



Italian wills guide



**A comprehensive guide to
making a will in Italy**



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introduction



A death of a friend or a family member is extremely difficult at the best of times - especially if you have to deal with the mechanics of the inheritance. Dealing with the legal process in a different unfamiliar country only adds to that difficulty. One of the practical things to help avoid future stress and cost for your family and beneficiaries is to plan effectively and ensure you have in place a valid Italian Will.

When you buy a property in Italy the last thing that you normally think about is making a Italian Will - after all there is furniture to pay for, that first trip to organize and all those sorts of exciting things. However, when you have just bought is the time to make a new will.

Done properly a Italian Will will not only make the lives of your beneficiaries easier during a difficult time but can also potentially save them quite a bit of money - certainly more than the cost of making the Italian Will in the first place.

Are the inheritance rules in Italy the same as the UK?

No, the processes are very different, but there is an interaction between them when you inherit a property in Italy. That is why the best person to advise you on your purchase in Italy is somebody who understands both Italian and UK law.

Do I have to make a Will?

No, you don't as it is possible to deal with an inheritance that is intestate (i.e. without a Will). However, if you don't make a Will then you run the risk that your assets go to the wrong person or that the process of inheriting from you is more complicated and / or expensive than it needs to be.

Can I just leave my assets in Italy with my UK Will?

Yes you can, but this may not be the best way of dealing with your estate as the two legal systems are very different and it may be better to leave assets to different people in different countries. The cost of translating a UK Will into Italian (which is required on an inheritance) is generally more than the cost of making a Italian Will in the first place, so even on that basis it makes sense.

Can I have two Wills?

Most people are not aware that you can have more than one Will (for example one in the UK dealing with your UK assets and one in Italy dealing with your Italian assets). You can have two Wills that work together providing that they are drafted well. Drafted incorrectly you might accidentally revoke the other Will.

Do I have to leave my Italian assets to my children?

This is the most common question we get asked about Italian Wills. In short if you are not an Italian resident then no, you don't. However, it might make sense to follow the same rules as an Italian needs to follow as this may end up being more cost effective. There is a section later on in this guide giving further advice on this.

no will

You don't have to make a Will at all - either in Italy or in the UK. If you don't leave a Will then your assets will be dealt with in accordance with the rules of Intestacy. The Intestacy Rules set out who should inherit from you if you haven't made a Will. Who will inherit from you will depend on a number of factors including whether you are married or in a civil partnership, whether you have children and how much your estate is worth. If you aren't married or in a civil partnership and don't have children then it may be your parents, siblings or other relatives who get your assets. If you don't have any family then the Crown gets your assets.

You may not want those people to inherit from you. By making a Will you can make sure that the right people get your assets when you die. You can also make sure that your assets are distributed in the most tax effective way.

If you don't leave any Will then it will be necessary to explain to the authorities in Italy who is entitled to your assets in accordance with UK law. This will require a Declaration of Law to be drafted and then translated and legalised. This all increases both the costs and time taken to deal with your inheritance





Translation

It is possible to leave assets in Italy using a foreign Will as Italian Law recognizes Wills that are made abroad. Therefore you can draft your UK Will to include your Italian assets.

However, doing this unnecessarily increases the costs of the subsequent inheritance in terms of the costs and sometimes taxes. The reason for this is that the process becomes more difficult - each document needed needs to be translated and legalized. The cost of translating a UK Will into Italian can run into hundreds of pounds on its own. Further to this the process slows down as we have to wait for the Grant of Probate to be issued in the UK before we can progress the inheritance in Italy, which will normally mean that the inheritance taxes are not paid in time in Italy, resulting in a fine and late payment interest.

It may be necessary to draft a Declaration of Law which confirms to the authorities in Italy that the UK Will is valid in the UK and also who the beneficiaries are. It is also often necessary to explain to the authorities in Italy how a UK inheritance works as the two systems are very different - in Italy, for example, it is the beneficiaries who inherit directly rather than using executors, administrators, trustees and the like.

