

MASSIMILIANO SILLA

MULTI FAMILY OFFICE

Wills and the **forced share.**

The three forms and their fatal errors, the share no testament can erase, the clauses that hold and those that ignite disputes, the five moves for dispositions that stand unchallenged: the will explained before the signature. An independent guide for those who decide.

THE WISHES · THE BOUNDARIES · THE MOVES

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WHY THIS GUIDE

The wishes, **before the signature.**

The will is the most personal legal act there is, and the most postponed: not even one adult in six, in the most forward-looking age bracket, has written one. Everyone else lets the civil code speak — and it always speaks, almost never the way one would have wanted. Yet between a will that holds and one that ignites ten years of litigation there is no secret: there is a method, made of forms respected, shares computed and clauses chosen with care.

This guide delivers that method with the series' framework: the written wishes (why silence is a choice, the three forms with their fatal errors, the perimeter of the forced share, the grammar of the content), the boundaries and the tools (infringement and its action with the 2025 reform, the fine tools, the assets that travel on their own, the life of the document) and conscious use: one family with three wills compared in numbers, the typical disputes with their defences, the five moves, and the honest comparison with gift, family pact, policy and restraints.

It is an independent guide: it sells no deeds and no products, and when the right move is to write nothing, it says so. It does not replace the notary: it prepares you to use one well, which is another thing entirely.

HOW TO USE THIS GUIDE

- **It is navigable.** From the contents you jump to a chapter with one click; the page number at the foot always leads back to the contents.
- **"Key points",** at the end of each chapter, sums up the essentials in a few lines.
- **The "In plain words" boxes** translate the most technical concepts into everyday analogies.
- **The final glossary** collects all the technical terms: when a term does not add up, the answer is there.

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THE WILL AT A GLANCE

The will, **in six numbers.**

3 forms

Holographic, public, secret: none outranks the others — what counts is the latest valid will in time.

3/4

The maximum reserve (spouse and two or more children): the will governs from half down to a quarter of the estate.

17%

The will's peak take-up in Italy, in the 50-59 bracket: the most useful document is the most postponed.

10 years

The abatement action's limitation period: wishes that overshoot are not void — they are filed down, on a lawsuit's timetable.

0 €

The unmarried partner's share: without a will (or a policy in their favour) they receive nothing.

2025

Law 182/2025: restitution from third parties abolished — the injured heir holds a claim, donated property circulates.

Sources: civil code, L. 76/2016, L. 182/2025, EU Reg. 650/2012, Notariat surveys, case law; rules as at September 2026. Indicative values: every family has its own numbers.

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PART ONE · CHAPTERS 1–4

The written **wishes.**

Why silence is a choice made by the code; the three forms with their fatal errors; the perimeter of the forced share with the true measuring rod; and the grammar of the content: heirs, legacies, conditions, exclusions.

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01 The most **postponed sheet.**

In Italy the will is written by a minority: not even in the most forward-looking age bracket does the share exceed one adult in six. Everyone else lets the civil code decide — and it always decides, almost never the way one would have wanted. This chapter brings into focus what a will actually does, what its three defining properties are, and where its power ends: because writing it well begins with knowing what it can and cannot do.

1.1 What happens without one: the code's default will

Whoever writes nothing leaves no vacuum: they let the **civil code's default will** speak — intestate succession, with its rigid shares and its forced co-ownerships. The spouse concurs with the children, the house ends up undivided among siblings, the unmarried partner receives nothing, and every family asset becomes an arithmetical fraction. The sister guide on succession tells that machine's story in full; here the consequence is enough: **silence is already a choice** — only it was made by the legislator of 1942, in the dark, for everyone.

The will is the instrument that replaces that generic choice with one's own. It is not just for complex estates: it is needed whenever the code's design does not match the family's design — a child to rebalance, a partner to protect, an asset to entrust to whoever knows how to use it. And yet it remains Italy's most postponed document: according to the Notariat's surveys its take-up peaks at **17 per cent**, in the bracket between 50 and 59. Everyone else entrusts the last patrimonial act of their life to a pre-printed form.

1.2 The three properties: strictly personal, unilateral, revocable

Three adjectives define the tool, and each one cuts off a widespread misconception. **Strictly personal**: only the owner writes it, in person — no powers of attorney, no "the accountant will see to it", no will signed by a delegate. **Unilateral**: it is the voice of one person alone. The code forbids **succession agreements** (article 458: agreements disposing of one's own future succession are void) and forbids the **joint will** (article 589: two people cannot make a will in the same deed, not even spouses "in each other's favour"). A husband and wife who want mirror-image designs write **two wills**, one each.

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Revocable, always: one can change one's mind until the very last day, and the power to revoke cannot even be waived (article 679). It is the most misunderstood property and the most precious: a will freezes nothing, takes not one euro of freedom away from its author, does not "bring bad luck" — it simply departs only at death, and until then it can be rewritten as many times as needed. Whoever postpones for fear of being bound fears a bond that does not exist.

> IN PLAIN WORDS
>
> A will is a letter that leaves only on the death of the person who signs it. While they are alive it can be reopened, corrected, torn up and rewritten: it commits to nothing, costs no freedom of action, never "activates" by mistake. The only version that counts is the last one — which is why writing it early is never a risk, while not writing it at all always is.

1.3 Where its power ends

The will governs the **destination of assets at death** — and even that within a boundary: the **forced share**, the portions the law reserves to the closest family members, which no testament can erase (chapter 3). Outside its perimeter lie three territories. First: the **assets that travel by contract** — life policies with a beneficiary, pension funds, joint accounts — which chapter 7 maps. Second: everything that must happen **before** death — the handover of the business while alive, protection in case of incapacity: different tools are needed, from the family pact to the power of attorney. Third: the **tax** effects, which the will barely moves — the rates and allowances are the same with or without one (the sister guide on succession does that arithmetic).

This guide walks the whole perimeter: the forms and their fatal errors (chapter 2), the boundary of the forced share (chapters 3 and 5), the possible content (chapter 4), the fine tools (chapter 6), the life of the document (chapter 8) — and then the use: a complete case in numbers (chapter 9), the typical disputes (chapter 10), the five moves (chapter 11), and the honest comparison with the instruments the will does not replace (chapter 12).

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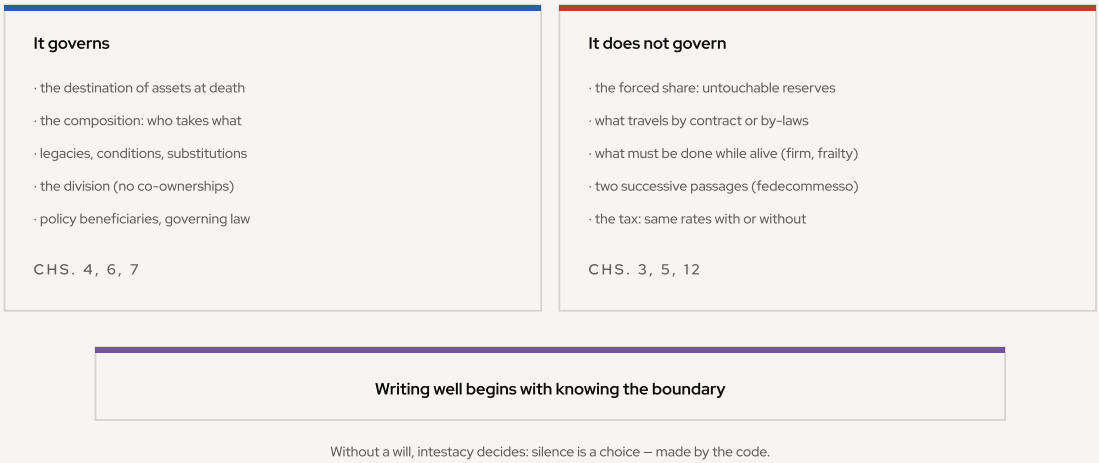

FIGURE 1 The will's perimeter — Illustrative diagram

KEY POINTS

- Without a will, intestate succession decides: rigid shares, forced co-ownerships, the unmarried partner at zero. Silence is a choice — made by the code, not by you.
- Three properties: strictly personal (no delegation), unilateral (no pacts and no two-author wills, arts. 458 and 589), always revocable (art. 679).
- Writing one binds you to nothing: it takes effect only at death and can be rewritten as often as needed. The fear of "freezing" fears a bond that does not exist.
- Its power has boundaries: the forced share, the assets that pass by contract (policies, pension funds), what must be done while alive, the tax bill that does not change.
- Only about one adult in six, in the most forward-looking bracket, has written one: the most useful document is also the most postponed.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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02 Three forms, **one voice.**

The code offers three ordinary forms: the holographic will, written alone with pen and paper; the public will, dictated to a notary before two witnesses; the secret will, which combines confidentiality of content with notarial custody. None outranks the others — the latest valid date wins, whatever the form — but each has requirements that show no mercy: most wills that fall in court fall not on their content but on their form.

2.1 The holographic will: three requirements, zero cost, many ways to fail

The **holographic** will (article 602) asks for three things, all three in the testator's own hand: **handwriting throughout**, the **date** (day, month and year), the **signature** at the foot. Pen and paper suffice; no formula is needed, no stamp, no cost. The simplicity is precisely the trap: each violated requirement carries its sanction. **Writing that is not autograph** — text typed on a computer, a pre-printed form filled in, and even the **guided hand** of a relative "helping" an unsteady stroke — means **nullity**: as if the will did not exist. The same for a missing signature. A **missing or incomplete date** makes the will **voidable** instead: anyone with an interest can bring it down within five years of its execution (article 606).

Two practical corollaries. First: no video, no audio, no files — technology is not a testamentary form, and the recorded message "for my children" is worth zero. Second: a well-written holograph is every bit as valid as a notarial will; its weak point is not validity but the **life** of the sheet — it can go missing, it can vanish into the wrong hands, its handwriting can be contested. These are the risks chapter 8 defuses with deposit.

