

## **Agreement to a divorce may mean that a spouse loses the right to inherit - Law of Succession**

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - [www.grprainer.com/en](http://www.grprainer.com/en) conclude: The Superior Court (OLG) of Cologne ruled in a case (File number: 2 WX 64/13) in which a wife claimed her inheritance after her husband had died while their divorce proceedings were underway. The husband had already agreed to the divorce which the wife had applied for, but he died before the divorce hearing. The Municipal Court (AG) refused to issue an inheritance certificate requested by the surviving spouse and did not consider the wife eligible to inherit.

The OLG of Cologne now confirmed the decision of the AG. The court based its reasons on the provisions of the Civil Code (BGB) which state that a spouse has no right to inherit in a divorce situation and if the deceased had already agreed before he died. Since the couple had already been separated for more than a year and both parties had clearly stated their intention to divorce, the court felt that its decision was justified.

Neither is the agreement to a divorce null and void when certain formalities have not been followed. The agreement to a divorce does not have to be signed before a lawyer or substantiated by a declaration or in the oral hearings. The law states unequivocally that such an agreement requires neither a signature before a lawyer nor a declaration recorded by a court. The self-written letter of the deceased spouse was ruled to be completely enough, and it indicated effectively that he had agreed to the divorce. For that reason, the wife's request of an inheritance certificate had to be denied, since she had not become an heiress.

Not only is a case of inheritance an emotional issue for those affected, but it also means that legal problems cannot always be avoided. For that reason, early precautions should be taken, and an effective will should be formulated. A lawyer with experience in inheritance law can be helpful. He can also give advice in case of inheritance disputes and examine any claims by family members and other heirs.

<http://www.grprainer.com/en/Law-of-Succession.html>

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Anlage: Bild