Italian wills



The easiest way of dealing with an inheritance in Italy is by using a Italian Will. This is for several reasons. First of all the Will is made in Italian and in the Italian format. It will be drafted signed, witnessed and registered in accordance with Italian law on Wills. In short it will be what the Italian Authorities are used to and will be expecting. Because of this the authorities will know how to deal with it and therefore the whole process will be smoother than if you were using a UK Will to leave your assets. There will be less documents needed and less steps required to get to the signature of the Deed of Acceptance of Inheritance.

Secondly, because the authorities in Italy will understand the Will and the process the cost will be less. The cost of translating a UK Will into Italian is normally more than the cost of making a Italian Will in the first place. If a UK Will is used then it is likely that a Declaration of Law is required to explain to the Italian Authorities how the UK Will works and how it is valid. This increases the cost of the inheritance

Thirdly if a Italian Will is used for your Italian assets then it will not be necessary to wait for the UK Inheritance to progress before progressing things in Italy. Leaving your assets in Italy using a UK Will would mean that we would need to wait for the UK Grant of Probate before starting the process in Italy. This in turn is likely to mean that the six month voluntary period for paying the inheritance taxes in Italy will be missed, meaning that there will be a fine for late payment and interest added on the outstanding amount. Making a Italian Will therefore saves your beneficiaries cost and time.

Lastly the way that Inheritance Tax in Italy works is very different to the UK. Therefore the way that you leave your assets in the UK is not necessarily the best way to leave your assets in Italy. UK law tends to favor leaving your assets to your spouse whereas Italian Law is all geared around leaving your assets to your children. This fundamental difference in the approach of Inheritance Law is reflected in the way that the Inheritance Tax works - meaning that doing what you would normally do in the UK in your Italian Will may be appropriate. Having said that, over the years Italian Law is changing and moving more towards the way that the UK works.

The easier and cheaper you can make your inheritance the easier it is for your beneficiaries to cope with your departure and also means that they will receive more of your assets.



notary public

Italian Wills are drafted and signed in a different way to the way that they are done in the UK. The format of the Will is different as is the style. Italy uses the Notarial system for the signature of important documents such as Title Deeds and the like. The role of the Notary Public is essentially to make sure that you are who you are, that you understand what you are signing, to make sure that you are signing the document under your own free will and to complete certain formalities.

The Notary can be in the UK or Italy but must be able to understand the document. Wills signed in the UK require legalization at the Foreign & Commonwealth Office

There are two main types of Italian Will;

Italian Public Wills (Testamento Pubblico) The most common type of Italian Will. Signed before a Notary. The Notary reads out the document and makes sure that you understand it and that you are who you are. He witnesses the Will

Handwritten Wills (Testamento olografo) The person granting the Will hand writes the Will and signs and dates it. The Will is then kept for safekeeping by the testator, a trusted person or a Notary. If this is given to the Notary then the Notary simply writes a official deed acknowledging receipt of the Will and doesn't discuss the contents with the Testator.





In some countries there is the requirement to register a Will at the relevant Wills Registry. This means that upon a death it is relatively easy to identify the whereabouts of the Will.

Italy is similar to the UK in that although Wills Registries do exist they are not compulsory and therefore their impact is diminished. It still makes sense to carry out a search at the Wills Registry when dealing with an acceptance of inheritance, especially as the cost of doing so is relatively low.

In order to carry out a Wills Registry Search a copy of the Death Certificate will be needed. The search will tell you where the Will is but will not tell you what the contents are.

Inheritance and taxes

Italian Inheritance Law states that when you die your property will be shared among your heirs according to the law of your country of residence at the time of death. Therefore if you are not resident in Italy then the “forced heirs” required in Italy doesn’t apply to you. If you are resident in Italy at the time of death then the “forced heirs” does apply unless you leave a Will stating that you want the law of your nationality to apply. A “foreigner” can make a Italian Will leaving his own property to the person of their choice. This Will must contain a declaration that their personal law is governed by the principle of free disposition of property by testament. Generally speaking a valid Italian will is sufficient to dispose of the estate as you wish.