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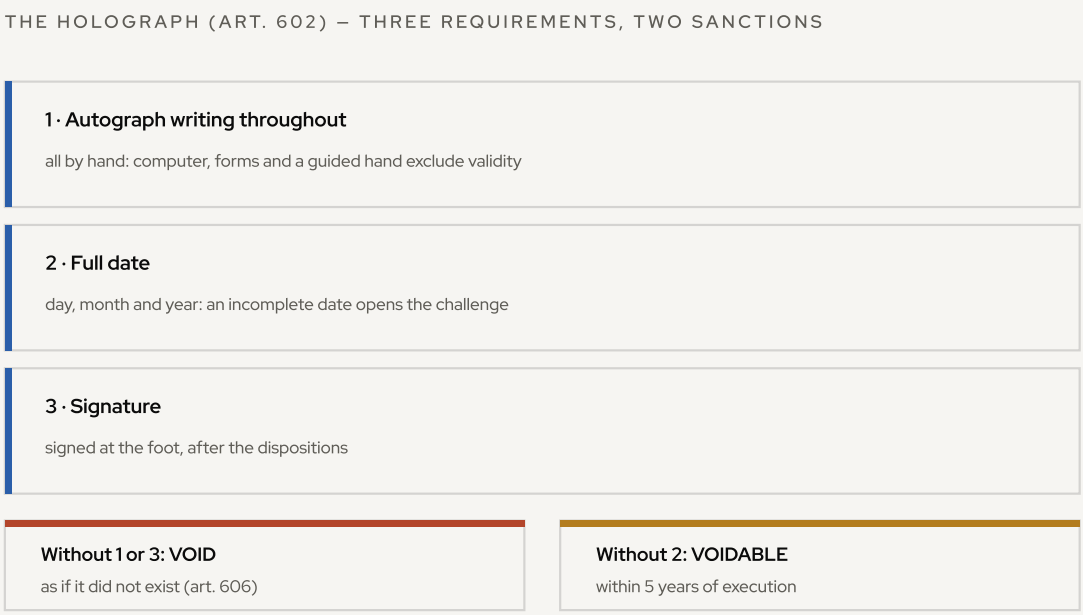

FIGURE 2 The holograph's three requirements — Arts. 602 and 606 c.c.

2.2 The public and the secret will: when form is strength

The **public** will (article 603) is made before a notary: the testator declares their wishes in front of **two witnesses**, the notary puts them in writing, reads them back, and everyone signs. It costs money — fees are deregulated; the order of magnitude runs from a few hundred euros to beyond a thousand depending on the office and the complexity — but it buys three things the holograph does not: the **technical direction** of a professional who knows forced shares and clauses, **custody** in the notarial archive, and a **resistance to challenges** of another class: the handwriting cannot be contested, and the testator's capacity was assessed by a public official at the moment of the deed. For structured estates, tense families or advanced age it is the form that rides out storms.

The **secret** will (articles 604-605) is the hybrid: the content stays confidential — the sheet may even be typed or written by a third party, provided it is signed — and is handed sealed to the notary before two witnesses. Full confidentiality and certain custody, without technical direction on the content. In practice it is rare; its niche is whoever wants nobody, not even the notary, to know the dispositions.

> IN PLAIN WORDS
>
> The real difference between holograph and public will is not validity, which is identical: it is where the dispute moves. Against a holograph the fight is about the "whether" — is it authentic? was the author capable? was there a more recent version? Against a public will only the "what" remains — do the dispositions respect the forced share? Moving the dispute from whether to what is often exactly what the notary's fee buys.

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2.3 The fourth form, and the comparison in a table

There is a fourth way, designed for lives straddling several countries: the **international will** of the 1973 Washington Convention, in force in Italy under law 387/1990. The sheet — in any language, even typewritten — is handed to a notary (or to a consular officer abroad) before two witnesses, with a certificate attesting its form. Its virtue is **formal validity guaranteed** in every State party to the Convention: for whoever has assets and family across jurisdictions, it takes the first possible objection off the table. Chapter 7 completes the cross-border picture with the choice of the applicable law.

FORM	HOW IT IS MADE	COST	WEAK POINTS
Holographic	Pen and paper: all handwritten, full date, signature at the foot	Zero (notarial deposit optional)	Loss, handwriting challenges, errors of form and of forced share
Public	Declared to a notary before two witnesses	From a few hundred euros to beyond a thousand	Cost; content known to notary and witnesses
Secret	Sheet even non-autograph, signed, handed sealed to the notary	Similar to the public will	No technical direction on content; rare in practice
International	Sheet handed to notary or consul with certificate (Washington Conv. 1973)	Similar to the public will	Useful only with cross-border elements

TABLE 1 The four forms compared

KEY POINTS

- Holographic (art. 602): all handwritten, full date, signature. Computer, forms and guided hand = nullity; missing or incomplete date = voidable within 5 years.
- Public (art. 603): notary plus two witnesses. It buys technical direction, custody and resistance to challenges: the dispute moves from “whether” to “what”.
- Secret (arts. 604-605): confidential content, certain custody, no direction on content. International (L. 387/1990): form guaranteed across the Convention's States.
- No form “counts for more”: what counts is the latest valid will in time, whatever its form.
- Video, audio and files are not wills: they are worth zero, whatever they say.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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03 The perimeter **of the will.**

Before writing a single disposition you need to know how much of the estate your wishes actually govern. The answer lies in the forced share: the portions the law reserves to spouse, children and — in their absence — ascendants, which no will can touch. What remains is called the disposable portion, and it ranges from half to a quarter of the estate. But mind the measuring rod: the base of calculation is not what you leave — it is what you leave plus everything you gave away in life.

3.1 Who the forced heirs are, and how much is left to the will

The **forced heirs** are three categories only (articles 536-548): the **spouse** — or the civil partner, fully equated — the **children** with their descendants, and, only if there are no children, the **ascendants**. Brothers and sisters, nephews and nieces, the **unmarried partner**: no reserve — they can be excluded or, symmetrically, benefited only out of the disposable portion. The geometry of the shares: a spouse alone is reserved **half**; spouse and one child, **one third each**; spouse and more children, **one quarter** to the spouse and **half** to them; an only child with no spouse, **half**; two or more children, **two thirds**; ascendants alone, **one third** (one quarter when they concur with the spouse). The spouse is also owed, *on top* of the share, the **right of habitation** in the family home and the use of its furniture (article 540): a silent weight that rests precisely on the largest asset.

The **disposable portion** — what the will governs freely — is the complement: the whole estate if there is no forced heir at all, **half** with the spouse alone or with an only child, down to **one quarter** in the most crowded case, spouse plus two or more children. The figure lines up the typical configurations: whoever writes a will should know their own row by heart.

3.2 The right measuring rod: notional aggregation

The technical error that breeds the most disputes is computing the shares on the estate *as at the day of death*. The legal measuring rod is wider (article 556): net of debts, you add **everything the deceased gave away during life** — the **notional aggregation**: relictum plus donatum. The house put in a child's name twenty years earlier, the money passed over "for the business", the joint account filled by one party alone, the **premiums paid** into the life policy for one beneficiary (article 1923): everything enters the count, and donated property enters at its value on the day of death, not the day of the gift.

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The practical consequence upends many intuitions: a lifetime of gifts made "to get ahead of things" may have **already used up the disposable portion** — and the will that looked prudent becomes the deed that infringes. Whoever has given much to one child has no margin left to favour anyone; whoever wants to provide for a partner must first count how much of the disposable portion has already been spent. That is why the first move in chapter 11 is an inventory that includes lifetime gifts: without that count, every will is written blind.

> IN PLAIN WORDS
>
> The forced share is a rod that measures two estates at once: the one still there and the one already given away over the years. Before deciding what to leave to whom, redo the full sum — because the "free" part of the estate may already have been distributed, one bank transfer at a time, without anyone noticing.

3.3 The perimeter is not to be fought: it is to be used

Inside the perimeter the room for design remains large, and it is the subject of the chapters that follow: the disposable portion can go to anyone — the partner, a child to rebalance, a charity; the **composition** of the shares can be steered (the house to one, the securities to another: chapter 6); the fine tools bend the constraint without breaking it. Outside the perimeter there are only illusions, best filed away at once. The forced share **admits no burdens or conditions** (article 549): you cannot leave a child their share "provided that" they do or refrain from something. **Anticipated waivers are void** (article 557): no child can validly sign away their forced share while the parent is alive — the only structured exception is the family pact for the business (chapter 12). And a forced heir can be excluded in words, but not in effect: the clause that disinherits does not take away the action to recover the share (chapter 4).

One last dose of realism: the forced share is a **right, not an automatism**. If no injured heir acts, the will that violates it produces all its effects. But planning on other people's inertia is not planning: it is postponing the dispute by one generation.

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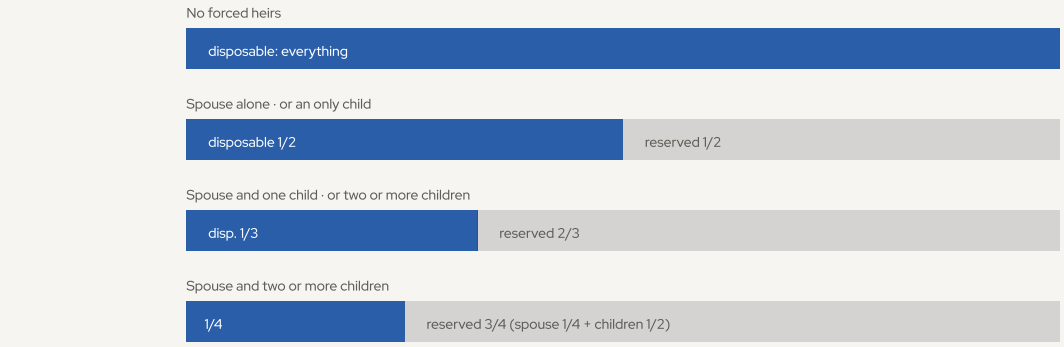

Ascendants alone (no children): reserved 1/3; with the spouse, 1/2 to them and 1/4 to the ascendants. The spouse always adds habitation (art. 540).

The measuring rod is notional aggregation: the estate left plus all of a lifetime's gifts, minus debts (art. 556).

