

### Who has the last word? Will making in Germany

Ehrlich, Ulrike; Spuling, Svenja M.

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**Who has the last word? Will  
making in Germany**

Ulrike Ehrlich & Svenja M. Spuling



## Who has the last word? Will making in Germany

*Ulrike Ehrlich & Svenja M. Spuling*

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## Key messages

**The majority of people in the second half of life do not have a will.** Just over one third (37.3 per cent) stated that they had made a will.

**Older people and individuals with a high level of education are more likely to have written a will.** While only 23.4 per cent of respondents in the youngest age group surveyed, 46- to 59-year-olds, stated that they had made a will, this proportion rose to 40.8 per cent in the 60 to 69 age group. In the two oldest age groups, on the other hand, one out of every two people reported having written a will. In addition, people with a high level of education (44.1 per cent) were significantly more likely to have written a will than people with a medium (34.4 per cent) or low level of education (24.6 per cent). Women and men had a will in roughly equal proportions (women: 37.0 per cent; men: 37.6 per cent).

**People with (greater) assets tend to plan their will more frequently.** People with housing assets were more likely to have a will than people without (43.4 per cent compared to 22.3 per cent). Similarly, people with financial assets were significantly more likely to have a will than people without (40.0 per cent compared to 25.7 per cent). The value of assets also played a role in the rate of wills: people with highly valuable financial assets were most likely to have a will compared to people with medium and low value financial assets (48.6 per cent compared to 37.7 per cent and 24.0 per cent, respectively).

**Married people were more likely to have written a will than unmarried people.** Married people were the most likely to have a will (41.5 per cent) compared to unmarried individuals with a partner (27.1 per cent) or those without a partner (27.5 per cent). By contrast, the presence of children or their legal status (no children compared to only biological or only adopted children or at least one non-biological or non-adopted child) did not play a role in the rate of will preparation.

## Background

Over the next 20 years, Germany and many other ageing societies are likely to see a significant transfer of wealth between baby boomers (born between 1955 and '69) and those born later on (Tilse, Wilson, White, Rosenman, Feeney, & Strub 2016; Baresel, Eulitz, Fachinger, Grabka, Halbmeier, Künemund, Alcántara, & Vogel 2021). These wealth transfers will mainly take the form of gifts (during the giver's lifetime) or inheritances (post-mortem) (Baresel et al. 2021).

For transfers to be regarded as gifts, they must be subject to a clear transfer intention, and are considered 'anticipated inheritance'. By contrast, inheritances can be made without the intention to transfer (Reil-Held 2002) – that is, unless a last will and testament ('will' in the following) is drawn up. Without a will, an inheritance is distributed in accordance with the more than 100-year-old provisions of the German Civil Code (BGB, Book 5, Sections 1922-2385): so-called statutory succession, which only accounts for traditional ideas of marriage and kinship.<sup>1</sup>

With a will or testament, on the other hand, testators can override statutory succession. For example, one or more individuals can be designated as heirs, while others can be excluded from inheritance altogether. Certain persons can also be especially favoured, or charitable organisations, foundations or associations can be named instead.

It can be assumed that estate planning in wills will become increasingly important in the area of asset transfers in the coming decades. On the one hand, post-mortem transfer of certain assets could take place more frequently in the wake of rising costs for health and care (Paquet 2020; Rothgang 2019; Destatis 2022) or for housing (Romeu Gordo, Grabka, Lozano Alcántara, Engstler, & Vogel 2019). Transfer intentions of (remaining) assets – if at all – thus can only be realised after death in some cases. On the other hand, testamentary estate planning could generally become more important due to the pluralisation of lifestyles

and family forms, as the definition of immediate family and thus the nature of the perceived obligations between testators and potential heirs is changing (Tilse et al. 2016). If people die without a valid will, assets are transferred according to the legal order of succession, which does not always meet the needs of increasingly complex family structures and relationships and can therefore lead to (unintentional) unequal treatment.

