

Succession of a deceased account holder

Topic: **Proof of identity** Case number: **2017/19**

The ex-wife of a deceased account holder asked the Ombudsman to request that the bank pay her 50% of the assets deposited in an account opened in the deceased's name. She based her claim on a court ruling from her country of residence. The Ombudsman, like the bank, found that the claimant should contact the deceased's heirs.

In a foreign court ruling to which the account holder's heirs and ex-wife were party, it was decided that the ex-wife was entitled to 50% of the assets held with the bank in the deceased's name. On the basis of this decision, the ex-wife asked the bank to pay her share of the assets to her. The bank refused, requiring the consent of the executor or of all of the deceased account holder's heirs before making a payment. Disagreeing with this decision, the ex-wife stated that the heirs and the executor would refuse to sign the necessary documents. She then contacted the Ombudsman to initiate mediation proceedings with the bank.

The Ombudsman was unable to meet the ex-wife's expectations. In fact, although he was not familiar in detail with the law in the parties' country of residence, he felt that a ruling delivered by a civil court was in theory only binding upon the parties specified in said ruling. The bank was not party to the proceedings during which the property regime between the wife and her ex-husband, or the latter's legal successors, were settled. The ex-wife could only assert any rights conferred upon her by the foreign court ruling against the other parties to that ruling. The identity of the account holder's legal successors should in theory be determined in accordance with Swiss law. Article 479 of the Swiss Code of Obligations and Article 24 of the Swiss Federal Intermediated Securities Act stipulate that a bank must give the assets held by it to the deceased account holder's heirs. These provisions apply even when third parties, such as the deceased's creditors or, in this case, the ex-spouse, assert rights over the assets. Thus, the Ombudsman felt it appropriate to agree with the bank's view that the consent of the executor or heirs was necessary for the payment and that the ex-wife should contact them to assert her rights.