FB JURIS SOCIÉTÉ D'AVOCATS

INTERNATIONAL BUSINESS LAW

11 January 2023

Institut Mines-Télécom Business School

EMBA Business School
Une école supérieure
CCI MÉTROPOLITAINE BRETAGNE OUEST

Franck BEAUDOIN
Avocat

NOTICE

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I thank the schools that give me the opportunity to teach and my students who are an inexhaustible source of inspiration. FB

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Franck BEAUDOIN - Avocat

- Attorney-at-law (French « Avocat ») at FB JURIS Law Firm (Levallois, France). Founding partner and president.
- Director of the legal websites droit.co and idroit.co.
- Professor of Private International Law (courses taught in English at IMT-BS and EMBA-BS).
- President of the business Club Paris Ouest La Défense Entreprises.
- Graduate of Sciences Po Paris (major in Finance and Corporate Strategy). DEA (Master 2) in law.



INTERNATIONAL BUSINESS LAW

This course deals with the international dimension of business law. It focusses on private international law, European Union law and the provisions of French law that concern international affairs.

The main objectives of the course are:

- **to know the legal framework of international business law,**
- **to negotiate and draft secure international contracts,**
- **to prevent or manage at best international litigations,**
- **to master the major legal issues of international business practice (commercial law, company law, joint venture, investments, imports, exports, etc.).**

This course is intended for international learners (French and foreign) who master the basics of law or who have never studied law. There is no prerequisite.

More information: droit.co/international-business-law

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IMT-BS



COURSE PROGRAM

IMT-BS - INTERNATIONAL BUSINESS LAW

21 hours / 7 sessions

- **Session 1** - Introduction, overview, brief presentation of French law (specifically the provisions concerning international matters).
- **Session 2** - European Union law, EU-UK Trade Agreement.
- **Session 3** - Sources of private international law, international legal systems, international public order, litigations, arbitration.
- **Session 4** - International business contracts. Part 1.
- **Session 5** - International business contracts. Part 2.
- **Session 6** - International aspects of business law. Part 1 : company law, investments, joint ventures, importing and exporting, customs.
- **Session 7** - International aspects of business law. Part 2 : intellectual property, processing personal data, risks, embargos, international sanctions.

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COURSE PROGRAM

IMT-BS - INTERNATIONAL BUSINESS LAW

15 hours / 4 sessions

- **Session 1** - Introduction, overview, brief presentation of French law (specifically the provisions concerning international matters). European Union law, EU-UK Trade Agreement.
- **Session 2** - Sources of private international law, international legal systems, international public order, litigations, arbitration.
- **Session 3** - International business contracts (part 1).
- **Session 4** - International business contracts (part 2). International aspects of business law (company law, investments, joint ventures, importing and exporting, customs, intellectual property, processing personal data, risks, embargos, international sanctions).

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TRAINING PROGRAM

IMT-BS - PRACTICING INTERNATIONAL BUSINESS CONTRACTS

6 hours / 2 sessions

- **Session 1** - Overview of private international law and European Union law. (sources of private international law, international legal systems, international public order, litigations, arbitration). Definition and legal regime of the international contract. Study of a template of international contract for the sale of goods. Incoterms and Unidroit.

- **Session 2** - International aspects of business law (distribution, franchise, company law, importing and exporting). Negotiation of an international contract (collective practical case).

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EMBA-BS

EMBA
Business School

Une école supérieure

CCI MÉTROPOLITAINE BRETAGNE OUEST

COURSE PROGRAM

EMBA-BS - INTERNATIONAL BUSINESS LAW

YEAR 3 / 20 hours / 4 sessions

SESSION 1

- Introduction to law and international law.
- Overview of international business law.

SESSION 2

- French law. Doing business in France.

SESSION 3

- European Union law. Doing business in Europe.

SESSION 4

- International legal systems. Doing business internationally.
- International business contracts.

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COURSE PROGRAM

EMBA-BS - INTERNATIONAL BUSINESS LAW

YEAR 4 / 15 hours / 3 sessions

SESSION 1

- Overview of international business law.
- Securing international contracts.

SESSION 2

- Optimising international contracts.
- Operating internationally. International commercial law.

SESSION 3

- Preventing or managing international litigations.

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MATERIALS / UPDATES

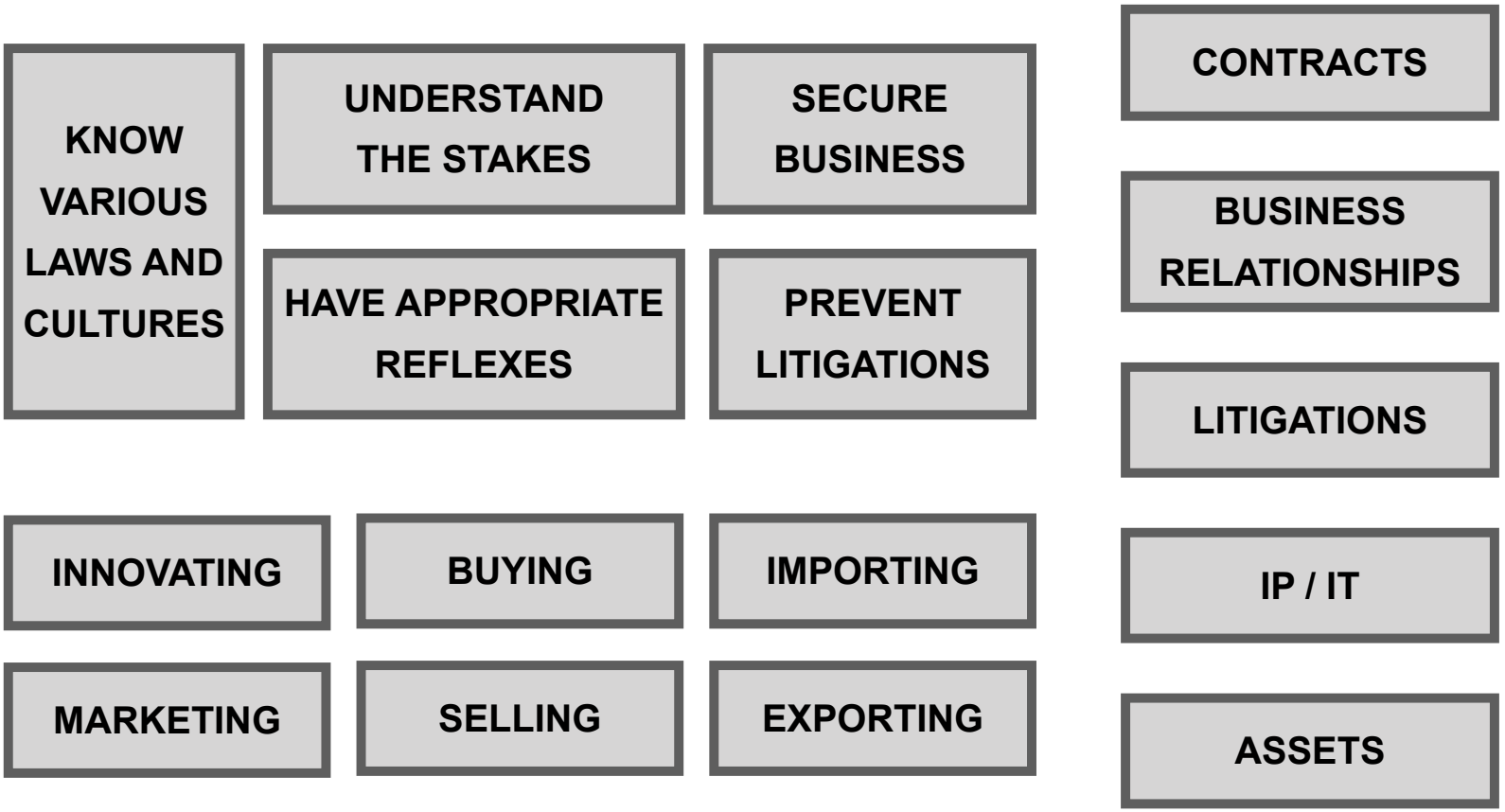
This Keynote presentation will be regularly completed, improved and updated. Find the latest version and complementary materials (notes, references, Internet links, guides, templates…) on the website droit.co:

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WHY STUDYING INTERNATIONAL LAW?



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INTRODUCTION

Brief introduction to law and international law.

QUESTIONS

What is the definition of law?

When and where did law appear?

Is law universal?

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OBJECTIVES

 # Understand the main features of law that explain the complexity of international law.

 # Know some major stages in the history of law.

SUMMARY

 # Law is both universal and relative: law is a universal concept applied, in various forms, in all human societies.

 # The substance of the rules is contingent, variable in time and space.

 # Private international law deals with cases that concern the legal systems of several States.

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THE ORIGINS OF WRITTEN LAW

CURRENT KNOWLEDGE SITUATES THE

ORIGINS OF WRITTEN LAW IN MESOPOTAMIA,

MORE THAN 2400 YEARS BEFORE CHRIST.

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LEGISLATION OF URUKAGINA



Laws of Urukagina, Louvre Museum



2400 BC : Legislation of Urukagina, King of the city-states of Lagash and Girsu in Mesopotamia (today: south Iraq).
Oldest writing currently known using the word "**freedom**" ("ama-gi").

CODE OF UR-NAMMU



Code of Ur-Nammu, Istanbul Museum

2100 BC : Code of Ur-Nammu, King of Ur in Mesopotamia (today: Tell el-Muqayyar, south Iraq). Cuneiform tablet written in Sumerian language.

This code instituted **financial compensation** in case of physical harm, which distinguishes it from the basic principle of Babylonian law, the law of Talion ("eye for an eye, tooth for a tooth").

CODE OF LIPIT-IŠTAR



wikipedia.org

1934-24 BC : Code of Lipit-Ištar (or Lipit-Ishtar), King of Isin in Mesopotamia (today: south Iraq). Known thanks to copies (fragments of school tablets written in Sumerian language).

Form: prologue, articles, epilogue.
Content: deals with the rights of persons, marriage, succession, offences, injuries, damages, penalties, property, economic activities, trade, contracts…

LAWS OF EŠNUNNA

1930 BC : Laws of Ešnunna (or Eshnunna), ancient Sumerian (and later Akkadian) city-state in central Mesopotamia (modern Tell Asmar, Iraq).

Known thanks to two copies (cuneiform tablets discovered in Tell Abū Harmal, Baghdad, Iraq, written in Akkadian language).

It is generally not called "code" because no prologue and no epilogue are known.

CODE OF HAMMURABI



collections.louvre.fr

1750 BC - Code of Hammurabi, king of Babylon (today: near Hilla, 100 km south of Baghdad, Irak).

The original text is written on a basalt stele currently preserved in the Louvre museum, exhumed by the French Gustave Jéquier and Louis-Charles Watelin in 1901-1902 in Susa, Iran.

The text is written in cuneiform script and Akkadian language (longest inscription in cuneiform script, currently known).

CODE OF HAMMURABI

The text of the Code of Hammurabi is divided into three parts:

- prologue commemorating Hammurabi's achievements;
- "laws" or court decisions;
- epilogue.

Religious and political dimensions of Mesopotamian laws

- The law is of divine source; it confers its political legitimacy on the one who is invested with temporal power: "**Hammurabi, king of law**, it is me, to whom Samaš [the sun-god] has offered the present laws".
- The law is of **divine origin**, but it is in itself **secular**. It regulates human relations within society: it deals notably with crimes and offences, family, mariage, inheritance, agrarian and economic matters.

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BRIEF HISTORY OF LAW: MAJOR TEXTS

1500 BC (Anatolia / Türkiye): Hittite laws.

1400 BC: Assyrian law (the Code of the Assyrians).

621-620 BC (Athens): laws put in writing by Dracon.

594 BC (Athens): code of laws and constitution written by Solon.

539 BC (Babylon): Cyrus Cylinder (Cyrus Charter).

449 BC (Rome): Law of the Twelve tables.

438 AD: Codex Theodosianus.

529 AD (Constantinople): Corpus Juris Civilis (Digest / Pandects / Code of Justinian).

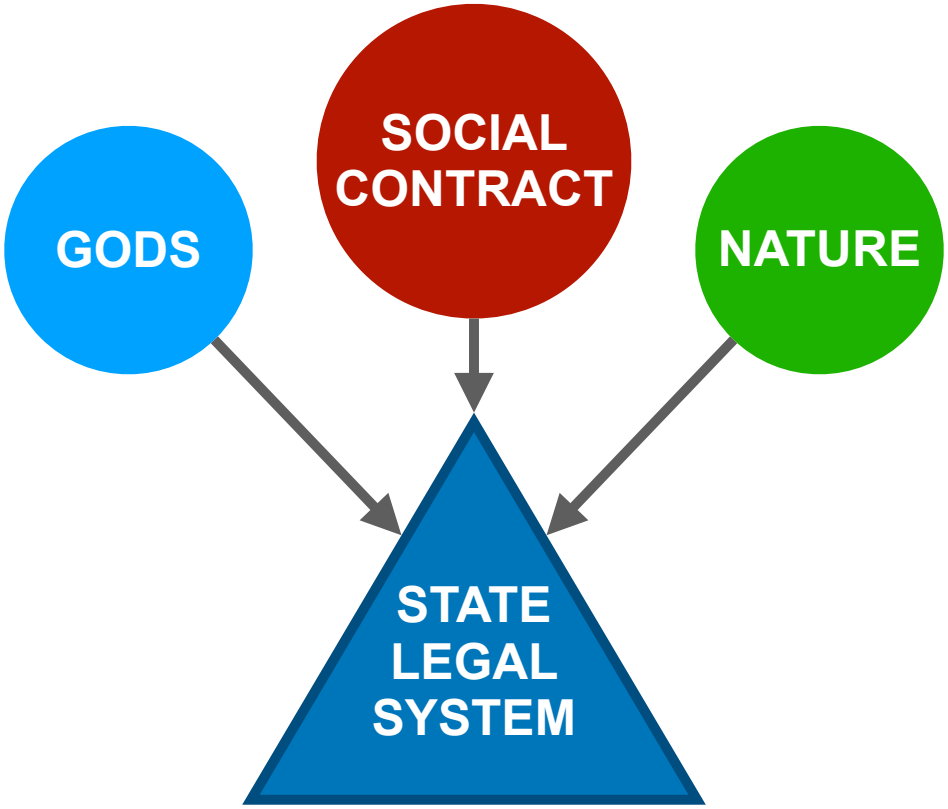


Cyrus Cylinder, British Museum

- **1100 AD** (England): Charter of Liberties.
- **1215** (England): Magna Carta (modified notably in 1354).
- **1222** (Hungary): Golden Bull.
- **1312** (Belgium): Charter of Kortenberg.
- **1349** (Serbia): Dušan's Code.
- **1525** (Germany): Twelve Articles.
- **1573** (Poland): Henrician Articles.

- **1679** (England): Habeas Corpus Act. **1689** (England): Bill of Rights.
- **1776** (USA): Virginia Declaration of Rights / Chapter 1 of the Pennsylvania Constitution.
- **1789** (France): Declaration of the Rights of Man and of the Citizen.
- **1791** (USA): Bill of Rights of the United States Constitution.
- **1804** (France): French civil Code.

THE ORIGINS OF LAW



THE ORIGIN OF LAW MAY VARY DEPENDING ON THE SOCIETIES.

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DIEU ET MON DROIT



Motto of the British monarchy that would say, in modern French:
"Mon droit divin" / "My divine right".

https://fr.wikipedia.org/wiki/Dieu_et_mon_droit#/media/Fichier:Royal_Coat_of_Arms_of_the_United_Kingdom.svg

FRENCH REPUBLIC 🇫🇷

The principle of the French Republic is government of the people, by the people and for the people (article 2 of the French Constitution). National sovereignty belongs to the people who exercise it through their representatives and through the referendum (article 3 of the French Constitution).



Eugène DELACROIX, Liberty guiding the people (28 July 1830)
LOUVRE MUSEUM: https://collections.louvre.fr/ark:/53355/cl010065872

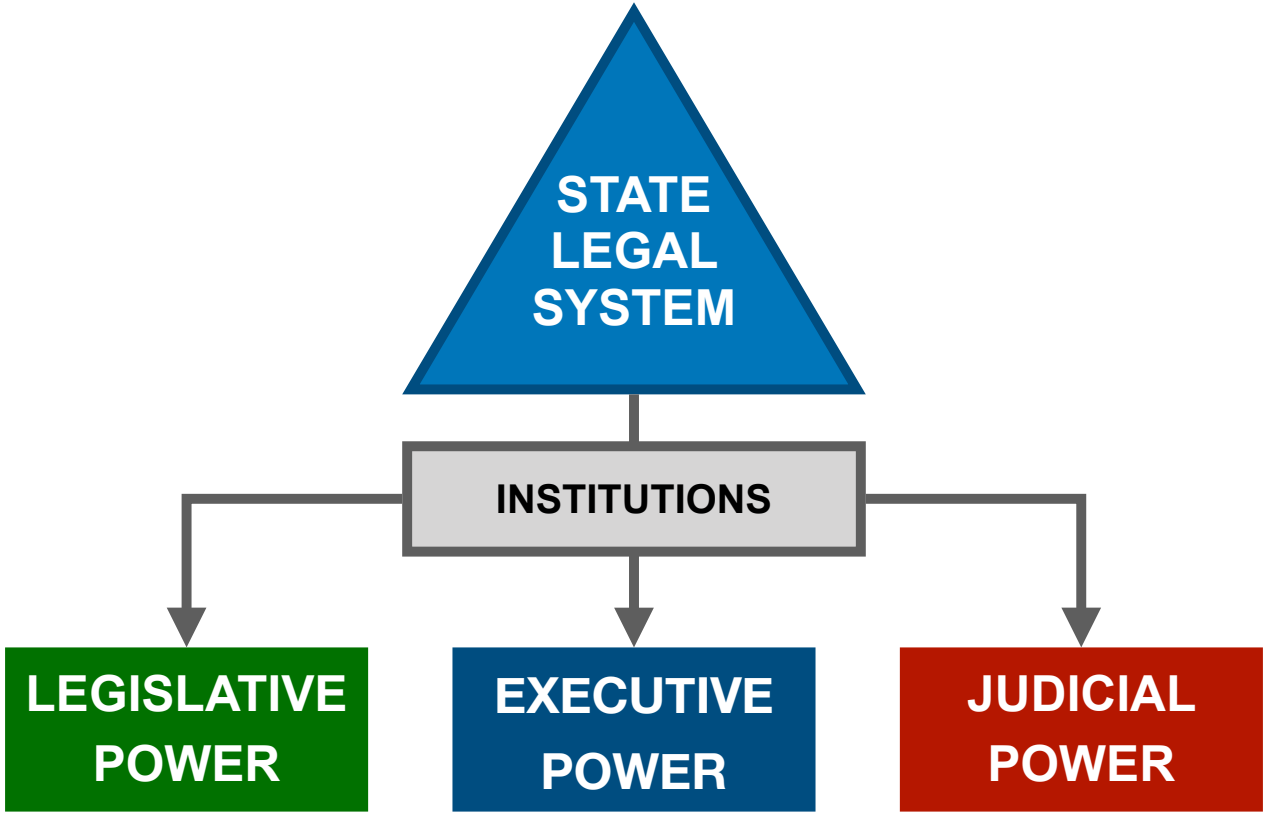
LAW, SOCIETY AND STATE



LAW REGULATES THE RELATIONSHIPS BETWEEN HUMAN BEINGS. IT IS CONSUBSTANTIAL TO THE SOCIAL AND POLITICAL ORGANISATION OF A PARTICULAR SOCIETY. LAW IS A (HUMAN) CREATION EXISTING BASICALLY WITHIN A PHILOSOPHICAL, CULTURAL, SOCIAL, POLITICAL, LEGAL CONTEXT. LAW EXISTS WITHIN A STATE AND IT IS APPLIED IN ITS TERRITORY.

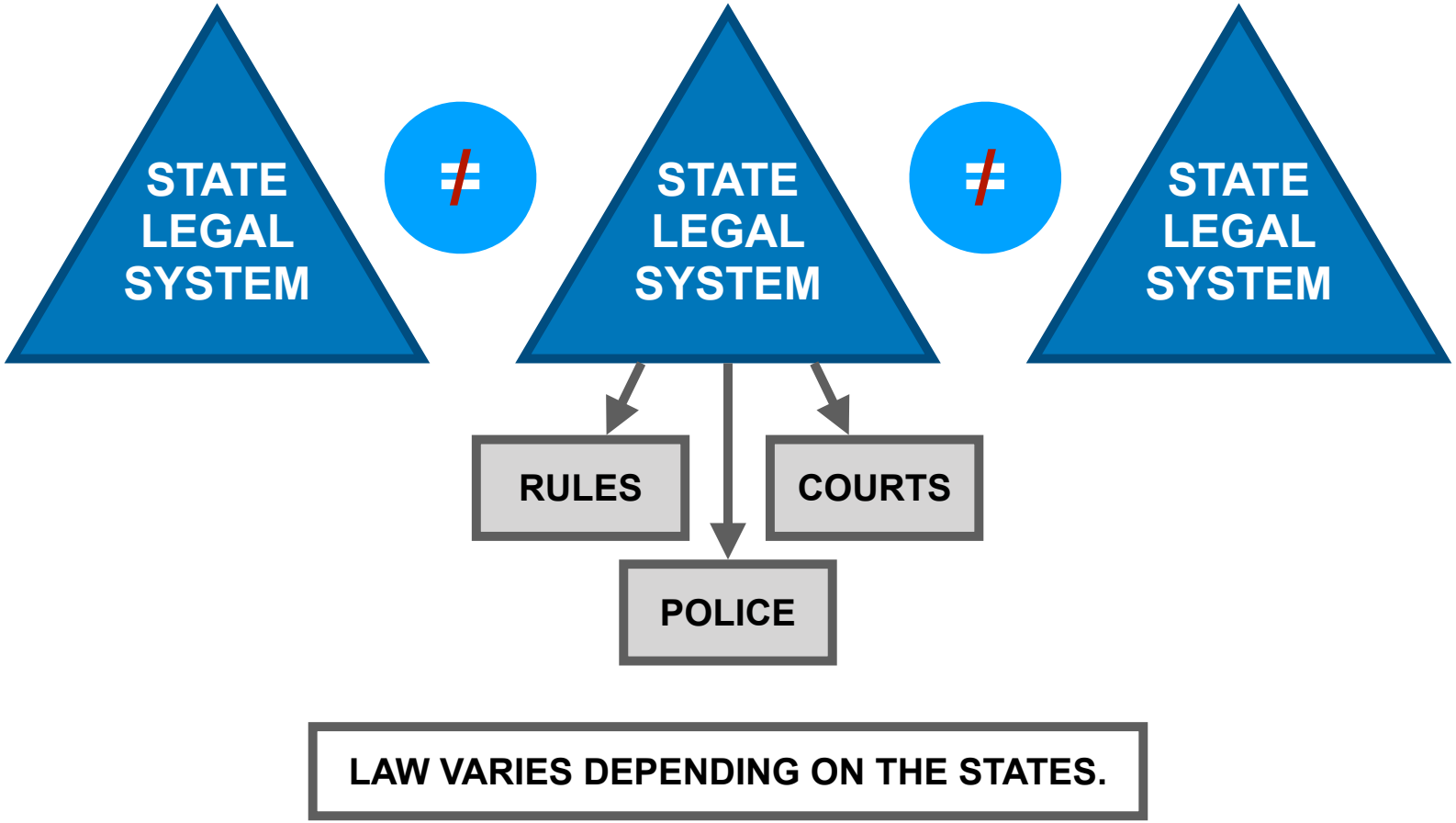
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LAW, SOCIETY AND STATE