But who does draw up a will and thus indeed manifests a specific intention to bequeath? Based on the current state of research, it can be assumed that **socio-demographic factors** such as age, gender and education play a role in this form of economic behaviour. Accordingly, *older people* are more likely to write a will than younger people (Wagner, Motel, Spieß, & Wagner 1996), as they are closer to the end of their lives and therefore (have to) deal with the topic of inheritance more often. *Men* are more likely to write a will than women, as their financial literacy is higher (für eine Übersicht: OECD 2013) and they often own more assets than women (Grabka & Westermeier 2014; Schröder, Bartels, Göbler, Grabka, & König 2020), which is why they also deal with estate planning more often. In addition, people with a *higher level of education* are more likely to draw up a will than those with less education, as they are generally wealthier (Wagner et al. 1996) and typically have the knowledge and skills needed to understand, utilise and implement estate planning options (Carr 2012).

Furthermore, the state of research suggests that the **wealth situation** determines whether or not a person draws up a will. People with (*greater*) assets (financial assets, housing assets) are more likely to write a will than those with fewer or no assets, as the wealthy have quantitative more to bequeath (Wagner et al. 1996; Tilse et al. 2016; Carr 2012).

The **family situation** is also likely to play a role. *Marital status* and the presence of *biological* as well as *adopted children* are central to German inheritance law. According to statutory

<sup>1</sup> Legal succession can be overridden by disinheritance in a will. If next of kin are disinherited, they are still entitled to a

compulsory portion (half of the statutory inheritance share) and can claim this from the heirs.

succession, spouses and children inherit first. Because of this fact, it seems plausible that married people may be less likely to have a will – in contrast to unmarried people or individuals without a partner –, as the legal succession is clearly regulated with assets automatically transferred to the surviving spouse or children (Wagner et al. 1996). Furthermore, it can be assumed that people with at least one non-biological or non-adopted child (stepparents) are more likely to have written a will than people with *only* biological and/or adopted children. Inheritance law does not take stepchildren into account, unlike biological and adopted children, and thus stepparents must take extra measures to designate their heirs.

#### Questions

- 1) How high is the proportion of testators in the second half of life?
- 2) How does the proportion of wills differ in terms of various *socio-demographic factors*?
- 3) What role do *assets play* in making a will?
- 4) To what extent does the *family situation* influence whether or not a will is granted?

## Data and methods

### The German Ageing Survey (DEAS)

The German Ageing Survey (DEAS) is a representative cross-sectional and longitudinal survey of people in the second half of life. As part of the study, women and men have been regularly surveyed for more than two decades (in 1996, 2002, 2008, 2011, 2014, 2017, 2020 and 2020/21) as they move into old age. This long observation period of more than two decades allows a comprehensive insight into ageing and the life situations of people in the second half of life. In addition, the cohort-sequential design of the study makes it possible to examine ageing in the context of social change. The German Ageing Survey is therefore the central study on age and ageing in Germany. More than 20,000 people have participated in the study so far. People who are 40 years and older at the time of their first participation are surveyed. The participants are selected on the basis of a sample of residents' registration offices stratified by age, gender and region. The data of the German Ageing Survey are therefore representative of the resident population of Germany living in private households in the second half of life. The German Ageing Survey can also provide insights and a better understanding of life situations in times of crisis - as we are currently experiencing due to the Corona pandemic.

Telephone interviews took place in winter 2020/21 (4 November 2020 to 1 March 2021) with 5,402 people aged 46. Directly after the telephone interview in winter 2020/21, the respondents were sent another questionnaire, answered by 4,419 people in writing or online. The surveys focused on questions about aspects of the respondents' current life situations, such as social relationships, well-being and employment.

In the analyses, weighted proportion values and weighted arithmetic means are presented using methods that take stratified sampling into account. Group differences or differences between survey waves are tested for statistical significance. A significance level of  $p < 0.05$  is used. If a finding is statistically significant, it can be assumed with at least 95 per cent probability that a detected difference exists, not only in the sample but also in the population living in private households in Germany. If a finding is not statistically significant, it is possible that observed differences in the sample occurred only by chance.

The German Ageing Survey (DEAS) is funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ).

Further information on the German Ageing Survey (DEAS) can be found at [www.deutscher-alterssurvey.de](http://www.deutscher-alterssurvey.de).



