

# No right to information or rights over the assets in a registered savings account without a valid certificate of inheritance

Topic: **Proof of identity** Case number: **2017/16**

The party submitting the request had an original savings passbook in the name of his aunt who died in 1984, held with a banking institution for whom the bank was the legal successor. In spite of repeated requests submitted to the bank, the latter refused to provide him with information or pay him the balance from the savings account because he did not have a valid certificate of inheritance. Having tried numerous times, in vain, to get a certificate of inheritance drawn up by the courts, the claimant contacted the Ombudsman. During mediation, the bank was able to show that the savings account balance had been paid to the heirs shortly after the account holder's death. Nevertheless, given the specific circumstances of this case, the bank eventually agreed to provide the party submitting the request with information in spite of the lack of documentation confirming his capacity as heir. As far as the Ombudsman was concerned however, the claimant was not entitled to receive additional information or payment of the savings account balance.

The party submitting the request, residing abroad, stated that his aunt, residing in Switzerland upon her death in 1984, had, shortly before her death, left him a savings passbook in her name with a banking establishment for which the bank was the legal successor. He had found the passbook for this account again, which he thought had been lost, approximately two years earlier. He then sent the bank a copy of the passbook (in which the latest balance shown was some 6000 CHF in 1983) and asked it to pay him the current balance. In response to his request, the bank asked for an official inheritance certificate or, if an executor had been appointed, a confirmation issued by him or her. As the bank maintained its position in spite of repeated interventions by the claimant, who was unable to provide the required documents, the latter made considerable effort to obtain a certificate of inheritance from various courts in Switzerland. The claimant had his request rejected by all of the courts in question however. As the bank refused to make a payment or provide any information about the savings account in the absence of confirmation of his capacity as heir, the holder of the savings passbook contacted the Ombudsman, submitting highly detailed documentation.

First of all, the Ombudsman told the party submitting the request that, in such cases, it was necessary to provide valid documents confirming his capacity as heir. In the absence of any such confirmation, there were insufficient grounds for mediation proceedings. The Ombudsman had to ask for various additional information and insist several times before the claimant sent him, some time later, a copy of a response he had received from the bank in the meantime. Although the bank had insisted on several occasions that no information could be disclosed without a valid document confirming capacity as heir, it now consented to tell him it was unable to identify a business relationship in the name of the aunt in question. The bank also implied that it would be able to give a final response to his request upon submission of the original savings passbook. As the party submitting the request feared that the bank was only seeking to obtain the original savings passbook from him with a view to not then following up on the matter, he was unwilling to submit it to the bank.

As the bank had directly committed to clarifying this matter once and for all with the holder of the

savings passbook directly, the Ombudsman agreed to receive the passbook to then pass it on to the bank, asking it to respect its promise and give the holder a final response. To the Ombudsman's great surprise however, the claimant contacted him again some time later. Furious, he explained that the bank had once again replied that it would not provide him with any answer without documentation confirming his capacity as heir. The Ombudsman then contacted the bank again to remind it of its promise that it would look into this matter once and for all. Eventually, the bank sent the Ombudsman, confidentially, a copy of an account statement showing that the balance in the savings account had been transferred to legitimate heirs of the claimant's aunt shortly after her death. In the absence of any other documentation regarding this matter, there was every reason to believe that the bank, at the time, had, as a gesture of goodwill, waived the right to demand a (costly) procedure to cancel the misplaced passbook and had, instead, paid out the account balance, which was a small amount. In the absence of any established proof of the claimant's identity however, the bank was unwilling to provide him with this information or send him a copy of the account statement in question. Finally, following a discussion between the Ombudsman and the bank's representatives, the latter agreed to allow the Ombudsman to inform the claimant and confirm to him that he had been able to see documentation of the balance payment himself.

On balance, a bank may only provide information to account or savings passbook holders' heirs when such heirs are able to validly prove their capacity with the necessary documentation. In the case in point, the claimant probably thought that the assets stated in the savings passbook must have grown over the years due to accrued interest and so went to great lengths to obtain a certificate of inheritance, in vain. In the Ombudsman's view, the bank's behaviour was not open to criticism, at least not up to the point where it assured the claimant that it would provide a final response to his request for information and payment upon submission of the original savings passbook. The bank probably assumed that this was a bearer savings passbook for which the holder did not need to confirm his identity further. Since this was in reality a registered passbook in the claimant's aunt's name however, the bank then acted differently. Ultimately, it is fortunate that this matter could be resolved in a practical manner which enabled all parties to avoid pointless additional endeavours.