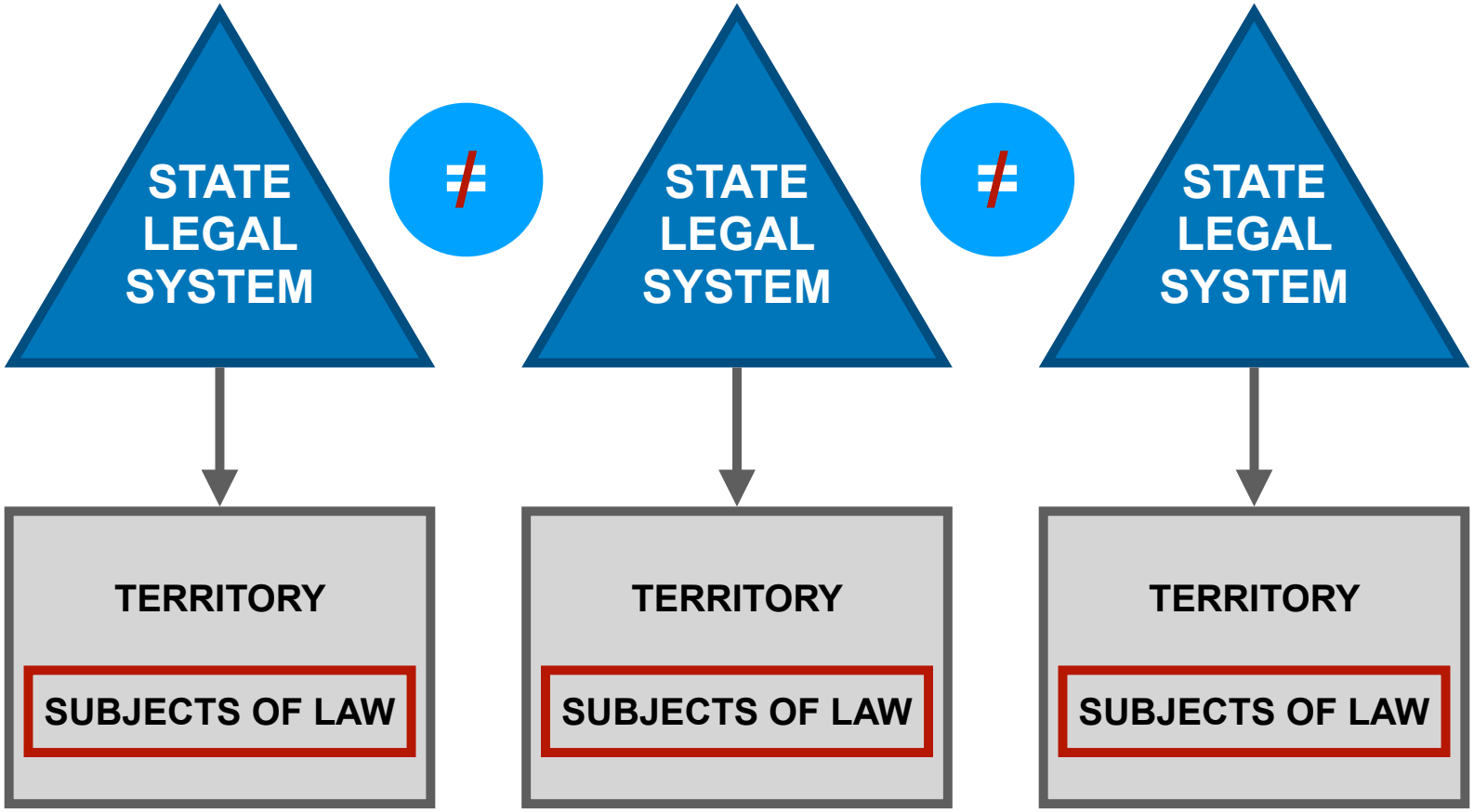
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LAW / LAWS



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LAW / LAWS



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PUBLIC INTERNATIONAL LAW

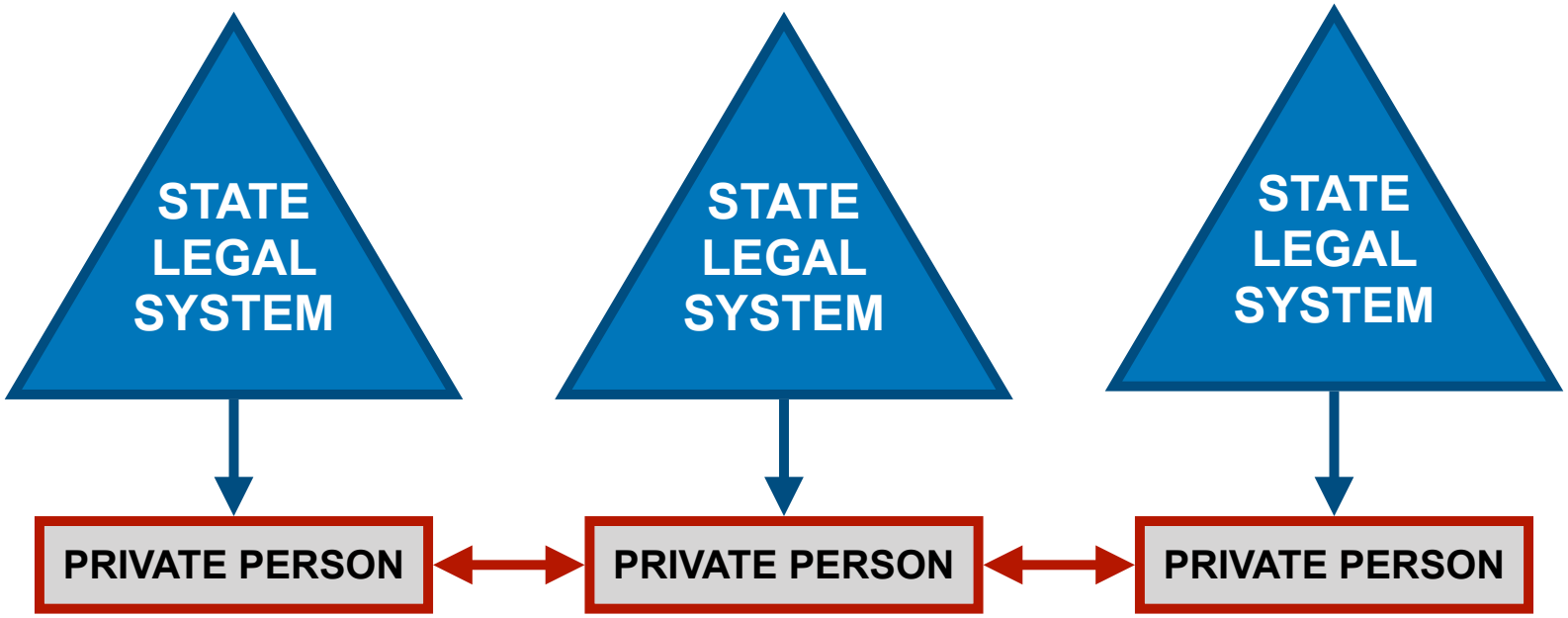


LAW ALSO REGULATES THE RELATIONSHIPS BETWEEN STATES.

THIS IS THE PURPOSE OF PUBLIC INTERNATIONAL LAW.

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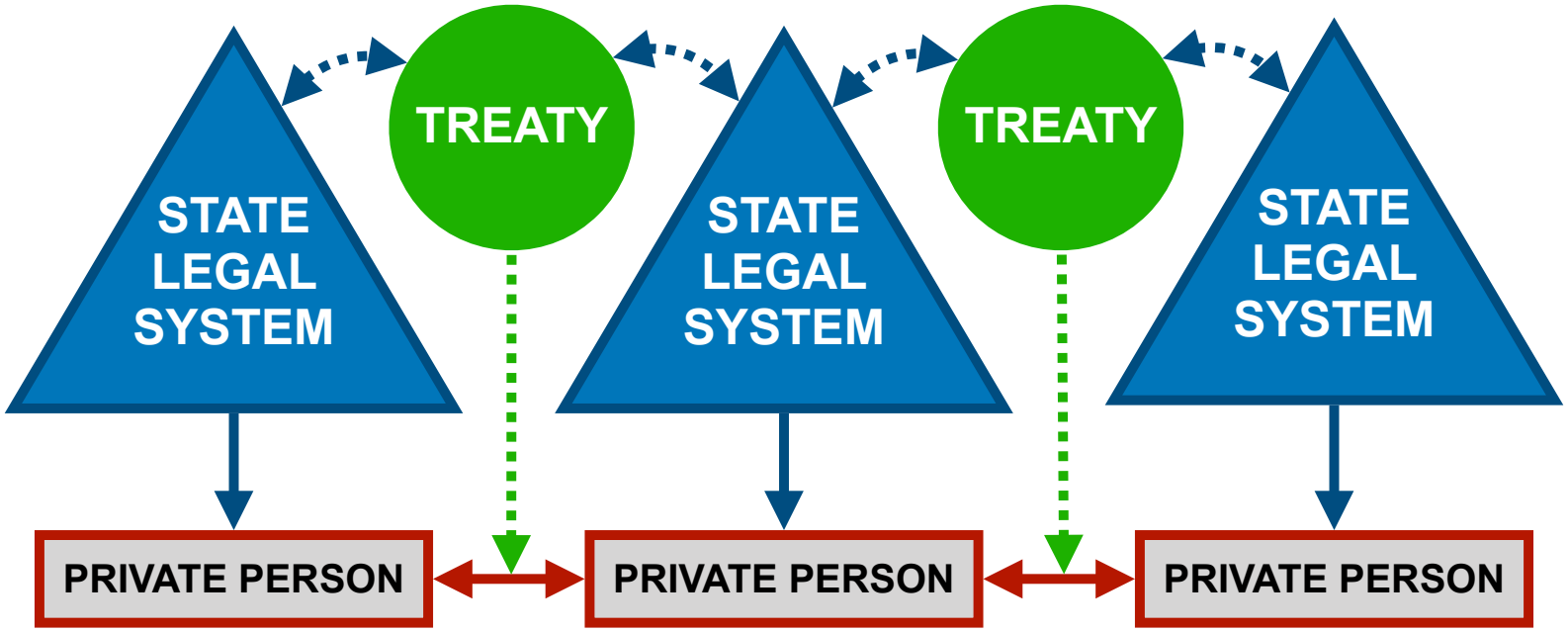
PRIVATE INTERNATIONAL LAW



PRIVATE INTERNATIONAL LAW DEALS WITH THE RELATIONSHIPS BETWEEN PRIVATE PERSONS, WHERE THESE RELATIONSHIPS CONCERN SEVERAL STATES.

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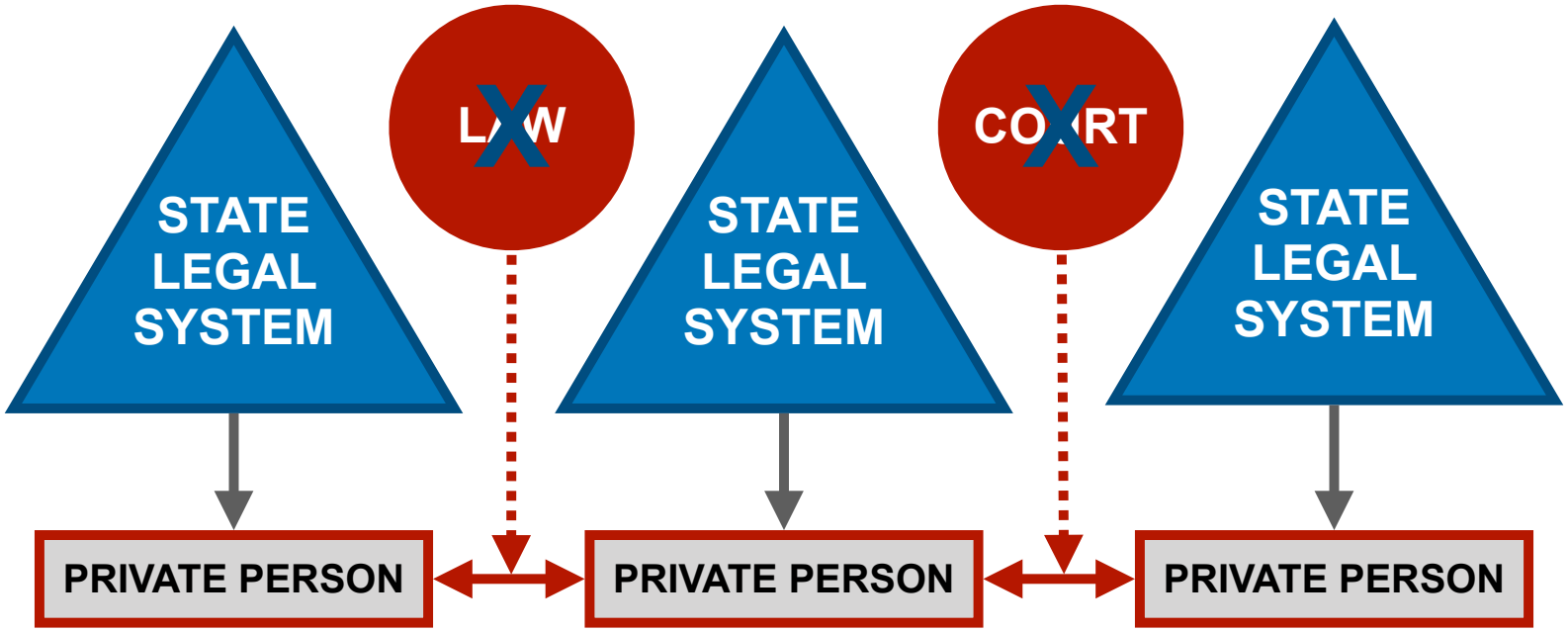
PRIVATE INTERNATIONAL LAW



THE RULES APPLIED TO THE INTERNATIONAL RELATIONSHIPS BETWEEN PRIVATE PERSONS MAY NOTABLY BE THOSE OF THE STATES, AND/OR THOSE AGREED BETWEEN THE STATES IN INTERNATIONAL TREATIES.

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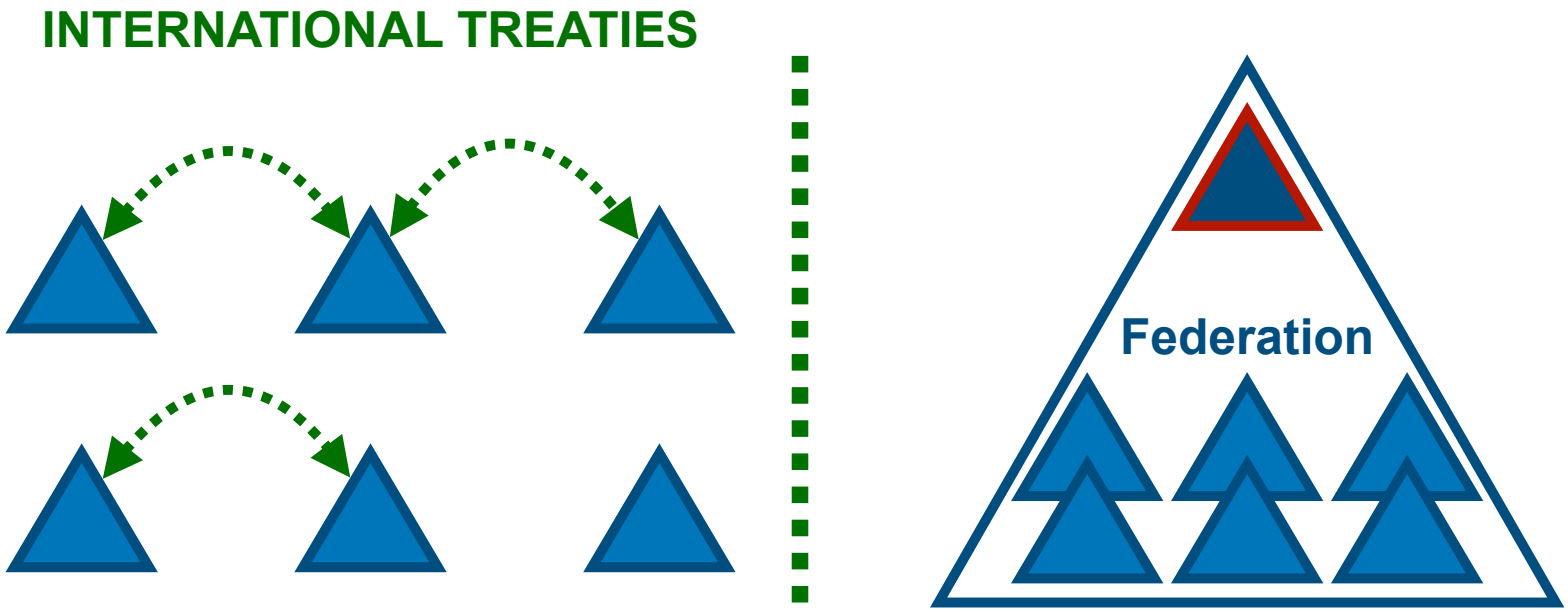
INTERNATIONAL vs TRANSNATIONAL



BASICALLY, INTERNATIONAL LAW IS NOT A COHERENT BODY OF TRANSNATIONAL RULES, CONTROLLED BY TRANSNATIONAL COURTS, WHICH WOULD APPLY TO PRIVATE TRANSNATIONAL RELATIONSHIPS.

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INTERNATIONAL vs FEDERAL



INTERNATIONAL TREATIES ARE NOT UNIVERSAL AND, GENERALLY, THEY DO NOT INSTITUTE COURTS AND OTHER BODIES. AS AN EXCEPTION, SOME TREATIES CREATE INSTITUTIONS. A FEDERATION INSTITUTES A FEDERAL STATE.

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SOVEREIGNTY

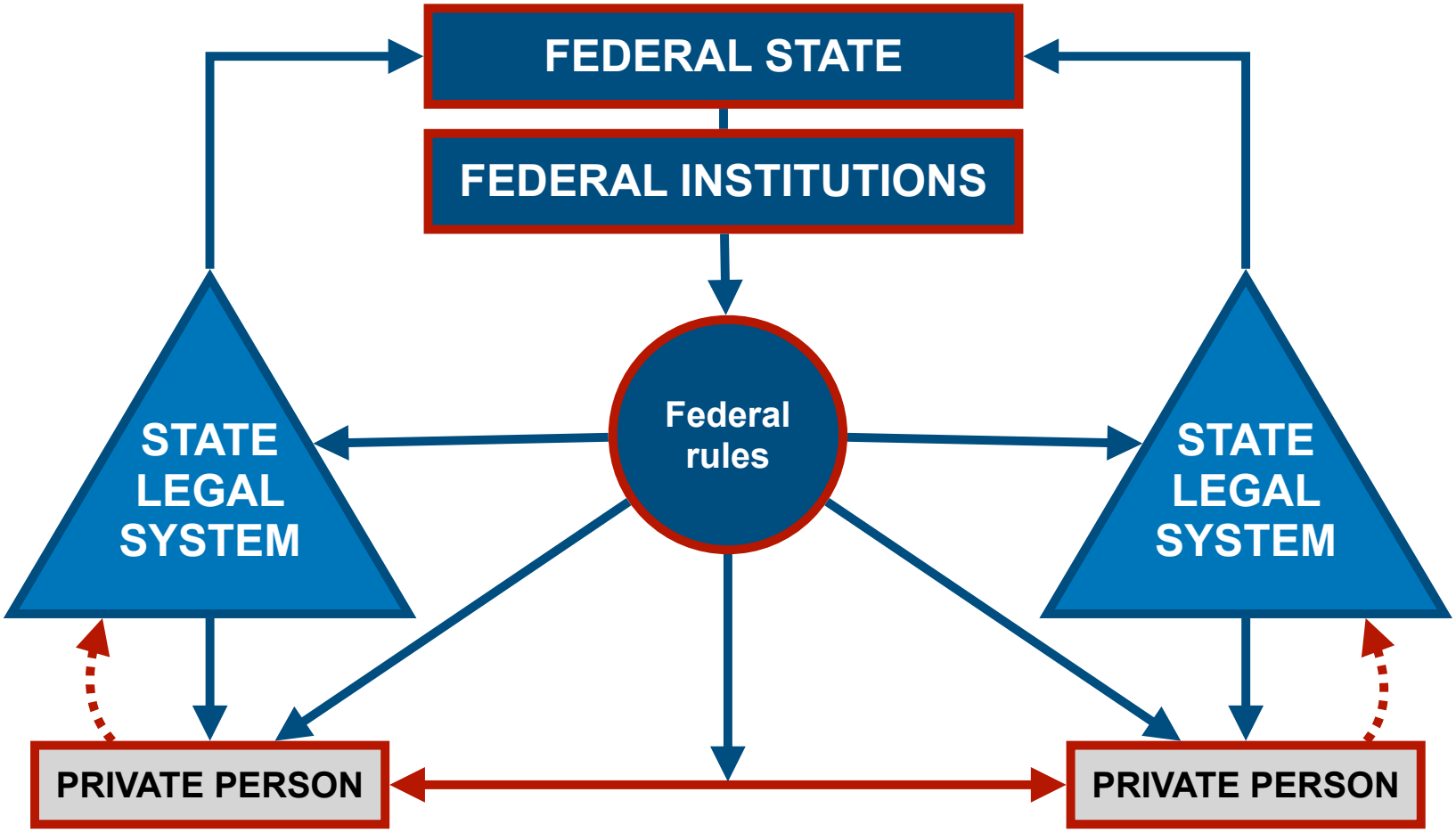
 # Each State is competent to determine the extent of its own competence, which it may decide to limit.

 # Sovereign States are equal. The sovereignty of a State ends where that of other States begins.

 # In a federal State, the federated States transfer part of their competences to the federal State. The federal State has powers of attribution. It does not have the competence of its competence.

