

Too much closeness can be suspicious

By Conny Schmid

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One time it's the **financial advisor** who, equipped with a general power of attorney, plunders the account, another time it's the cleaning help who is suddenly listed in the will as the sole heir. And it always happens in a similar way: **a rich, elderly person becomes demented**, is perhaps lonely or in any case dependent on outside help. The **children live far away** and rarely come, many friends have already died. So the aged person leaves her financial matters to the bank advisor, the tax return to the tax consultant, or **puts her life in the hands of the private caregiver who takes care of everything** from personal hygiene to paying the bills.

670,000 francs for the caregiver

Often this works out well. But sometimes people of trust are hiding behind inheritance cheats. Like the nurse from Thurgau who inherited a property worth 670,000 francs from a patient. He had taken care of her for many years, was her legal advisor, health care proxy and had a general power of attorney for all accounts. She spoke of friendship and love. Her siblings saw it differently - and finally also the Federal Court. It turned out that the guardian had led the woman to believe that he was acting as a friend - and that he was a repeat offender. He was not allowed to inherit.

Where does free will end?

Such judgments are rare, however. **Who can say where free will ends?** Is the woman not allowed to do what she wants with her money? **How can it be proven afterwards** that she was influenced, that friendship was not friendship, that love was not love? **"Often, such stories end up in a settlement, because the litigation risk is high for both sides,"** says Basel lawyer Daniel Abt, who specializes in inheritance law and regularly deals with the issue of inheritance fraud.

It is difficult to prove fraudulent intent

Legally, there are two ways to defend oneself: **One is to have the will declared invalid or to have the person who stole the inheritance declared unworthy to inherit.** That sounds simple, but it is usually difficult to nearly impossible. "You have to prove, for example, **that the deceased person did not act according to his or her free will or was no longer mentally capable of doing so. That there was a strong dependency, that the suspected inheritor had great influence because of an extraordinary power imbalance, or that he or she acted maliciously,**" says Abt.

An association advises victims

In court, the chances increase when so-called stinking cases are involved. This is what lawyers talk about when evidence of inheritance fraud accumulates. **Red alert applies, for example, if an elderly person is socially isolated** and suddenly changes his estate planning shortly before death and favors a trusted professional person to the maximum. It is also an advantage to know the

typical methods of inheritance creep and to be able to point them out in court. One person who has dealt with this in depth is Felix Boller. He has experienced a case himself and, in connection with the revision of the inheritance law, founded the [Association Against Inheritance Creep](#).

The three phases of the act

Boller's association studies the phenomenon scientifically and advises those affected. The expert speaks of three phases of the crime:

- Sneaking up: Inheritance creeps choose their victims. For example, they move to areas with a high density of millionaires or work in professions in which they come into contact with the rich. As a caregiver, good neighbor, lawyer, doctor, or public official, they quickly learn more about the target's personal and financial circumstances.
- Manipulate: Next, **they cut them off from their social circle**. "You tell the target, for example, that friends and relatives are after their inheritance. You control communication channels, block critical voices. You claim that no one is contacting you, and you yourself swear loyalty. Then you build up a guilty conscience and demand material compensation," says Boller. In this way, the victim's **dependence** on the inheritance cheat **grows**. At some point, one ends up at the notary or the lawyer, where the inheritance is sealed or a general power of attorney is issued.
- Sneaking off: Once the target person has died, the legacy hunter **destroys any evidence and acts inconspicuously**. Contact with the relatives is gradually broken off.

Family abysses

An alarm signal Zurich family and systems therapist Gabrielle Rüttschi has written a book about inheritance and knows this pattern. Inheritance disputes are indirectly a topic in her practice. This is where the family abysses behind them open up. "Inheritance hunters see these opportunities and take advantage of them," Rüttschi says. Often it takes years and starts quite harmlessly. Inheritance hunters need a lot of staying power. But it pays off more and more. In Switzerland, around 90 billion francs are inherited every year, and the trend is rising. At the same time, people are getting older and more dependent on third parties. The **new inheritance law has also reduced the compulsory portions: Testators can now freely dispose of a larger portion of their assets. All of this plays into the hands of inheritance hunters**. "For me, this is a form of white-collar crime," says Rüttschi.

No "inheritance creep" offense

However, **it is difficult to prosecute perpetrators under criminal law**. There is **no criminal offense** of "inheritance creep". Depending on the case, **there may be property crimes, forgery of documents, extortion, fraud, deprivation of liberty and others**. Attorney Daniel Abt does not hold out much hope: "Even if the person who stole the inheritance is convicted of a criminal offense, this does not mean that the rightful heirs will receive any money. For that, a civil suit is needed."

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Proposals in parliament

So what to do? Abt advocates that certain professional groups, such as lawyers, notaries, doctors, nurses, tax or financial and insurance advisors, should be prohibited by law from accepting inheritances and gifts from clients.

Although corresponding proposals have been discussed in parliament, they have not yet found their way into the law. Expert Boller finds: All those who have something to bequeath should settle family conflicts and discuss their death early, but at the latest when they are 70.

This should include **risks of financial fraud in old age**. Only after that, he recommends, should people draw up an inheritance contract instead of a will. This, unlike a will, cannot be changed unilaterally.

However, the inheritance contract does not solve all problems. "You can still draw up a will later that contradicts the inheritance contract. **Because this is a more recent document, disadvantaged persons must then take legal action**," says Daniel Abt.