To answer the research questions, we used data from the 2020/21 German Ageing Survey (DEAS; Klaus, Engstler, Mahne, Wolff, Simonson, Wurm, & Tesch-Römer 2017). In this year's written questionnaire, respondents were asked for the first time about the existence of a will.

### *Sample*

The evaluation sample included 4,219 people aged between 46 and 90 who took part in the written survey in 2020/21 and provided information about the existence of a will.

### *Variables*

The existence of a will (will rate) was identified via the following question: 'Have you made one or several of the following written instructions or legal arrangements?' In addition to enduring power of attorney, living will and healthcare proxy, DEAS respondents were also asked about a will. Respondents who answered in the affirmative that they had made a will are identified below as testators. Respondents who answered 'no' to this question had not made a will. It is also assumed that those respondents who answered 'I don't know what that is' did not have a will.

Differences in the proportion of testators are analysed according to the following socio-demographic factors: by age, divided into four

## **Findings**

### *Just over a third of respondents have a will*

The proportion of people with a will was only 37.3 per cent in 2020/21 (Figure 1).

The existence of a will increases significantly across age groups (Figure 1). While merely 23.4 per cent of the youngest surveyed (46 to 59-year-olds) had wills, 40.8 per cent of respondents in the next age group (60 to 69-year-olds) did. By contrast, around one in two people in the two oldest age groups surveyed had a will (70- to 79-year-olds: 58.0 per cent; 80-90-year-olds: 49.2 per cent). The will rates between the two oldest age groups revealed no statistically significant difference, however, which means the rates are roughly equal.

age groups: 46 to 59 years (43.3 per cent), 60 to 69 years (26.5 per cent), 70 to 79 years (17.1 per cent) and 80 to 90 years (13.1 per cent); gender (51.3 per cent women, 48.7 per cent men); education: low level (9.3 per cent), medium level (52.0 per cent) and high level (38.7 per cent).

Furthermore, differences in the proportion of testators were analysed according to their wealth situation. A distinction was made between people with housing assets (70.6 per cent) and those without (29.4 per cent) as well as between people with (78.8 per cent) and without (21.2 per cent) financial assets. In addition, respondents were categorised into three groups based on the value of their financial assets: people with low (up to €12,499 in financial assets = bottom 25 per cent), medium (with €12,500 to €99,999 = mid-level 50 per cent) and high financial assets (€100,000 or more = top 25 per cent).

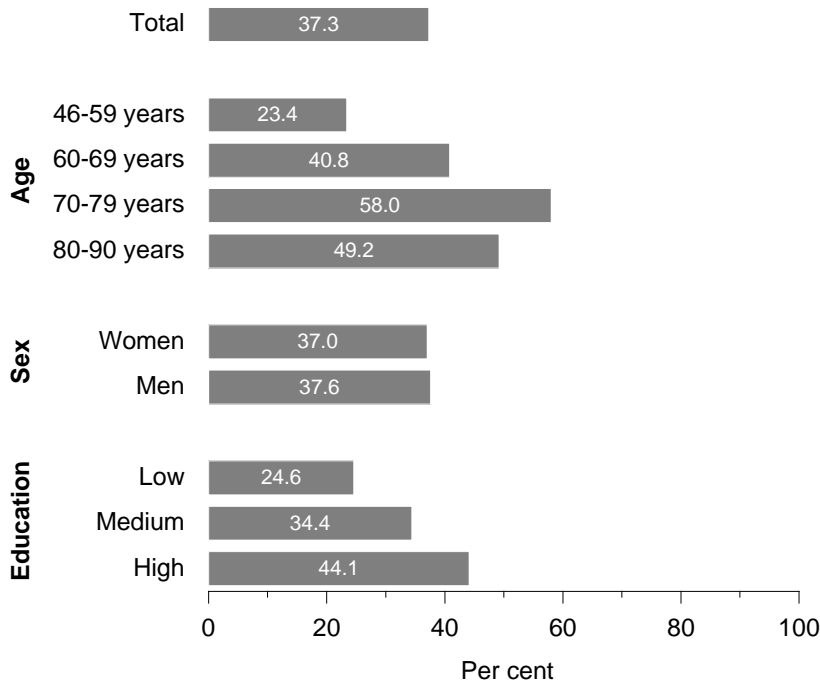
Differences in the proportion of testators were analysed depending on the family situation according to marital status: married (69.8 per cent), unmarried with partner (8.9 per cent), without partner (21.3 per cent); legal status of living children: no child (14.2 per cent), only biological and/or adopted children (79.3 per cent), at least one non-biological or non-adopted child (stepparents, 6.5 per cent).