FIGURE 3 The disposable portion in the typical configurations — Arts. 536-548 c.c.; illustrative summary

KEY POINTS

- Forced heirs: spouse (or civil partner), children, and only without children the ascendants. Partner, siblings, nephews: no reserve.
- The disposable portion runs from half to one quarter: with spouse and two or more children the will governs only 25 per cent of the estate.
- The measuring rod is notional aggregation (art. 556): relictum plus ALL of a lifetime's gifts, minus debts. Donated property at its value at death.
- No burdens or conditions on the forced share (art. 549); anticipated waivers void (art. 557). The only structured exception: the family pact.
- The spouse also gets the right of habitation in the family home (art. 540): it weighs on the largest asset, and comes on top of the share.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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04 Heir, legacy, **conditions.**

A will is made of a few recurring moves: instituting heirs, granting legacies, providing substitutes, attaching conditions and charges. Each has a precise grammar, and the difference between heir and legatee — the first word to learn — decides who answers for the debts and who does not. Then there is the list of what cannot be written: the clauses the code strikes down, and those worth less than their drafters believe.

4.1 Heir or legatee: the distinction that governs everything

The **heir** steps into a **share of the whole** — a half, a third, the entirety — assets and liabilities together: they answer for the deceased's **debts**, even beyond what they receive if they accept without benefit of inventory. The **legatee** instead receives **determinate assets** — that flat, that securities account, that sum — and does **not** answer for the estate's debts (within the value of the legacy they can be burdened only if the testator so provides). The legacy, moreover, **is acquired without acceptance**, subject to the right to renounce (article 649): it arrives on its own. The qualification does not depend on the labels used but on the substance (article 588): "I leave the house to my daughter" can be a legacy or an institution in a share, according to whether the house is one asset among many or the whole estate.

The choice is strategic, not lexical. The heir is a partner in everything, disputes and debts included; the legatee takes a piece and stays out of the inheritance's co-ownership. To benefit someone *outside* the close family — the partner, a nephew, a charity — the **legacy** is almost always the right form: it gives a precise thing without dragging the beneficiary into co-ownership with the heirs. The figure sets the two roads side by side.

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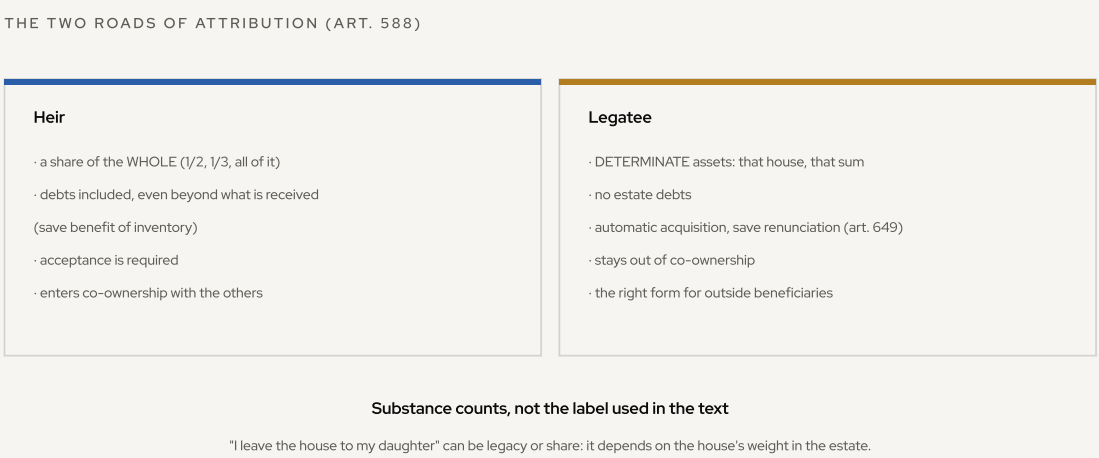

FIGURE 4 Heir or legatee: the two roads — Arts. 588, 649 c.c.

4.2 Conditions, charges, substitutions: the fine mechanics

Dispositions can be made **conditional** — "to my nephew, if he graduates" — with one limit of legal hygiene: **impossible or unlawful conditions are treated as not written** (article 634), they do not bring down the disposition — unless the unlawful motive appears from the will itself and was the sole reason for the gift: then article 626 strikes that disposition down. The condition of **reciprocity** is forbidden — I leave to you if you leave to me (article 635) — as is the one forbidding marriage (article 636). The **charge** (articles 647-648) obliges the beneficiary to a performance — tending the grave, keeping the animal, paying an annuity — and anyone with an interest can demand its fulfilment. The **ordinary substitution** (article 688) is the most undervalued reserve clause: "I institute Tizio; if he cannot or will not accept, Caio". Without it, a gift to someone who dies first follows the rules of law — representation to descendants, accrual to the others — which do not always match the design.

The **fedecommesso** — the heir who preserves in order to hand over to a third party at their own death — is **forbidden**, with a single living exception, the **assistance** variant of article 692: the parents, ascendants or spouse of an interdicted person may institute them with the obligation to preserve and return, at their death, to whoever will have cared for them. Whoever wants to govern two successive passages — to the wife, and after her to the children of the first marriage — cannot do it with the will alone: the tools of chapter 12 are needed.

> IN PLAIN WORDS
>
> The ordinary substitution is the will's seat belt: it costs one line and answers the question nobody wants to ask — "and if the beneficiary dies before me?". Without that line the law decides, and the law does not know the design: it only knows the kinships.

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4.3 Excluding: disinheritance and its real limits

Can a will be written **only to exclude**? Yes: the Court of Cassation (judgment 8352/2012) upheld the **disinheritance** clause even on its own, with no attributions — "I exclude my brother from my succession". It works fully against those who are not forced heirs: brothers, nephews, cousins stay out, full stop. Against a **forced heir** the story changes: the clause does not take away the action to obtain the **forced share** — you can deprive them of the disposable portion, not of the reserve. The exceptions are codified and narrow: **unworthiness** (article 463: whoever attempted the life of the deceased or their close ones, whoever tampered with the will), which however must be declared by the court on application by whoever has an interest (Cassation 5402/2009), save rehabilitation (article 466); and article **448-bis**, which lets a child exclude the parent stripped of parental responsibility.

Finally there is **silent** exclusion: **pretermission**, the forced heir simply not named. It does not void the will — the pretermitted heir must act with the abatement action of chapter 5 — but it is the most litigious version of exclusion, because it adds insult to the economic injury. Whoever has serious reasons to exclude does better to write them down: the courts give weight to expressed intent, and one line of motivation can defuse years of litigation over the deceased's "true wishes".

KEY POINTS

- Heir = share of the whole, debts included; legatee = determinate assets, no debts and no acceptance needed (arts. 588, 649). For beneficiaries outside the family: almost always a legacy.
- Unlawful or impossible conditions: treated as unwritten (art. 634); the disposition falls only if the unlawful motive appears from the will and is the sole determining one (art. 626). Reciprocity (art. 635) and marriage bans (art. 636) forbidden.
- The ordinary substitution (art. 688) is the line missing from nearly every do-it-yourself will: without it, the law decides about the predeceased beneficiary.
- Fedecommesso forbidden save the assistance variant of art. 692 (the interdicted person instituted, with return to whoever will have cared for them): two successive passages cannot be governed by the will alone.
- Disinheriting is possible (Cass. 8352/2012), but the forced heir keeps the forced share: save unworthiness (art. 463, to be declared by the court) and the case of art. 448-bis.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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PART TWO · CHAPTERS 5–8

Boundaries **and tools.**

Infringement with its action, the clocks and the 2025 reform; the fine tools that design destinies; the assets that travel on their own, from the policy payout to the governing law; and the life of the document: custody, revocation, publication.

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05 When the share **is infringed.**

What happens when a will oversteps the perimeter? It is not void: it produces its effects until the injured forced heir moves. The injured heir's tool is called the abatement action, and it has a precise mechanism: an order of attack, limitation periods with different starting points, an entry condition that is often ignored. And since 2025 a large piece of its shadow — the one that made donated property unsellable — is gone.

5.1 Infringement: how it is really measured

The count takes three steps, always the same. **First**: the notional aggregation of chapter 3 — relictum minus debts, plus all lifetime gifts. **Second**: on that base you compute reserved and disposable portions. **Third**: you check what the forced heir actually receives — by will, by law and through gifts already received, which are **imputed** to their share unless dispensed (article 564). If they receive less than the reserve, the difference is the **infringement**.

A dry example. Estate at death 700,000 euros, no debts; during life the father gave 100,000 to the elder son. Base: **800,000**. Two children, no spouse: reserved share two thirds, about 533,300 — 266,700 each, in round figures — and disposable portion about 266,700. The will leaves 500,000 to a friend and the rest to the children in equal parts: 100,000 each from the relictum, plus the 100,000 already given to the elder. The elder reaches 200,000: short by 66,700. The younger, 100,000: short by 166,700. The friend will have to give back what it takes to make them whole — and the will, for the rest, stays standing.

5.2 The action: order, conditions, clocks

Abatement follows a **legal order** that cannot be skipped: first the **testamentary dispositions** are reduced, all proportionally unless the testator provided otherwise (article 558); only if that is not enough are the **gifts** attacked, starting from the **latest** and climbing back to the earliest (article 559). Whoever received first is last to give back: the code protects the most seasoned reliance.

The entry conditions. The forced heir who is also an heir and acts against donees or legatees who are **not co-heirs** must have accepted **with benefit of inventory** (article 564): a choice to make early and well, because plain acceptance closes that door. The **pretermitted** forced heir — not named at all —

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acts without accepting anything. The clocks: the limitation period is **ten years**, but the starting point differs — for testamentary dispositions it runs **from the acceptance of the inheritance** by the person instituted (Joint Divisions 20644/2004), for gifts **from the opening of the succession**. And waiving the action is possible only **after** death (article 557): the "just to be safe" signature extracted from a child while the father is alive is worth nothing.

IN PLAIN WORDS

The abatement action is not a bomb that blows up the will: it is a file. It takes from each beneficiary exactly what is needed to restore the injured share, starting with the latest arrivals, and leaves everything else standing. For whoever writes the will the lesson is the mirror image: wishes that overshoot are not cancelled — they are filed down by a judge, with the time and cost of a lawsuit.

