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## **Bereavement Information for Spain**

Prepared by

British Consular Services Spain

[www.gov.uk/government/world/spain](http://www.gov.uk/government/world/spain)

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# THE FIRST STEPS

## Getting help

The death of a relative or friend is always distressing. But if it happens abroad the distress can be made worse by practical problems. You may be uncertain what to do or who to contact for advice. These notes are designed to help you through the practical arrangements you will need to make.

Unfortunately we can't avoid using terms such as body, body parts, remains, deceased and so on. These are not meant to offend you in any way – we realise that we are referring to your loved one and we mean no disrespect to the person you have lost.

- Consular Directorate in the Foreign and Commonwealth Office and the British Consulates in Spain are ready to help in any way they can.
- If the deceased was travelling with a tour operator, they can be a valuable source of help and advice.
- If the deceased was covered by travel insurance it is important to contact the insurance company without delay.

Spanish procedures differ significantly from those in the United Kingdom. While we understand your need to make arrangements rapidly, this may not always be possible.

Whilst care has been taken in compiling this document, the contents are not meant to be a definitive statement of the law, nor are they to be taken as a substitute for independent legal advice.

## Identification

In Spain it is not normally necessary for the deceased to be identified by the next of kin. Identification can also be carried out by means of documentation such as a passport or driving licence, or by fingerprints.

If there is doubt about the identity of the deceased, a judge may order DNA testing or request information through police channels from abroad. This process could take up to a few months.

## Funeral arrangements

When someone dies in Spain and the next of kin is in the UK or abroad, Spanish authorities normally notify the British Consulate in the area where the person has died. The British Consulate will do whatever they can to trace the next of kin as soon as possible and would ask the UK police to pass on the sad news. However you might also be notified about the death directly by someone else, for example a local friend of the deceased, a doctor, a social worker or a Spanish police officer.

In general, Spanish funeral companies are modern and well-equipped companies and are used to working with foreigners. Some have English-speaking staff, but you should check with the funeral company, especially in rural areas.

According to Spanish national law, the deceased must either be (1) preserved (maintained at low temperature) or (2) embalmed by a funeral director within 48 hours of the death. In the case of foreign nationals, funeral directors usually choose to embalm the deceased (as opposed to preservation) as this is a national legal requirement for transferring deceased persons out of Spanish territory.

The deceased's next of kin, or a formally appointed representative, must decide whether to repatriate the deceased to the UK or carry out a local burial or cremation. If there is no insurance cover, the cost of repatriation or burial will need to be met by the family. Neither the Foreign and Commonwealth Office nor the British Consulates in Spain have budgets to meet these costs.

If you, as next of kin, are in the UK, you will be able to liaise directly with the local British Consulate dealing with the case, telling them how you wish to proceed with the cremation or burial, where you wish this to take place and details of who is taking responsibility for the costs involved. Please note that the European Health Insurance Card (EHIC) does not cover funeral arrangements.



# REPATRIATION, BURIAL OR CREMATION

## Repatriation

If the deceased is covered by travel insurance, you should immediately contact the insurance company to establish if they are able to cover for the repatriation expenses and make the relevant arrangements. If the insurance company confirm that there is a current policy **you should not appoint your own funeral director or be pressurised by local funeral agencies to do so**. The insurance company will normally have a standing agreement with an international funeral director in the UK to arrange repatriations.

If the deceased is not covered by insurance, you will need to appoint a funeral director in Spain or an international funeral director yourself. There is a list of UK based international funeral directors on our website [here](#)

Spanish funeral directors have links with international funeral directors in the UK and they will work well together to ensure that all the necessary requirements are met in Spain and in the UK. Funeral directors in Spain are equipped to carry out repatriation procedures and will provide the special caskets required for the international carriage of human remains. They will also arrange any necessary documentation such as a local civil registry death certificate, a certificate of embalming and a certificate giving permission to transfer the remains to the UK.

Local formalities for repatriation normally take 8 to 10 days to complete. In certain circumstances immediate repatriation may not always be possible. Our consular staff will try to tell you as soon as possible if this is the case.

## Local burial

If you choose to proceed with a local burial in Spain, you will need to instruct a Spanish funeral director. The British Consulates in Spain can provide a list of local and international funeral directors on request. If an English-speaking firm is not available, consular staff can help you to communicate with the funeral directors in Spain.

In some rural areas coffin bearers are not included in the service of the funeral directors, so when making arrangements be sure to specify that these are required.

Please note that in Spain 'burial' often means an above-ground niche. Rights to this are normally held for only five years, unless specifically purchased in perpetuity (funeral directors in Spain can provide further information on this).

