

Inge Kroppenberg

Privatautonomie von Todes wegen

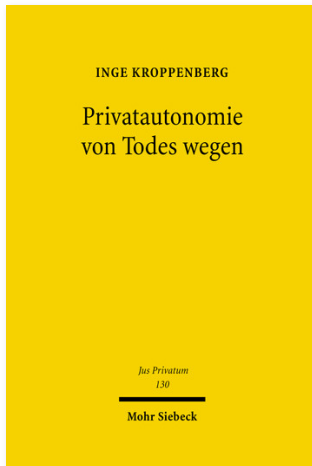
Verfassungs- und zivilrechtliche Grundlagen der Testierfreiheit im Vergleich zur Vertragsfreiheit unter Lebenden

[Freedom of Testation. Its Foundations in Constitutional and Civil Law compared to Freedom of Contract among the Living.]

Published in German.

Inge Kroppenberg shows that freedom of testation has been both historically and dogmatically influenced by elements of freedom of contract inter vivos. Although freedom of testation has never been denied as an independent principle of the German civil code, it has often been interpreted as a mere variation of freedom of contract and therefore has been influenced decisively by the notions of the law of the living. This applies to general concepts, such as for example that of the »control by the testator from the grave«, but also to individual dogmatic issues. The author reconstructs freedom of testation as a truly hereditary principle, thus showing that it is the second cornerstone of German civil law apart from freedom of contract.

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