This glossary is directed mainly to legal advisors dealing with deceased estates with some property situated in Italy.

The glossary lists some of the main Italian legal terminology on the subject, translated into English. However, readers will be aware that the legal meaning and effect of certain translated terms will not be identical to their meaning under English law.

**Acceptance of succession**
An heir’s acceptance of a deceased estate may be express or implied.

- **Express acceptance** – which may be either by way of a "simple" acceptance or may be subject to the “benefit of an inventory”;
- **Acceptance subject to the benefit of an inventory** – limits an heir’s liability for the debts of the estate to the amount of the net assets actually received from the estate;
- **Implied Acceptance** – when an heir’s conduct is such as to unequivocally show their willingness to accept the inheritance.

**Apostille**
Used for the authentication of documents executed in another country which is signatory to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents. The apostille is placed on official Government or notarised documents including (but not limited to) powers of attorney, solemn declarations, grants of probate and letters of administration, affidavits, birth certificates, death certificates etc.

**Barrister and solicitor (Avvocato)**
An Italian lawyer is known as an avvocato (the legal profession in Italy is not divided between barristers and solicitors).

**Central register of published wills**
This is a centralised register held by the Notaries’ Registry in Rome where it is possible to obtain information on whether a deceased person left a will which has been published and, if so, obtain a copy. Italy is also a party to the Basel Convention which has reciprocal consultation arrangements with the centralised registers of countries which have ratified the Convention, including Belgium, France, Holland and Spain.

**Children**
A law which came into force in early 2014 totally abolished the previously remaining distinctions between children who were born in or out marriage. Therefore all children now have exactly the same rights of inheritance.
Civil Code (Il codice civile)
The Italian Civil Code consists of 2969 articles, divided into six books organised as follows: On Persons and Families, Succession, Property, Obligations, Employment & Business, Protection of Rights.

Division
Is the term used to describe an act, by court order or private deed, to divide up a deceased estate into separate portions representing the proportionate interests of the heirs or of persons in community of property. In English, partition.

Domicile
Of a person is the place in which he/she has established the principal base of his/her affairs or interests.

Executor
The testator/trix may appoint one or more executors who must ensure that the provisions of the will are faithfully carried out, whether in relation to the entire estate or part of it. The figure of executor is however little used in Italy. The executor appointed under a will can administer the estate for only up to one year from the death of the testator.

Forced heirship (Reserve hereditaire)
Under Italian law, a testator does not have complete freedom of testation and a certain portion of the deceased’s estate is “reserved” for the immediate family. If a will breaches the reserved share, an heir who has been left less than his/her reserved share may bring legal proceedings to remedy the breach through the reduction of the shares given to beneficiaries without a right to a reserved share or whose reserved share has been exceeded in the testamentary dispositions.

General Registry of Persons (Anagrafe)
Where the records of births, deaths and marriages, residential address and family status are kept. These are managed by local councils.

Gift inter vivos
A gift made during a person’s lifetime. Under Italian law, any substantial gift must be taken into account and set off against the person’s inheritance in application of the forced heirship rules. Immovables and movables not capable of simple delivery of possession must be transferred by a deed of gift executed before a Notary and two witnesses.

Heir
An individual who succeeds to all of the rights and all of the obligations, or a portion thereof, of a deceased person either pursuant to a will or by operation of law where the deceased died intestate.
Hotchpot
The taking into account of gifts inter vivos or advancements to ensure an equal distribution amongst the heirs.

Interim administrator
When the person entitled to inherit has not yet accepted the status of heir and has not taken possession of the estate property, the court may appoint an estate administrator, either at the request of interested persons or of its own motion.

Intestacy
An “ab intestate succession” means a succession where the deceased did not leave a valid will. In this case, the succession devolves pursuant to the provisions of the Civil Code. In Italy, it is frequent for a person not to prepare a will.

Inventory
A detailed list of the assets, liabilities, credits and debts of the deceased, prepared by an heir who accepts the deceased estate with the benefit of an inventory.

Land Registry
All ownership rights relating to real property in Italy are registered at the Italian lands registries, which are organised on a provincial basis and now managed as part of the provincial revenue offices (Agenzia delle Entrate). Each land registry is divided into two sections, one for the registration of title and charges, and the other for the mapping and classifying of property for tax purposes (catasto). It is possible to carry out on-line searches to identify any property owned by the deceased.

Legacy
A disposition of personal property by will. A gift of personal property or money to a beneficiary (legatee) of a will. However, the legatee retains the right of renunciation and is required to obtain possession of the legacy by request to the person charged with its custody.

Legatee
A person who receives personal property through a will. A person or organization receiving a gift of an object or money under the terms of the will of a person who has died.

