



Poland

Registering and searching for wills

→ What are the main types of will in Poland?

* the **authentic will**, drawn up by a civil law notary in the form of a notarial deed.

* the **holographic will**, handwritten and signed by the testator; the date is necessary only if there is some uncertainty regarding the testator's capacity or the content of the will. Moreover, when several wills contain cross-references the date is required.

Testators are advised to use the authentic will, as the civil law notary will retain the original notarial deed. Moreover, the notary will be able to draw up several extracts of the deed, having the same legal standing as the original document. The authentic form also acts as a back-up in case of the loss or destruction of the other forms of wills. In addition, it is more difficult to contest an authentic will on the grounds of lack of consent or because its content conflicts with legal provisions.

→ Does a register of wills exist in Poland?

Yes. The National Chamber of Civil Law Notaries has created and implemented, pursuant to its directive of 11 October 2011, a Notarial Register of Wills (NORT), managed by the professional order of civil law notaries. NORT registration is optional for testators.

Important

These questions and answers constitute a general source of information, up-to-date as of 15 October 2012. In the event of a particular difficulty, consult a notary. This practical information sheet has been drawn up by ENRWA with the assistance of the European Commission and Notaries of Europe.





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I. Registering a will

→ Why register a will?

Registering a will helps to increase the chances of the will being traced after the testator's death, thereby enabling a succession procedure to be initiated before the courts or a civil law notary. If the registration of wills and will searches were compulsory this would avoid the risk of a testator's final wishes being lost.

It is not compulsory to register wills in Poland, and any will found after the testator's death is valid.

→ Who may register a will?

Only a civil law notary may register a will. Authentic wills may be registered by any civil law notary, while holographic wills may only be registered by the civil law notary who holds the original deed.

→ Who keeps the will?

A will that is not entered in the register may be deposited anywhere. Testators are therefore advised to inform their heirs, the executor and any other person likely to be notified rapidly of the testator's death of the existence of the will and the place where it is kept. Otherwise, the heirs may have to search for the will, which may involve searching the deceased's home or contacting a notary

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or notaries who might have drawn up or hold a will for safekeeping, or contacting the local authorities. The heirs may also submit an application to the courts, which may appoint a trustee to file a declaration on the existence of the will and the place where it is deposited.

Wills entered in the register are kept by the notary indicated in the register. This may be an authentic deed drawn up by the notary or a holographic will kept in the notary's records. The original notarial deeds are transferred for safekeeping to the district court of the district where the notary's office is located ten years after they have been drawn up. Similarly, notaries who cease practising must forward all their records to the court for safekeeping.

→ Can third parties consult the register while the testator is still alive?

No, the existence of wills and their content are kept secret from third parties throughout the testator's life.

→ How much does it cost to register a will?

At the current time there is no registration charge.

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II. Searching for wills

→ Who can search the register of wills?

On the death of the testator, anyone in possession of documentary proof of the testator's death may search the register via a notary. It is not compulsory to search the register for a will.

→ How much does a search cost?

At the current time there is no charge for a register search. However, notaries receive a fee for activities resulting in the issuance of notarial documents, including searching for wills. The maximum amount of this fee is €50, but in practice it is generally half that amount.

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