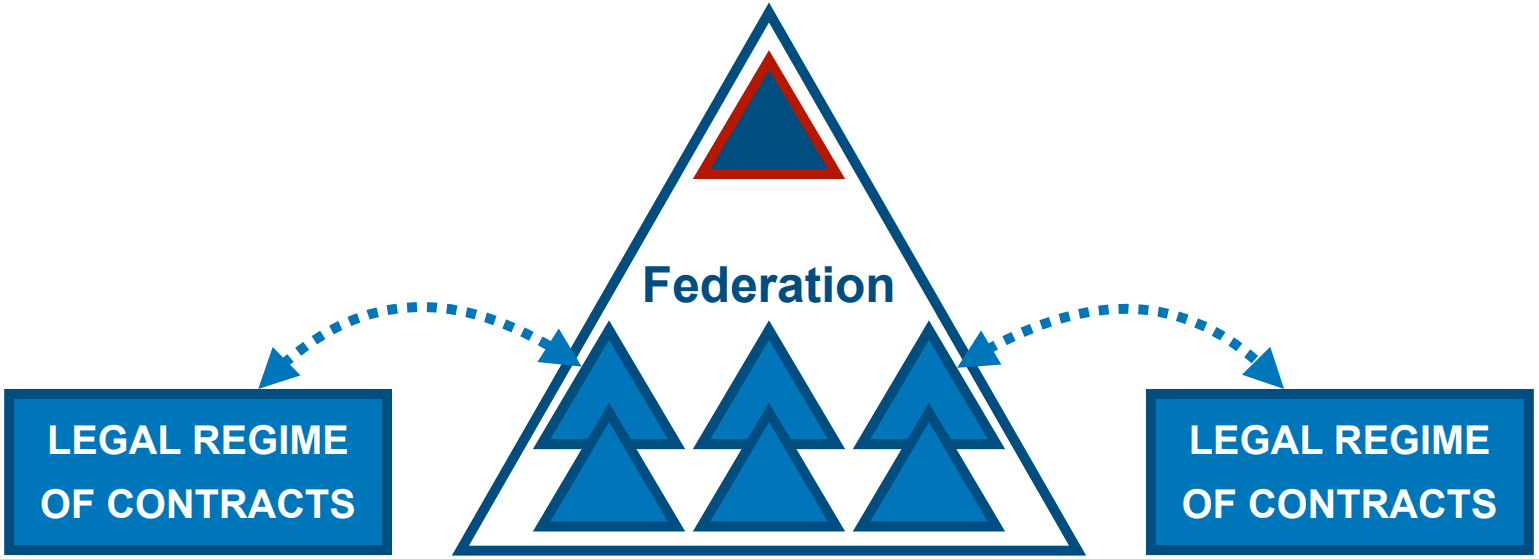
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FEDERATION



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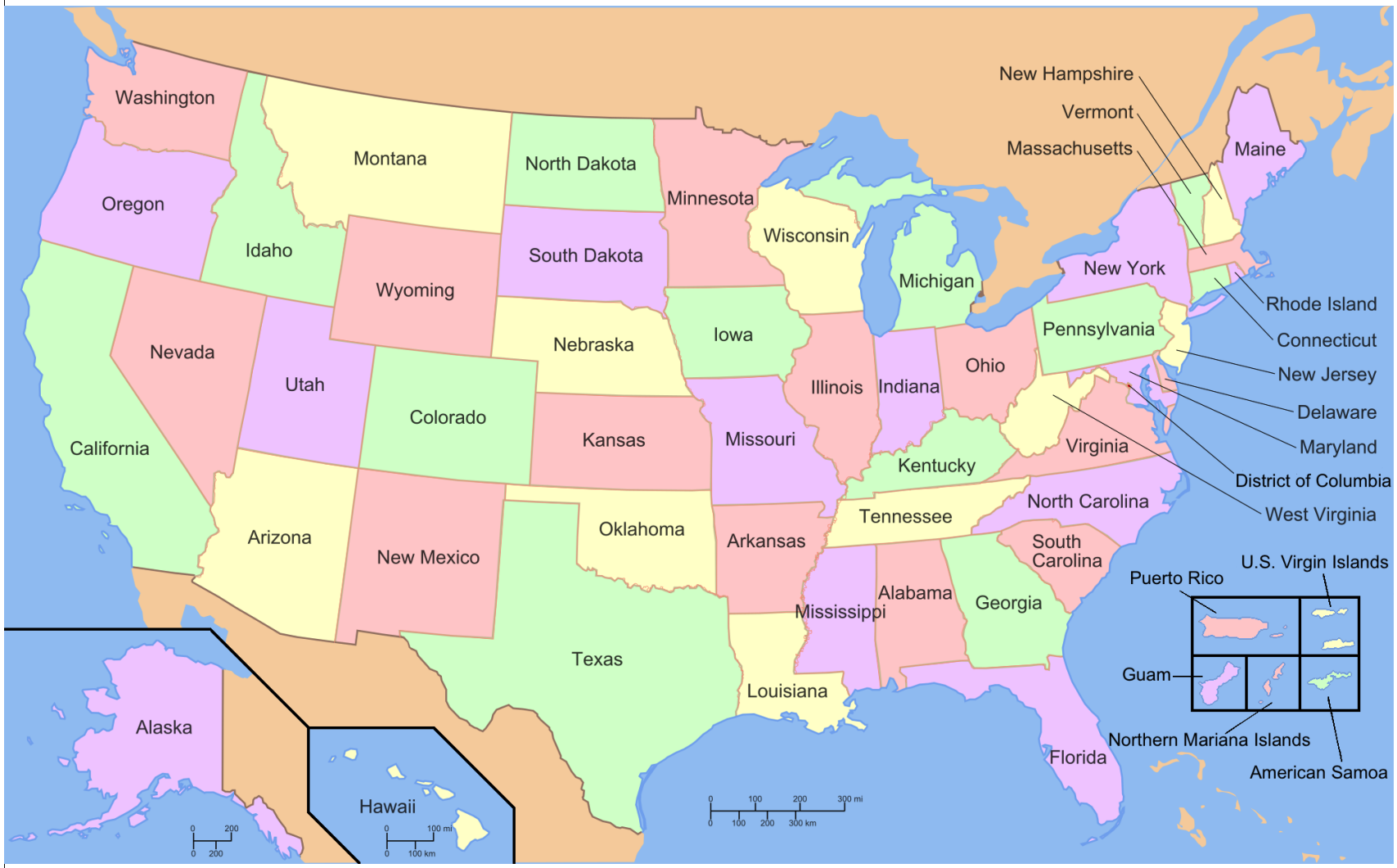
HARMONIZATION VS UNIFORMITY



EACH FEDERATED STATE HAS A LEGAL REGIME OF CONTRACTS. THEREFORE, THE LEGAL PROVISIONS CONCERNING THE EXISTENCE, THE VALIDITY AND THE EFFECTS OF A CONTRACT ARE DIFFERENT.

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EXAMPLE OF FEDERATION: USA 🇺🇸



https://commons.wikimedia.org/wiki/File:Map_of_USA_with_state_and_territory_names_2.png

USA 🇺🇸

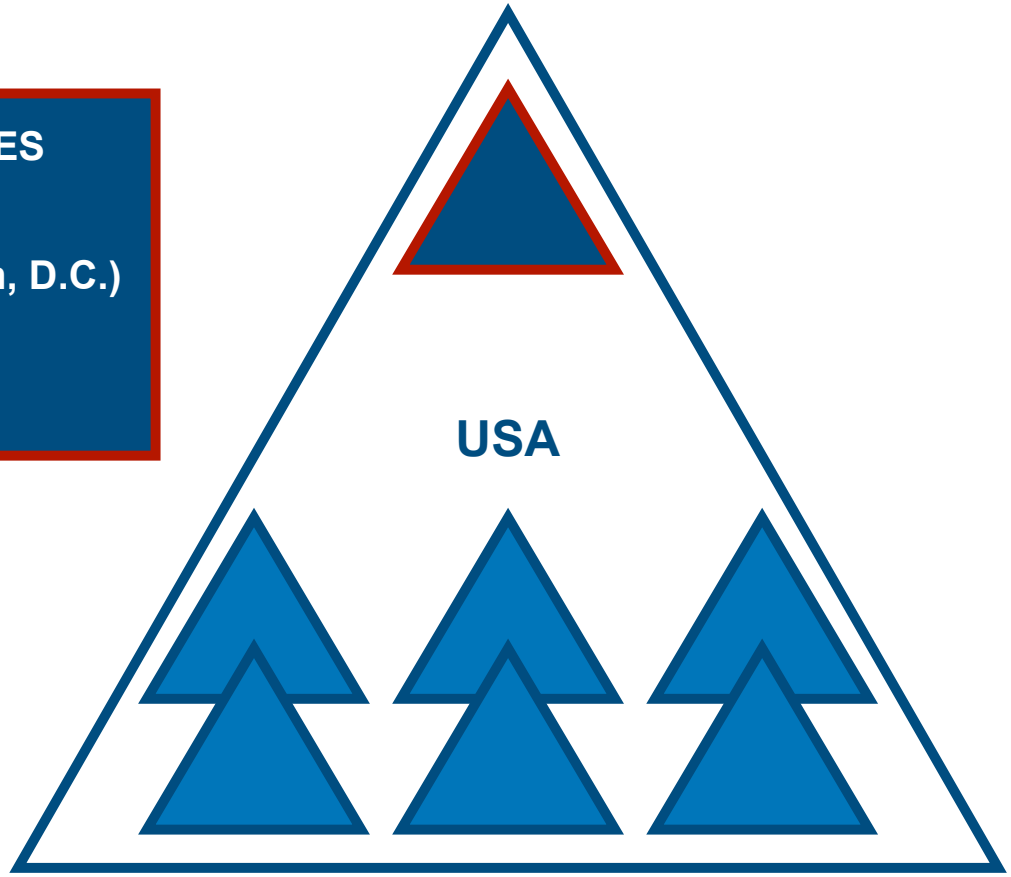
STATES AND TERRITORIES

50 states

A federal district (Washington, D.C.)

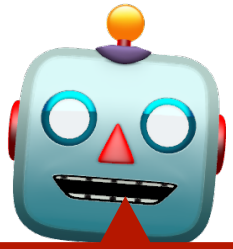
Five major territories

Minor islands



The 50 federated States and the federal State are each sovereign entities.

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Did you know?

FIGURES: USA 🇺🇸

POPULATION

331.4 million inhabitants (2020)

SURFACE AREA

9.834 million km2

STATES

50 federated States

GROSS DOMESTIC PRODUCT

€ 25.35 trillion (2022)

EUROPEAN UNION 🇪🇺

THE LEGAL SYSTEM OF THE EUROPEAN UNION IS

INTERMEDIATE BETWEEN A DEVELOPED LEGAL SYSTEM

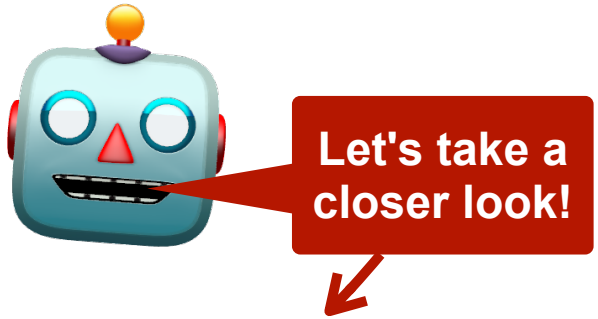
INSTITUTED BY A TREATY AND A FEDERAL STATE.

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EUROPEAN UNION 🇪🇺

27 MEMBER STATES

Austria 🇦🇹, Belgium 🇧🇪, Bulgaria 🇧🇬, Cyprus 🇨🇾, Czechia 🇨🇿, Croatia 🇭🇷, Denmark 🇩🇰, Estonia 🇪🇪, Finland 🇫🇮, France 🇫🇷, Germany 🇩🇪, Greece 🇬🇷, Hungary 🇭🇺, Ireland 🇮🇪, Italy 🇮🇹, Latvia 🇱🇻, Lithuania 🇱🇹, Luxembourg 🇱🇺, Malta 🇲🇹, The Netherlands 🇳🇱, Poland 🇵🇱, Portugal 🇵🇹, Romania 🇷🇴, Slovakia 🇸🇰, Slovenia 🇸🇮, Spain 🇪🇸, Sweden 🇸🇪



https://european-union.europa.eu/principles-countries-history_en

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FIGURES: EUROPEAN UNION 🇪🇺



POPULATION

447.7 million inhabitants

SURFACE AREA

Over 4 million km2

LANGUAGES

24 official languages

GROSS DOMESTIC PRODUCT

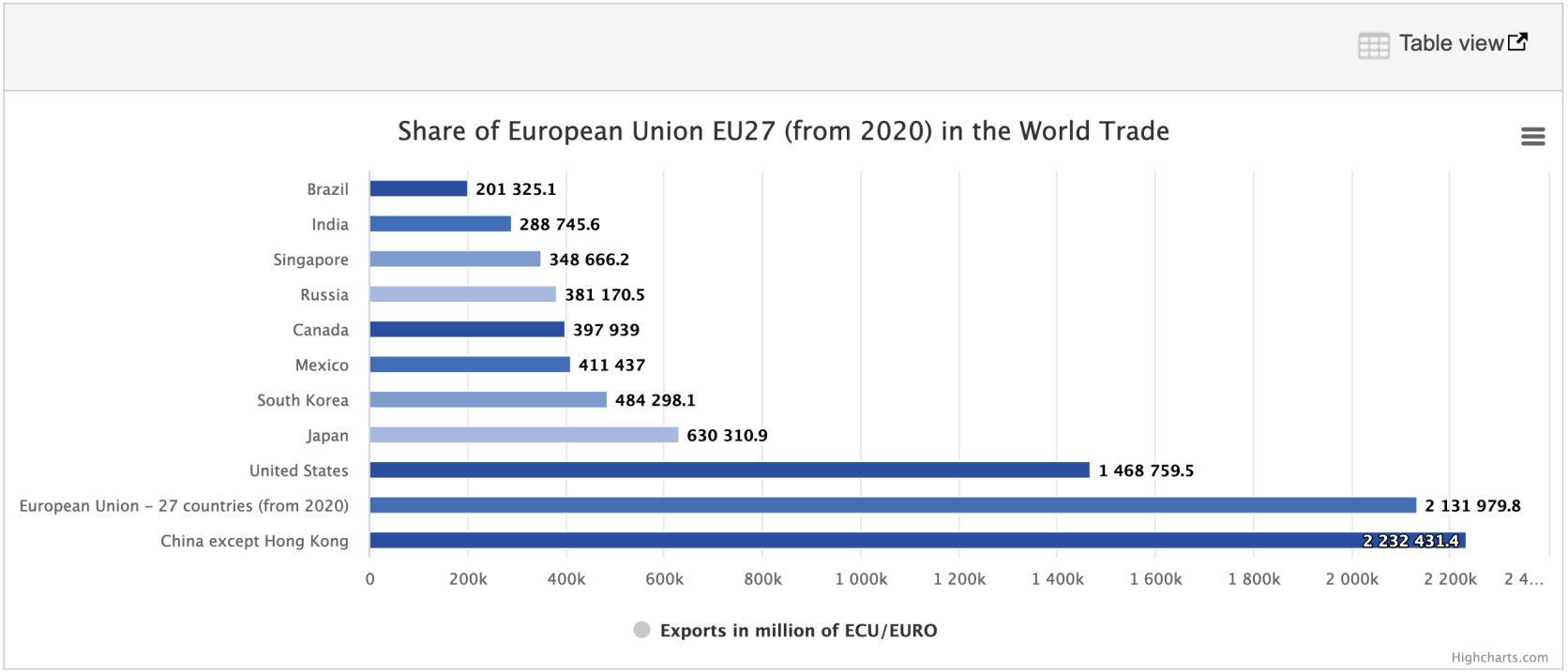
€ 16.4 trillion in 2019 (with the UK)

https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/life-eu_en

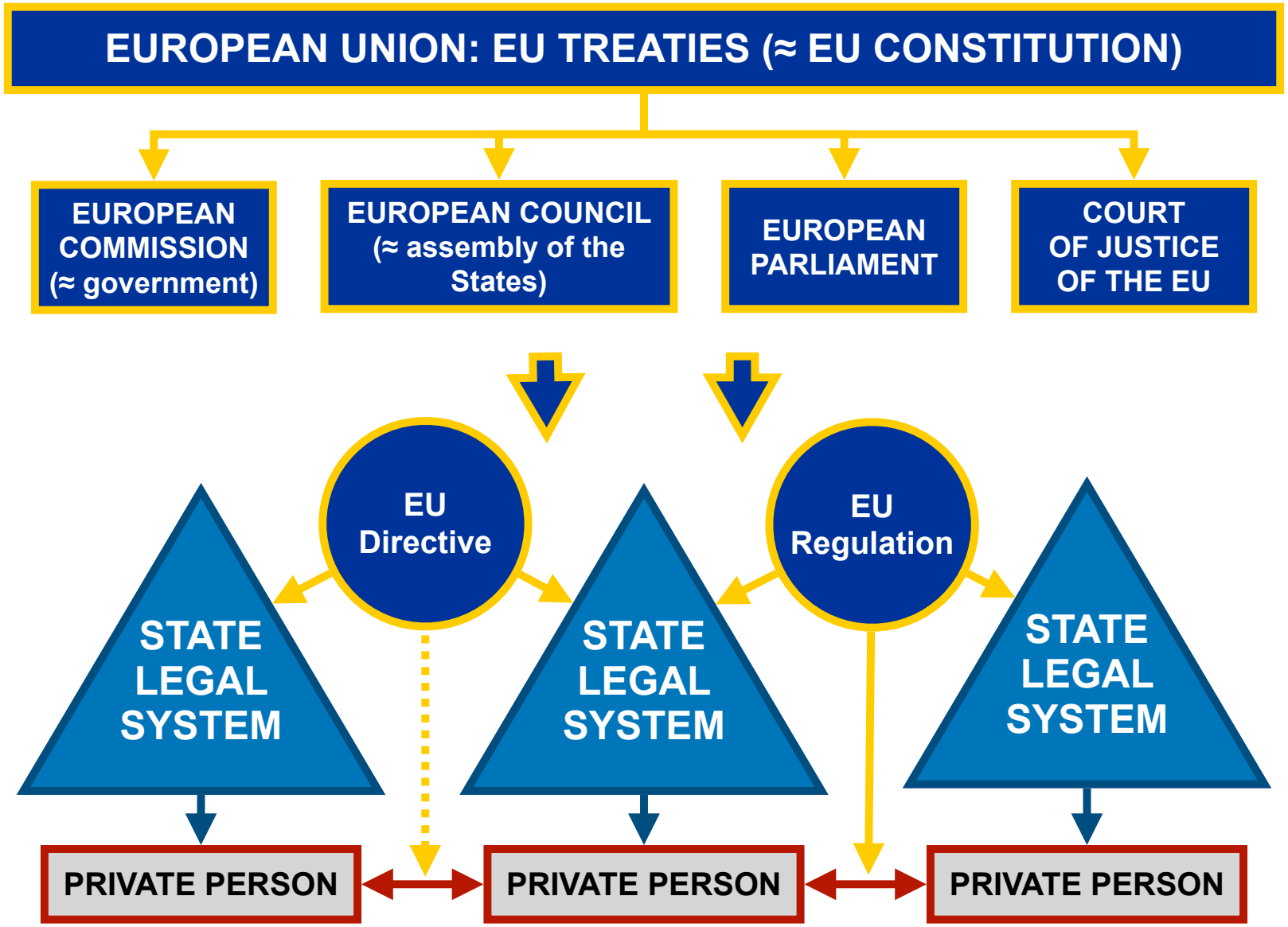
FIGURES: INTERNATIONAL TRADE

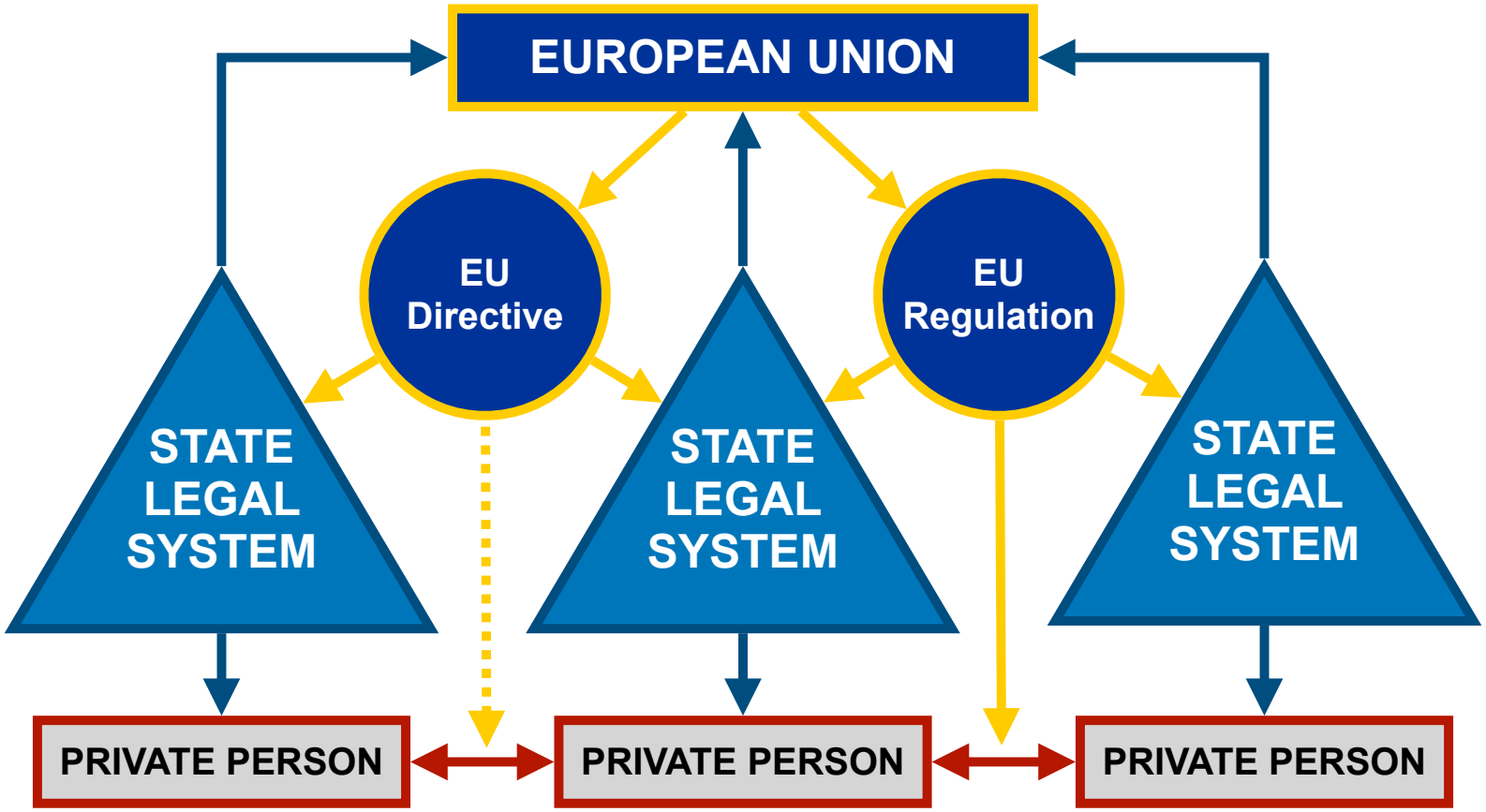
Trade

The EU accounts for around 15% of the world's trade in goods. The EU, China and the United States are the three largest global players in international trade.