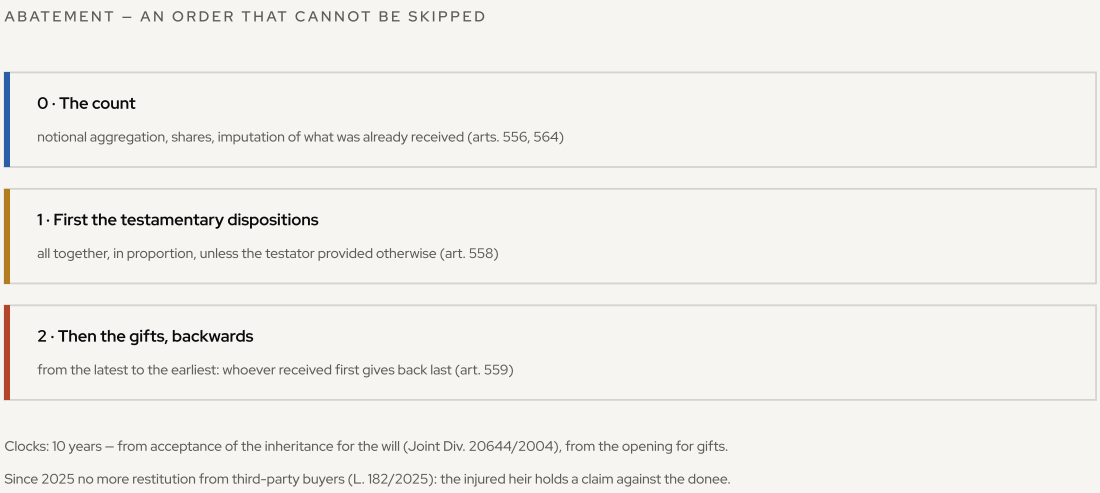

FIGURE 5 The order of abatement — Arts. 556-564 c.c.; Joint Div. 20644/2004; L. 182/2025

5.3 The 2025 reform: the shadow shortens

Until 2025 abatement cast a long shadow over **third parties**: the victorious forced heir could chase the donated property **even in the hands of whoever had bought it** from the donee (the restitution action of article 563), within twenty years of the gift's registration. The result was well known to notaries: property of donative provenance was suspect merchandise — banks reluctant to take it as security, buyers in flight, dedicated insurance policies to cover the risk.

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Law 182/2025 rewrote articles 561 and 563: the restitution action against third parties is **abolished**. The injured heir's protection remains full but becomes **monetary**: a money claim against the donee, no longer the surrender of the asset by whoever purchased it. In force since 18 December 2025, fully phased in since June 2026, the transition closed. For planners it shifts the relative weight of the tools — the gift of property circulates again like any purchase, and chapter 12 takes account of it in the comparison — but it does not change this chapter's substance: **between the parties**, abatement stands intact. Giving too much to one person remains the most reliable fuse of family disputes.

KEY POINTS

- Infringement is measured in three steps: notional aggregation, computation of the shares, comparison with what was received (with imputation of gifts already received, art. 564).
- Legal order: first the testamentary dispositions in proportion (art. 558), then the gifts from the latest to the earliest (art. 559).
- Ten years' limitation: from acceptance of the inheritance for testamentary dispositions (Joint Divisions 20644/2004), from the opening for gifts.
- To act against non-co-heirs, acceptance with benefit of inventory is required (art. 564); the pretermitted heir acts without accepting. Waivers before death: void (art. 557).
- L. 182/2025: the restitution action against third parties abolished — the injured heir holds a claim against the donee, and donated property circulates again.

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06 The tools **of the trade.**

Between the elementary will — shares to everyone, and let fate sort out the rest — and the lawsuit lies a toolbox few people open: the legacy in lieu of the forced share, which turns the share into a certain asset; the cautela sociniana, which holds up the spouse's usufruct; the testator's own division, which extinguishes co-ownership before it is born. These are the clauses with which a will stops distributing fractions and starts designing destinies.

6.1 The legacy in lieu of the forced share

Article 551 allows the most elegant move in the repertoire: leaving the forced heir **a determinate asset in place of the share** — "to my son, in lieu of his forced share, the flat in via Roma". The recipient faces a **clean fork**: if they **accept** the legacy, they keep the asset and lose any right to ask for more, even if the asset is worth less than the reserve (unless the testator expressly reserved the top-up for them); if they **refuse**, they can claim the forced share — but the asset is no longer theirs. The legacy, moreover, arrives without acceptance and outside the inheritance's co-ownership.

The typical uses: giving the **conflict-prone** family member a closed perimeter — a liquid or self-standing asset — keeping them out of co-ownership with the others; or giving certainty to whoever prefers it to an abstract fraction. The price is precision: the asset must carry a **defensible** value against the share, because a stingy legacy does not close the game — it invites refusal, and you are back to the dispute you wanted to avoid. The figure shows the fork.

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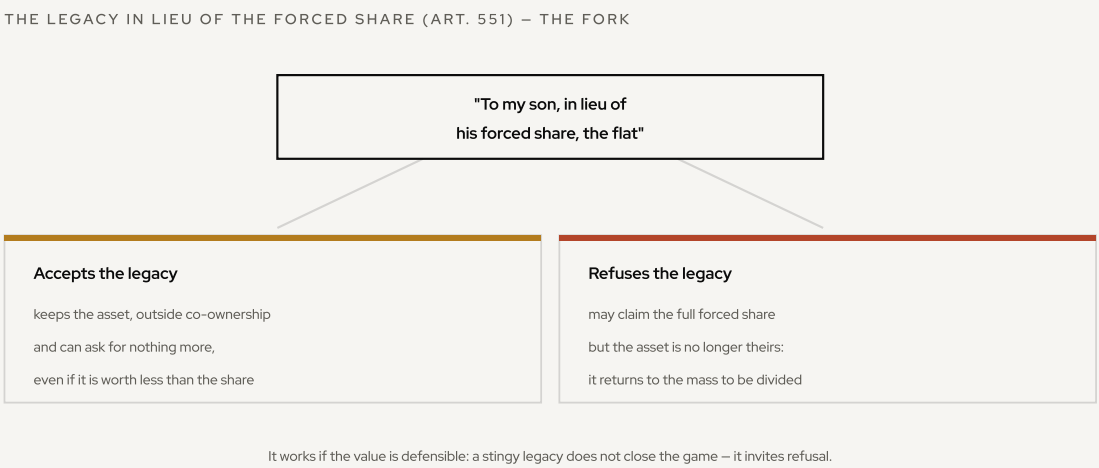

FIGURE 6 The fork of article 551 — Art. 551 c.c.; illustrative diagram

6.2 The cautela sociniana and the spouse's usufruct

The scheme most requested in life's second seasons: **general usufruct to the spouse, bare ownership to the children**. Everyone stays in place – the spouse enjoys everything, the children already own tomorrow – but technically a universal usufruct can **exceed the disposable portion**: a usufruct over everything is worth more than the will governs. Here the **cautela sociniana** steps in (article 550): the forced heir left bare ownership burdened beyond the disposable portion may **choose** – execute the will as it stands, or keep their full reserve and **abandon the disposable portion** to the usufruct's beneficiary. It is not a dispute: it is an option the code hands out, and the careful testator factors it in.

The usufruct's value, for that matter, is not an opinion: it is measured with the coefficients tied to the usufructuary's age and to the legal interest rate – the sister guide on bare ownership tells them at length. That count says whether the usufruct infringes the children's reserve, and therefore whether they can seek abatement. The option of article 550 is another matter: it looks at income, not at value, and with a usufruct over everything it stays open to the children whatever the spouse's age. Doing the arithmetic **before** writing is the difference between a scheme that holds even if the children choose their full reserve and one that hands them an option to break it.

> IN PLAIN WORDS
>
> The cautela sociniana is a trade-in provided by law: either you take what the will gives you, burdened as it is, or you take your full share but give up the extra. For whoever writes the will it is a quality test: if the scheme holds even when the children choose the second road, it is a well-made scheme.

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6.3 Dividing in advance: articles 733 and 734, and who enforces the design

Most inheritance disputes are not born of the shares: they are born of **co-ownership** — four co-owners of one house, two wanting to sell and two not. The code offers the testator two degrees of direction. The **simple division directive** (article 733): laying down *rules* for the division — "the house shall go into my daughter's lot" — binding on the heirs. The **division made by the testator** (article 734): dividing directly, asset by asset, skipping co-ownership altogether: everyone receives a lot already formed, with **equalisation payments** in money if the lots do not match the shares. Two warnings: a division that **leaves out** one of the forced heirs or instituted heirs is void (article 735), and the lots' values must respect the shares — the division is no shortcut around the forced share.

Finally, the design's keeper: the **executor** (articles 700-712) — the trusted person, possibly a professional, who sees to the exact execution of the dispositions, administers the assets for as long as needed, and stands between heirs who are not on speaking terms. The office is unpaid unless the testator provides a remuneration (article 711). In simple estates it is superfluous; in structured designs — legacies to several people, fragile beneficiaries, tense families — it is the difference between a will executed and a will interpreted.

KEY POINTS

- Legacy in lieu of the forced share (art. 551): a certain asset instead of the share — accepting closes the game, refusing forfeits the asset. The value must be defensible.
- Universal usufruct to the spouse: it holds thanks to the cautela sociniana (art. 550), which gives the burdened bare owner the choice between executing or keeping the reserve and abandoning the disposable portion.
- The usufruct's value is computed with age coefficients: it says whether there is an infringement; the option of art. 550 stays with the children regardless, and the scheme must be built to hold even if they take it.
- The testator's division (art. 734) extinguishes co-ownership before it is born; void if it forgets a forced or instituted heir (art. 735).
- The executor (arts. 700-712) enforces the design: unpaid unless remuneration is provided, precious in tense families.

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07 The assets **off course.**

Part of the estate does not listen to the will: it travels by contract. Life policies reach their designated beneficiary outside the estate; the pension fund follows its own rules; joint accounts have inertias of their own; the business answers to its articles of association before it answers to your wishes. And for whoever lives across borders, even the law governing the succession is a variable to be managed. Whoever writes a will without mapping these parallel channels is planning half an estate.

