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Forbidden contracts in succession law

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Abstract:

Private law in general regards contracts as a positive institution, in particular, as far as law of obligations is concerned. Contracts are inherently just between the parties, they contain a ‘guarantee of rightness’, a ‘Richtigkeitsgewähr’, to use the famous German compound word by Walter Schmidt-Rimpler. It therefore surprises that succession law in many jurisdictions is rather reluctant to grant contractual freedom as far as contracts on future successions are concerned. The law often forbids contracts on a certain exercise of testamentary freedom, contracts which waive future succession rights and contracts on a succession upon death of a third person. The paper constitutes an analysis whether contracts in succession law are different from contracts in general private law.