

French Wills

There are two types of French Wills, either:-

Authentic Wills

(Testament Authentique) made before two French Notaries or one French Notary and two witnesses. The use of such Wills is relatively rare.

or

Holograph Wills

(Testament Olographe) which are written out and dated, usually in French, in the handwriting of the Testator and signed by him or her without witnesses. For technical reasons most Holograph Wills must be physically signed in France. If they are not they may be construed as void.

French Holograph Wills are not recommended for most clients in most situations for various technical legal reasons. For example, a separate French Will can easily and inadvertently revoke an English Will and vice versa; the Testator must understand the words he is writing when he writes a French Will otherwise they could be construed as void.

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2. In most cases we prefer putting the relevant provisions dealing with the devolution of the French estate (usually a second home) into the body of the English Will of the Testator or better still preparing a Codicil to the English Will dealing specifically with the French estate. The Codicil has the advantage of being part and parcel of the Will and is proved, together with it, in the UK but for the purposes of proving the Will and Codicil in France it is often necessary to file only a copy of the Will and a certified copy, with translation, of the Codicil in France. This is a much shorter document and therefore more easily dealt with in many cases.

Whether you use an English Codicil, an English Will or a French Will to dispose of your property, however, you cannot avoid or infringe the succession right known as the legal reserve of children.

It should be noted that some gifts made inter vivos can have tax advantages in France and disadvantages in the UK. For example, inter vivos gifts are possible in France at reduced tax rates (there is no 7 year survival rule as in the UK) and tax is payable when the gift is made, but usually on a reduced basis. You do however need to take specific advice on English Law as to whether such a gift is either a gift with reservation and/or subject to the new Pre-Owned Asset Tax and/or considered as a trust.

In all cases please contact a member of our French Law Team for further information and advice.

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