

# Guidelines from the Italian National Council of Notaries



ITALY

By Stefano Loconte

Important guidelines were recently published as a new sign of recognition and consistent interest from the Italian legal framework in the Islamic world.

The National Council of Notaries has shown interest through the publication of an official document ('Vademecum di diritto musulmano', approved on the 13<sup>th</sup> January 2021 by the Commissione Affari Europei e Internazionali) in which it provides nuggets of knowledge on some of the fundamental precepts of Muslim law.

This will enable the Italian legal system to familiarize itself with investigating not only the client's marital status, but also the religious faith and avoid from applying the rules of the Italian legal system in a way which causes the client to struggle with the presence of the religious authorities and/or religious consciousness.

The aim of this document is to give practical guidelines to Italian practitioners so that they can pursue the matter by finding any limitation between the Italian legal system and the Shariah principles and fully satisfy the special needs of Muslim clients.

The document is composed of four parts that deal with aspects related to:

- Inheritance

- Family law
- Private international law, and
- Muslim clients' needs.

It is worth highlighting that the document suggests avoiding any type of conflict of laws when it comes to will writing.

The suggestion is to write two different wills: one to govern the estate located in Italy (or in any other EU member state) and the other, which is Shariah compliant, to govern the estate located in an Islamic country.

It remains clear that, whatever solution is adopted, an Italian notary can and must find solutions compliant with the legal system, making available to his/her clients his/her duty of advice and of complete information.

As underlined in the document, the notary, or any other legal practitioner, should always take into account the mandatory rules derived from the Muslim faith and allow clients to consciously choose and understand the rules of the Italian legal system. (2)

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