7.1 Policies, pension funds, joint accounts

The **life policy** is the most powerful parallel channel: the beneficiary acquires the payout **in their own right** (article 1920), outside the estate — it does not pass through the succession, does not answer for the deceased's debts, and is exempt from inheritance tax. The designation is made in the policy *or in the will*, and is revoked with the same forms: one testamentary line can change the beneficiary of a forgotten policy. The civil-law limit seen in chapter 3: the **premiums paid** remain within reach of hotch-pot and abatement (article 1923) — the wrapper protects the payout, it does not erase the history of the payments. The sister guide on life insurance completes the picture.

The **pension fund** travels by its own designation (Legislative Decree 252/2005): the position goes to the named beneficiaries or, failing them, to the heirs — and the designation forgotten after a divorce is a classic among the surprises. **Joint accounts** — the account with separate signing powers opened with a child "for convenience" — are not a succession tool: at death the deceased's presumed half falls into the estate, and the withdrawals on the eve are the raw material of sibling lawsuits. Every channel must be **aligned** with the will's design: move 4 of chapter 11.

7.2 The business and company shares: where the will is a blunt tool

Whoever owns a business or company shares must reckon with a hierarchy that surprises: **the articles of association are read before the will**. Continuation and consolidation clauses in partnerships, limits on mortis causa transfers of srl quotas (article 2469), statutory pre-emption rights: they can turn the bequest of a holding into a mere right to the **liquidation of its value**. Before writing "I leave the business to my son", read what the articles allow to be left.

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And even where the articles cooperate, the will remains a **blunt** tool for the business: it acts at death — that is, at the worst moment, without notice, with the company exposed — and binds nobody beforehand. For a governed handover there is the dedicated instrument, the **family pact** (articles 768-bis and following): the only contract that allows the business to be assigned to a descendant *today*, with the forced heirs paid off and the arrangement sheltered from the abatement action. The full comparison is in chapter 12; the point here is the division of labour — the will closes the picture, but the transfer of the business is designed while alive.

IN PLAIN WORDS

The will is like the living-room remote: it controls what is in its rooms. Policies, pension funds and companies each have their own remote — the designation, the articles — and pressing the wrong one switches nothing on. Serious planning starts with a census of the remotes: which assets answer to the will, and which do not.

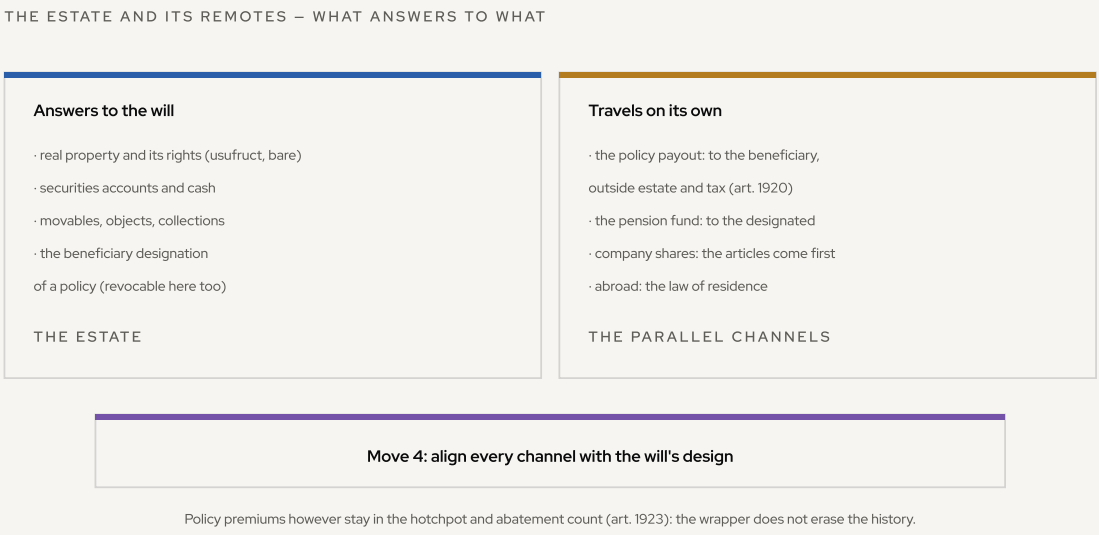

FIGURE 7 The estate and its remotes — Legal framework as at September 2026

7.3 Abroad: the governing law, and how to choose it

For whoever lives, owns or might die outside Italy there is a preliminary question the will itself can settle: **which law governs the succession?** The European regulation 650/2012 answers with the **habitual residence at the time of death**: the Italian who moved to Lisbon is governed, by default, by Portuguese law — forced share included, or excluded. The lever is called **professio iuris** (article 22): with one clause in the will you can choose the **law of your citizenship**. One line — "I choose Italian law for my entire succession" — and the picture is certain again, wherever life leads.

The rest of the cross-border toolbox: the **international will** of chapter 2 for multi-country formal validity; the **European Certificate of Succession** to prove heirship across member States; and the tax warning — choosing the civil law **does not choose the tax law**, which follows its own connecting rules. The sister guide on property abroad walks the whole subject; here the rule of method stands: if there is an international element in your life, the will's first clause is the choice of law.

KEY POINTS

- The life policy pays the beneficiary in their own right (art. 1920), outside the estate and outside inheritance tax; but the premiums stay in the hotchpot and abatement count (art. 1923).
- Pension funds and joint accounts have rules of their own: designations to keep aligned, joint accounts that are no succession tool.
- For company shares the articles of association come before the will (continuation clauses, art. 2469): read what can be left, before leaving it.
- For the business the will is a blunt tool: the governed handover is done while alive, with the family pact (arts. 768-bis ff.).
- With international elements, the first clause is the professio iuris (Reg. 650/2012, art. 22): choosing the law of one's citizenship removes the uncertainty of habitual residence.

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08 Write, deposit, **change your mind.**

Once the will is written, its life begins: it must be kept where it will be found, updated when life changes, and finally published so that it takes effect. Each phase has its rules and its traps — including the most insidious of all: revocation by operation of law upon the arrival of children, which can erase a perfect will without anyone touching a comma.

8.1 Custody: an unfindable will does not exist

The holograph kept in a drawer has two enemies: whoever **will not find it** and whoever **finds it first**. The lost sheet equals silence; the one suppressed by whoever came off worst is a crime that is hard to prove and a harm almost impossible to repair. The solution costs little: **fiduciary deposit with a notary**, which puts the sheet in a professional safe. With formal deposit the holograph also enters the **General Register of Wills** (law 307/1981) — the national registry at the Ministry of Justice where public and secret wills are recorded as a matter of course. The Register never reveals content: it records that a will *exists* and where it is, and after the death anyone with an interest can query it with the death certificate — including for registrations in the countries of the Basel Convention.

The practical rule is one: the will should be kept where the system will find it **by itself**, not where someone's good will may — perhaps — find it. And an informal note of its existence (not necessarily of its content) to the most trusted person closes the circle.

8.2 Changing your mind: the five roads of revocation

Revocation has one main road and four shortcuts, and it pays to know them all because some trigger by themselves. **Express** (article 680): a new will, or a notarial deed with two witnesses, declaring the revocation. **Tacit** (article 682): the later will revokes the earlier one *only in the incompatible dispositions* — the two coexist for the rest, and that is how the mosaics of three holographs to be read together are born: whoever redoes their will had better write "I revoke every previous disposition of mine". **Material** (article 684): destruction of the holograph by the testator counts as revocation. **By alienation** (article 686): selling or transforming the bequeathed asset revokes the legacy — the sold house takes its disposition with it.

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And then the trap: **revocation by operation of law** (article 687). The will made by someone who *had no children or did not know they had them* is revoked **by law** — automatically, in its entirety — if a child or descendant arrives, even posthumous, even adopted, even recognised later — unless the will expressly provided for the case of children arriving later (article 687, third paragraph): a line that whoever writes before having children would do well to add. The will written young, before the first child and without that line, is waste paper and nobody knows. A mirror-image curiosity that surprises many: **marriage does not revoke** — unlike English law, getting married leaves the Italian will perfectly standing (with the spouse's forced share correcting it from the outside).

> IN PLAIN WORDS
>
> A will is not a safe-deposit document: it is a living document, like the home insurance policy. The right version is the one that reflects today's family and estate — and the law itself takes that for granted, to the point of erasing on its own the will of whoever has meanwhile become a parent.

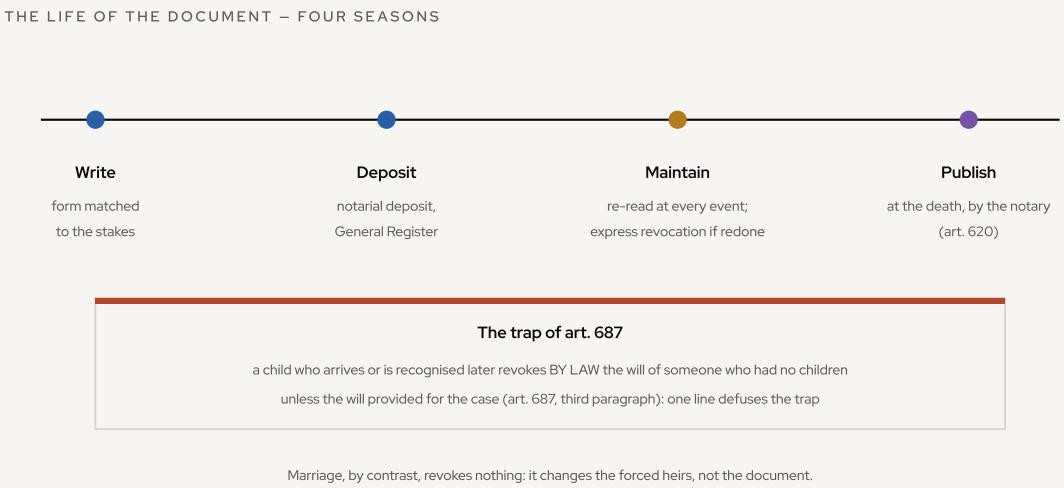

FIGURE 8 The life of the document — Arts. 620, 680-687 c.c.; method diagram

8.3 Afterwards: publication, execution, and the rescue of article 590

At the death, whoever holds a holograph **must** present it to a notary for **publication** (article 620): a report that reproduces the will and makes it enforceable — not a judgment on validity, only its official entry into the world. From there start the notices to the heirs, the registration for real property, the succession filing with its tax deadlines (the sister guide tells them). If there is an **executor**, they take office; if the will grants legacies, the legatees acquire them without needing to accept.

