

Chapter 1 | Lesson 3

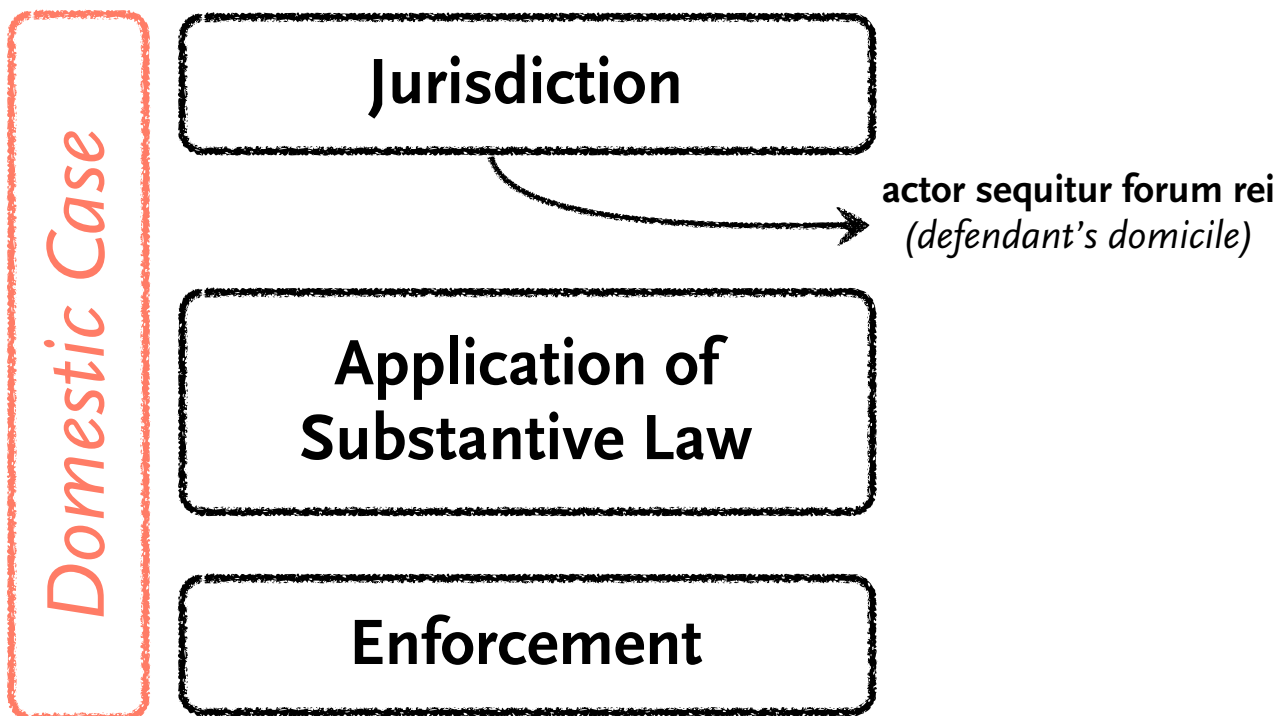
Conflict of Laws

Seller A in **Austria** and buyer B in **Austria** make a contract for delivery of certain goods in Austria.

The contract specifies the nature of the goods, as well as the price to be paid, but it does not designate the applicable substantive law, nor does it designate a specific court for the resolution of disputes which might arise.

When A delivers the goods, B refuses to accept or pay for them.





Seller A in **Austria** and buyer B in **Germany** make a contract for delivery of certain goods in Germany.

The contract specifies the nature of the goods, as well as the price to be paid, but it does not designate the applicable substantive law, nor does it designate a specific court for the resolution of disputes which might arise.

When A delivers the goods, B refuses to accept or pay for them.



