

## Guardianship by Country: Resource for Second World Congress on Adult Guardianship

	<p><b>Country:</b> Italy  <b>Population:</b> 60 million  <b>Number of people under Adult Guardian/Guardianship:</b> unknown</p>
<p><b>Relevant legislation</b>          Italian Civil Code (Articles 404-432)</p>	
<p><b>Key terminology</b>          Full guardianship (<i>interdizione</i>)          Limited guardianship (<i>inabilitazione</i>)          Caretaking with residual capacity for the ward (<i>amministrazione di sostegno</i>)</p>	
<p><b>What types of guardianship exist? (personal welfare/financial affairs)</b>          All three forms of guardianship (full guardianship, limited guardianship and caretaking with residual capacity for the ward) can include decision-making in both personal welfare and financial affairs matters.</p>	
<p><b>Aside from personal appointments, who has the power to appoint an adult guardian?</b>          The Probate Judge appoints adult guardians following a request from the ward's family members, social services or the Public Attorney.</p>	
<p><b>What criteria do the court need to consider when deciding the need for a guardian?</b>          The civil code provides that a:</p> <ul style="list-style-type: none"> <li>- 'caretaker' (caretaking with residual capacity to the ward) be appointed where the ward is partially or temporarily unable to look after their own interests because of physical disability or mental impairment.</li> <li>- person who suffers from a permanent mental impairment that prevents them from looking after their own interests be placed under full guardianship.</li> <li>- Person whose mental impairment is not so severe as to require full guardianship can be placed under limited guardianship.</li> </ul>	
<p><b>What is the potential duration of an order?</b>          Full guardianship and limited guardianship orders are made for an indefinite period.           A 'caretaker' is usually appointed for an indefinite period. Alternatively, the Probate Judge can decide to appoint the caretaker for a limited period of time.</p>	
<p><b>Can a person under guardianship seek review of a guardian's appointment and/or a guardian's decisions?</b>          A person under full guardianship can not seek review of a guardian's appointment. However, they can seek review indirectly through application by friends or family members. A person under limited guardianship or under caretaking can seek review themselves.</p>	
<p><b>Who can be appointed as guardian? (eg family members, private guardian, private body, public body)</b>          In general the court prefers to appoint family members. If family members are not available or not willing to be the guardian, the Probate Judge can appoint a volunteer guardian or a</p>	

lawyer.

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

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

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

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

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

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

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

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

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

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

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