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The circle is closed by a little-known norm of pacification: **confirmation** (article 590). **Void** dispositions — the typewritten holograph, the joint will — can be *healed* by heirs who, knowing the defect, voluntarily give them execution. The formally dead wishes can live again out of respect for those who remain: it happens more often than one thinks, in families that choose to honour what the deceased meant rather than what the form allows. It is a lifeline, not a plan: no serious will counts on the posthumous good will of those it penalises.

KEY POINTS

- Custody: fiduciary deposit with a notary and entry in the General Register of Wills (L. 307/1981) — the system finds it by itself, someone's good will perhaps not.
- The later will revokes only the incompatible dispositions (art. 682): whoever redoes it should write "I revoke every previous disposition", or leave a mosaic.
- Selling the bequeathed asset revokes the legacy (art. 686); destroying the holograph counts as revocation (art. 684).
- Art. 687: the arrival of a child revokes by law the will of someone who had no children, unless the will provided for the case. Marriage, by contrast, revokes nothing.
- At death the holograph must be presented to a notary for publication (art. 620); void dispositions can be healed only by the heirs' voluntary confirmation (art. 590).

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III

PART THREE · CHAPTERS 9–13

Conscious **use.**

One family and three wills compared in numbers; the six typical disputes with their defences; the five moves in a programme; and the honest comparison with gift, family pact, policy and restraints. The glossary closes.

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09 Three sheets, **three destinies.**

Franco, 78, a widower with two grown children and a partner, Anna, 74, with whom he has lived for twelve years. The estate: the house they live in (500,000 euros), investments of 350,000, cash of 50,000. He wants to protect Anna without taking from the children. The same wish, written in three different ways, produces three destinies that could hardly look less alike — and it is the whole guide condensed into one family.

9.1 The three sheets

First the boundaries, as chapter 3 teaches: two children, no spouse — reserved share **two thirds** (600,000, that is 300,000 each), disposable portion **300,000**. Anna is not a forced heir: everything she will receive passes through the disposable portion.

Will A — the printed file. Franco types "I leave Anna one third of everything", prints and signs. It is **void** for lack of autograph writing (chapter 2): at his death, intestate succession speaks. The children receive 450,000 each; **Anna receives zero** — she is left only the temporary right of habitation of law 76/2016: she may stay in the house, which now belongs to the children, for five years at most. Franco's wish is worth as much as the paper he did not write it on.

Will B — the generous holograph. The same sentence, but handwritten, dated and signed: valid. Franco however thinks again and raises: "half to Anna, half to my children". Anna would receive 450,000 — but the disposable portion is 300,000: each child finds themselves with 225,000 against a reserve of 300,000. **Infringement of 75,000 each**: abatement action, and Anna — the father's partner and the children's courtroom adversary — gives back after years of litigation. **Will C — the well-built public will.** At the notary's, with the arithmetic done first: to Anna a legacy equal to the exact disposable portion — the **life usufruct of the house** (which the age coefficients, at hers, put at around 175,000: the sister guide on bare ownership tells them), the cash (50,000) and securities for 75,000. To the children, with the testator's own division: the bare ownership of the house and the remaining securities — **300,000 each, the exact reserve**. No infringement, no co-ownership, Anna stays in her home for good.

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9.2 The numbers, side by side

For Anna the three sheets are worth **zero**, **300,000 after years of litigation**, **300,000 from day one** — with the qualitative difference that the third leaves her a lifelong roof, not a sum to manage. For the children: 450,000 at once but with their father's partner to evict within five years; 225,000 plus a lawsuit against her; 300,000 each, already divided, without a day in court. The figure sets the outcomes in columns.

There is also the tax line, which the will barely moves but which must be counted: Anna, an "other beneficiary" for succession tax, will pay **8 per cent with no allowance** on what she receives — around 24,000 euros on the legacy of will C, plus the mortgage and cadastral taxes on the real-estate part — while the children, below the one-million allowance each, pay no inheritance tax. It is a cost none of the three versions changes: it changes only if the instruments change (a policy in Anna's favour, for instance, would have stepped out of the tax altogether: chapter 12). The full tax arithmetic is in the sister guide on succession.

> IN PLAIN WORDS
>
> The distance between will B and will C is not generosity: it is one afternoon of arithmetic. Franco wanted to give Anna the most he could — and the most he could was exactly the disposable portion, not one euro more. Whoever writes "half" without doing the count is not giving more: they are giving everyone a lawsuit.

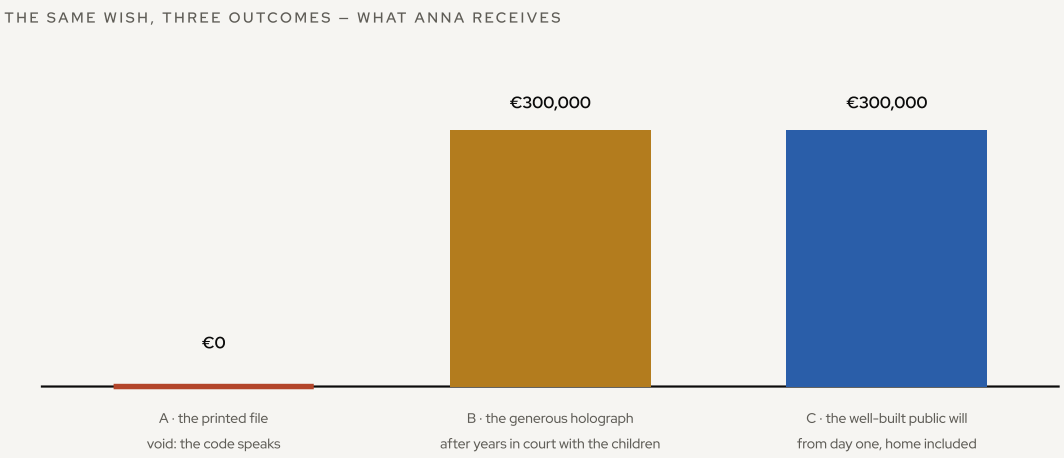

FIGURE 9 Three wills, three outcomes for Anna — Case recomposed for illustration; assumptions in the text

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9.3 What the case teaches

Three lessons, in order of weight. **One: form is half the outcome.** Will A contained the right wish and produced the worst result: zero for Anna. Between a wish well written and one well meant, the law executes only the first. **Two: the disposable portion is used up to the brim, never beyond.** Will C gives Anna the most the law allows — more was not generosity, it was litigation. **Three: composition is worth as much as quantity.** At equal values, choosing *what* goes to whom — the usufruct to whoever must live there, the bare ownership to whoever must inherit, the securities to whoever must be paid out — is what turns shares into a frictionless design.

The method can be replicated with your own numbers in an afternoon: full inventory (gifts included), computation of the disposable portion, choice of the beneficiaries of the disposable portion only, composition of the lots, form matched to the stakes. It is the programme of chapter 11 — and when even the perfect will is not enough, chapter 12 says which tools to place beside it.

KEY POINTS

- Same estate (900,000), same wish, three outcomes for Anna: zero (void will), 300,000 after years of litigation (infringement), 300,000 from day one (exact disposable portion).
- Two children, no spouse: reserved share 2/3 (300,000 each), disposable portion 300,000. The partner receives only what the disposable portion assigns.
- Will C composes, it does not merely divide: usufruct of the house to Anna, bare ownership to the children, securities to balance — no co-ownership, no dispute.
- The tax line does not change with the will: Anna pays 8% with no allowance (~24,000), the children below their allowances pay zero. It changes only by changing instruments (chapter 12).
- The distance between the will that ignites the lawsuit and the one that avoids it is an afternoon of arithmetic, not a different sentiment.

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10 The disputes, **mapped.**

Inheritance lawsuits are almost never born of great fortunes: they are born of ambiguities. A holograph found in a drawer, a trembling hand, a gift left out of the count, a child arrived after the will. This chapter maps the six disputes that fill the civil courts — each with its warning signal and its defence — and closes with the clocks of the challenges: who can attack what, and by when.

10.1 Where they really come from

Anyone who frequents the courts knows: the typical inheritance case does not concern an empire — it concerns a house, two siblings and a perceived wrong. The ingredients recur with statistical precision: a **holograph** that surfaces at the right moment in the right person's hands; **late-season handwriting**, made unrecognisable by old age; a **frail** parent in the last years, with the closest caregiver turning out the most favoured; a lifetime's **gifts** never lined up, which at counting time resurface all at once; and the **forced co-ownership** of an indivisible asset, which turns every act of ordinary administration into a family referendum.

The constant is one: nearly every dispute grows out of something that could have been **documented better** while the owner was alive and lucid. The inheritance dispute is rarely an event: it is almost always an omission that ripens.

10.2 The map: six disputes, six defences

The table condenses the recurring litigation: what is contested, which signal shows the risk in advance, and which move — always *while alive* — defuses it.

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THE DISPUTE	THE WARNING SIGNAL	THE DEFENCE WHILE ALIVE
Handwriting contested: "that is not his writing"	Late holograph, changed handwriting, custodian-beneficiary	Public form; for the holograph, writing it while the hand is steady and depositing it with a notary
Capacity and undue influence: "he did not understand", "they made him write it"	Advanced age, illness, isolation, caregiver-beneficiary	Public will; contemporaneous medical records; reasons written into the text
Infringement of the forced share	Large lifetime gifts, disposable portion never computed	The notional-aggregation count before writing; disposable portion used to the brim, never beyond
Will vanished or "never found"	Holograph kept at home, single copy	Fiduciary deposit and the General Register of Wills
Revocation by law ignored (art. 687)	Will written before a child arrived or was recognised	Provide in the text for children arriving later (art. 687, third paragraph); rewrite at every family event: the maintenance of chapter 11
Ungovernable co-ownership	One large indivisible asset, several heirs in shares	The testator's division (art. 734), divisional legacies, equalisation payments provided

TABLE 2 The map of the disputes, with signals and defences

10.3 The clocks of the challenges

Whoever attacks a will wears three different watches, and confusing them is a textbook error. **Nullity** — lack of autograph writing or signature, joint will — can be raised **without any time limit**: the action never lapses (only the effects of adverse possession and prescription accrued in the meantime are preserved). **Voidability** — missing or incomplete date, natural incapacity, fraud or duress — runs on a **five-year** clock: from the execution of the will for defects of form and for incapacity (articles 606 and 591), from the discovery of the defect for fraud, duress and mistake (article 624). The **abatement** action, finally, runs in **ten years** with the starting points seen in chapter 5.