International Case

Jurisdiction

Rules on International Jurisdiction

Internationally
Competent Court

Application of
Substantive Law

International Case

Jurisdiction

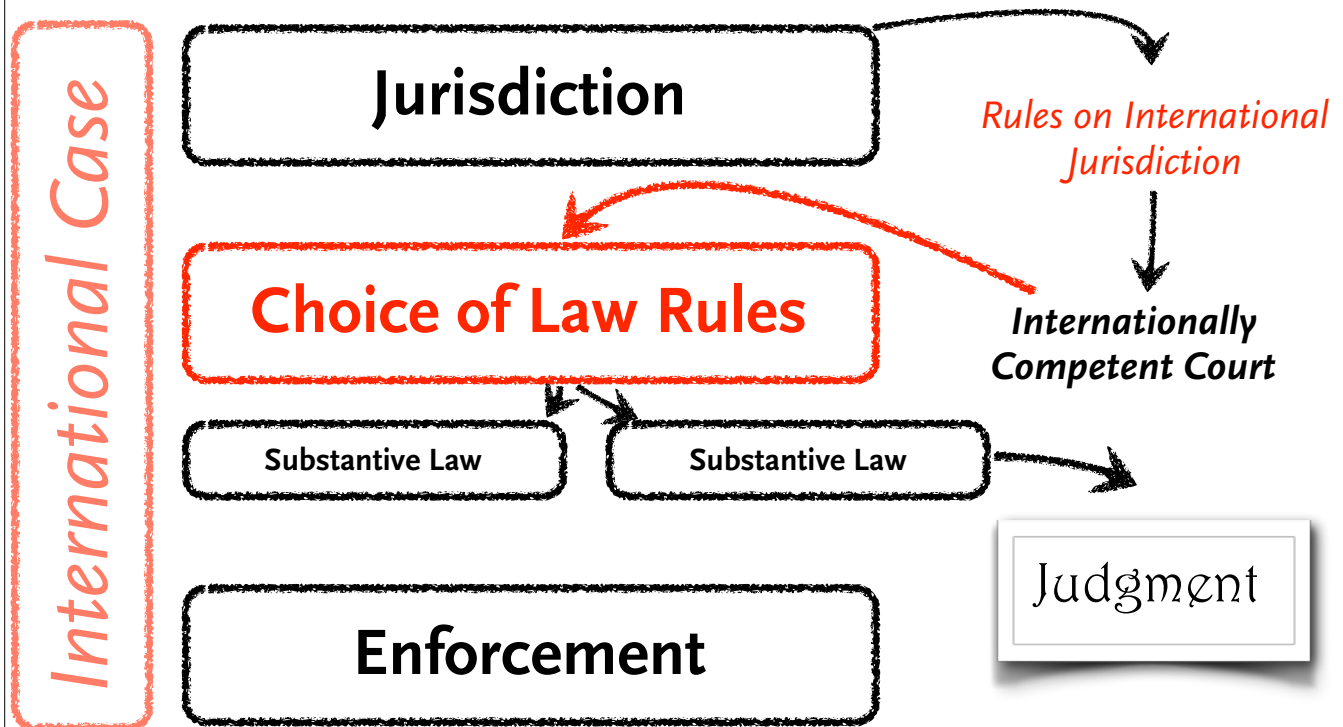
Rules on International Jurisdiction



forum shopping

Solution I

Solution II



Conflict of Laws

- problem is **not limited** to **private law disputes**
- criminal law, administrative law, procedural law
 - If an German national commits a crime in Italy: Which criminal courts are competent to accuse the German of having committed the crime: Austrian or Italian courts? Do they have to apply German or Italian criminal law?
 - A French national wants to open a restaurant in Germany. He is allowed to run a restaurant under the rules of the French Industrial Code (Gewerbeordnung), but not under the German “Gewerbeordnung“ (which is part of German administrative law). Are the French or the German rules applicable to the situation? The administrative authorities of which country are competent to enforce which rules?
 - If a court is confronted with a cross-border private law or criminal law case: the procedural law of which state does it have to apply?

What to do?

- **private** law dispute: consult conflict of law statutes, will depict a court and a law applicable
- **public** law dispute: German courts and administrative authorities can **only apply German public law**
 - Austrian Criminal Court – Austrian Criminal Law
 - Austrian Administrative Authority – Austrian administrative law
 - Austrian courts & agencies – Austrian constitutional law; Austrian procedural law
- “Austrian“ law including all norms of material Austrian law that are valid within the German legal system