

APPENDIX 5B: DEATHS FACT SHEET FOR NEXT OF KIN

The death of a relative or a friend can be a traumatic experience. When the death occurs overseas, family and friends in the UK can feel additional distress as they are unfamiliar with foreign procedures and perhaps are unable to communicate in the language of the country where the death occurred. Consular Directorate of the Foreign and Commonwealth Office and our Consulate(s) in Quito are ready to help as far as we can. You may be uncertain about what to do next or who to contact for advice. These notes are designed to help you through the practical arrangements you will need to make. (You should be aware that Ecuadorian procedures differ significantly to those in the United Kingdom and that, while we understand your need for arrangements to be made quickly, this is not always possible).

The information contained in this document is not meant to be a definitive statement of the law, nor is it to be taken as a substitute for independent legal advice.

WHAT STEPS HAVE TO BE TAKEN WHEN A PERSON DIES IN ECUADOR?

All the procedures explained below are extremely bureaucratic. You must ensure that you have all the necessary paperwork before you arrange a burial, cremation or repatriation. We can help you with this, but please be patient.

1. CREMATION

Cremation costs between US\$500 to US\$580 (excluding the cost of the coffin and transportation from the funeral home to the crematorium)

Cremation fee, including cost of the coffin and transportation from the funeral home to the crematorium, as well as all paperwork: US\$900 to US\$1,150 (with funeral services approximately US\$ 1,500).

Cremation procedure:

- A. Issue of Medical Death certificate by a doctor
- B. Registration of Death Certificate at the Registry Office
- C. Certificate of identification of remains (if applicable)
- D. Autopsy report (if applicable)
- E. Cremation authorisation from NOK
- F. Issue of Cremation Permission by the Ministry of Health (Dirección Provincial de Salud) to local undertaker, stating where it will take place.
- G. Cremation Certificate

2. AUTOPSIES

Under Ecuadorian law, an autopsy is obligatory if a person has died from a violent or sudden death. The legal medicine department of the police is responsible for carrying out autopsies. If a person dies in hospital, of an illness they have had for more than 24 hours, autopsy is not obligatory.

Documentation/processes necessary for autopsy:

- A. Medical Death certificate issued by a doctor
- B. Certificate of identification of remains, issued by the judicial police and district attorney ministry (for violent and/or sudden death)
- C. Registration of Death Certificate at the Registry Office.

3. EMBALMING

Most mortuaries in Quito and Guayaquil provide an embalming service. This service costs approximately US\$400. Remains must be embalmed before repatriation.

Documentation/processes necessary for embalming:

- A. Issue of Medical Death certificate by a doctor¹
- B. Registration of Death Certificate at the Registry Office
- C. Certificate of identification of remains (if applicable)
- D. Autopsy report (if applicable)
- E. Issue of “Formolisation” Certificate for the preservation of remains by the Ministry of Health
 - *Deceased at a health centre*: Issue of death certificate.
 - *Deceased outside a health centre*: the legal medicine department of the judicial police must undertake an autopsy in order to establish the cause of death, and is also responsible for carrying out the preservation of the body.

4. REPATRIATION OF ASHES/REMAINS

Mortuaries or funeral directors are responsible for making the arrangements for the repatriation of remains to another country. The cost of cremation and transportation of ashes back to the UK is about US\$1,530 – US\$1,800. The cost of preparing and transporting remains to the UK is about US\$ 1,980 – US\$2,200 (excluding airfare - approximately US\$6,100 with airfare).

If you choose to repatriate remains to the UK, you must be aware that it is law in Ecuador that all organs are removed before remains are repatriated. We understand that this is extremely distressing for families, but we are unable to interfere with Ecuadorian law on this matter. We have previously arranged for organs to be cremated and for ashes to be returned to the UK with remains.

¹ “Informe Estadístico de Defunción” – Inec’s form

Documentation/processes necessary for repatriation of ashes/remains (your funeral director should arrange this documentation):

- A. Removal of organs (and/or dehydration of organs) and embalming process (ref. embalming section)
- B. Issue of Permission for repatriation of ashes/remains to the assigned airline and local undertaker, by the Dirección Provincial de Salud (epidemiology department). This document should include a basic flight itinerary.
 - Remains for repatriation must be checked by doctors from the Judicial Police Legal Medicine Department, and corresponding documents verified by the International Health Department and by customs. In addition, the anti-narcotics department at the airport is responsible for checking if drugs have been hidden in the coffin.
- C. Certificate from local undertaker stating that the coffin containing ashes/remains complies with health regulations: special hermetic coffins (inner metal-coffin and external wooden-coffin) are required for repatriation of remains.
- D. Coffin containing remains/ashes to be sealed in front of a Consular officer
- E. Coffin containing remains/ashes to be controlled by the anti-narcotics department at the airport
- F. Air waybill issued by airline

5. BURIAL

The preservation of remains for burial costs around US\$50. This procedure is not compulsory at every cemetery. “Niche” burial (4 years-rented) costs around US\$550. The funeral service costs an additional US\$1,070 (including transportation and coffin costs).

