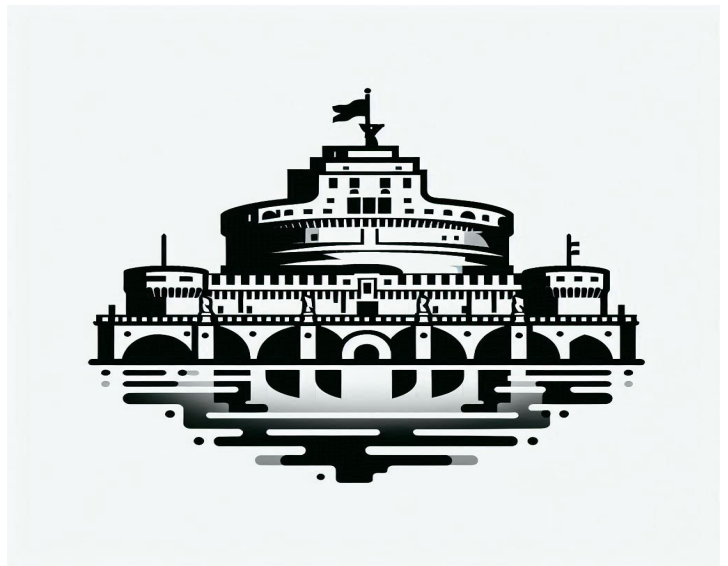


# ITALIAN POWERS OF ATTORNEY



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# Understanding Powers of Attorney in Italy



A **Power of Attorney (*Procura*)** is a legal document that allows one person (the **principal**) to delegate authority to another person (the **agent or attorney-in-fact**) to act on their behalf in legal and financial matters. This is particularly useful for individuals who own property in Italy but are not always present or may require assistance due to age or health concerns.

A Power of Attorney ensures that a trusted individual can manage assets, conduct transactions, or make medical decisions in the principal's best interest, preventing unnecessary legal complications or financial losses. Without a ***Procura***, individuals may find themselves relying on the Italian court system to authorize urgent decisions, which can be a slow and bureaucratic process. This can be especially problematic in cases such as **medical repatriation, medical treatment, urgent property transaction, or access to bank accounts to cover emergency expenses**. Having a ***Procura*** in place allows for immediate and seamless decision-making without legal delays.

## Types of Power of Attorney in Italy

In Italy, there are several types of ***Procura***, each serving different purposes depending on the scope of authority granted.

- ***Procura Generale* (General Power of Attorney)**

This grants the agent broad authority to manage the principal's legal, financial, and administrative affairs. The agent can perform acts related to property, banking, and taxation, but must act within the limits set by law. A ***Procura Generale*** is often used when the principal is frequently absent from Italy.

- ***Procura Speciale* (Special Power of Attorney)**

- A ***Procura Speciale*** is limited to specific actions, such as selling a property, managing a bank account, or representing the principal in a legal dispute. Once the task is completed, the Power of Attorney becomes invalid.

- ***Procura Generica* (Generic Power of Attorney)**

This falls between a ***Procura Generale*** and ***Procura Speciale***, allowing the agent to perform acts related to a particular category, such as real estate transactions or business dealings, without specifying each individual action.

- ***Procura Sanitaria* (Healthcare Power of Attorney)**

A ***Procura Sanitaria*** allows the agent to make medical decisions if the principal becomes incapacitated. This is particularly relevant for elderly property owners who may require medical treatment while in Italy. It may include provisions under the **Dichiarazione Anticipata di Trattamento (DAT)**, an advance healthcare directive that outlines medical preferences.

## Legal Basis of Power of Attorney in Italian Law

The **Procura** is regulated under the Italian **Codice Civile** (Civil Code), particularly in:

- **Articles 1387–1399**: Define representation and the legal effects of the Power of Attorney.
- **Article 1708**: Outlines the scope of the **mandato** (mandate), applicable to **Procura**.
- **Articles 1722–1726**: Address the modification, termination, and irrevocability of **Procura**.

A **Procura** must follow the same formalities required for the act it authorizes. For real estate transactions, it must be executed before a **notaio** (notary) and registered to be legally valid. This requirement ensures that the agent's authority is properly documented and can be relied upon in legal dealings. For example, a **Procura** granting the power to sell property must be notarized because Italian real estate transactions require an **atto pubblico** (public deed) under **Article 1350 of the Italian Civil Code**. Similarly, a **Procura** for business representation may need to be registered with the **Registro delle Imprese** (Companies Register) if it involves significant corporate decisions. If the act involves litigation, such as appointing a lawyer for court representation, the **Procura alle liti** must be in writing and signed in compliance with procedural laws. Ensuring the proper formalities prevents challenges to the validity of the **Procura**, reducing the risk of disputes or administrative delays.

## Pitfalls and Risks of Power of Attorney

While a **Procura** is a powerful legal tool, there are potential pitfalls and risks:

### 1. Risk of Abuse

Granting broad powers in a **Procura Generale** can lead to financial mismanagement or fraud if the agent is not entirely trustworthy. To mitigate this, the document should clearly define the agent's duties and responsibilities.

### 2. Expiry and Revocation Issues

A **Procura** automatically expires upon the principal's death. However, if the principal becomes incapacitated, a **Procura** does not necessarily remain valid unless specific provisions are made. Additionally, a **Procura** must be **formally revoked** before a notary to prevent unauthorized use.

### 3. Formal Requirements and Invalidity

A **Procura** must comply with Italian formalities. If not properly executed—such as lacking notarization when required—it may be declared invalid. This can cause delays and legal complications.

### 4. Tax and Registration Costs

The **Procura** may be subject to:

- *Registration tax (€200 for notarial acts)*
- *Stamp duty (€30 for general powers, €16 for special powers per 100 lines of text)*

Failure to properly register a **Procura** may prevent its recognition by authorities.

## Conclusion

A **Power of Attorney** is an essential tool for foreign nationals who own property in Italy, particularly those who are elderly or frequently absent. It provides flexibility in managing financial, legal, and medical affairs. However, careful drafting is necessary to ensure its validity and to protect against misuse.

To avoid legal issues, property owners should:

- Consult a **lawyer familiar with Italian law** before drafting a **Procura**.
- Use a **notary** when required, particularly for property transactions.
- Specify **clear limitations** in the **Procura** to prevent abuse.
- Regularly **review and update** the **Procura** to reflect changing circumstances.

By understanding the different types of **Procura** and their implications, foreign property owners in Italy can safeguard their assets and personal affairs while ensuring smooth legal representation in their absence.