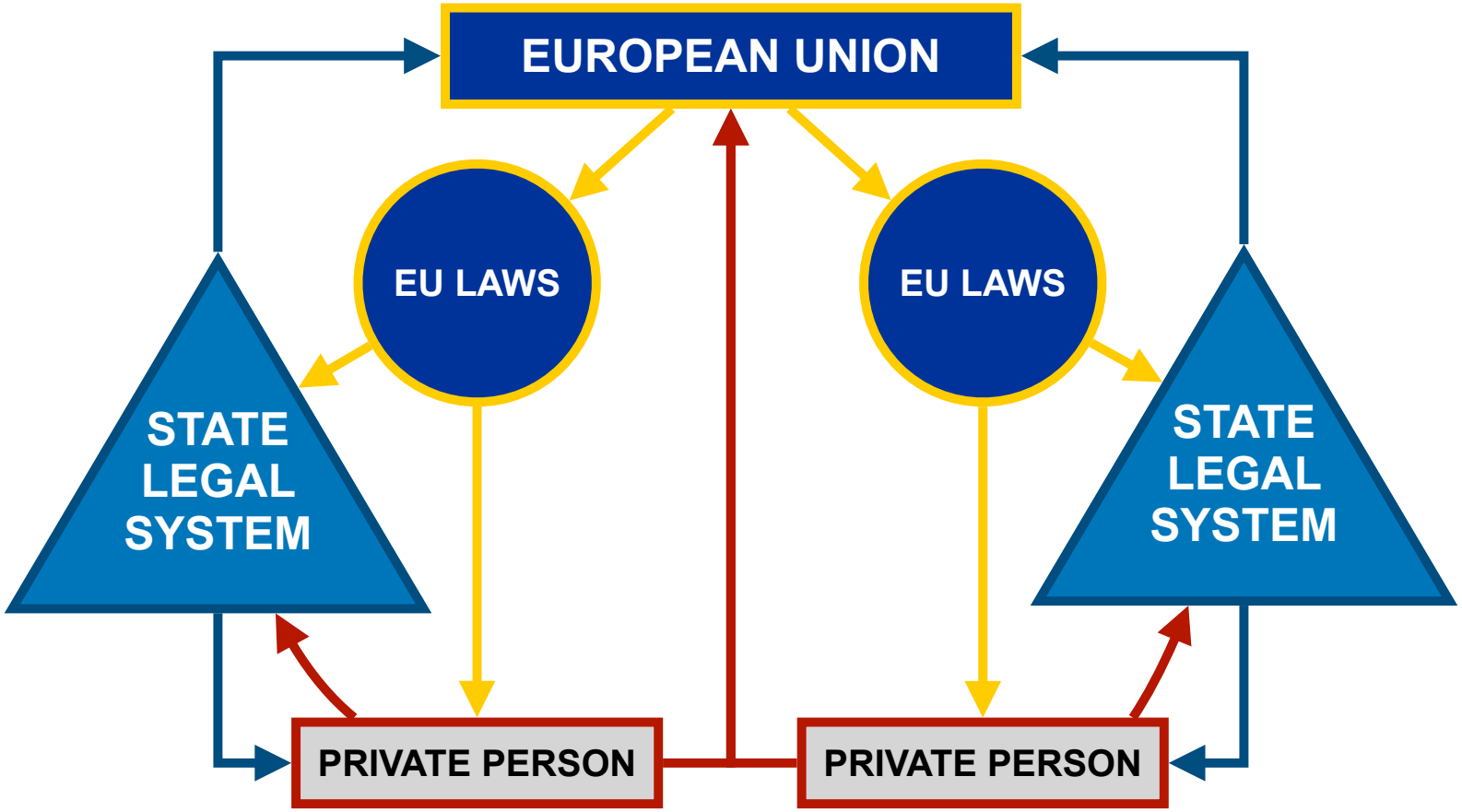
Source: Eurostat **https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/economy_en**


EUROPEAN UNION: EU TREATIES (≈ EU CONSTITUTION)
EUROPEAN COMMISSION (≈ government)
EUROPEAN COUNCIL (≈ assembly of the States)
EUROPEAN PARLIAMENT
COURT OF JUSTICE OF THE EU
EU Directive
EU Regulation
STATE LEGAL SYSTEM
STATE LEGAL SYSTEM
STATE LEGAL SYSTEM
PRIVATE PERSON
PRIVATE PERSON
PRIVATE PERSON
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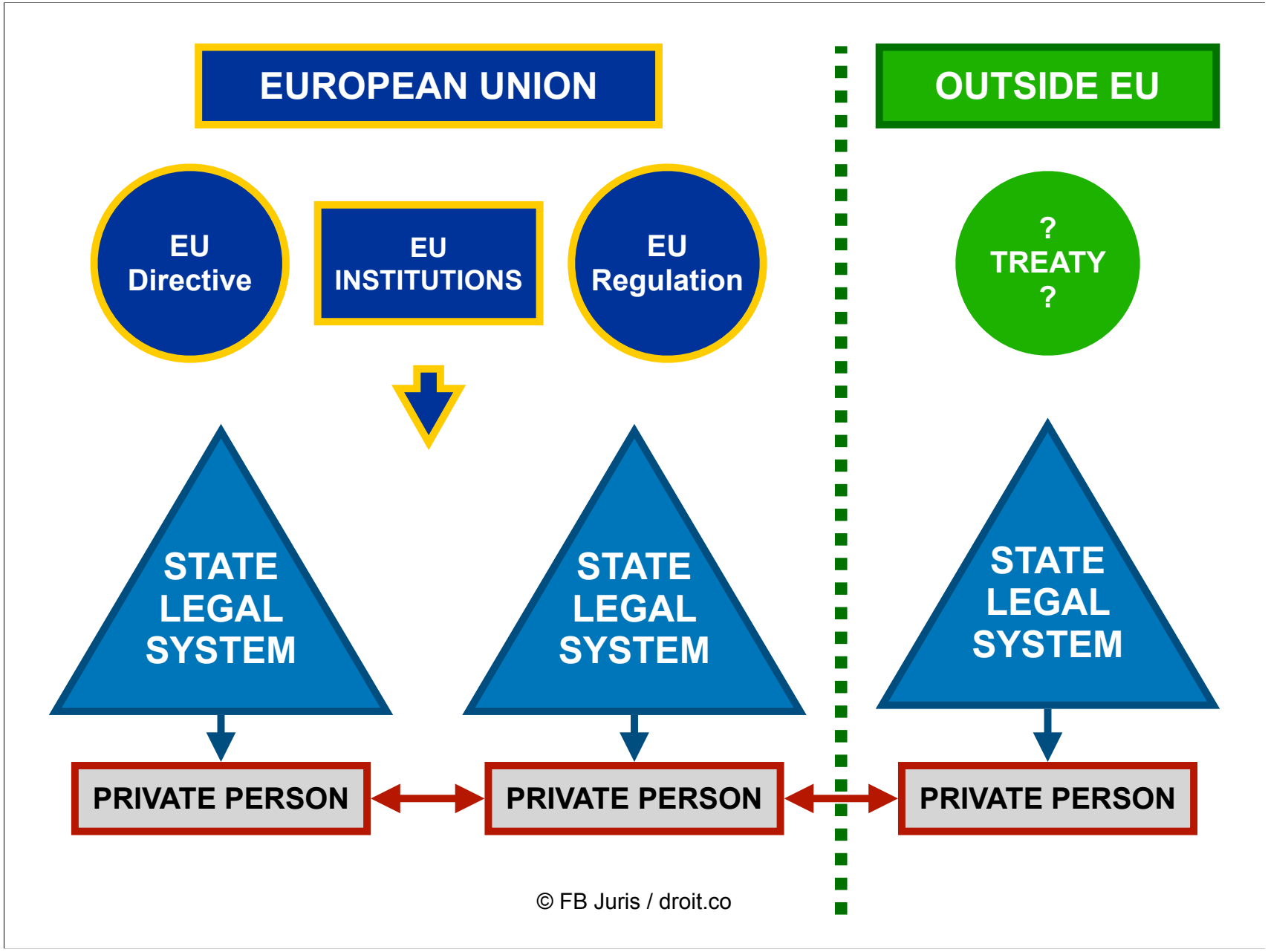
EU LAW IS A COHERENT LEGAL SYSTEM, SIMILAR TO THAT OF A FEDERAL STATE. EU LAW INCLUDES RULES OF CONFLICTS AND SUBSTANTIVE LAWS.

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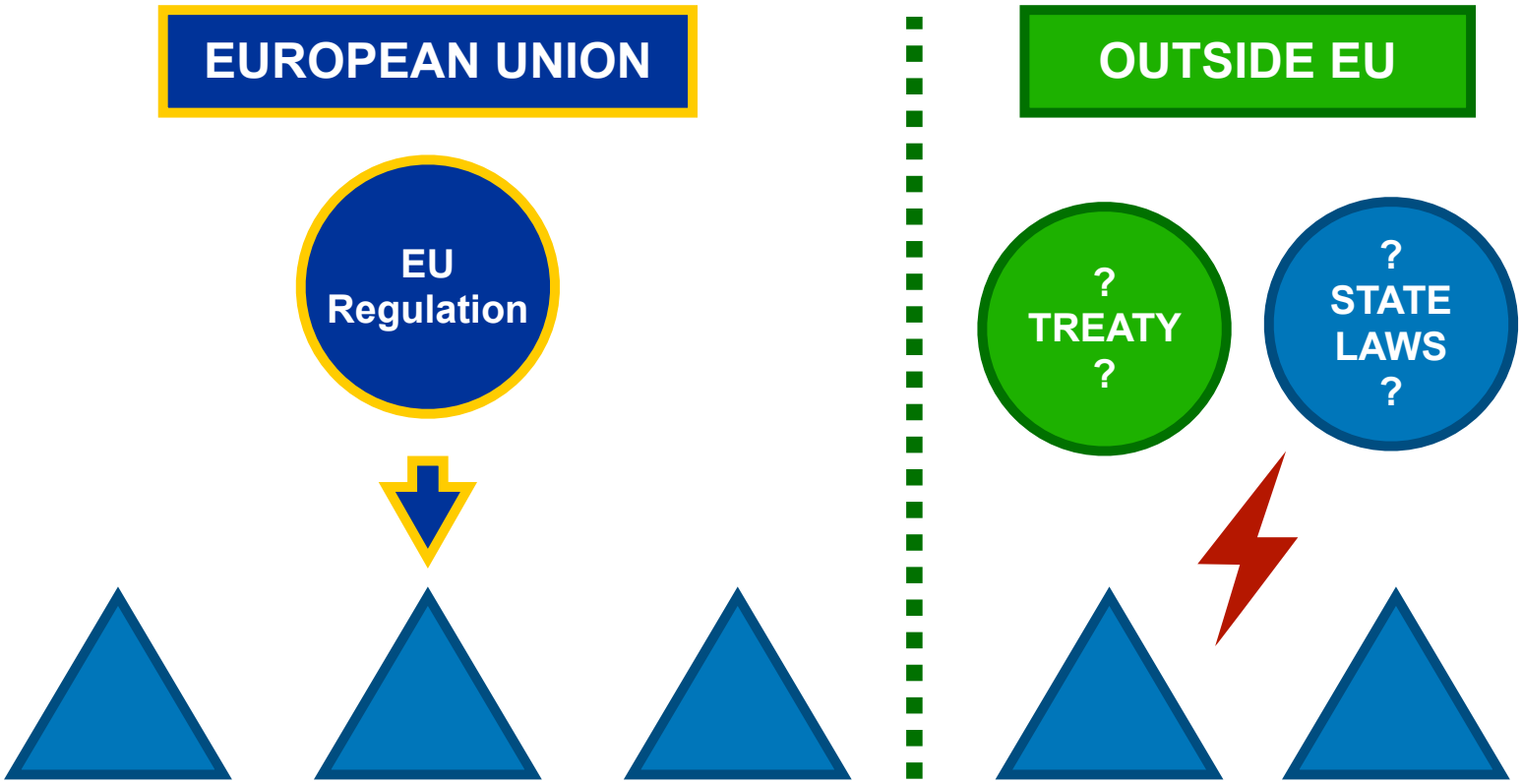


EU LAW APPLIES TO STATES AND PRIVATE PERSONS. IN THE EUROPEAN UNION, THE CITIZENS OF THE MEMBER STATES ARE CITIZENS OF THE EU (THEY ELECT EUROPEAN DEPUTIES) AND THEY MAY INVOKE EU LAW BEFORE A JUDGE.

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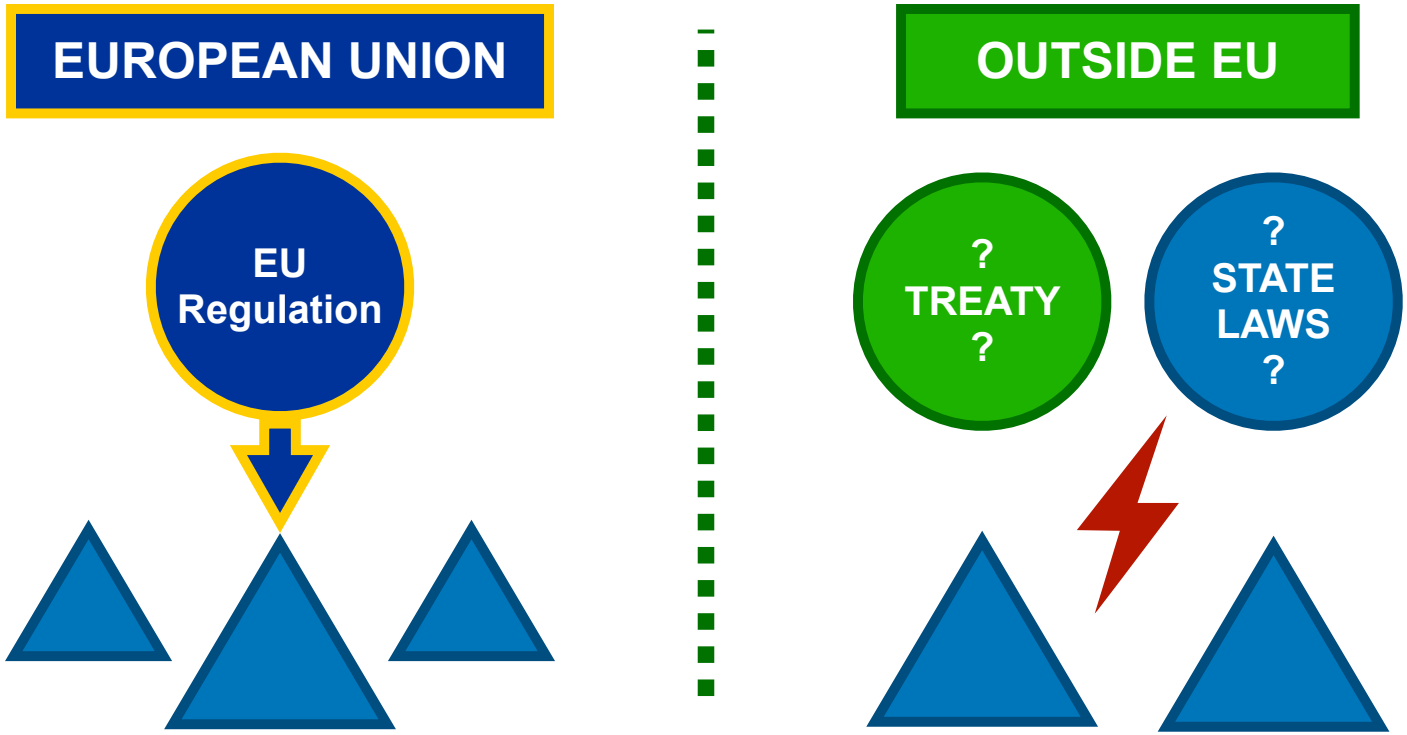

EUROPEAN UNION
OUTSIDE EU
EU Directive
EU INSTITUTIONS
EU Regulation
? TREATY ?
STATE LEGAL SYSTEM
STATE LEGAL SYSTEM
STATE LEGAL SYSTEM
PRIVATE PERSON
PRIVATE PERSON
PRIVATE PERSON
© FB Juris / droit.co

WHICH LAW APPLIES? WHICH COURT IS COMPETENT?



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WHICH LAW APPLIES? WHICH COURT IS COMPETENT?



IN THE EU, THE CONFLICTS BETWEEN LAWS AND COURTS ARE EASILY SOLVED, THANKS TO THE EU REGULATIONS AND THE EU JUDICIAL SYSTEM.

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EU REGULATIONS

APPLICABLE LAW

REGULATION (EC) No 593/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 17 June 2008 on the law applicable to contractual obligations (Rome I) + Link

REGULATION (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) + Link

COMPETENT COURTS

REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Bruxelles I bis) + Link

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FINDINGS

 # The legal systems of States form the basis of private international law. In some aspects, private international law is like a bridge between the legal systems of States.

 # Private international law is not one consistent legal system that would be separate from the legal systems of States, that would comprise one consistent set of international rules and one international court competent for any international case. Instead, there are several international organisations, several international legal systems, several international sets of rules, several courts that may be competent for international cases.

 # The legal system of the European Union is much more developed and consistent than that of a traditional international organisation.

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ENGLISH-FRENCH VOCABULARY

 # Commercial law: droit commercial.

 # Court: tribunal.

 # European Union: Union européenne.

 # Federation: fédération.

 # Federal State: État fédéral.

 # Federated State: État fédéré.

 # International business law: droit international des affaires.

 # International trade: commerce international.

 # International treaty: traité international.

 # Law: 1) droit ; 2) loi.

 # Private international law: droit international privé.

 # Public international law: droit international public.

 # Regulation: règlement.

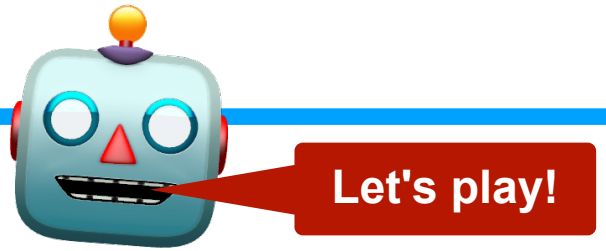
 # Rule: règle.

 # Sovereignty: souveraineté.

 # State: État.

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QUIZZ



Right or wrong?

A - International law applies universally, to all States and private persons.

B - There exists an international court, which is competent to judge any international business case.

C - International business law is not an integrated legal system. Instead, several legal systems address international matters.

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CROSSWORDS

VERTICALLY

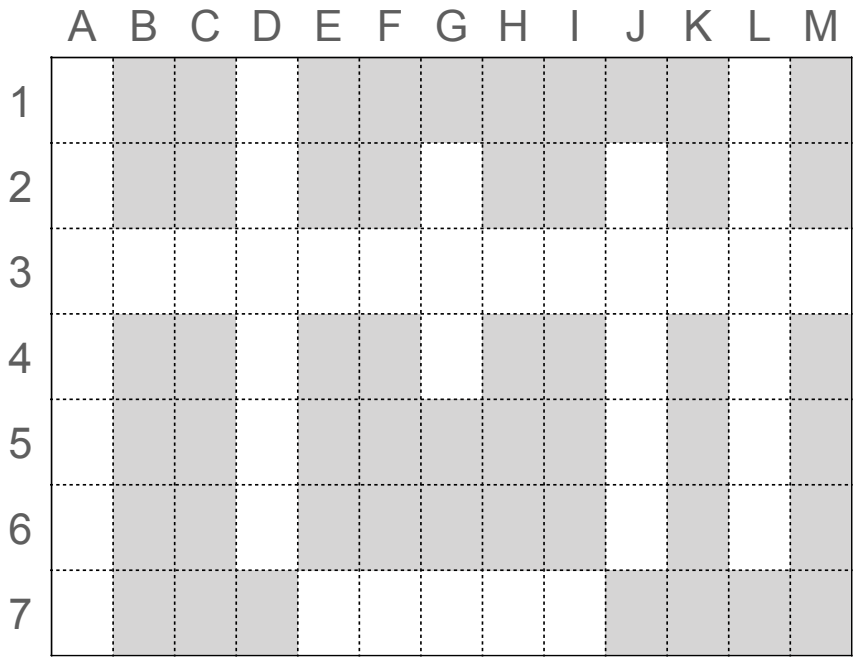
A - Adjective qualifying international law that does not deal with the relationships between States.

D - An agreement between States.

G - A system of rules.

J - An institution in charge of controlling the application of law.

L - The political organisations that form the basis of international law.



HORIZONTALLY

3 - The adjective qualifying a relationship concerning several States.

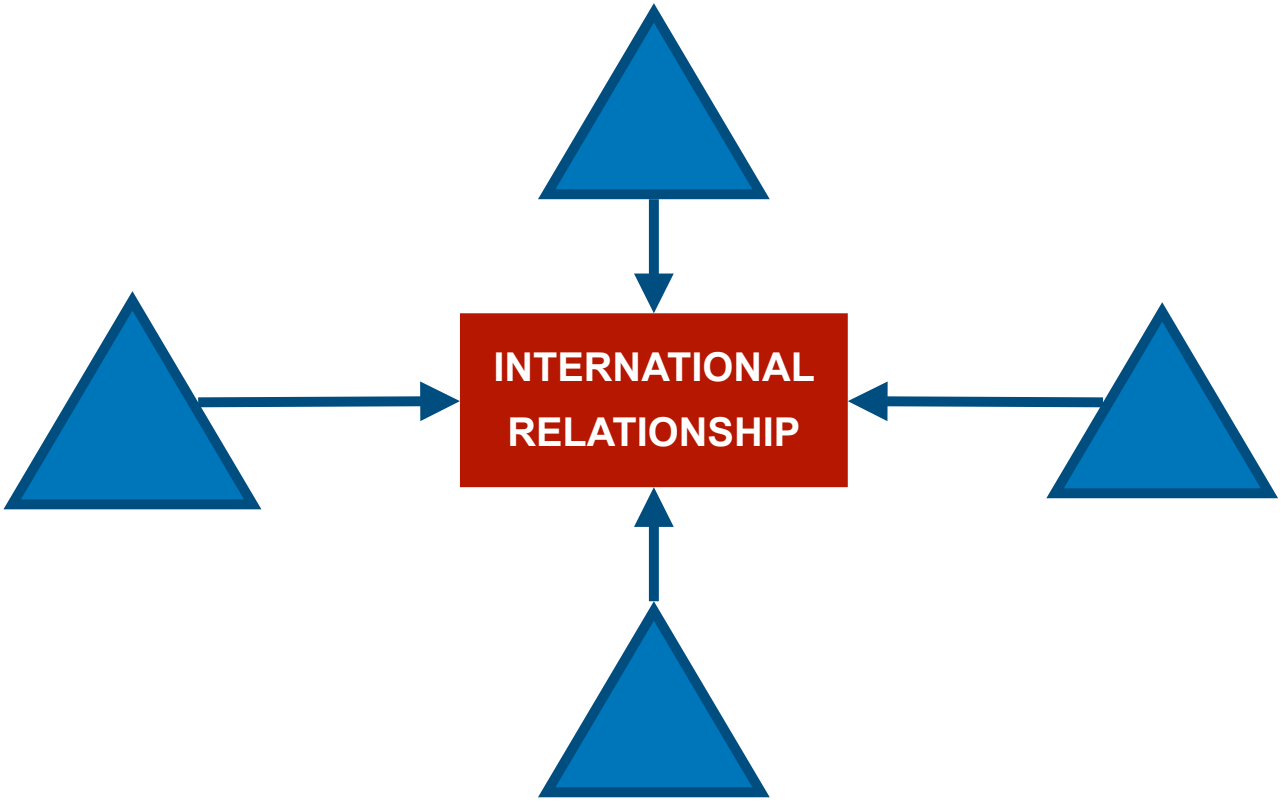
7 - What is imposed or adopted as a guideline.

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OVERVIEW

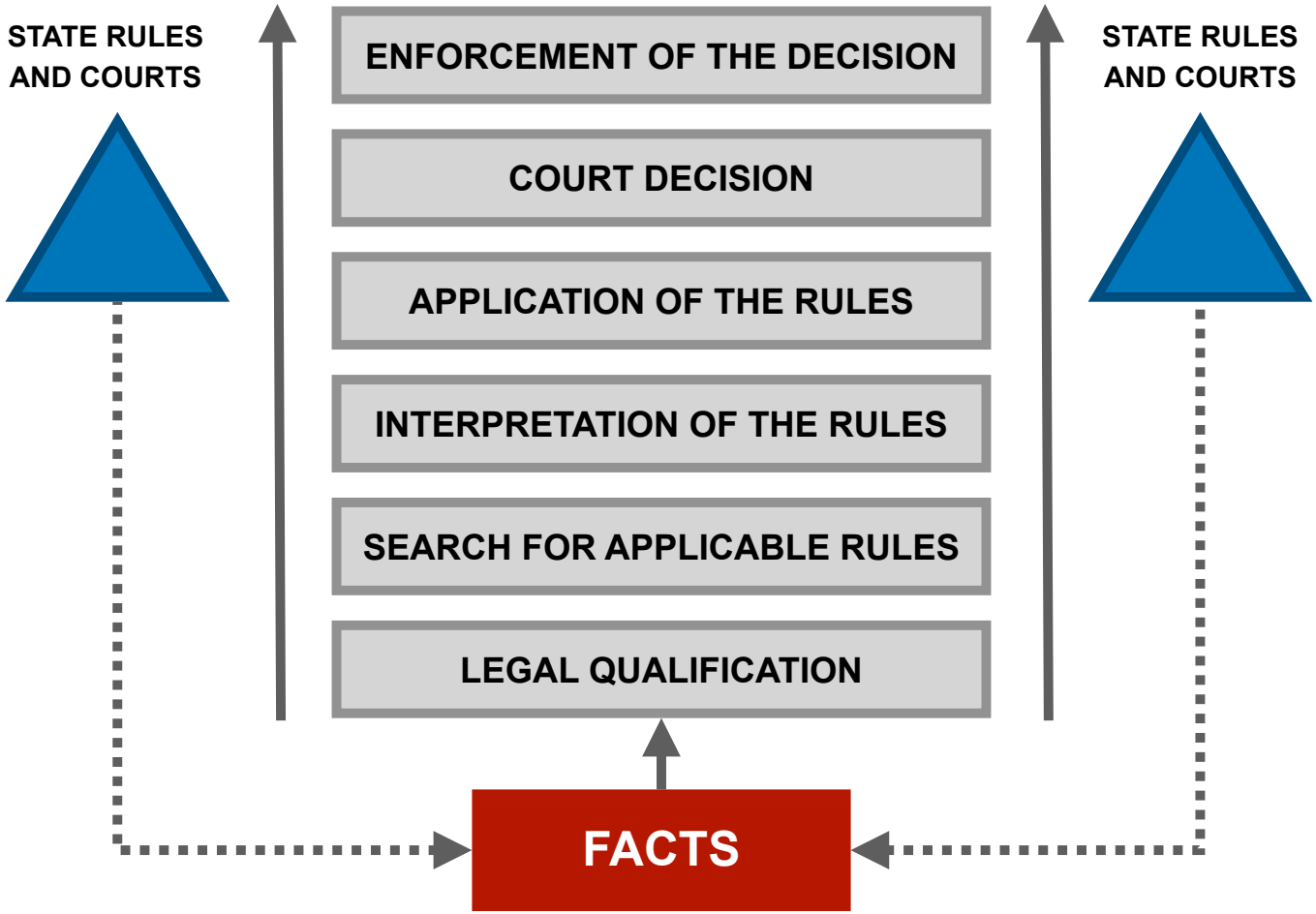
Private international law aims notably at preventing or solving conflicts of laws and jurisdictions. Generally, it tends to facilitate and secure international trade and investments. From a European point of view, a distinction must be made between national law, European Union law and international law.