A practical note for whoever sits on the other side of the table: long deadlines are no invitation to wait. Evidence is consumed — the witnesses to capacity grow old, the comparison handwriting scatters, values move — and late lawsuits are fought with expired material. Whoever has a right to assert should weigh it early; whoever fears a challenge should document at once, while the documentation exists.

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IN PLAIN WORDS

A robust will is not the one that wins lawsuits: it is the one that makes them unattractive. Every row of the table has the same moral — the defence is always built beforehand, on the side of the person writing: afterwards, one can only litigate better.

KEY POINTS

- Disputes are born of ambiguities, not of great fortunes: late holographs, uncertain handwriting, uncounted gifts, forced co-ownerships.
- Six typical disputes, six defences while alive: public form, deposit and Register, the disposable-portion count, the testator's division, maintenance at every event.
- Nullity: action without time limit. Voidability: 5 years (arts. 606, 591, 624). Abatement: 10 years with chapter 5's starting points.
- Art. 687 is the silent trap: a child who arrives later revokes by law the will written before them.
- Long deadlines do not reward waiting: evidence ages faster than rights.

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11 The moves **that hold.**

Everything the guide has explained condenses into an executable programme: five moves, in the right order, from the map of the estate to periodic maintenance. None requires urgency, all require method — and the fifth, the most neglected, is the one that keeps the other four alive.

11.1 Moves 1 and 2: the count, then the form

Move 1 — the inventory, gifts included. Before writing a line: the complete map of what there is (real property, portfolios, cash, company holdings, policies with their beneficiaries, pension funds) *and of what has already gone out* — a lifetime's gifts, direct and indirect, because the notional aggregation of chapter 3 will count them all. Out of this comes the number that governs every choice: the **disposable portion**, computed on your own family configuration. Whoever skips this move writes blind; and it is the one move no notary can make in the owner's place, because only the owner has the data.

Move 2 — the form matched to the stakes. A well-made holograph is enough for simple designs: a linear estate, a serene family, brief dispositions — written with a steady hand, with a full date, and **deposited** (chapter 8). The **public will** becomes the right choice when one of three variables grows: the complexity of the design (usufructs, multiple legacies, divisions), the expected family tension, the age or health of the writer — because it moves the dispute from "whether" to "what", as chapter 2 puts it. The notarial fee is the cheapest insurance in the entire succession repertoire.

11.2 Moves 3 and 4: composing, and aligning the channels

Move 3 — composing, not just dividing. Deciding the shares is half the work; the other half is deciding **what** goes to whom: the usufruct to whoever must live there, the bare ownership to whoever must inherit, the liquid assets to whoever must be paid out, the "sensitive" asset to the legatee in lieu of the forced share if a front needs closing (chapter 6). With the testator's division (article 734) co-ownership dies before it is born; with an **ordinary substitution** for every beneficiary, predecease stops being an unknown. It is the difference between will B and will C of chapter 9.

Move 4 — aligning the parallel channels. Chapter 7 mapped the assets that do not listen to the will: now they must be tuned. Policy beneficiaries updated and consistent with the design; pension-fund designations reviewed (especially after separations and new unions); joint accounts reconsidered;

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articles of association read *before* disposing of holdings; and, if there is an international element, the **professio iuris** as the first clause. A perfect will with misaligned channels produces the effect of an orchestra playing from different scores.

> IN PLAIN WORDS
>
> The first four moves fit into one afternoon of real work plus one appointment at the notary's. Measured against the average cost of a single inheritance lawsuit — years in court, five-figure fees, a family that stops speaking — they are the best effort-to-return investment in all of wealth planning.

11.3 Move 5: maintenance

A will is not a document to be written: it is a document to be **kept current**. The list of events that demand a re-read is short and should be taken literally. **A birth or a recognition**: article 687 may already have revoked everything by law, on its own, unless the will provided for the case (chapter 8). **A marriage or a new union**: it revokes nothing, but it changes the forced heirs and the shares — the design must be redone on the new boundaries. **A separation or a divorce**: the divorced spouse leaves the game, the separated spouse without fault does not — and meanwhile policies and pension funds keep paying the beneficiaries written ten years earlier. **A major sale or purchase**: the legacy of the sold asset is revoked (article 686), and the new asset is disposed of by nobody. **A gift made**: the disposable portion has shrunk, and the will calibrated to the brim may have ended up beyond it.

The simplest method: a **fixed re-read** — every three to five years, or at every event on the list — with move 1's inventory updated alongside. Ten minutes if nothing has changed; a new will, with express revocation of every previous disposition, if something has. The figure sums up the whole programme.

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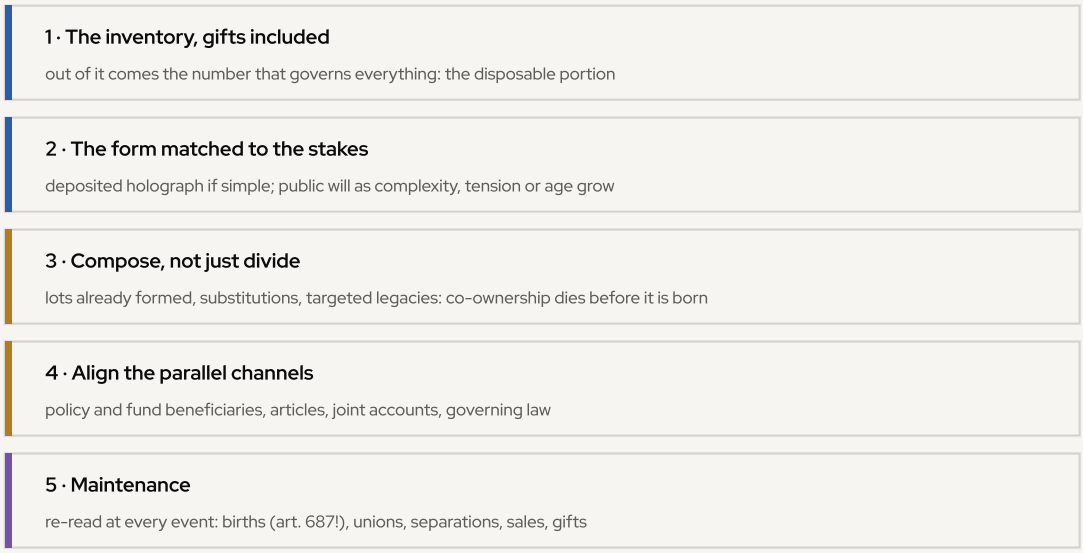

FIGURE 10 The five-move programme — Method diagram

KEY POINTS

- Move 1: complete inventory, gifts included, and computation of the disposable portion — the number that governs everything.
- Move 2: a deposited holograph for simple designs; the public will when complexity, tension or age grow.
- Move 3: compose the lots (usufruct, bare ownership, liquidity), the testator's division, substitutions for every beneficiary.
- Move 4: align policies, pension funds, joint accounts, articles of association and governing law with the will's design.
- Move 5: maintenance — birth (art. 687!), unions, separations, sales, gifts: every event demands a re-read; every rewrite should expressly revoke the previous ones.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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12 Beyond **the will.**

The will is the keystone of succession planning — but a keystone is not the whole arch. It acts only at death, binds nobody beforehand, gives no protection in incapacity, cannot govern two successive passages. This pivotal chapter sets the will against the other tools — gift, family pact, policy, trusts and restraints — on four planes: when they act, what they cost, what they risk, how much control they leave. And it says, honestly, when the right move is to write nothing.

12.1 The tool's structural limits

Four boundaries, all met before, which here should be seen together. **Time**: the will takes effect only at death — whoever wants to transfer *now* (to watch the handover work, to help a child today) needs something else. **Commitment**: revocable by definition, it promises nothing to anyone — whoever needs to give certainty to a successor (the child joining the firm counting on tomorrow) cannot give it with a deed that tomorrow can tear up. **Incapacity**: the will speaks only from the grave; the years of frailty — when the estate must be run but the owner no longer can — are uncovered, and different tools govern them: the power of attorney, the support administration. **Depth**: a single passage — the fedecommesso is forbidden (chapter 4), and whoever wants to govern the generation after the next must step outside the will.

None of these boundaries is a defect: they are the tool's definition. The chapter's point is another — knowing which tool stands beside the will when the project outgrows it.

12.2 The comparison: four planes

Against the gift. The plane of time separates them: the gift transfers today, irrevocably; the will tomorrow, revocably. The tax side is near-twin — same rates and allowances, as the sister guide on investment taxes tells, with the difference of the **step-up**: inherited securities restart from their succession value, gifted ones carry the donor's cost basis. The civil-law plane rebalanced in 2025: with the restitution action abolished (chapter 5) donated property circulates again — but abatement between the parties remains, and the golden rule remains: **what is given does not come back**, while a will can be rewritten. **Against the family pact** (articles 768-bis and following): for the business it is superior on nearly every

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plane — it transfers now, with the forced heirs paid off and in agreement, sheltered from abatement — at the price of complexity and everyone's consent. It is the only succession agreement allowed: the sister guide on the family pact tells it in full.

Against the life policy. On the designated beneficiary the policy wins three times: outside the estate, outside inheritance tax, outside the slowness of the paperwork — the payout arrives while the estate's accounts are still frozen. The limits: it costs (the sister guide on costs shows it), and the premiums stay within the abatement count. It is the natural tool for the fiscally "distant" beneficiary — the partner and the friend at 8 per cent, a sibling's nephew at 6 with no allowance. **Against trusts and restraints.** Where *control over time* is needed — the fragile beneficiary, the estate to be run as one for a generation, the two successive passages — the trust does what the will cannot; at the price of real costs, complexity and a tax treatment to be handled with care. The figure sets the four planes in columns.

