liquidator is given additional powers and duties, which extend the general powers and duties of an heir, an application for the issue of a certificate of executorship may be an alternative. We will be glad to advise you whether an application for a certificate of executorship is possible in your case after receiving the completed questionnaire and supporting documents.

4. How do I file an application and what documents do I need?

In order to apply for a certificate of inheritance, we offer you a questionnaire as a download which allows us to prepare a draft notarization for you. Please print out the questionnaire, fill it in completely and send it together with the required supporting documents by mail to the German Consulate General Toronto at the following address:

*Consulate General of the
Federal Republic of Germany
2 Bloor Street East, 25th Floor
Toronto, Ontario, M4W 1A8*

Please include any correspondence you previously held with lawyers, notaries and German and other offices in the estate matter.

Part of the application for a certificate of inheritance/application for an executor's certificate is an affidavit which the applying heir or executor in person usually also issues for all other co-heirs. Substitution is not possible. Due to the legal scope of the affidavit, the declaration requires notarization. A knowingly or negligently false declaration in lieu of an oath are criminally punishable under German law. In cases of reparation, a false affidavit in lieu of oath can also result in the loss of all compensation claims.

Therefore, the personal presence of the applicant heir is required at the notarization appointment. In practice, the entire application is notarized. Please note that applications for certificates of inheritance can only be notarized at the German Consulate General in Toronto. In particular, the facts of the case, in this case the succession, must be clarified beyond doubt. The supporting documents required for the application may differ depending on whether it is a case of legal or testamentary succession and vary from case to case depending on the type of family circumstances or the type(s) of testamentary disposition(s). As general orientation, evidence must be provided (usually in the form of a certified copy and, in the case of foreign-language documents, in the form of a certified translation):

Death of the deceased	Official death certificate issued by the province (not by funeral home)
Right of inheritance of spouse or his/her exclusion	Marriage certificate of deceased divorce decree death certificate of pre-deceased spouse
Right of inheritance of descendants	Birth certificate with parental information Family register
Right of inheritance of parents and/or siblings	Birth certificate of the deceased and siblings Death certificates of parents of deceased
Testamentary disposition	All existing last wills and testaments, including contracts of inheritance, if applicable with a grant of probate
Matrimonial property	Marriage contracts
Citizenship	Passport, naturalization certificate, citizenship card
Identity of applicant	Passport, identity card, driver's license
Other declarations of intent with effects on the law of inheritance	renouncement of inheritance, contract regarding inheritance

In addition, the German probate court may request further documents. In particular, the competent probate court may request the document with proof of authenticity (i.e. for Canadian documents with legalization, for public documents from states that are members of the Hague Apostille Convention with apostille). It is in the applicant's interest to provide the consular officer with as complete a set of documents as possible on his right to inherit as possible so that the consular officer can prepare and advise on a correct application for a certificate of inheritance. Incompleteness of the application documents may lead to a rejection of your application at the probate court, where all evidence must be presented.

5. What are the fees for the issuance of a certificate of inheritance?

Costs arise twice during the process to obtain a certificate of inheritance: for the notarization of the application for an inheritance certificate, a fee has to be paid at the German Consulate General Toronto, which can be paid in cash or by credit card. The fee depends on the value of the estate and will be communicated to you when an appointment can be scheduled.

After notarization, the application will be handed out to you and has to be sent by you to the competent probate court in Germany together with certified copies of all necessary supporting documents. You will also receive information as to which probate court is competent to issue the certificate of inheritance. The probate court will charge a further fee for the granting of the certificate of inheritance, which also depends on the probate value.

Please note that in Canada, applications for certificates of inheritance can only be authenticated at the German Consulate General in Toronto.

The questionnaire required for the application and more detailed information on the subject of the certificate of inheritance procedure can be found on our website under www.canada.diplo.de/inheritance.

All information in this bulletin is based on the knowledge and experience of the German Consulate General Toronto at the time the bulletin was written.