THE LEGAL REGIME APPLICABLE TO AN INTERNATIONAL RELATIONSHIP MAY VARY DEPENDING ON THE LAWS OF THE STATES.



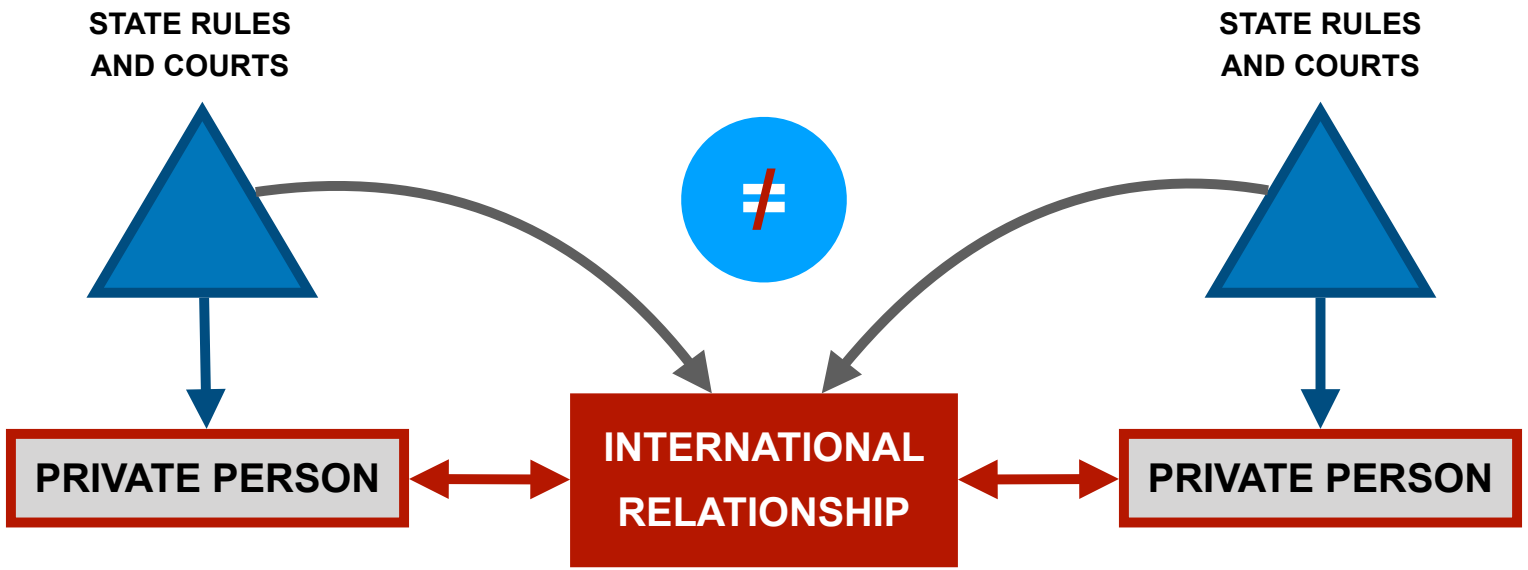
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LEGAL REASONING / PROCESS



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CONFLICTS OF LAWS AND JURISDICTIONS



THE RULES OF THE STATES ARE GENERALLY DIFFERENT, AT LEAST SLIGHTLY. IF THE COURTS OF THE VARIOUS STATES CONCERNED MADE DECISIONS CONCURRENTLY, THEY COULD BE CONTRADICTORY.

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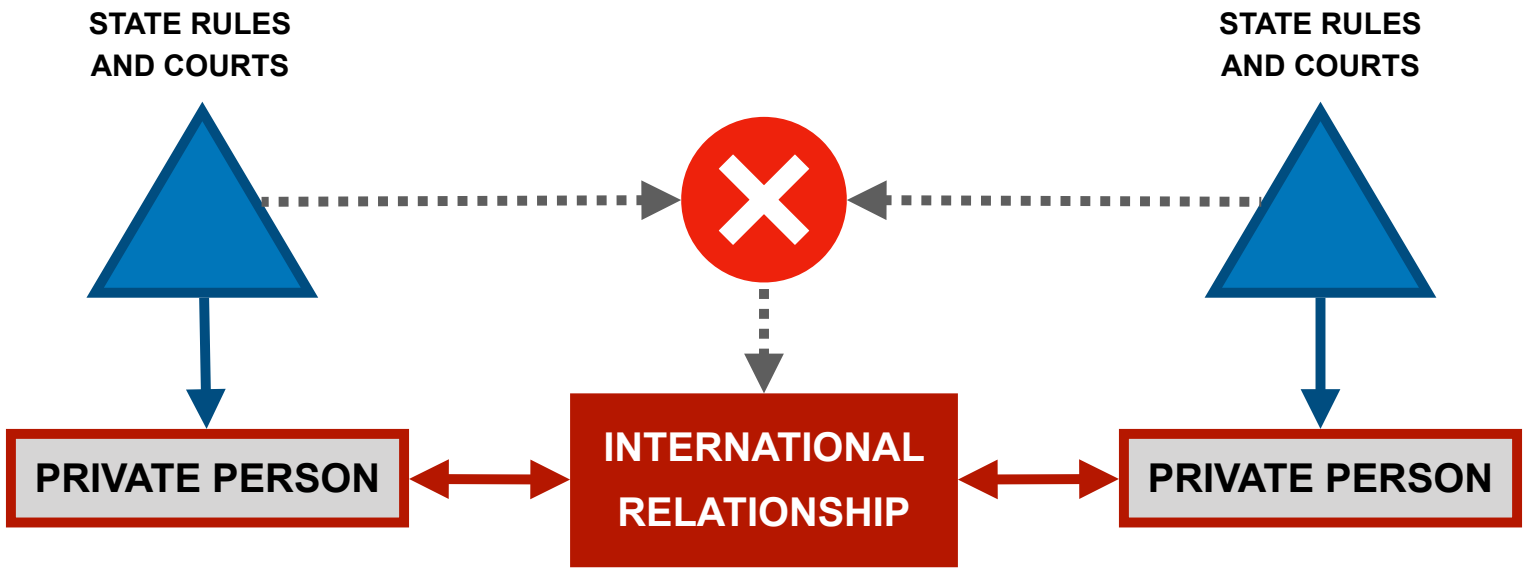
CONFLICTS OF LAWS AND JURISDICTIONS



EVEN IF THE COURTS OF DIFFERENT STATES APPLY THE SAME TREATY, THEIR DECISIONS MAY BE DIFFERENT.

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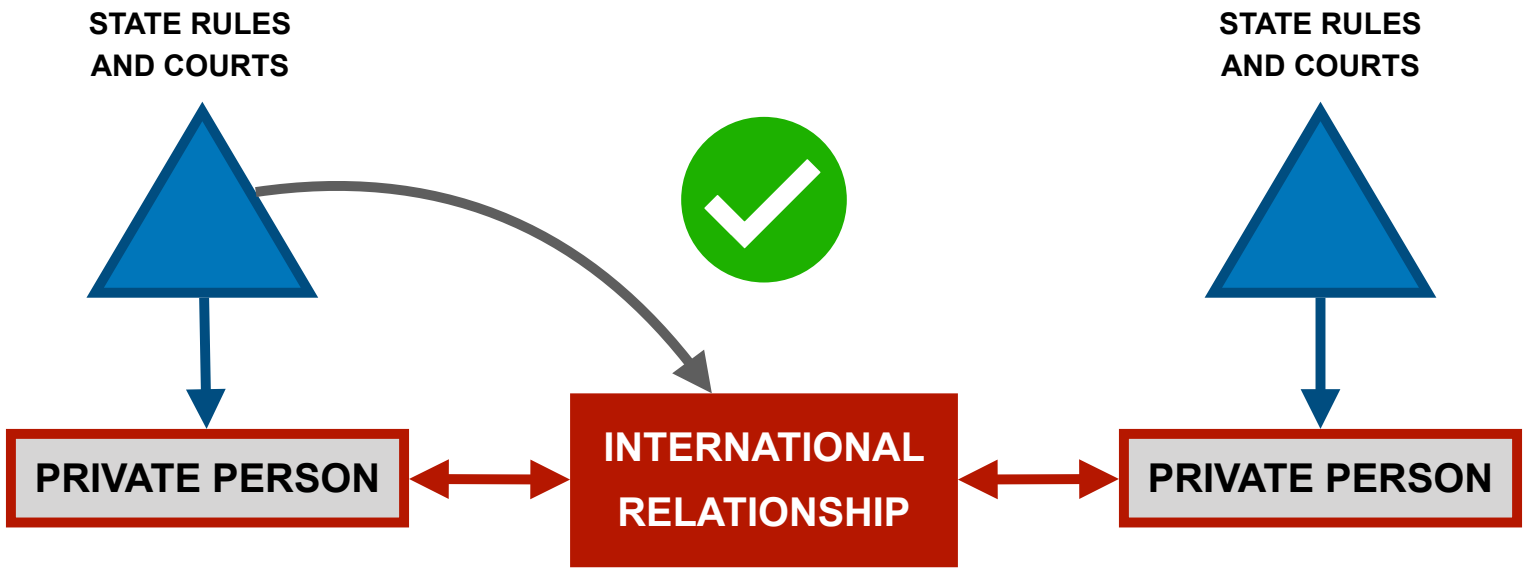
CONFLICTS OF LAWS AND JURISDICTIONS



TWO OPOSING SITUATIONS POSE A PROBLEM. POSITIVE CONFLICT: SEVERAL COURTS RECOGNISE THEMSELVES AS COMPETENT. NEGATIVE CONFLICT: NO COURT AGREES TO ADJUDICATE THE DISPUTE.

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CONFLICTS OF LAWS AND JURISDICTIONS



IDEALLY, AN INTERNATIONAL RELATIONSHIP SOULD BE GOVERNED BY A SINGLE LAW AND AN INTERNATIONAL LITIGATION SHOULD BE JUDGED BY A SINGLE COURT.

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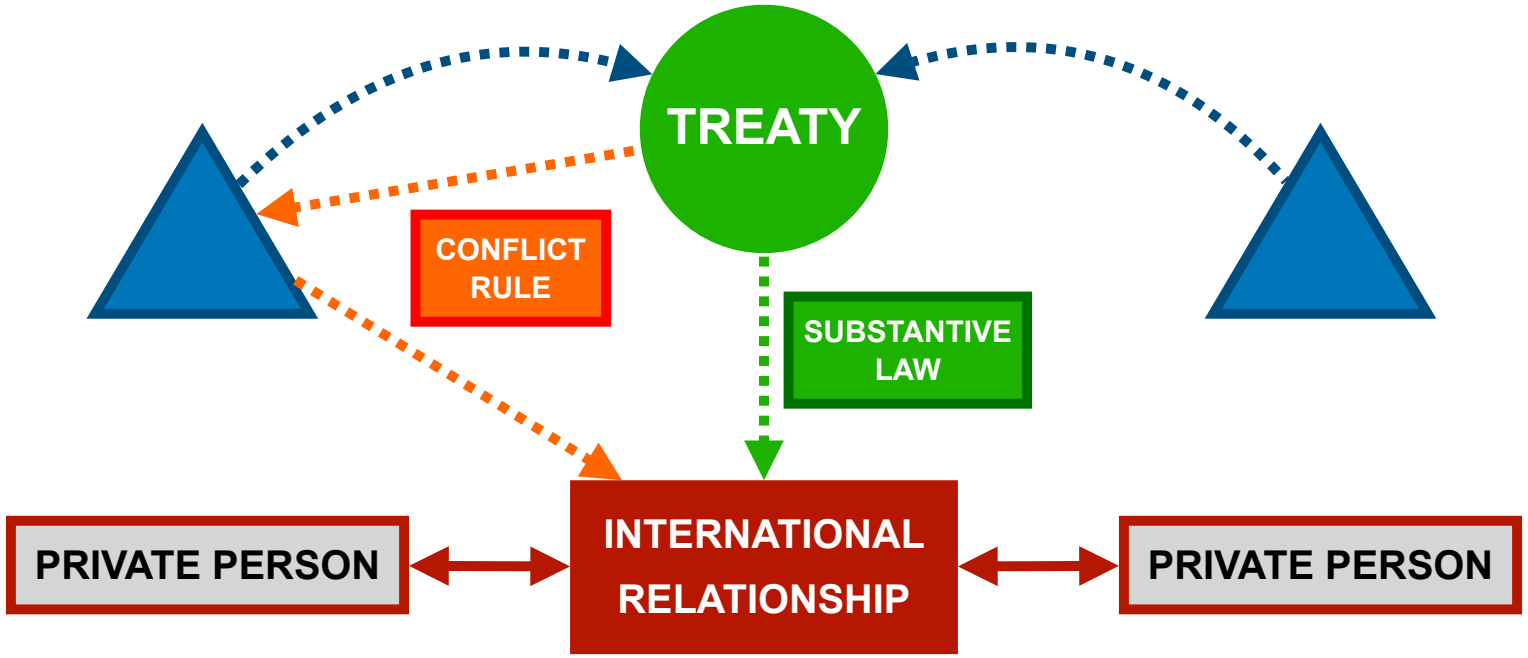
INTERNATIONAL TREATIES



INTERNATIONAL TREATIES MAY PROVIDE DISPUTE RESOLUTION MECHANISMS, LIKE MANDATORY INTERNATIONAL ARBITRATION, ALLOWING INVESTORS TO BRING ACTIONS AGAINST ANOTHER INVESTOR OR EVEN A HOST STATE, BEFORE A NEUTRAL TRIBUNAL.

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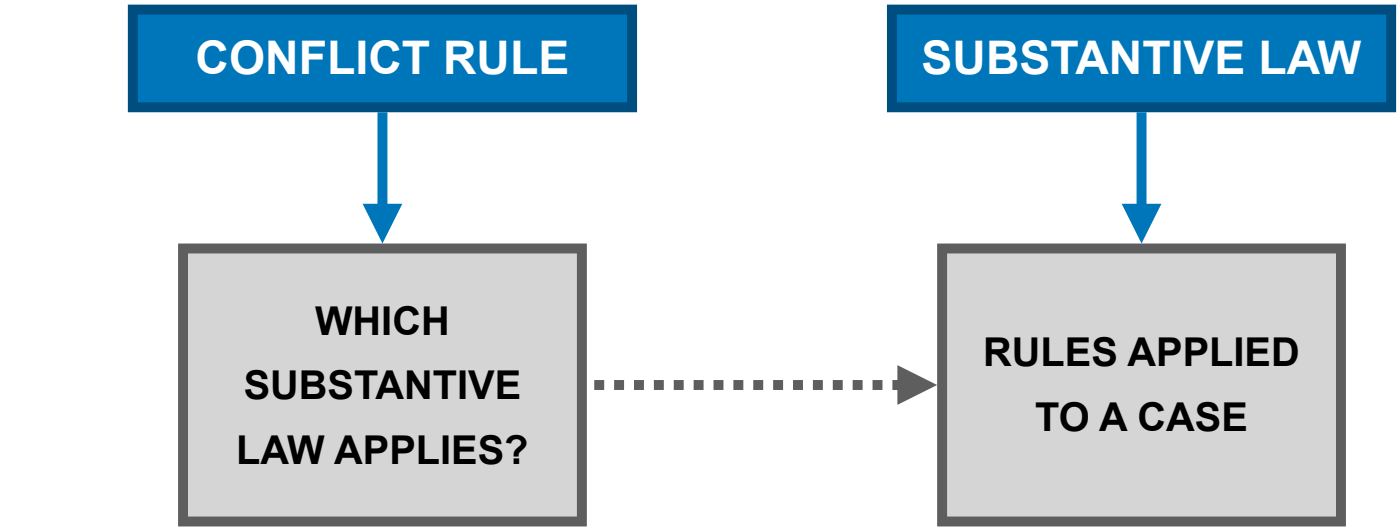
INTERNATIONAL TREATIES



INTERNATIONAL TREATIES MAY EITHER CONTAIN SUBSTANTIVE RULES, APPLIED DIRECTLY TO THE CASE, OR ONLY CONFLICT RULES, THAT IS TO SAY A METHOD TO DETERMINE WHICH SUBSTANTIVE RULES SHOULD BE APPLIED.

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CONFLICT RULE / SUBSTANTIVE LAW



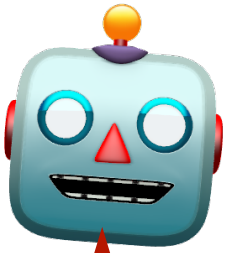
A CONFLICT RULE DETERMINES WHICH SUBSTANTIVE LAW SHOULD BE APPLIED. A CONFLICT RULE IS A METHOD.

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EXAMPLES

CONFLICT RULE

REGULATION (EC) no 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I)
+ Link



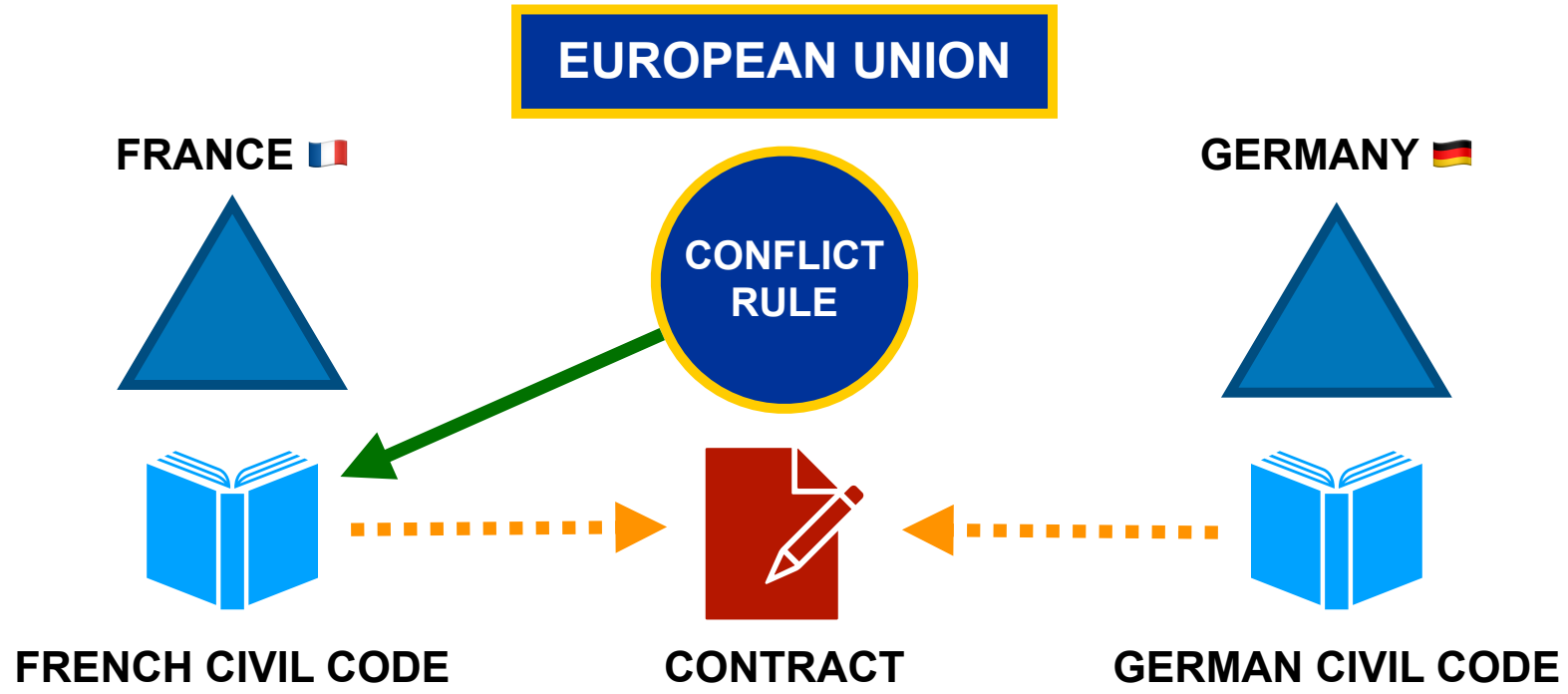
Let's take a closer look!

SUBSTANTIVE LAW

UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (2016)
+ Link

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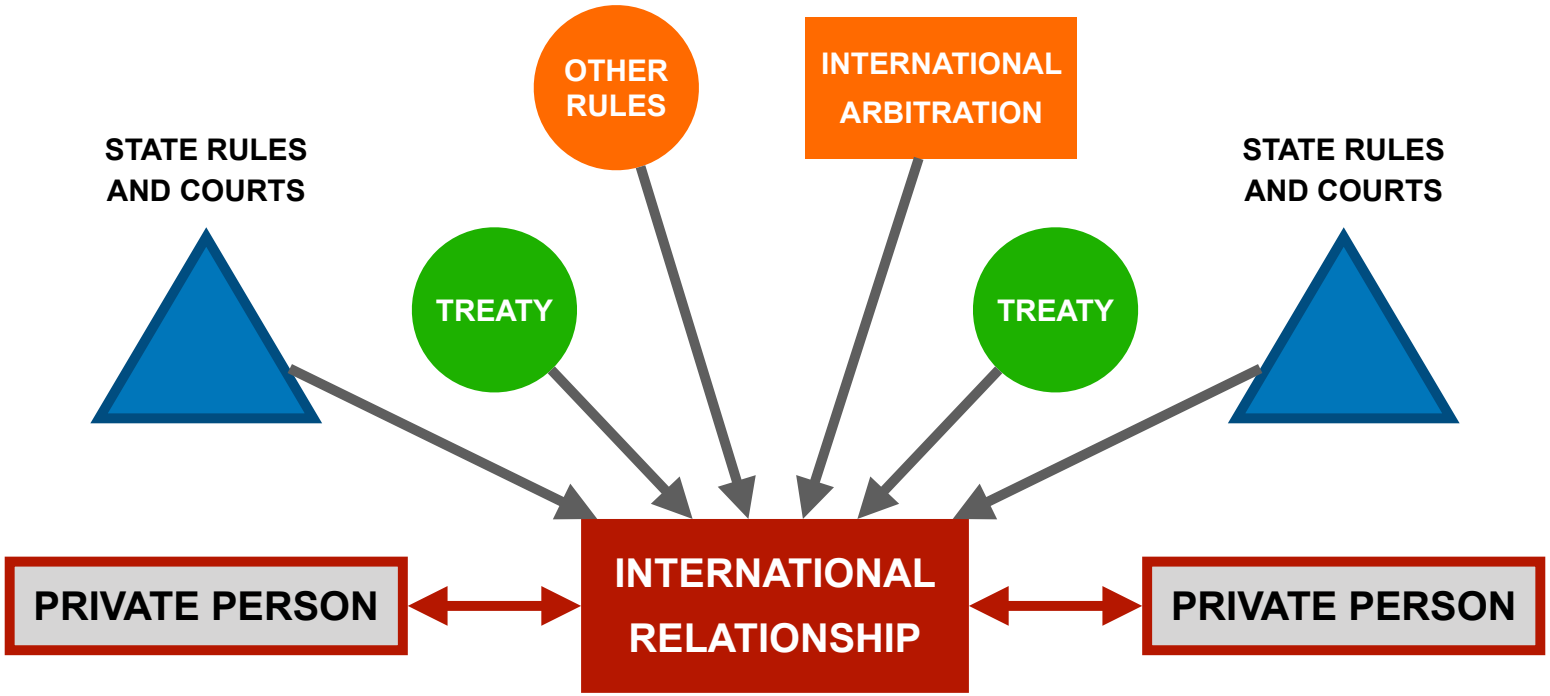
CONFLICT RULE / SUBSTANTIVE LAW



A EUROPEAN CIVIL CODE DOES NOT EXIST. IN A LITIGATION BETWEEN A FRENCH COMPANY AND A GERMAN COMPANY CONCERNING THE VALIDITY OF A CONTRACT, THE EU CONFLICT RULE DETERMINES WHICH SUBSTANTIVE LAWS SHOULD BE APPLIED: FRENCH CIVIL CODE OR GERMAN CIVIL CODE?