There were no statistically significant gender differences in will making. In 2020/21, 37.0 per cent of women and 37.6 per cent of men had a will (Figure 1). The rate of women and men with wills was therefore almost identical.

Broken down by education, however, differences did emerge (Figure 1). People with high levels of education were the most likely to have a will (44.1 per cent), followed by people with a medium level (34.4 per cent) and finally a low level (24.6 per cent). The proportion of highly educated people who had a will was statistically significantly different from that of people with a medium or low levels of education. By contrast, there was no statistically significant difference between the rate of testators with low and medium

education.<sup>2</sup> Accordingly, the proportion of testators was similar for these two education groups.

Figure 1: Will rates in 2020/21, overall and by socio-demographic factors (in per cent)



Source: DEAS 2020/21, n = 4,219, weighted analyses, rounded figures.

The following differences between the age groups are statistically significant ( $p < 0.05$ ): between 46- to 59-year-olds and all other age groups and between 60- to 69-year-olds and all other age groups.

Differences in the proportions between women and men are not statistically significant ( $p > 0.05$ ).

The following differences between the education groups are statistically significant ( $p < 0.05$ ): between low-educated and highly educated people and between medium-educated and highly educated people.

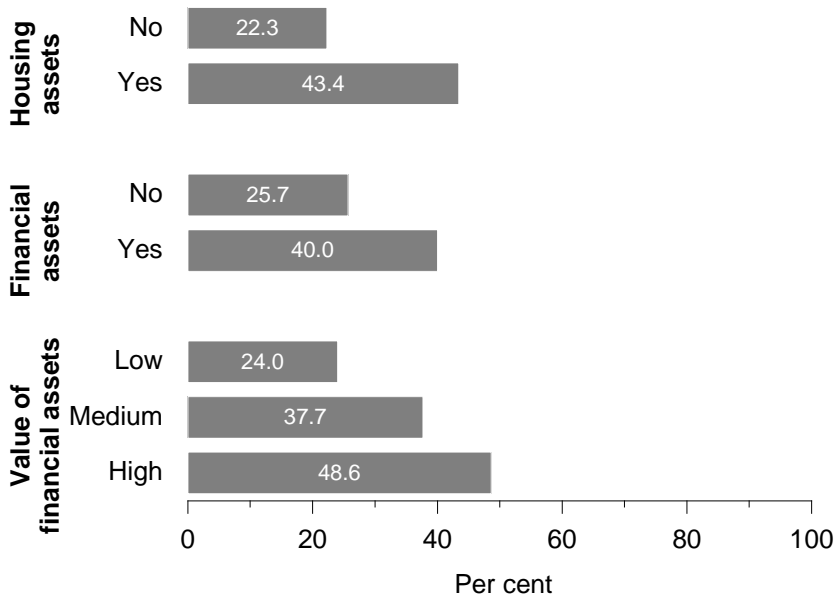
### *People with (high) assets are more likely to have written a will*

Figure 2 shows will rates according to assets. The results show that people with housing assets (43.4 per cent) were significantly more likely to have a will than those without (22.3 per cent). In addition, those who had financial assets were significantly more likely to have written a will (40.0 per cent) than those without

financial assets (25.7 per cent). Differences can also be seen among those with financial assets. People with high financial assets were the most likely to have arranged their estate in the event of death (48.6 per cent); they were followed by those with medium (37.7 per cent) and low financial assets (24.0 per cent). The differences between the individual groups were statistically significant.

<sup>2</sup> This could be due to the relatively low number of testators with a low level of education (n = 72).

Figure 2: Will rates in 2020/21 by wealth situation (in per cent)



Source: DEAS 2020/21, n = 4,219, weighted analyses, rounded figures.

Differences between people without and with housing assets are statistically significant ( $p < 0.05$ ).