Matrimonial regime
The legal system governing the property rights of a married couple that, in some jurisdictions but not in Italy, also applies to same-sex marriages, civil unions, and common law spouses. In Italy, spouses can be in either a “community of property” regime or a “separation of property” regime.
• **Community of property between spouses** *(comunione dei beni)* is the presumed property regime applicable to them under Italian law, that is, if they do not chose a separation of property regime. Community of property means that all property acquired by either or both of the spouses during the marriage is owned half each, irrespective of whether the property is registered in the name of one only or both spouses.

• **Separation of property** *(separazione dei beni)* means that all property of the spouses is owned by them separately, with no right of ownership to the property registered in the name of the other spouse.

**Notary (notaio)**

Is a private professional who performs public functions. In Italy, a notary is vested by the State with public authority and faith which allows him/her to prepare "public deeds", such as for the sale and transfer of real property registered in public registries, or take declarations which constitute proof in certain cases. This system is spread around the world and has been adopted by many States mostly belonging to the civil law tradition.

**Opening of the inheritance**

The opening of the inheritance coincides with the death of the deceased. The title to the property of the deceased is deemed to pass immediately at this time to the heirs, unless they renounce the inheritance (doctrine of saisine).

**Power of attorney for succession matters**

This is a deed signed before a notary public granted in favour of a lawyer or any other third party to act on behalf of the heir(s) in order to sign declarations of succession, make filings and to generally deal with the winding-up of the estate.

**Representation (per stirpes)**

From the Latin meaning literally “by branch” which, in Italy, applies by operation of law where certain heirs who are close family predecease the testator/trix or the deceased in intestate succession, or decide not to accept the inheritance. In this case, the descendants will take the relevant quota in place of the heir who cannot or decides not to accept the inheritance.

**Scission**

In many jurisdictions the principle of scission applies whereby the distribution of movables on the death of the deceased is governed either by the law of their domicile or the law of their nationality; whereas the distribution of immovables is generally governed by the law where they are situated *(lex situs)*. The principle of unity of succession, on the other hand, is applied in Italy.
Solemn declaration (acte de notoriété)
A document prepared and authenticated by a notary based on the statements of two witnesses. It includes the civil details of the deceased person, the existence or not of a will, and details of the heirs and their respective portions. It allows the heirs to demonstrate their status as heirs.

Succession
is the term used to mean Italian inheritance law, which is based on the Roman law tradition. Under Italian law, there are forced heirship rules for the protection of close family in the presence of a will. If the deceased dies intestate, the estate devolves to the closest surviving family in accordance with the provisions of the Civil Code.

- **Unity of Succession** – a fundamental principle of the Italian legal system. Both in the sense that all the property and the rights of the deceased constitute a single entity passing to the heirs and in the sense that a single national law is applied to determine the succession rights of heirs and legatees even when property is situated in different jurisdictions.

Testamentary contracts
Contracts whereby a person agrees to dispose of his/her estate in a particular way, or concerning rights to the inheritance of a person who has not yet died are null and void.

Trust
On 21st February 1990, Italy ratified the Hague Convention of 1st July 1985 on the Law Applicable to Trusts and on their recognition. The terms of the Convention entered into force on 1st January 1992 and apply to foreign trusts with assets in Italy. The ratification of the Convention by Italy does not create a local institution of the trust in Italy (article 13, Convention) although tax laws have been introduced regulating the tax treatment of trusts.

Wills
A will is a formal legal instrument which must always be in writing. The two most common forms of will in Italy are the holographic will and the will by deed. The will by deed is made either by public instrument or is a secret will. In addition to the “ordinary” forms of will, there are also special wills and international wills.

- **Holographic Will**
The holographic will must be entirely in the testator/trix’s own handwriting, and must be dated and signed by the testator/trix. The execution of the holographic will does not need to be witnessed.

- **International Wills**
By Law 387 of 29 November 1990, Italy acceded to the 1973 Washington Convention on International Wills which empowers notaries in Italy to witness wills.
- **Secret Will**
  The secret will (also referred to as the “mystic will”) is not frequently used. This will has the most detailed requirements as to form. Briefly, the testator/trix must personally hand over to a notary, in the presence of two witnesses, a document which may already be closed, and declares that the document contains his/her will. The notary records this information directly on the document or on the envelope in which the will is placed and then sealed.

- **Special Wills**
  Referred to as “privileged wills”, they allow the testator/trix to express his/her last wishes in certain situations when it is not possible to make an ordinary will.

- **Will by Way of Public Instrument**
  A will made by way of a public instrument is a will signed by the testator before an Italian notary and in the presence of two witnesses.