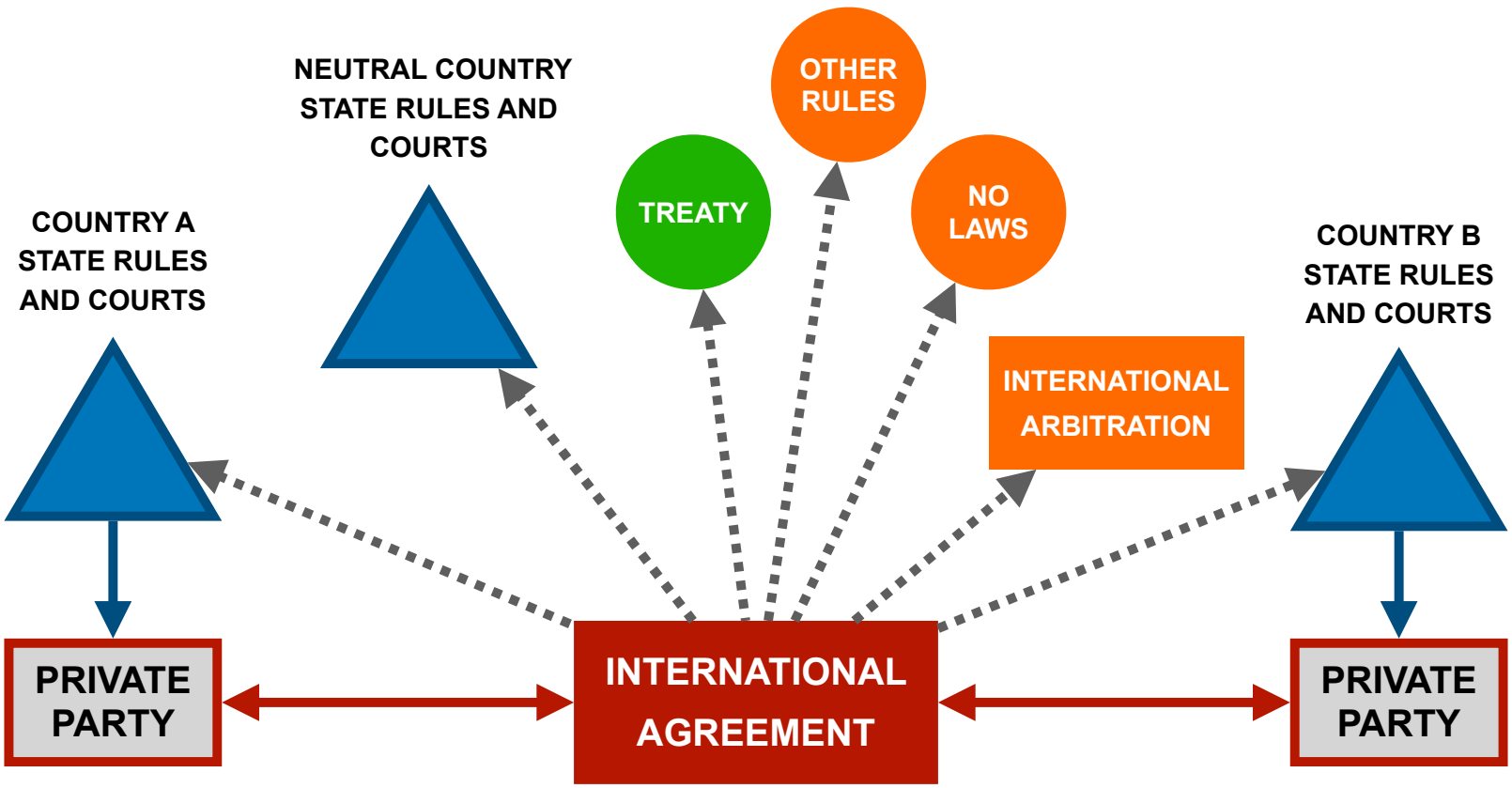
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ONE OF THE MAIN OBJECTIVES OF PRIVATE INTERNATIONAL LAW IS TO DETERMINE WHICH RULES APPLY TO AN INTERNATIONAL RELATIONSHIP AND WHICH JURISDICTION IS COMPETENT IN THE EVENT OF INTERNATIONAL LITIGATION.



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THE PARTIES TO AN INTERNATIONAL AGREEMENT MAY IN PRINCIPLE CHOOSE FREELY THE LAW GOVERNING THEIR AGREEMENT AND THE COURTS COMPETENT IN CASE OF LITIGATION.



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CONTRACT

A CONTRACT IS A CONCEPT EXISTING WITHIN A LEGAL SYSTEM, THAT DEFINES ITS EXISTENCE, ITS VALIDITY, ITS EFFECTS (ITS LEGAL REGIME).

IN GENERAL TERMS, A CONTRACT IS FORMED WHEN AT LEAST TWO PARTIES UNDERTAKE RECIPROCAL OBLIGATIONS.
A PARTY UNDERTAKES OBLIGATIONS IN CONSIDERATION OF THE UNDERTAKINGS OF THE OTHER PARTY.

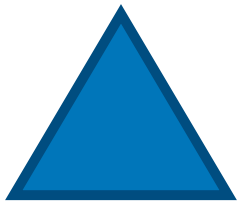
THE PARTIES ARE FREE TO ENTER INTO A CONTRACT AND TO DETERMINE ITS CONTENT, SUBJECT TO THE MANDATORY RULES FROM WHICH THEY CANNOT DEROGATE (PUBLIC ORDER).

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INTERNAL / INTERNATIONAL CONTRACT

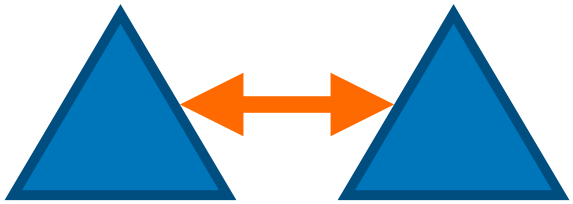
INTERNAL CONTRACT

THE CONTRACT HAS EFFECTS EXCLUSIVELY IN ONE SATE / CONCERNS OPERATIONS WITHIN THE SAME STATE.



INTERNATIONAL CONTRACT

THE CONTRACT HAS EFFECTS IN SEVERAL STATES / CONCERNS OPERATIONS IN SEVERAL STATES.



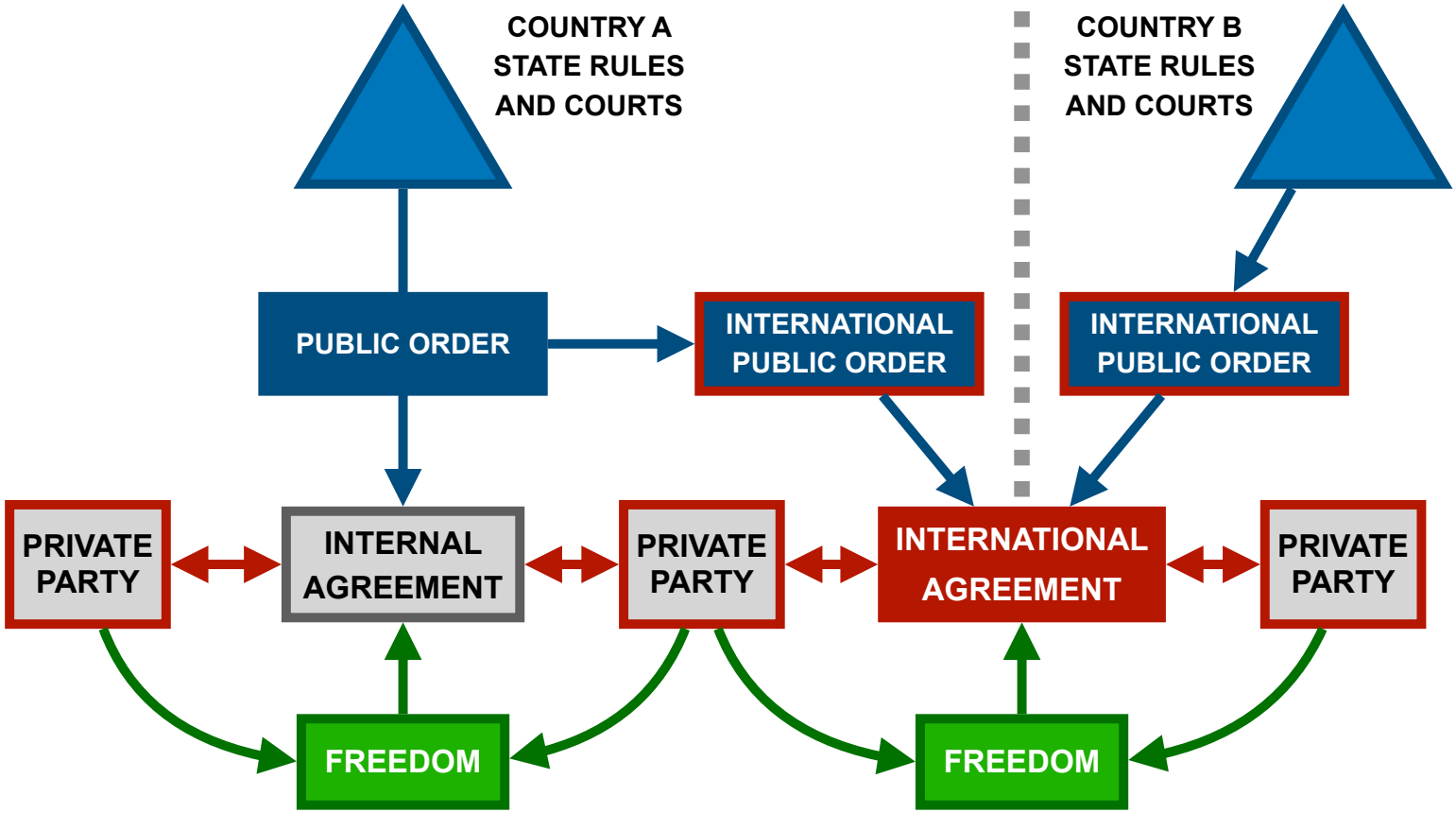
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INTERNAL / INTERNATIONAL CONTRACT

INTERNAL CONTRACT	INTERNATIONAL CONTRACT
THE CONTRACT IS NECESSARILY GOVERNED BY THE LAWS OF THE STATE	THE PARTIES CAN CHOOSE THE GOVERNING LAW (LAWS OF ANY STATE, NO LAW…)
THE PARTIES CANNOT GRANT JURISDICTION TO FOREIGN COURTS	THE PARTIES CAN CHOOSE THE JURISDICTION (COURTS OF ANY STATE, ARBITRATION…)
THE CONTRACT SHALL COMPLY WITH (INTERNAL) PUBLIC ORDER	THE CONTRACT SHALL COMPLY WITH INTERNATIONAL PUBLIC ORDER

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FREEDOM vs MANDATORY RULES



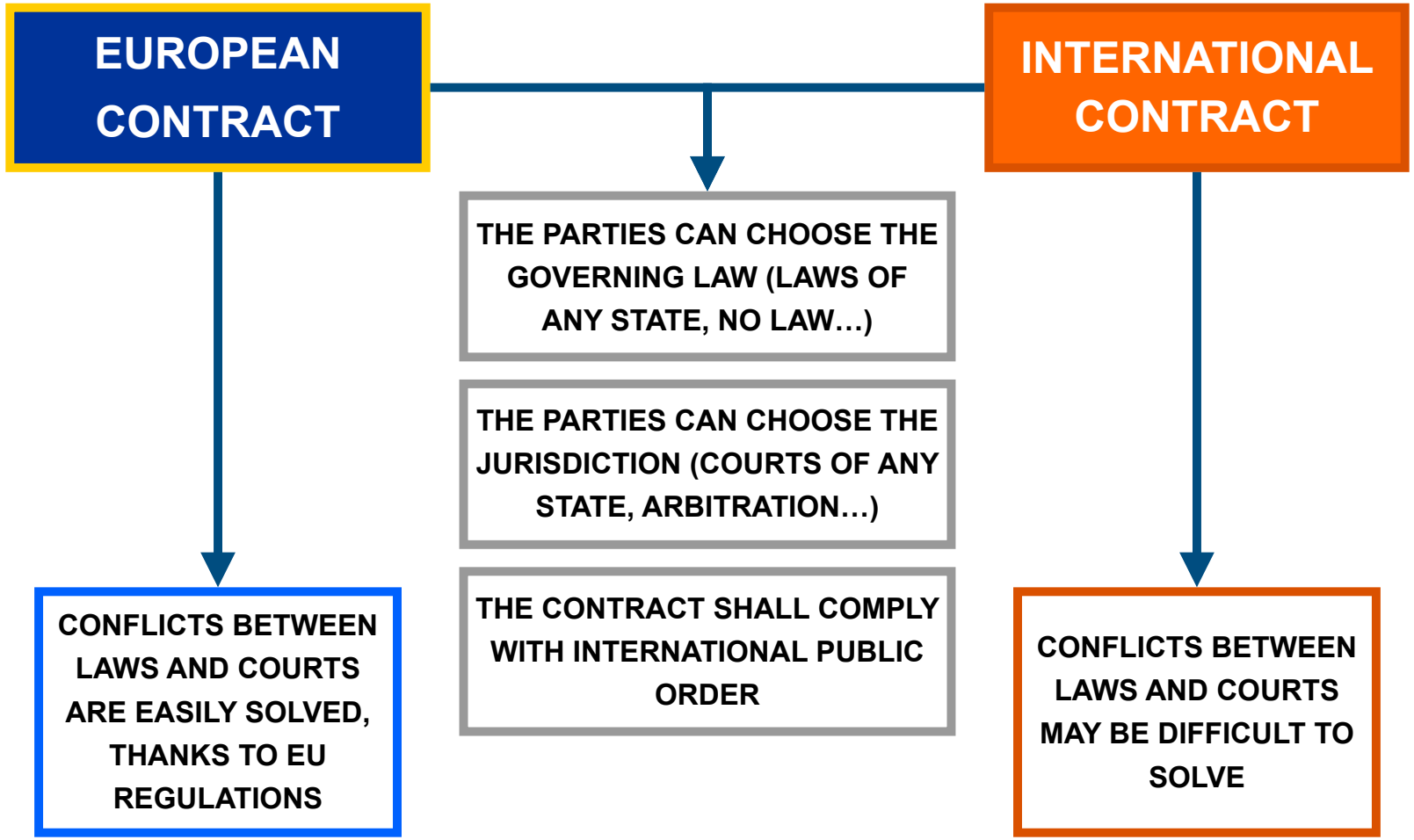
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EUROPEAN / INTERNATIONAL CONTRACT



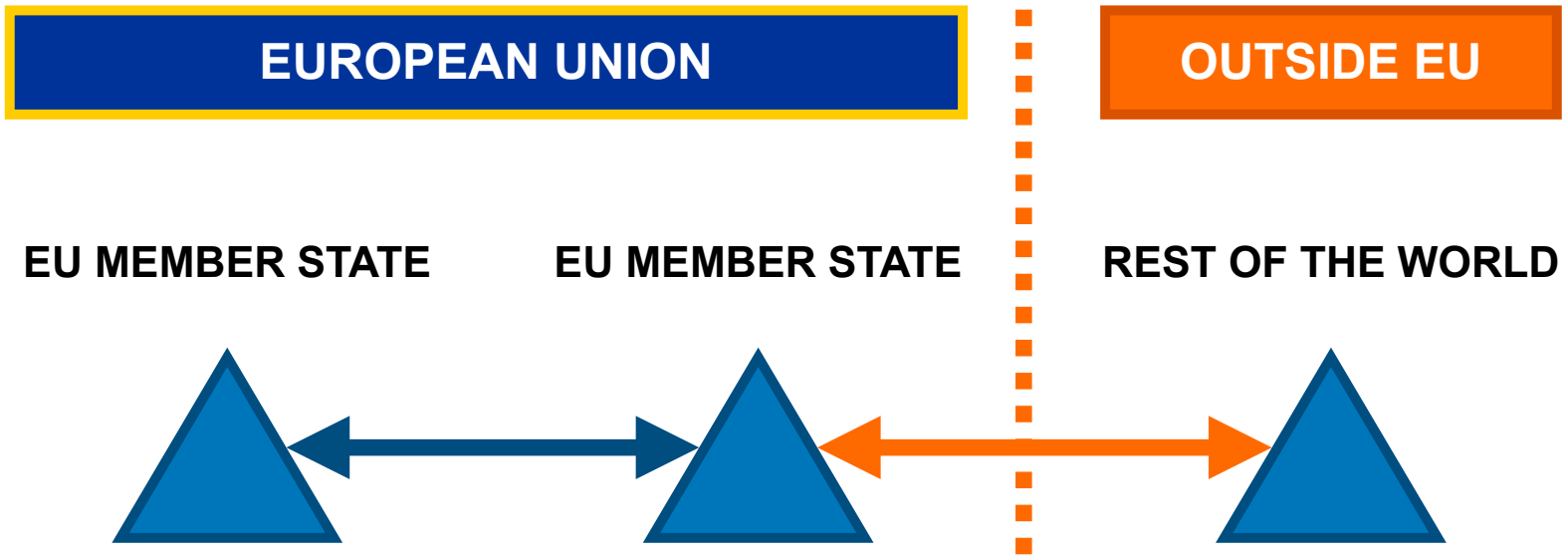
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EUROPEAN / INTERNATIONAL CONTRACT



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EUROPEAN CASE / INTERNATIONAL CASE



RELATIONS BETWEEN PRIVATE PERSONS CONCERNING DIFFERENT EU MEMBER STATES ARE GOVERNED BY MANY PRINCIPLES OF PRIVATE INTERNATIONAL LAW. HOWEVER, THE EU LEGAL SYSTEM PROVIDES MUCH GREATER LEGAL CERTAINTY THAN FOR RELATIONS INVOLVING THIRD COUNTRIES.

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INTERNATIONAL CONTRACT

UNCERTAINTY AND INSECURITY MAY ARISE WHERE THE PARTIES TO AN INTERNATIONAL AGREEMENT DO NOT SPECIFY THE APPLICABLE LAW AND THE COMPETENT COURTS.

PARTIES TO AN INTERNATIONAL AGREEMENT SHOULD ALWAYS SPECIFY THE APPLICABLE LAW AND THE COMPETENT COURTS. THEY HAVE GREAT FREEDOM TO DO SO.

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INTERNATIONAL CONTRACT

In practice, international contracts are often governed by the law of the State of which one of the parties is a national (or where one of the parties has its registered office) and subject to the exclusive jurisdiction of the courts of that State.

If neutrality is desired, a simple and secure solution consists of subjecting the international contract to the Unidroit principles of contracts and providing for arbitration according to the rules of the ICC.

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INTERNATIONAL CONTRACT

AN INTERNATIONAL CONTRACT MAY BE GOVERNED BY:

- **THE STATE LAW OF ONE PARTY**
- **A NEUTRAL STATE LAW**
- **A PRIVATE SUBSTANTIVE RULE (UNIDROIT PRINCIPLES OF CONTRACTS)**
- **ITS OWN TERMS (NO LAWS)**
- **LEX MERCATORIA**



AN INTERNATIONAL CONTRACT CANNOT BE GOVERNED BY:

- **INTERNATIONAL LAW**
- **EU LAW**
- **A CONFLICT RULE**
- **A FREE TRADE AGREEMENT**
- **INCOTERMS**



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INTERNATIONAL TRADE

SECURITY AND FLEXIBILITY

PRIVATE INTERNATIONAL LAW AIMS AT SECURING INTERNATIONAL RELATIONSHIPS, IN ORDER NOTABLY TO FACILITATE AND SECURE INTERNATIONAL TRADE AND INVESTMENTS. FOR THIS, CERTAINTY AND FLEXIBILITY ARE GENERALLY NEEDED.

INFLUENCE

STATES KNOWN FOR FAVOURING INTERNATIONAL TRADE ATTRACT BUSINESS, INVESTMENTS…

NEUTRALITY

A NEUTRAL TRIBUNAL OR ARBITRATOR GIVES GUARANTEES TO INTERNATIONAL INVESTORS.

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DOMESTIC LAW, EUROPEAN UNION LAW AND INTERNATIONAL LAW

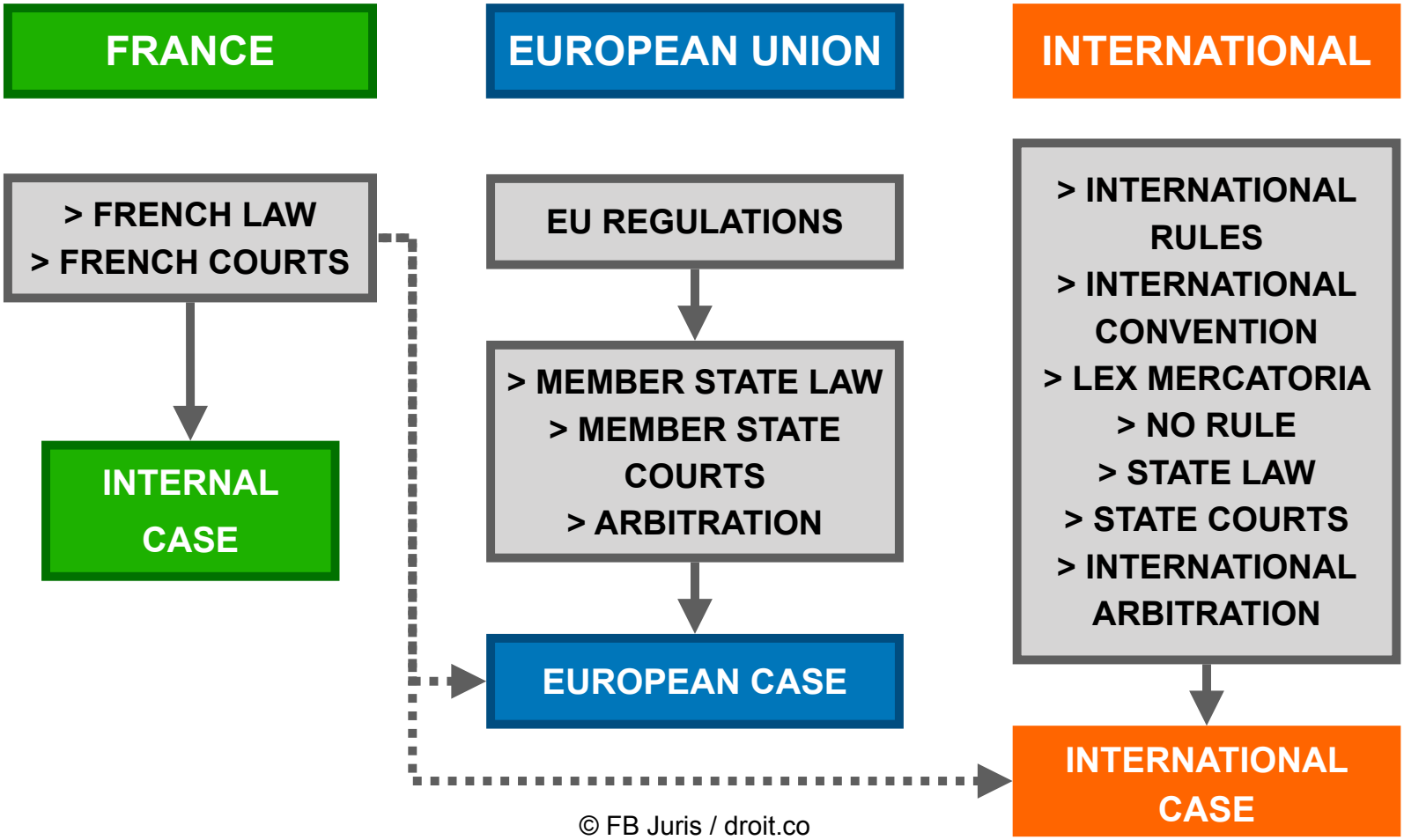
DOMESTIC LAW is the basis of European and international law. A State legal system comprises detailed norms controlled by courts, both of which are hierarchically organised to ensure consistency.