> IN PLAIN WORDS
>
> The will is the scalpel of planning: precise, cheap, rewritable — and suited to a single cut, the final one. Gift, family pact, policy and trust are the tools of the earlier phases. The right question is never "will or alternative?": it is "what must happen, and when?" — the answer picks the tool by itself.

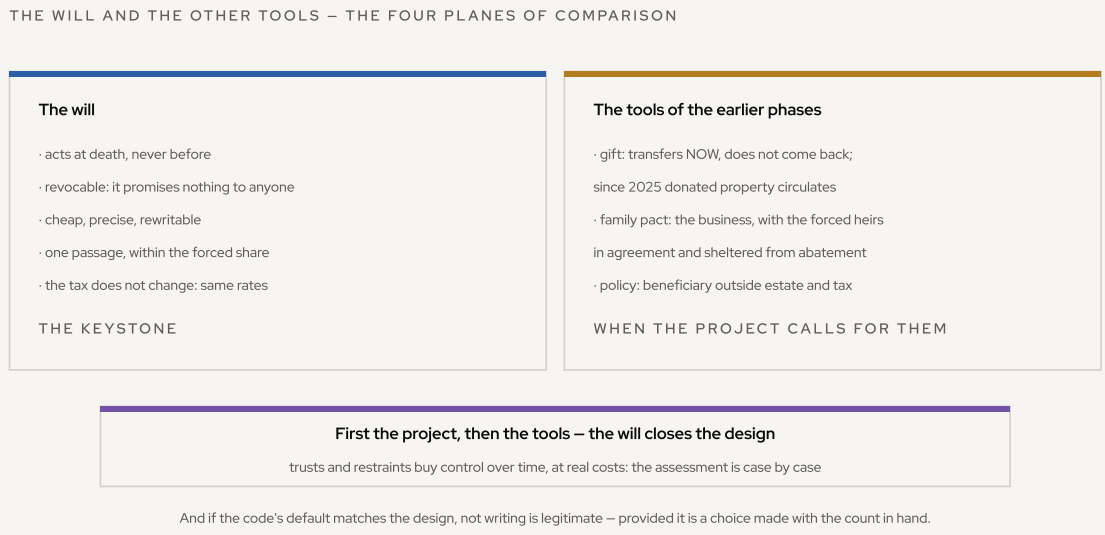

FIGURE 11 The will and the other tools — Legal framework as at September 2026

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12.3 The method — and when to write nothing

The correct sequence reverses the common instinct. You do not start from the tool ("I'll make a will", "I'll put the house in my son's name"): you start from the **project** — who must have what, when, with which protections — and let the project choose the tools. The will comes last, to close the design: it gathers what the other channels do not cover, aligns the beneficiaries, adds the professio iuris if needed, and acts as the net under the whole construction.

And the uncomfortable conclusion for anyone who writes guides about wills must be said too: **some people do not need one**. The linear estate, the serene family, the design that coincides with the legal shares: for these situations intestate succession produces exactly the desired outcome, and a will would add a formality without changing anything. The point is not writing for writing's sake: it is having **done the count** — knowing what silence would produce, and signing off on it knowingly. The difference between those who did not write by choice and those who did not write by postponement is invisible today: it will all show on the day the machine starts.

KEY POINTS

- Four structural limits: it acts only at death, binds nobody beforehand, does not cover incapacity, governs a single passage.
- Against the gift: near-twin taxes, step-up versus carry-over, and since 2025 donated property circulates — but what is given does not come back, while a will can be rewritten.
- For the business the family pact is superior: it transfers now, with the forced heirs in agreement, sheltered from abatement.
- The policy pays the beneficiary outside the estate and outside the tax: the natural tool for beneficiaries with no allowance, at 8 and 6 per cent. Trusts and restraints buy control over time, at real costs.
- First the project, then the tools, the will to close. And if the code's default matches the design, not writing is legitimate — provided it is a choice made with the count in hand.

Succession decisions often have irreversible effects: before acting, seek professional advice.

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13 The words **of the will.**

The words of the will, in alphabetical order and in plain English — from autograph writing to notional aggregation, from the clocks of the challenges to the code's fine tools. Once learned, every notarial deed, every clause and every newspaper article on the subject becomes readable.

13.1 A–C

Abatement action. The injured forced heir's tool: it files down first the testamentary dispositions and then the gifts, from the latest to the earliest, until the reserved share is restored. Ten years' limitation.

Autograph writing. The requirement that the holograph be written entirely in the testator's hand: a guided hand, a computer or a pre-printed form exclude it, and with it the validity.

Cautela sociniana. The choice granted to the forced heir burdened beyond the disposable portion (typically by a universal usufruct): execute the will, or keep the full reserve and abandon the disposable portion (art. 550).

Confirmation. The voluntary healing of void dispositions: the heir who, knowing the defect, gives execution to the invalid will can no longer raise it (art. 590).

13.2 D–H

Disinheritance. The clause excluding a potential successor. Valid even on its own (Cass. 8352/2012); against a forced heir it does not remove the forced share, save unworthiness.

Disposable portion. The part of the estate the will governs freely: from half to one quarter, according to the family configuration. Computed on the notional aggregation, not on the final estate alone.

Executor. The trusted person who sees to the exact execution of the dispositions (arts. 700-712). Unpaid office unless the testator provides a remuneration.

Fedecommesso. The double passage — the heir preserves and at their own death hands over to a third party — forbidden by the code, save the assistance variant of art. 692: the interdicted person instituted, with return to whoever will have cared for them.

Forced share. The portion the law reserves to spouse, children and, without children, ascendants. It admits no burdens or conditions (art. 549); waivers before the death are void (art. 557).

General Register of Wills. The national registry (L. 307/1981) recording the existence — never the content — of public, secret and formally deposited holographic wills. Queried after the death with the death certificate.

Heir. Whoever takes over a share of the whole estate, debts included. One becomes an heir only by accepting; acceptance with benefit of inventory limits liability to what was received.

Holographic will. The will entirely written, dated and signed by hand (art. 602). Free and fully valid; fragile in custody and in handwriting.

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13.3 I–P

Intestate succession. The code's default will: the rigid shares that apply in the absence (or for the part not covered) of a will. The sister guide on succession tells it in full.

Legacy. The attribution of determinate assets: acquired without acceptance, it does not answer for the estate's debts. In lieu of the forced share (art. 551), it puts the forced heir at the fork: the certain asset or the share.

Notional aggregation. The forced share's measuring rod (art. 556): the estate left, minus debts, plus all of a lifetime's gifts, real property at its value on the day of death.

Pretermission. The forced heir simply not named in the will. It does not void the deed: the pretermitted heir must bring the abatement action, and can do so without accepting the inheritance.

Professio iuris. The choice, written into the will, of the law of one's citizenship for the entire succession (EU Reg. 650/2012, art. 22): the first clause of every international life.

Publication. The notarial report which, at the death, gives the holograph its official entry (art. 620): it does not judge validity, it makes the will enforceable.

Public will. The wishes declared to a notary before two witnesses (art. 603): technical direction, archive custody, capacity verified in the deed. It moves the dispute from "whether" to "what".

13.4 R–W

Revocation. The change of mind: express (art. 680), tacit by incompatibility (art. 682), by destruction of the holograph (art. 684), by alienation of the bequeathed asset (art. 686) — or by operation of law, upon the arrival of children (art. 687).

Secret will. The sheet, even non-autograph but signed, handed sealed to the notary (arts. 604-605): full confidentiality of content, certain custody.

Substitution (ordinary). The reserve clause: "if the beneficiary cannot or will not, then…" (art. 688). One line that keeps the law from deciding in the project's place.

Succession agreements. Agreements over a future succession, forbidden and void (art. 458): one cannot bind oneself to leave, nor dispose of an inheritance not yet opened. Single exception: the family pact.

Usufruct. The right to enjoy another's asset for life (or a term): the tool that separates who lives there from who will inherit. Its value is measured with age coefficients: the sister guide on bare ownership.

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Will (international). The form of the 1973 Washington Convention (L. 387/1990): a sheet handed to notary or consul with a certificate, formal validity guaranteed in all States parties.

KEY POINTS

- The key words are few: autograph writing, disposable portion, notional aggregation, abatement, revocation — learned once, every deed becomes readable.
- When the glossary entry is not enough, the code, the notary and professional advice are the authority.
- No glossary replaces chapter 11's method: the count of one's own disposable portion, before any signature.

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CLOSING NOTE

The signature is **only the start.**

This guide ends here; the decisions do not. The will is the gesture with which a patrimonial life chooses its parting words — and like every important passage it succeeds only in the service of a plan: the disposable-portion count done, the composition thought through, the channels aligned, the paper kept where it will be found.

If reading has raised questions about your own situation — whether the code's silence really says what you would want, whether the disposable portion is enough for your design, which of chapter 11's five moves are missing from the roll call — that is the signal that the most useful part of the work begins now.

A confidential conversation, with no obligation, is the simplest way to find out together. The contacts are on the last page.

Massimiliano Silla

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To be read **before deciding.**

This guide has an exclusively educational and informative purpose. It is not legal, notarial or tax advice, nor investment advice or a personal recommendation. A will is a deed with significant and partly irreversible effects on several people's lives: every decision should be taken on one's own concrete situation, with the assistance of the competent professionals — the notary for the deeds, the lawyer for litigation, the tax adviser and the consultant for the patrimonial picture.

The legislative and case-law references cited are current as at September 2026, unless otherwise indicated. Succession law changes — law 182/2025 is the recent proof — and case law evolves: before any decision it is worth checking that the picture described is still current. The information comes from public sources considered reliable (legislative texts, case law, notarial practice), which are nonetheless not guaranteed.

The numerical examples are hypothetical and serve only to illustrate the mechanisms described; the characters of chapter 9 do not correspond to real people. The usufruct and bare-ownership values cited are orders of magnitude tied to coefficients that change every year. No model clause reported in this guide should be used without professional verification on the specific situation.

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