



Malta

## Registering and searching for wills

→ What are the principal forms of will in Malta?

\* the **authentic (or “public”)** will, drawn up by a civil notary and registered in the Public Registry. If the testator so requests, or in certain instances laid down by law, the presence of two witnesses is required.

\* the **sealed (or “secret”) will**, placed in a sealed envelope and delivered to the Court of Voluntary Jurisdiction, either by a Notary or by the person making the will. In the case of acts of delivery of a secret will, if the testator so requests, or in certain instances laid down by the law, the presence of two witnesses is required.

→ Does a register of wills exist in Malta?

**Yes**, there is a register of authentic wills (**Public Registry**), administered by Identità, a government agency which is responsible for the Public Registry. This register is kept electronically. **This is a public register which contains information on all the deeds concerning rights relating to things (real rights), wills and causes of preference amongst creditors (registered debts).**

In parallel, sealed wills are recorded in the registers kept by the Court of Voluntary Jurisdiction.

**N.B.**

These questions and answers constitute a general source of information, up to date as of 25 January 2024. In the event of a particular difficulty, consult a civil law notary. Pratical sheet realized by ENRWA with the participation of the European Commission and of the Notaries of Europe.





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## I. The registration of a will

### → Why register a will?

The registration of authentic wills in the public register is mandatory.

A secret will has to be delivered to the Court of Voluntary Jurisdiction either by the testator himself or by a Notary Public.

### → Who can carry out the registration?

The civil law notary carries out the registration of authentic wills in the public register. The testator is in charge of filing his sealed will with the court. The testator may also deliver the secret will to a Notary who will then proceed with depositing it in Court.

**It is not the content of the public will which is recorded in the public register** but the information which enables it to be found, that is the date of the will, the particulars of the testator and the name of the notary who published the will. Any person can affect a search at the Public Registry to check whether a person has made a public will, even during the lifetime of the testator. The search would only divulge the existence of a will, the particulars of the testator and the name of the notary who published the will, and its contents will remain secret. In the case of a secret will, the will is filed with the Court in a sealed envelope, which enables the

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testator's wishes to be kept secret. One may only search the secret will register if the testator is deceased, upon the presentation of a death certificate.

### → Who keeps the will?

The civil law notary is in charge of keeping the authentic wills which he has drawn up in a particular year until such wills are handed over for inspection to the Review Officer of the Court of Revision of Notarial Acts who has been allocated to the notary for that particular year. After the review is complete, the original wills are deposited at the Notarial Archives.

The Registry of the Court of Voluntary Jurisdiction keeps the sealed wills filed in a sealed envelope.

### → Can the testator's family members consult the register while he is still alive?

The public register is freely accessible and the existence of a will may be revealed during a search for transfers concluded by a person or if a person conducts a search on another person specifically relating to public wills. **The content of the will is never disclosed during the testator's life.**

### → How much does it cost to register a will?

The registration of a will in the public register costs **€6.40c.**

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The registration of a will in the Court of Voluntary Jurisdiction costs €20.

## II. The search for the wills

### → Who may query the register of wills?

Anyone may query the register of public wills and obtain information on whether a particular person has drawn up a will. The contents of the will remain undisclosed until the testator passes away. It is not possible to obtain a copy of a will without a death certificate of the testator.

Upon the death of the testator, the deceased's family may query the register themselves or through a legal professional (civil law notary or lawyer) in order to search for an authentic will. **This query is obligatory** as it ensures that the last wishes of the testator are respected. The search may only be performed 21 days after the death of the testator.

To search for a sealed will, a request must be addressed to the court registry accompanied by the death certificate of the testator.

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### → Is it necessary to provide a death certificate?

A **death certificate** is necessary in order to search the register of secret wills and to obtain a copy of a public will. A death certificate is also necessary if any interested party wants to obtain a copy of a public will of a deceased person.

### → How much does a search cost?

A search in the public register costs **€11.85**.

A search in the court register costs **€15**.

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