EUROPEAN UNION LAW comprises regulations, which provide notably conflict rules applying directly between private persons established in different Member States of the European Union.

PRIVATE INTERNATIONAL LAW is not a universal law, nor a unified transnational legal system. It is a complex set consisting of State rules applied internationally, treaties and private rules.

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INTERNAL / EUROPEAN / INTERNATIONAL CASES

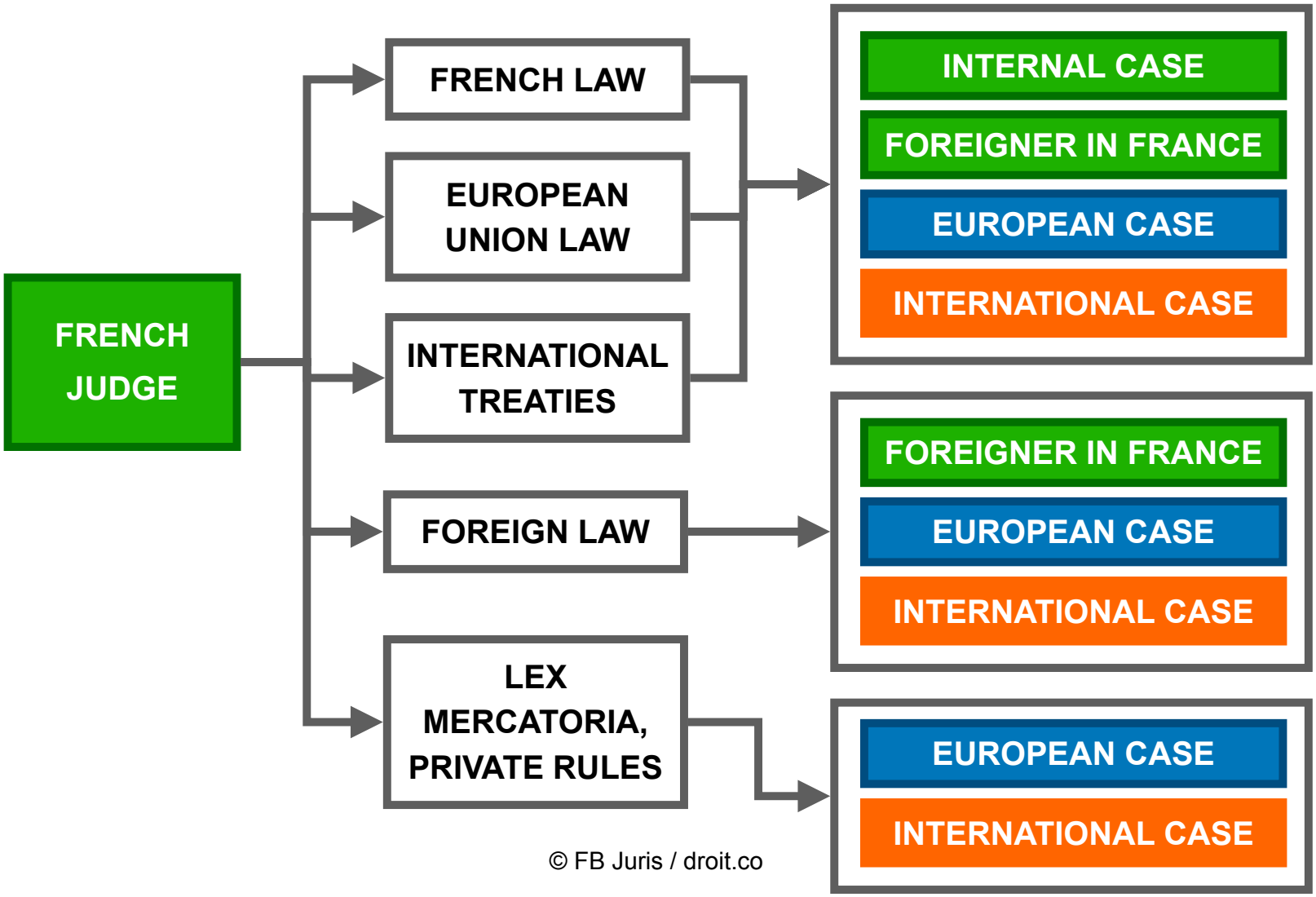


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	FRANCE	EUROPEAN UNION	INTERNATIONAL
LAW	**PRINCIPLE: FRENCH LAW** **# Internal case:** French laws and regulations. **# International case:** French specific provisions relating to international cases (article 55 of the constitution, article 3 of the civil code, art. 113-6 and f. of the penal code…). **EXCEPTION: FOREIGN LAW** (e.g., state and capacity of foreigners)	**# CONFLICT RULE:** EU Regulation n° 593/2008 (contracts), EU Regulation n° 864/2007 (non-contractual obligations)… **# SUBSTANTIVE LAW:** law of a Member State (incorporating EU law) or law of another country, designated by the EU Regulation (cf. above).	**# INTERNATIONAL CONVENTIONS:** - Conflict rules (determining which national substantive law applies) - Substantive rules **# STATE RULES** (notably international public order) **# NO STATE RULE**
COURT	**FRENCH COURTS** **# Internal case:** art. 42 and f. of the code of civil procedure… **# International case:** art. 14 and 15 of the civil code, art. 689 and f. of the code of penal procedure…).	EU Regulation n° 1215/2012: national court of a Member State or of another country.	**# INTERNATIONAL CONVENTIONS** (determining which national courts are competent) **# STATE COURTS** **# ARBITRATION**

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WHICH LAWS DOES A FRENCH JUDGE APPLY?



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WHICH LAWS DOES A FRENCH JUDGE APPLY?

A FRENCH JUDGE MAY APPLY:

 # French law
> to an internal case
> to a foreigner residing in France
> to a European case
> to an international case

 # European Union law, which is incorporated into French law
> to an internal case
> to a foreigner residing in France
> to a European case
> to an international case

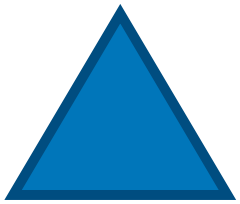
 # International treaties to which France is a party
> to an internal case
> to a foreigner residing in France
> to a European case
> to an international case

 # Foreign law
> to a foreigner residing in France
> to a European case
> to an international case

 # Lex Mercatoria, private rules, treaties to which France is not a party
> to a European case
> to an international case

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PROTAGONISTS OF INTERNATIONAL LAW



INTERGOVERNMENTAL ORGANISATIONS

PRIVATE INTERNATIONAL ORGANISATIONS

JUDGE	ATTORNEY-AT-LAW	NOTARY
ARBITRATOR	COMPANY	BAILIFF
MEDIATOR	IN HOUSE COUNSEL	EXPERT

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ENGLISH-FRENCH VOCABULARY

 # Agreement / contract: accord / contrat.

 # Civil code: code civil.

 # Conflict rule: règle de conflit.

 # Conflict of laws: conflit de lois.

 # Conflict of jurisdictions: conflit de juridictions.

 # Foreign law: droit étranger.

 # Govern: régir.

 # Governing law: droit applicable.

 # Internal case: affaire interne.

 # International arbitration: arbitrage international.

 # International case: affaire internationale.

 # Judge: juge.

 # Litigation: litige, contentieux.

 # Substantive rule: règle de fond.

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QUIZZ



Right or wrong?

A - Conflicts of laws and jurisdictions may be quite easily solved in the European Union, thanks to conflicts rules that are mandatory within the European Union.

B - European Union law comprises both conflict rules and substantive rules.

C - A contract may be governed by European Union law, as a substantive rule.

D - National laws may be applied to international cases.

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FRENCH LEGAL SYSTEM

DOING BUSINESS IN FRANCE

OBJECTIVES

 # Study the main features of a State legal system, given that the legal systems of States form the basis of international law.

 # Understand the essential differences between a State legal system and international law.

 # Know some major aspects of French law.

SUMMARY

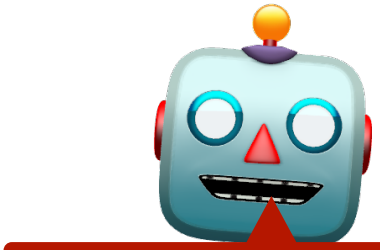
 # France is a State governed by the rule of law. It is a democracy and a Republic.

 # French law is essentially written. It is a codified law.

 # The normative system can be represented in the form of a pyramid, which expresses the hierarchy of norms.

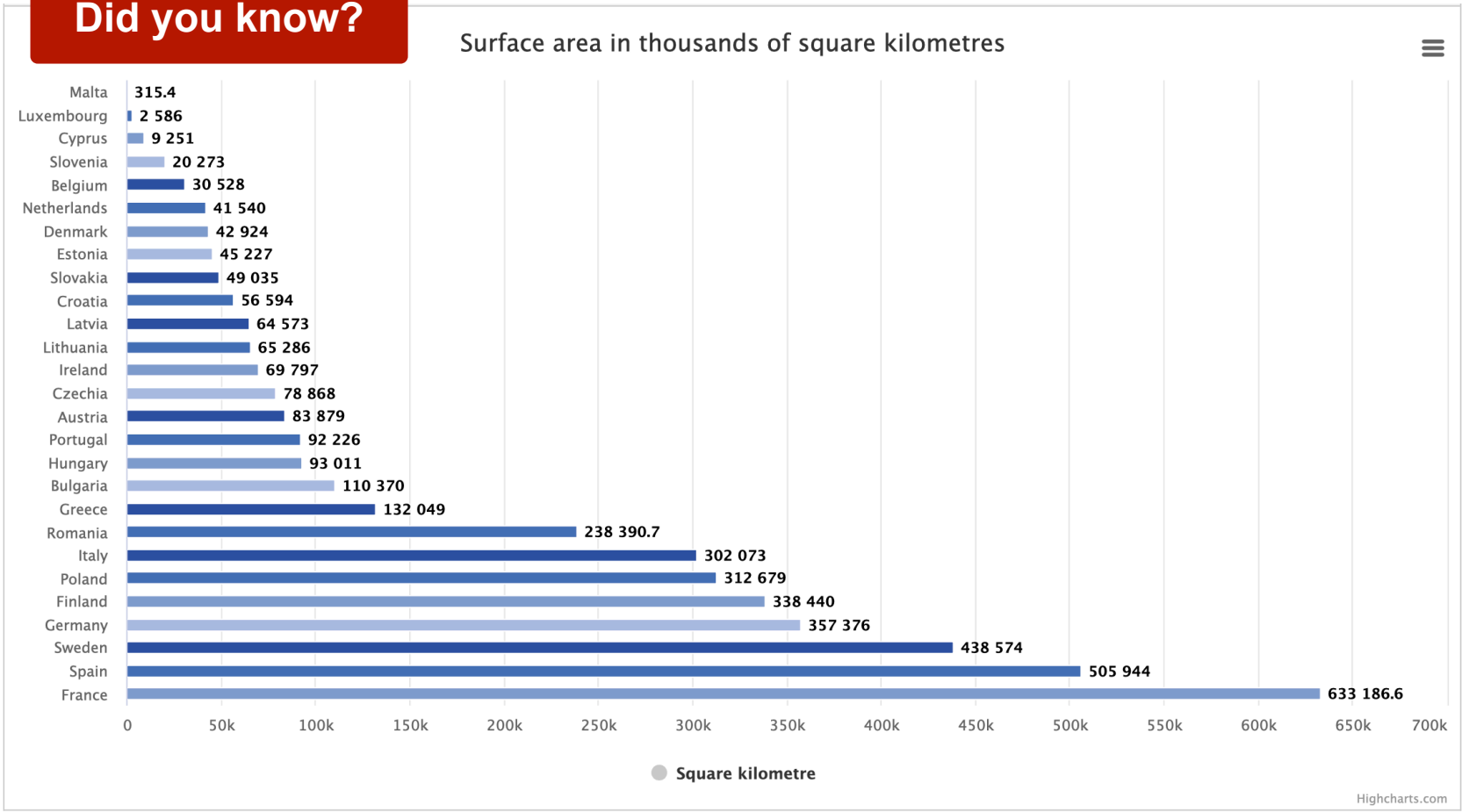
 # The judicial system can also be represented in the form of a pyramid, which expresses the hierarchy between jurisdictions.

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Did you know?

France is the largest EU country by surface area.

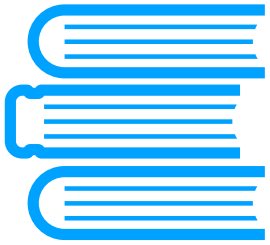


Source: Eurostat

https://european-union.europa.eu/principles-countries-history/key-facts-and-figures/life-eu_en

CODIFICATION

FRENCH LAW



Civil code

Penal code

Commercial code…

ANGLO-SAXON LAWS



Bills

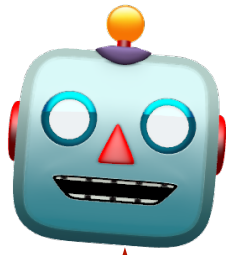


Case law

French law is generally codified.
Anglo-Saxon laws are generally not codified and rely highly on the doctrine of precedent (rule of precedent), whereas under French law, case law is less important when the written rules are clear. French law regulates more strictly than Anglo-Saxon laws the power of the judges to interpret laws.

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FRENCH CODES



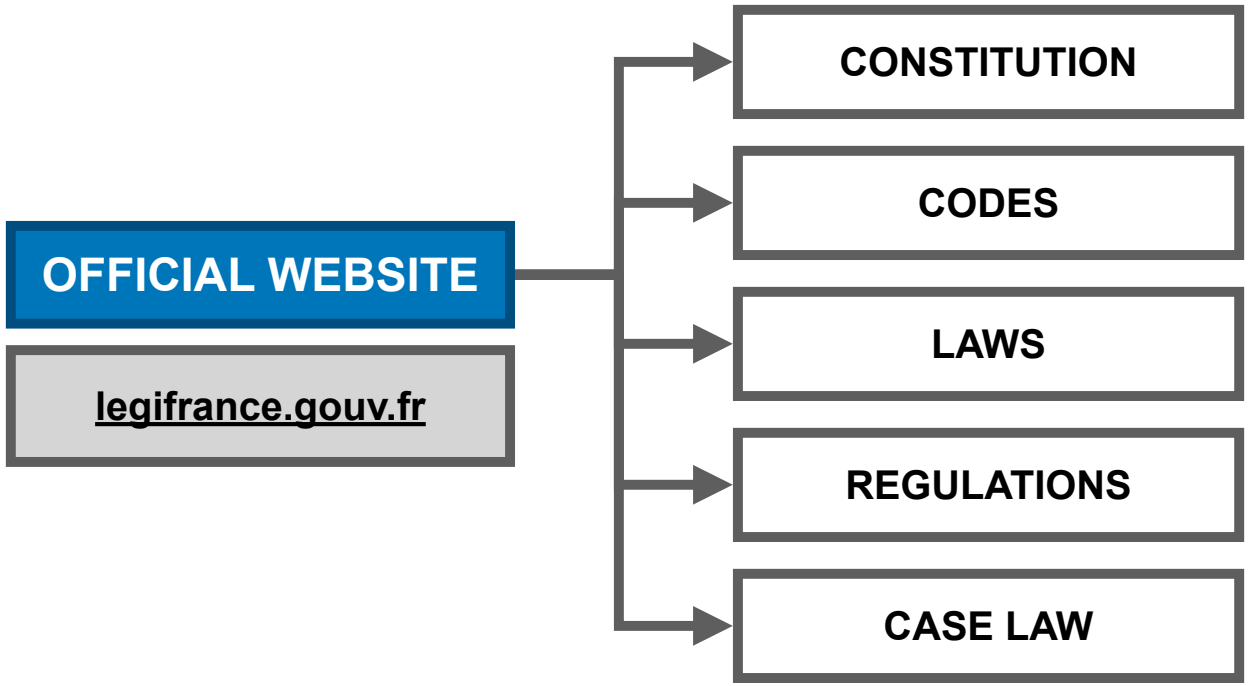
The codes are published on the official website legifrance.gouv.fr.

Let's take a closer look!

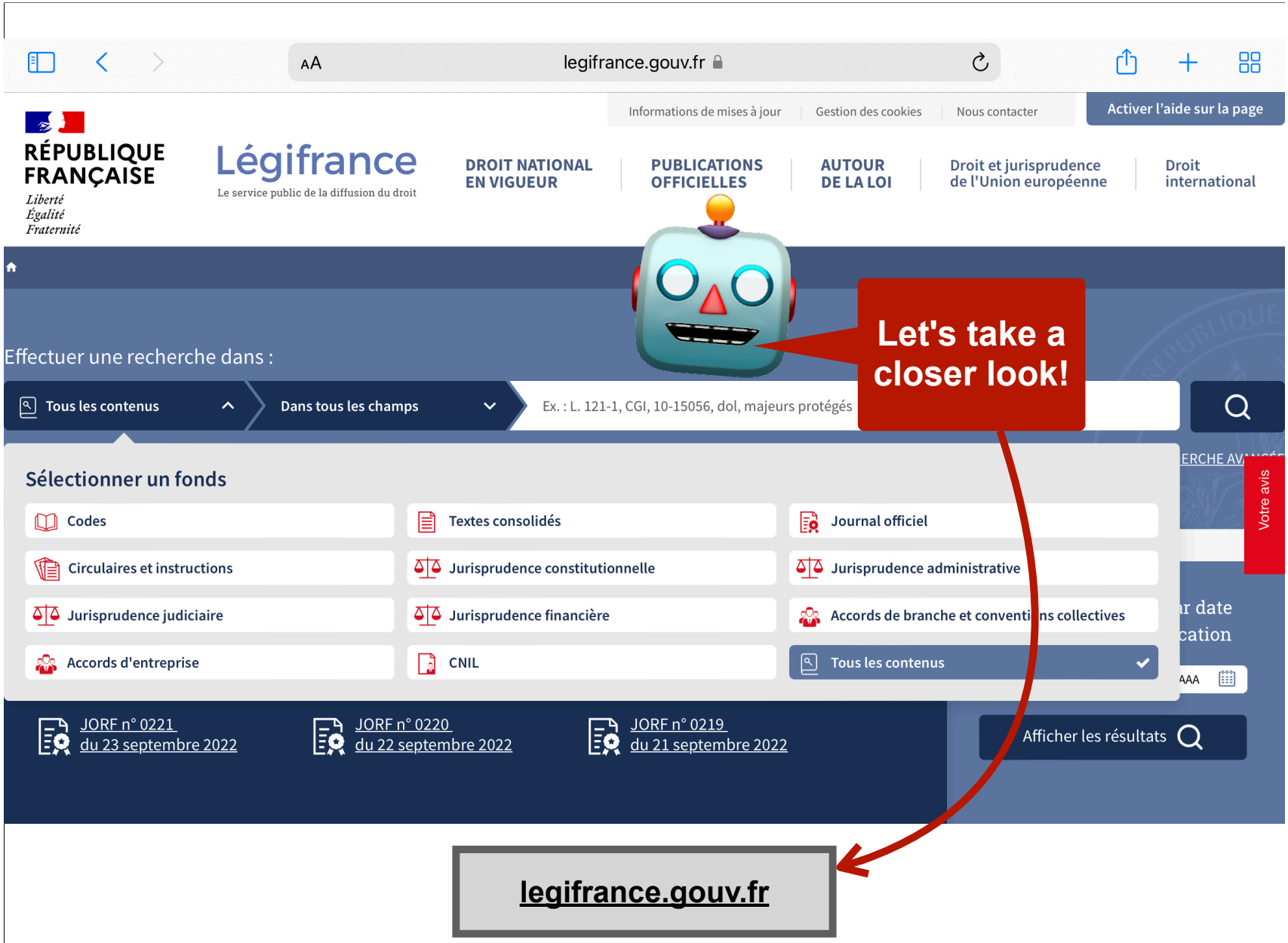
Each code is an orderly collection of laws and regulations applicable to a defined field. The codes are structured by an intelligible plan (books, titles, chapters, sections...).