Differences between people with and without financial assets are statistically significant ( $p < 0.05$ ).

All differences between people with low, medium and high financial assets are statistically significant ( $p < 0.05$ ).

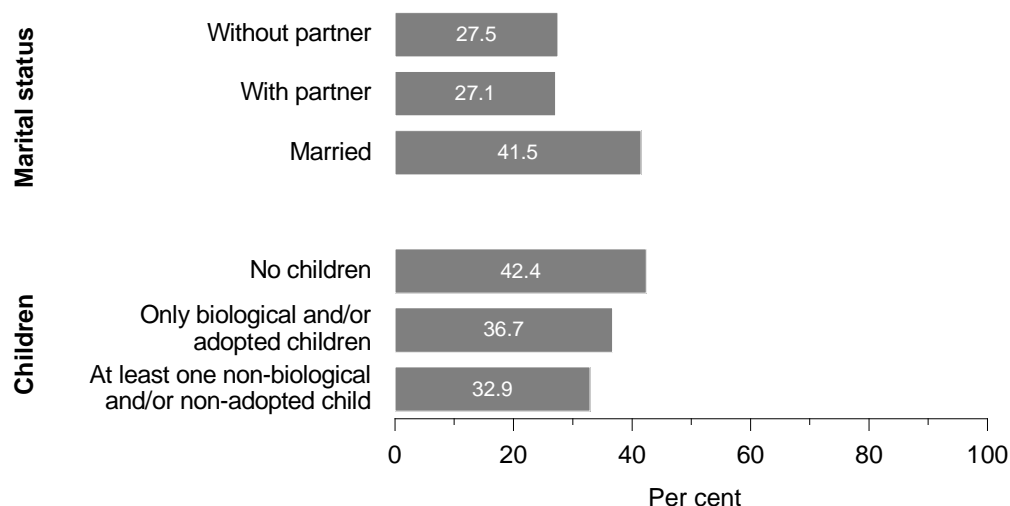
### *Married people are more likely to have written a will*

Figure 3 shows will rates according to family situation, which also plays a role in the existence of a will. At 41.5 per cent, married people were the most likely to have one. People who lived in non-marital partnerships (27.1 per cent) or who lived without a partner (27.5 per cent) were significantly less likely to have written a will than married people. There was no statistically significant difference in the rate of wills between people living in non-marital

partnerships and people living without a partner.

There were no statistically significant differences with regard to the (non-)existence of children or the legal status of living children: the will rates of people without children (42.4 per cent), people with only biological and/or adopted children (36.7 per cent) and those who had at least one non-biological or non-adopted child (stepparents, 32.9 per cent) were very close.

Figure 3: Will rates in 2020/21 by family situation (in per cent)



Source: DEAS 2020/21, n = 4,219, weighted analyses, rounded figures.

The following differences according to marital status are statistically significant ( $p < 0.05$ ): between people without a partner and married people and between people with a partner and married people.

The differences according to the legal status of the living children are not statistically significant ( $p > 0.05$ ).

## Discussion and conclusion

In ageing societies such as Germany, an enormous transfer of wealth between old and young in the form of inheritances is projected for the coming decades. Nevertheless, estate planning in the form of wills, which can counteract the statutory succession laid down in the German Civil Code, is not widespread among people in the second half of life. Just over a third of people aged 46+ even had a will in 2020/21. Accordingly, two out of three had not (yet) written a will. In the event of death, their estate would thus be distributed according to statutory succession – which may or may not correspond to their personal wishes.

Our descriptive analyses show that the presence of a will is indeed related to socio-demographic factors, a person's wealth situation and/or family situation. However, non-testators are in the majority. For example, the presence of a will increases when comparing age groups, as the end of life is anticipated more strongly with increasing age, and older people want to have their estate organised more often than younger people. Nevertheless, around one in two people aged 70+ have still not made a will.

