



Reply to questionnaire for the country reports – Italy

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Country: Italy

Population: 60 million

Number of people under Adult Guardian/Guardianship: unknown

Relevant legislation

Italian Civil Code (Articles 404-432)

Key terminology

Full guardianship (*interdizione*)

Limited guardianship (*inabilitazione*)

Caretaking with residual capacity for the ward (*amministrazione di sostegno*)

What types of guardianship exist? (personal welfare/financial affairs)

All three forms of guardianship (full guardianship, limited guardianship and caretaking with residual capacity for the ward) can include decision-making in both personal welfare and financial affairs matters.

Aside from personal appointments, who has the power to appoint an adult guardian?

The Probate Judge appoints adult guardians following a request from the ward's family members, social services or the Public Attorney.

What criteria do the court need to consider when deciding the need for a guardian?

The civil code provides that a:

- 'caretaker' (caretaking with residual capacity to the ward) be appointed where the ward is partially or temporarily unable to look after their own interests because of physical disability or mental impairment.
- person who suffers from a permanent mental impairment that prevents them from looking after their own interests be placed under full guardianship.
- Person whose mental impairment is not so severe as to require full guardianship can be placed under limited guardianship.

What is the potential duration of an order?

Full guardianship and limited guardianship orders are made for an indefinite period.

A 'caretaker' is usually appointed for an indefinite period. Alternatively, the Probate Judge can decide to appoint the caretaker for a limited period of time.

Can a person under guardianship seek review of a guardian's appointment and/or a guardian's decisions?

A person under full guardianship cannot seek review of a guardian's appointment. However, they can seek review indirectly through application by friends or family members. A person under limited guardianship or under caretaking can seek review themselves.

Who can be appointed as guardian? (eg family members, private guardian, private body, public body)

In general the court prefers to appoint family members. If family members are not available or not willing to be the guardian, the Probate Judge can appoint a volunteer guardian or a lawyer.

What are the responsibilities of an adult guardian? (eg what principles or guidelines must they comply with)

The guardian has to carry out this function with the diligence of the “good family father” (legal term).

How are adult guardians monitored and/or supported? (eg overseeing body, support for volunteer guardians)

Guardians normally have to provide a written report to the Probate Court once a year.

Does an existing enduring Power of Attorney (personal welfare/financial) remove the need for guardianship when capacity is lost?

No. When capacity is lost, the Power of Attorney is no longer valid.

What costs are associated with guardianship and who pays? (eg application costs, court costs, yearly service fees)

The appointment of a caretaker is free: there are no court fees and the applicant does not need to employ a lawyer.

The applicant needs to employ a lawyer to seek the appointment of a full guardian or limited guardian, these legal costs are met by the ward.

If the caretaker or guardian who is appointed is a family member that person normally provides that service for free. If the caretaker or guardian is a volunteer or lawyer the Probate Judge can grant them compensation

Additional comments (Interesting elements of your country's system than are not covered above)

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