Inheritance tax on property or assets in Italy has to be paid in Italy. The property or assets also have to be declared back in the UK although due to Double Taxation Laws you can offset the tax paid in Italy against the tax payable in the UK.

The rate of inheritance tax payable in Italy will depend on three things;

1. The relationship between the person who died and the beneficiaries
2. The amount that each beneficiary receives

The tax is a tax on the individual beneficiaries rather than the estate as a whole.

Spouse and direct family members have an exemption of up to €1million and then pay tax at 4% on any amount above that.

Brothers and sisters have a exemption of up to €100,000 and then pay tax at 6% on any amount above that

Family members up to the fourth degree, direct relatives and collateral relatives up to the third degree have no exemption and pay tax at 6%

All others have no exemption and pay tax at 8%

fees and costs

Our charges. For a simple Italian Will we charge £600 Plus VAT. That should cover the majority of typical cases. More complicated structures may require more work than a typical Will and will therefore cost more. We would give an estimate for this cost prior to instruction.

There is going to be various fees that will need to be paid on top of our fees;

Notary fees - Typically €700 if signed in Italy and £100 if signed in the UK

Legalisation fees - £30 per Will

Wills Registry fees - Free

Our charges include;

- **Taking your instructions on what you want to happen with your assets**
- **Advising you whether your proposed course of action is legal and whether it seems sensible**
- **Drafting your Will**
- **Making arrangements for you to sign the Will**
- **Registering the Will and the Italian Wills Registry**

Accettazione di eredità	Acceptance of inheritance / probate
Agenzia immobiliare	Estate Agency
App ezzamento de terreno	Plot of land
Apostilla	Apostille (at Foreign & Commonwealth Office)
Avvocato	Lawyer or solicitor
Bambini	Children
Catasto	Land Registry
Chiave	Key
Codice fiscale	Tax Identification Code
Comunità di proprietari	Community of owners / Residents Association
Consulente fiscal	Tax consultant
Defunto	The deceased
Domicilio	Residence
Elettricità	Electricity
Eredità	Inheritance / Succession
Eredità intestate	Intestate inheritance
Figlia	Daughter
Figlio	Son
Funerale	Funeral
Giurisdizione	Jurisdiction
Imposta	Tax
IMU (Imposta Municipale Propria)	Council Tax
IVA (Imposto sul Valore Aggiunto)	VAT (Value Added Tax)
Legato	Beneficiary / Heir

....useful terms

Legge	Law
Licenza	Licence
Madre	Mother
Morte	Death
Municipio	Town Hall
Notaio	Notary Public
Nonno / Nonna	Grandfather / Grandmother
Padre	Father
Polizza assicurativa	Insurance policy
Pompe funebri	Funeral Directors
Prescrizione	Limitation period (for paying taxes)
Procura	Power of Attorney
Proprietà	Property
Rendita catastrale	Official value of the property
Residente	Resident
Ricerca catasto	Land Registry Search
Rinunciare	Renounce
Successione necessaria	Forced Heirs
Testamento	Will
Titoli di proprietà	Title Deeds
Ufficio delle imposte	Tax Office
Usufrutto	Life interest

Italian lawyers

We have an experienced Italian legal team comprising Italian lawyers and English lawyers who have studied Italian law.

We are Solicitors

We are a UK based firm of Solicitors regulated by the Solicitors Regulation Authority and who specialise in international legal issues

We understand both sets of laws

Because we understand both sets of laws we understand the difficulties that come when two sets of laws meet.. This is particularly important when it comes to issues involving ownership, taxation and inheritance.

We are members of AIPP

The Association of International Property Professionals was set up to improve standards of professionalism in a largely unregulated overseas property market.

Experience

Our Italian team has many years of experience dealing with a whole range of legal issues with Italy.

We speak your language

You need a lawyer who can speak your own language. More importantly you need somebody who can explain and discuss often complicated issues in terms that you understand.

Independence

We are independent. We are not allowed to act for the buyer and the seller at the same time. We are not linked with any Development Companies, Builders or Estate Agents

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