In terms of gender, we had surmised that men were more likely to have written a will because

their 'financial literacy' is higher on average than that of women (OECD 2013). However, the will rates reveal no significant gender differences. It is possible that the higher average financial literacy of men does not have an effect on estate planning. Or this mechanism is counteracted by the fact that women, who are considered the primary 'kinkeepers' (Rosenthal 1985), may also have a high propensity to write their will to ensure that the family is adequately provided for and that assets are fairly distributed. Another possible explanation could be that wills are also often drawn up in the context of a couple (married or otherwise), in the sense that both partners write a will at the same time to provide in part for one another in the event of death. However, whether the mechanisms we suspect play a role can only be clarified with further analyses.

In line with previous research findings (e.g. Carr 2012), ours also show that people with a higher level of education are more likely to have written a will. One reason could be that those

with higher formal education have more assets<sup>3</sup> and therefore potentially more to bequeath, as well as knowledge and skills that enable them to understand, utilise and implement estate planning options.

In addition, people with financial assets and people with housing assets are more likely to have written a will than people who have no assets. This finding is entirely consistent, as both groups also have more to bequeath in quantitative terms. Within the group of people with financial assets, those in the top 25 per cent of the wealth distribution are most likely to plan and settle their estate in a will. This means that estate planning is conducted in a strategic manner, particularly among those with higher assets, which may result in a concentrated inheritance and increase in assets and thus likely contributes to increasing wealth inequality in society at large.

Our findings also suggest that one's family situation plays a decisive role in estate planning – albeit in an unexpected way: Neither unmarried people nor people without a partner were the most likely to have written a will to assure succession according to their personal preferences. Rather, married people did, although statutory succession automatically passes wealth to the surviving spouse. One reason for this could be that, in addition to partnership status, the presence of children also plays a role. Additional analyses have shown that the proportion of children is higher among married people than among people living in partnerships without a marriage certificate or people living without a partner. It is also possible that married testators often have a joint will stipulating that assets should initially be transferred to the surviving spouse and that children only inherit after the passing of the second parent (also known as a Berlin will). This may be done to provide better financial security for the spouse, to avoid disputes between the children (initially) or to prevent the children from claiming payments from the remaining parent, e.g. when inheriting property. However, as the DEAS only records the existence of a will, but not the type of will (e.g.

Berlin will), nor the reason for a will's existence or the time at which it was drawn up, we are unable to run any further analyses in this direction.

Also contrary to expectations, stepparents did not write a will at higher rates than parents of biological and/or adopted children. Considering that more and more people enter a new relationship at some point after a separation or divorce and then live together with both their own children and their partner's, i.e. the stepchildren (Steinbach 2023), this result is surprising. Statutorily, stepchildren do not inherit anything from a stepparent after their death. This circumstance can lead to biological/adopted children and stepchildren being unintentionally treated unequally.

Overall, a large proportion of the population in Germany does not seem to be concerned with the issue of inheritance and bequests. Or they trust that the statutory succession provided for in the German Civil Code is suitable and leads to a fair distribution of the estate. However, it can be assumed that the regulations are not suitable for certain groups. For example, when the partner, stepchildren or friends are to inherit something in addition to or instead of the family. Our findings indicate, for example, that stepparents or people in non-marital partnerships should be more involved in self-determined estate planning, as should younger people, who are the least likely to have written a will. Measures or broad-based campaigns, which have yet to be developed, could help to raise awareness among people of all ages to think not only about self-determined estate planning but also end-of-life planning in general.

With regard to estate planning, general financial education should be strengthened. Ideally, this should start at an early age, e.g. through independent financial education programmes in schools. In addition, appropriate measures or campaigns should be aimed at people of all ages to broaden their thinking about events and transitions in their lives. For example, people getting married, divorced or separated, entering

<sup>3</sup> Presence of housing assets in 2020/21 in the analysis sample by education level: low 50.6 per cent; medium 69.6 per cent; high 76.3 per cent. Presence of financial assets in

2020/21 in the analysis sample by education level: low 47.8 per cent; medium 77.4 per cent; high 87.0 per cent.

a new partnership, having children, becoming part of a patchwork family, buying property or starting a business could be encouraged to think about, address and implement estate planning in their wills. Other aspects of planning for the last phase of life could also be considered, such as decisions concerning one's

own possible incapacity to act (enduring power of attorney, living will, healthcare proxy). It is therefore important to overcome fears about the end of life and death so that each individual can feel confident that decisions will be made in his or her favour during and after their lifetime.

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