Documentation/processes necessary for burial.

- A. Issue of Medical Death certificate by a doctor
- B. Registration of Death Certificate at the Registry Office
- C. Certificate of identification of remains (if applicable)
- D. Issue of “Formolisation” Certificate for the preservation of remains by the Ministry of Health²
- E. Issue of Burial authorisation by the Ministry of Health (Dirección Provincial de Salud). If deceased in a small village, authorisation to be issued by the head of the medical centre.

6. Return of Personal Effects

Normally returned to the family. However, if a sudden death is involved and no NOK in Ecuador, NOK and/or executor of estate in the UK would need to send us a “statutory declaration” before a notary public, confirming that items listed in the personal effects inventory were property of deceased person, as well as authorising the British Embassy in Quito to act on their behalf to be returned all personal effects.

² Not compulsory at all cemeteries. However, for burial at crypts (burial chamber) and/or niche (hole) is obligatory.

This document would need to be submitted to the district prosecutor in charge of the deceased case³, within the district attorney ministry, giving reference of the detection/identification of remains and autopsy certificates, as well as of the personal effects report, issued by the judicial police.

This process can take approximately 2 weeks.

7. Police/Judicial Inquiries

Action taken in suspicious deaths and road traffic accidents: led by the examining prosecutor, but supported by the judicial police. Police make a copy of their report available to the family, upon request.

What happens if the police apprehend a suspect and the State decides to prosecute. Brief description of the judicial process:

- Inquiry phase in charge of the judicial police, but under the control of the state/district prosecutor. Confidential inquiries within the first 24-48 hours – no public access.
- If evidence found, the state prosecutor will lead a 90-days investigation phase. Inquiries within this period are delegated to the district judicial police. Public access.
- After above period, prosecutor to announce judgement (to accuse or to dismiss)
- If suspect accused, preliminary hearing to take place before the judge
- Judge to give verdict
- If trial is called by the judge, court hearing to take place before the designated court
- Court to sentence suspect

Above process could take between 6 months to 1 year, sometimes even more.

8. Legal Aid

“Pro Bono” lawyers are not available.

If it is a public accusation, the state prosecutor will be in charge of the inquiry/investigation of deceased case.

For private allegation, the Consular Section of the British Embassy has available a list of local lawyers to select from.

9. Compensation

Is there a government compensation scheme in murder/manslaughter/terrorism cases which is applicable to foreign nationals as well as local nationals? If so, brief description and details on how to apply.

Negligence accusation against a national entity⁴ - requesting compensation amount for damages. NOK of deceased can apply for government compensation:

³ Ministerio Fiscal Distrital - Unidad de Delitos contra la Vida

⁴ Such as death by electrocution: civil lawsuit against national electrical company for not having put warning signs out.

- Civil lawsuit/legal deposition against the national company (legal representative) to be submitted to the district Judge by a private lawyer on behalf of victim's NOK. Power of attorney for lawyer is previously required.
- Enough evidence is essential. Amount for damages is up to the judge's criteria.
- Judgement – acceptance of deposition and payment of damages
- Appeal is possible – to be reviewed by the Superior Court and prosecutor
- Agreement on a settlement

Very bureaucratic procedure. It can take over 2-3 years.

Remarks: A “mandatory road accident insurance policy” (**SOAT**) was introduced in 2008. It is an insurance for road accident victims, to cover medical expenses up to US\$2500; hospital transport expenses of injured people up to US\$50; disability compensation up to US\$3000; death compensation up to US\$5000 and funeral expenses up to US\$400. If a car or bus has not been insured with SOAT, there is a joint fund called “FONSAT” that guarantees that everybody is covered by the road accident insurance policy. These insurance systems therefore guarantee that every road accident victim is provided with immediate medical assistance either in a public or private hospital, without having to pay any deposit, in addition to the above compensation amounts.

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