## Local cremation

Cremation is common practice in Spain and there are modern, well-equipped crematoria. If you choose local cremation and wish to take the ashes back to the UK yourself, you can usually do so with minimal bureaucracy. However, you should check with the airline about specific restrictions or requirements.

If it is not possible for you to transport the ashes yourself, Spanish funeral directors will be able to arrange the necessary paperwork and transportation.

## Donation of bodies to medical science

In some parts of Spain it is possible to donate one's body to medical science. However, written consent must be given before death, by the donor themselves. Further information can be obtained from the medical faculty or university hospital in the area where the donor lives. Also in some regions there may be costs to be paid, for example, related to the transport and transfer to the relevant medical faculty.

There may be some restrictions on the donation of a body and certain medical conditions may lead to the offer being declined. Details of these conditions, and any other reasons for declining a donation, can be obtained from the medical faculty. If a body cannot be accepted, the deceased's family will need to make alternative arrangements.

## Organ donation

Each region in Spain has an office which deals with organ donation and there is also a national office in Madrid. Any of these can issue organ donor cards. But even if a deceased person carries a card, or has said that they want their organs to be donated, the law on transplants (Ley de Trasplantes) insists that their next of kin must also give permission to the hospital authorities. You can get more information from the Spanish national transplant organisation, the Organización de Trasplantes. Web: <http://www.ont.es/Home?idnodo=124> Email [ont@msc.es](mailto:ont@msc.es). Tel: 902 300 224

# INQUESTS AND POST-MORTEMS

## When an inquest might be necessary

If the circumstances of the death were not unusual, you will be allowed to register the death (see page 7) and the remains will be released for repatriation, burial or cremation within a short space of time (normally within 24-72 hours).

However, if an Examining Magistrate is not satisfied after a preliminary examination of the facts, a post-mortem may be required. They may also call for further investigations and interviews with witnesses before making a decision about the cause of death.

In cases of sudden or unexpected death by accident or misadventure, or if a person dies alone, the Examining Magistrate will prepare a summary report of their investigation, after which the deceased will be released for burial, cremation or repatriation. Official reports will be retained by the court and may only be released to the legal representative (a local lawyer) of the next of kin. (See *Obtaining copies of reports* on page 6.)

If death was caused by a criminal act, the police will be ordered to conduct a full investigation. The State Prosecutor will then decide whether to prosecute. This can delay the release of the body for burial, cremation or repatriation.

## Post-mortems

Post-mortems, also known as autopsies, are carried out by forensic doctors appointed by the court. During a post-mortem, small tissue samples and organs may be removed and retained for testing, including toxicological studies, at the discretion of the doctor, without the consent of the deceased's next of kin. You will not automatically be told if this happens.

The deceased can be buried or cremated in Spain or returned to the UK before tests on removed organs are completed. Any organs removed are retained for the duration of the tests, and are then put in storage for a period of time before being destroyed.

Organs cannot be removed for any purpose other than testing without the consent of the deceased (for research) or next of kin (for transplants). If we are aware that organs have been removed we will tell you. You may also be told about retained organs by the local funeral directors, though this does not always happen.

## Return of removed organs

Repatriation or local burial or cremation of organs can be very expensive and neither the Foreign and Commonwealth Office nor the British Consulates in Spain have budgets to meet these costs. If the family decides against requesting the return of removed organs, they will eventually be destroyed by the forensic laboratory.

However, if you wish to recover the organs you may request this through the offices of the UK Coroner, by contacting the local British Consulate, or by instructing your lawyer in Spain if you have one. Your request will be forwarded to the appropriate Consulate, who will make a formal request to the relevant Spanish court asking for the return of the removed organs, on behalf of the family.

Once the forensic laboratory has completed its tests and the British Consulate is notified by the court that the organs are available for collection, they will tell you. You can then instruct your funeral director to collect the organs and arrange for their repatriation or local disposal, in accordance with your wishes.

If you ask your local Spanish lawyer to request the return of the organs, the procedures will be much the same as described above except that the lawyer will make the formal approach to the court, and the British Consulate will play no further role.

## Clothing and personal belongings

The deceased's clothing is normally destroyed during the post-mortem examination. Sometimes it is retained as evidence and is not returned until the court case is finished.

Personal belongings found on or with the deceased at the time of death are either handed over to the family if they are present, or taken by the police to be handed over to the court. You may request to recover the belongings through the British Consulate or by instructing your lawyer, if you have one.

## Obtaining copies of reports

Access to information about a death, except for post-mortem and police reports, is restricted. The Spanish authorities will not normally provide this information directly either to next of kin or to third parties, including the British Consulates.

For copies of post-mortem and police reports you must apply through a lawyer. Our consular staff can provide lists of English-speaking lawyers throughout Spain.

The release of any information can take many months, and the documents will be issued in Spanish.

## Applying for legal aid

British nationals without the available means to appoint legal representation can apply for legal aid in most European countries. The Legal Services Commission in London ([www.legalservices.gov.uk](http://www.legalservices.gov.uk)) is responsible for legal aid applications overseas but only in civil cases – that is, cases which do not form part of a criminal investigation.

For a criminal investigation, if you are resident in the UK and want to apply for legal aid you should contact the Spanish legal aid office in the area of Spain where the incident took place (Colegio de Abogados). Applicants will be expected to provide documentation as proof of their financial circumstances. The Spanish Provincial Commissions make the decision about the application to grant legal aid, and about any appeals

## Inquests by UK coroners

There will be no Coroner's inquest in the UK if the deceased is buried or cremated in Spain.

However, if the deceased is repatriated to the UK, the Coroner in England and Wales is legally obliged to hold an inquest into any *unnatural or violent death* of a person whose body physically lie in their area, even if the death occurred overseas and a post-mortem has already been carried out before the deceased was repatriated to the UK.

It is recommended that families do not book a date for a UK funeral without consulting with the Coroner as this may need to be rearranged.

In some countries, as is the case in Spain, the cause of death is not given on the death certificate and Coroners do not generally have access to judicial files from other countries. Consequently Coroners may order a second post-mortem, in addition to the first post-mortem carried out abroad, as part of the inquest. At this stage, families will be made aware if organs have been removed and not replaced.

Coroners can request copies of post-mortem and police reports from the Spanish authorities. However, these may only be provided once any judicial proceedings are completed. This can sometimes take many months. Not all courts will provide these reports and relatives may have to appoint a lawyer as explained above.

In Scotland, the Crown Office and Procurator Fiscal Service (COPFS) deals with the investigation of all sudden, suspicious, accidental, unexpected and unexplained deaths that occur in Scotland. However, the COPFS does not have the jurisdiction to investigate deaths that occur outside Scotland, except in a few limited circumstances. Generally, those circumstances include terrorism, cases where the death may have been caused in Scotland but the person died outside Scotland, and cases where the death was the result of murder or culpable homicide by another British citizen or subject.

Coroners in Northern Ireland are not obliged to hold an inquest into the cause of death. However, next of kin can apply for a judicial review if no inquest is held.

# REGISTERING THE DEATH

## Local death certificate

The funeral director you appoint in Spain will arrange for registration of the death with the local Spanish civil registry, who will issue a death certificate. Alternatively you can request Spanish death certificates by accessing the [Spanish Ministry of Justice](#) website.

You will need this death certificate in order to register the death in the UK, if you choose to do this (please note that this is not obligatory, see below). The Spanish death certificate will be sufficient for all purposes in the UK, although a translation may be required if it is not in English. (Our consular staff can provide lists of translators throughout Spain.)

Most civil registry offices in Spain will also be able to provide an international version of the death certificate. You can apply for a copy through the funeral director, who can also obtain further copies of the standard death certificate on your behalf.

In Spain the cause of death does not appear on the death certificate. (See obtaining copies of reports on page 6.)

## British death certificate

You can register with the Foreign and Commonwealth Office the death overseas of a British national. There is no legal obligation to do this, but the advantages are that a British death certificate will then be available and a record of the death will be held at the General Register Office in the UK.

For details of how to apply, see the information on our website at:

<https://www.gov.uk/register-a-death>

Or for specific enquires you can email the FCO at:

[deathregistrationenquiries@fco.gov.uk](mailto:deathregistrationenquiries@fco.gov.uk)

## Other contacts in the UK

You may need to inform other offices in the UK of the death. For further information, see our website at

<https://www.gov.uk/after-a-death/death-abroad>

## Cancelling a British passport

In order to avoid identity fraud a deceased person's passport should be sent to the nearest British Consulate in Spain or Her Majesty's Passport office in the UK for cancellation, along with the [D1 form](#). You can ask for the passport to be returned to you after cancellation.

If the passport has been lost or mislaid, you should get in contact with either the nearest British Consulate or Her Majesty's Passport office in the UK for instructions on reporting the loss of the passport.

Local funeral companies may ask to keep the deceased's passport for local procedures. The passport will be returned with the deceased.

## [LIST](#) of International Funeral Directors in the UK

Prepared by Consular Directorate in London