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FRENCH LAW

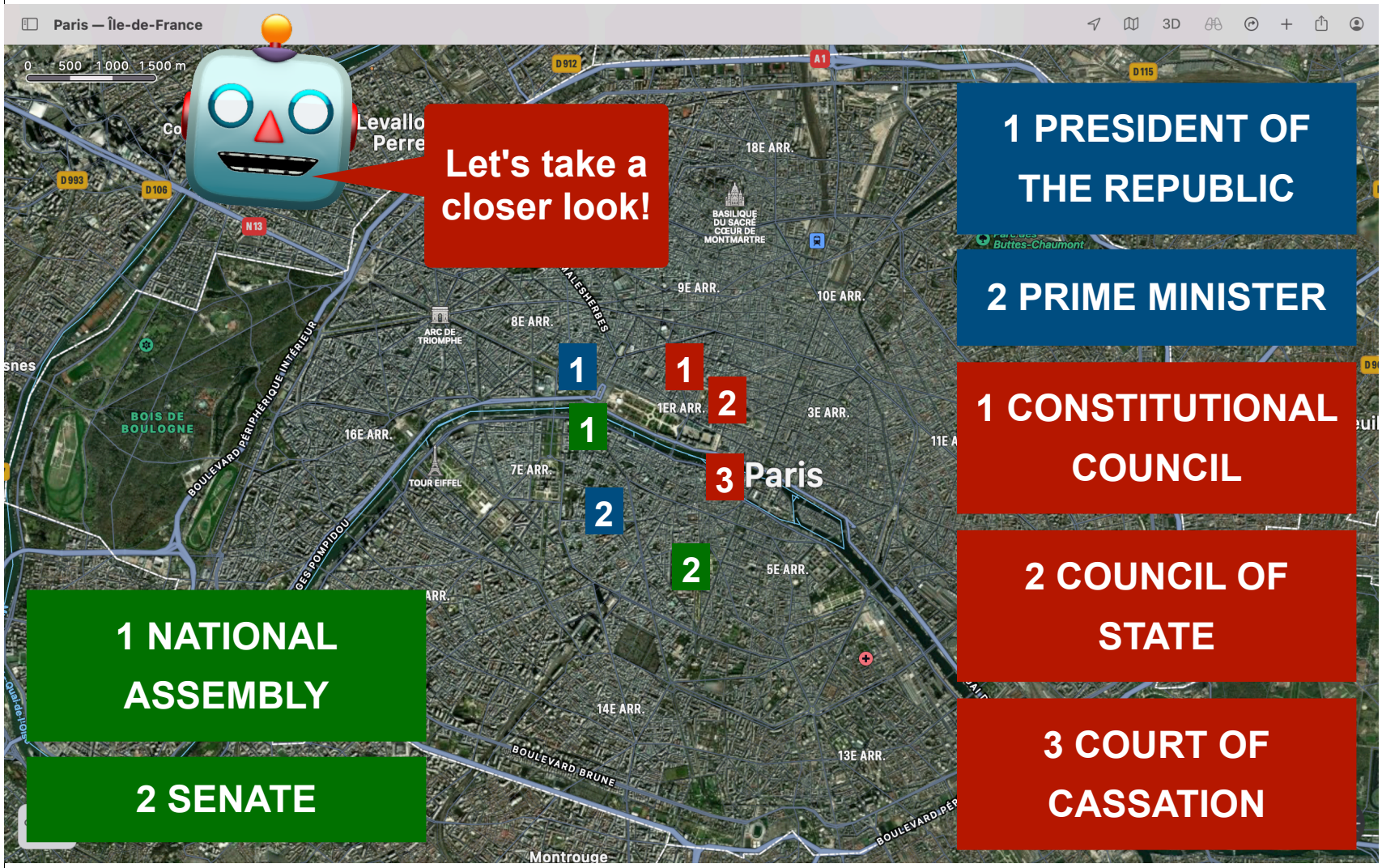


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DROIT NATIONAL EN VIGUEUR
PUBLICATIONS OFFICIELLES
AUTOUR DE LA LOI
Droit et jurisprudence de l'Union européenne
Droit international
Let's take a closer look!
Effectuer une recherche dans :
Tous les contenus
Dans tous les champs
Ex. : L. 121-1, CGI, 10-15056, dol, majeurs protégés
Sélectionner un fonds
Codes
Textes consolidés
Journal officiel
Circulaires et instructions
Jurisprudence constitutionnelle
Jurisprudence administrative
Jurisprudence judiciaire
Jurisprudence financière
Accords de branche et conventions collectives
Accords d'entreprise
CNIL
Tous les contenus
JORF n° 0221 du 23 septembre 2022
JORF n° 0220 du 22 septembre 2022
JORF n° 0219 du 21 septembre 2022
Afficher les résultats
Votre avis
legifrance.gouv.fr

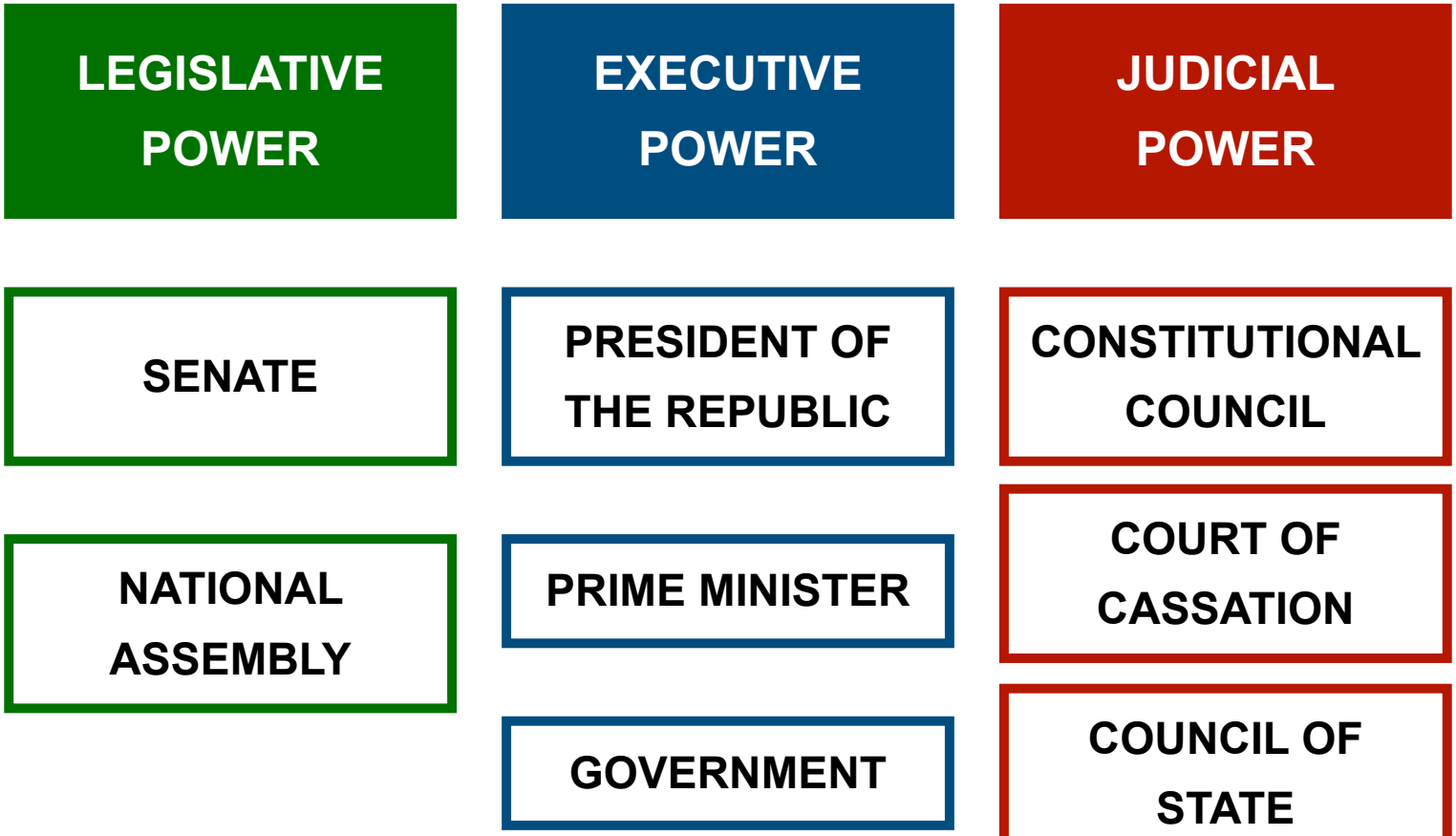
FRENCH INSTITUTIONS

FRENCH INSTITUTIONS



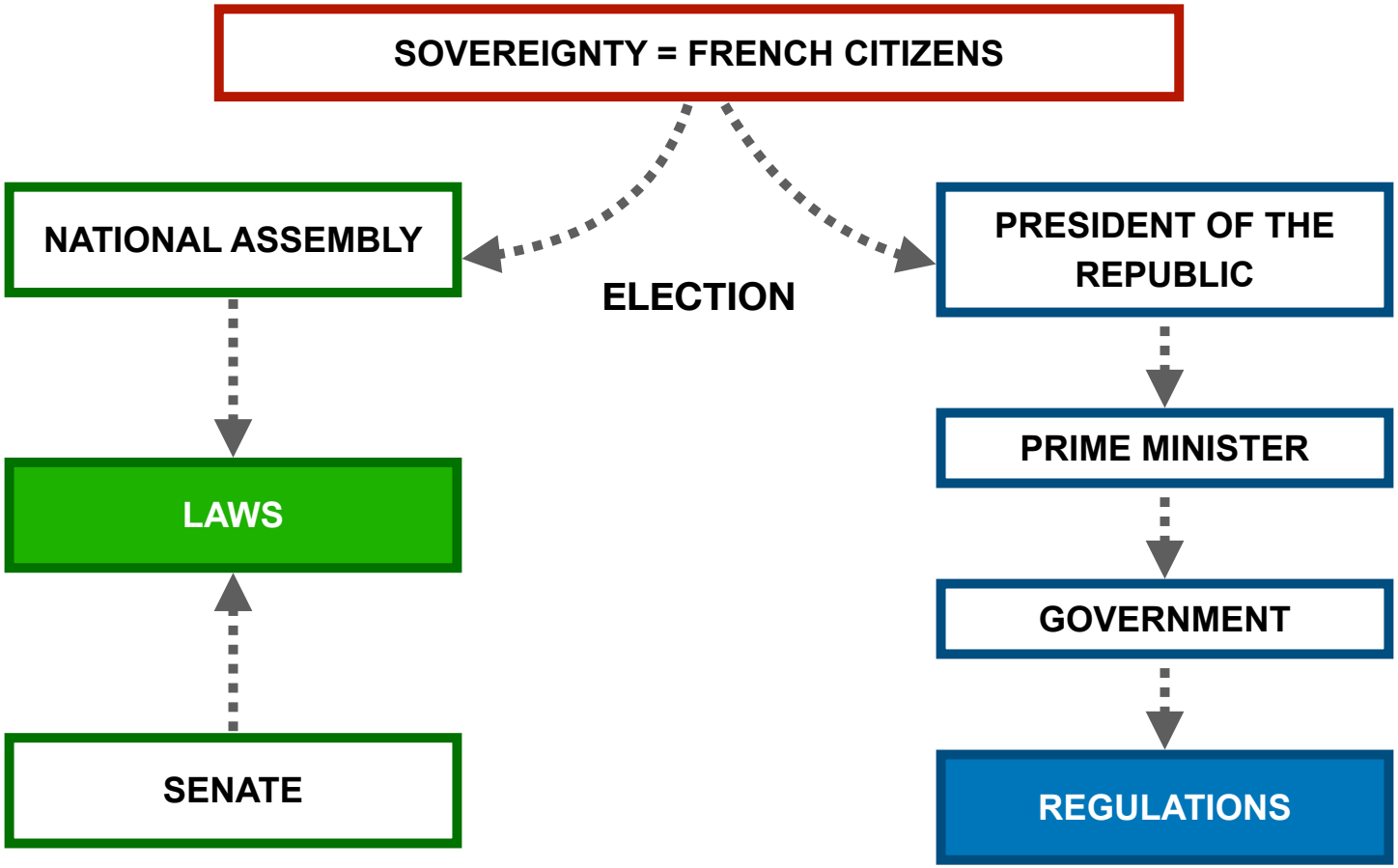
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FRENCH INSTITUTIONS



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FRENCH INSTITUTIONS



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SEPARATION OF POWERS

LEGISLATIVE POWER	EXECUTIVE POWER	JUDICIAL POWER
THE POWER TO PASS LAWS	THE POWER TO ENFORCE LAWS	THE POWER TO CONTROL LAW ENFORCEMENT

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SEPARATION OF POWERS

The principle of separation of powers has been theorized by **Locke (1632-1704)** and **Montesquieu (1689-1755)**. It tends to limit arbitrariness and ensure a balance by distinguishing functions within a political system and prescribing their separation. According to Montesquieu, *« In order for power not to be abused, it is necessary that, by the disposition of things, power stops power. »*

Based on this principle, there are 3 main powers within a political system:

- the legislative power is the power to pass laws,
- the executive power is the power to enforce laws,
- the judicial power is the power to control law enforcement and to settle disputes.

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SEPARATION OF POWERS

In the **United States of America**, this theory inspired the drafters of the American Constitution, who instituted in 1787 a presidential system organized according to a **strict separation of the three powers**, tempered by the existence of reciprocal means of control and action designed in accordance with the doctrine of « **checks and balances** ».

In **France**, article 16 of the Declaration of the Rights of Man and of the Citizen of 26 August 1789 also refers to this theory by providing that *« Any society in which the guarantee of rights is not ensured or the separation of powers determined, has no Constitution »*.

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SEPARATION OF POWERS

In **France**, however, quickly, in 1790 and 1795, texts prohibited the courts of the judicial order from hearing disputes concerning the administration. **The legislative power and the executive power were removed from judicial review** on the grounds that they did not have sufficient legitimacy to judge acts of authorities elected by universal suffrage and acting in the public interest. From **1799**, an **administrative court separate from the judicial authority**, the Council of State (Conseil d'État), was established to allow the challenge of the acts of the administration.This is how we speak of a *« French conception of the separation of powers »*, characterized by a certain mistrust of the judiciary and a desire to limit it. This conception is reflected in particular in the existence of a duality of jurisdictions (the **judicial order** and the **administrative order**) and in the interference of the executive power in judicial activities.

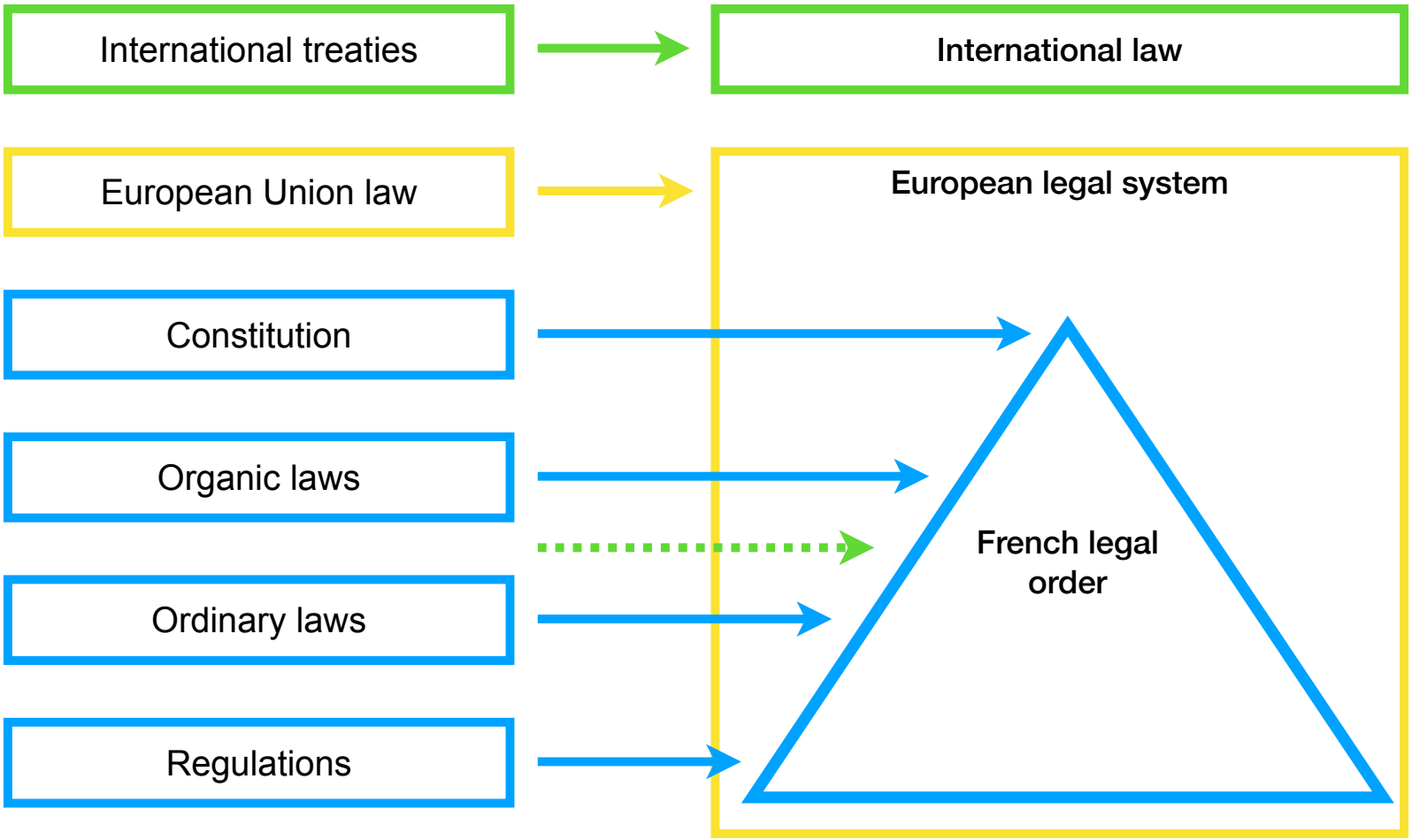
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RULE OF LAW

The rule of law (in French: « État de droit ») refers to a State which submits to rules and which offers individuals judicial remedies in order to enforce their rights against the State.

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NORMATIVE PYRAMID



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TREATIES

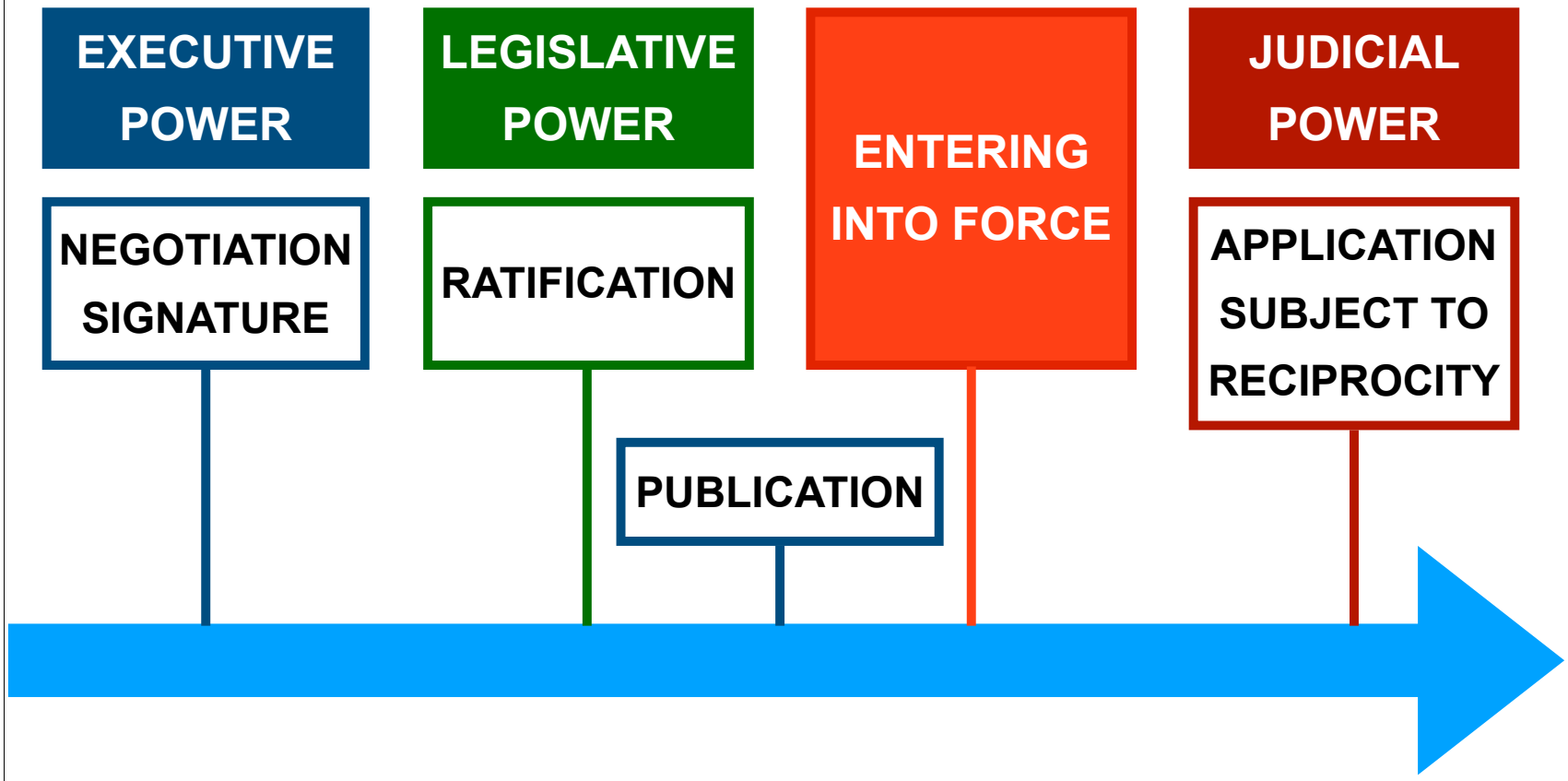
ARTICLE 55 OF THE FRENCH CONSTITUTION

TREATIES OR AGREEMENTS DULY RATIFIED OR APPROVED SHALL, FROM THE TIME OF THEIR PUBLICATION, HAVE A HIGHER AUTHORITY THAN LAWS, SUBJECT, FOR EACH AGREEMENT OR TREATY, TO ITS APPLICATION BY THE OTHER PARTY.

+ Read: International treaties binding France (official website diplomatie.gouv.fr)

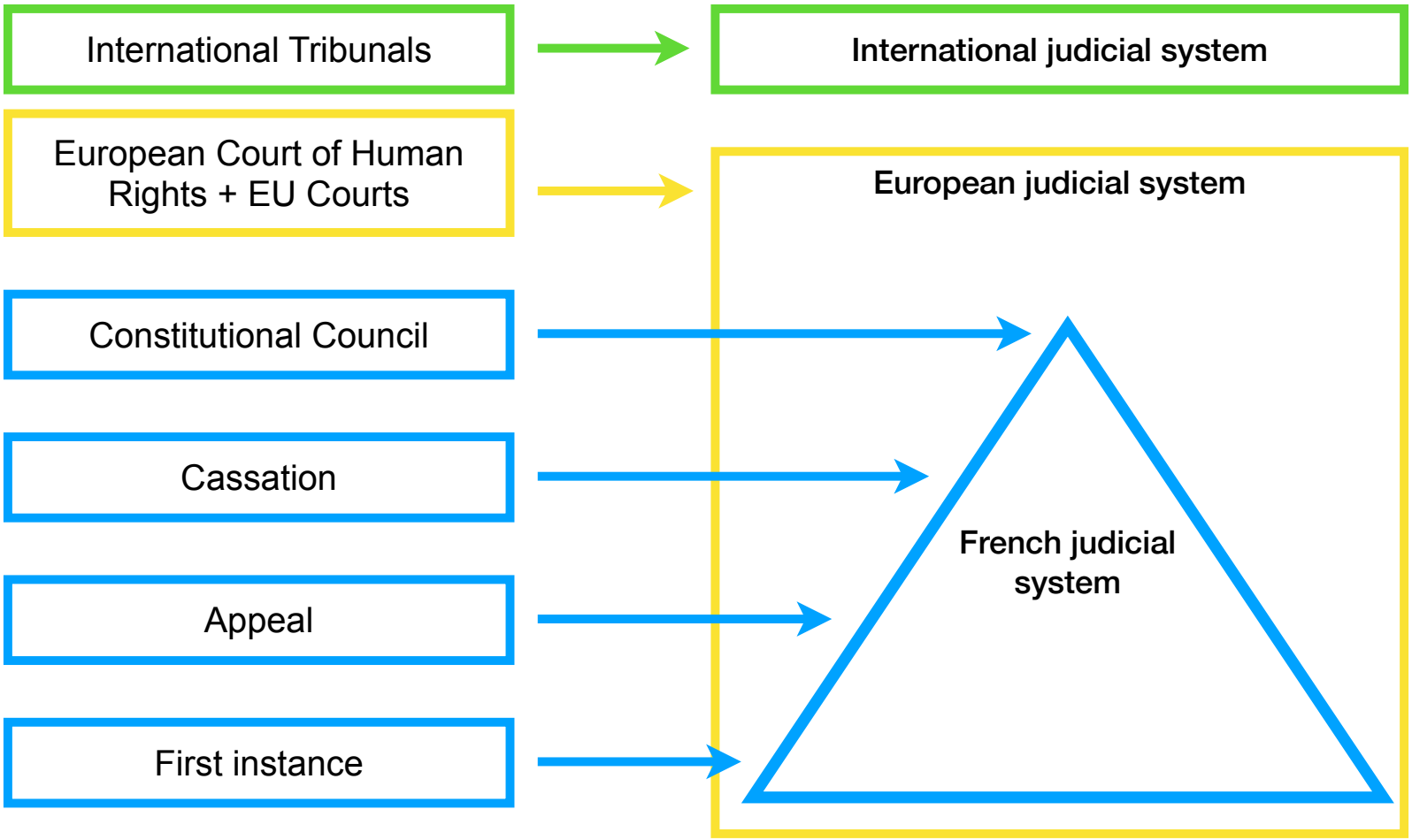
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INTERNATIONAL TREATY



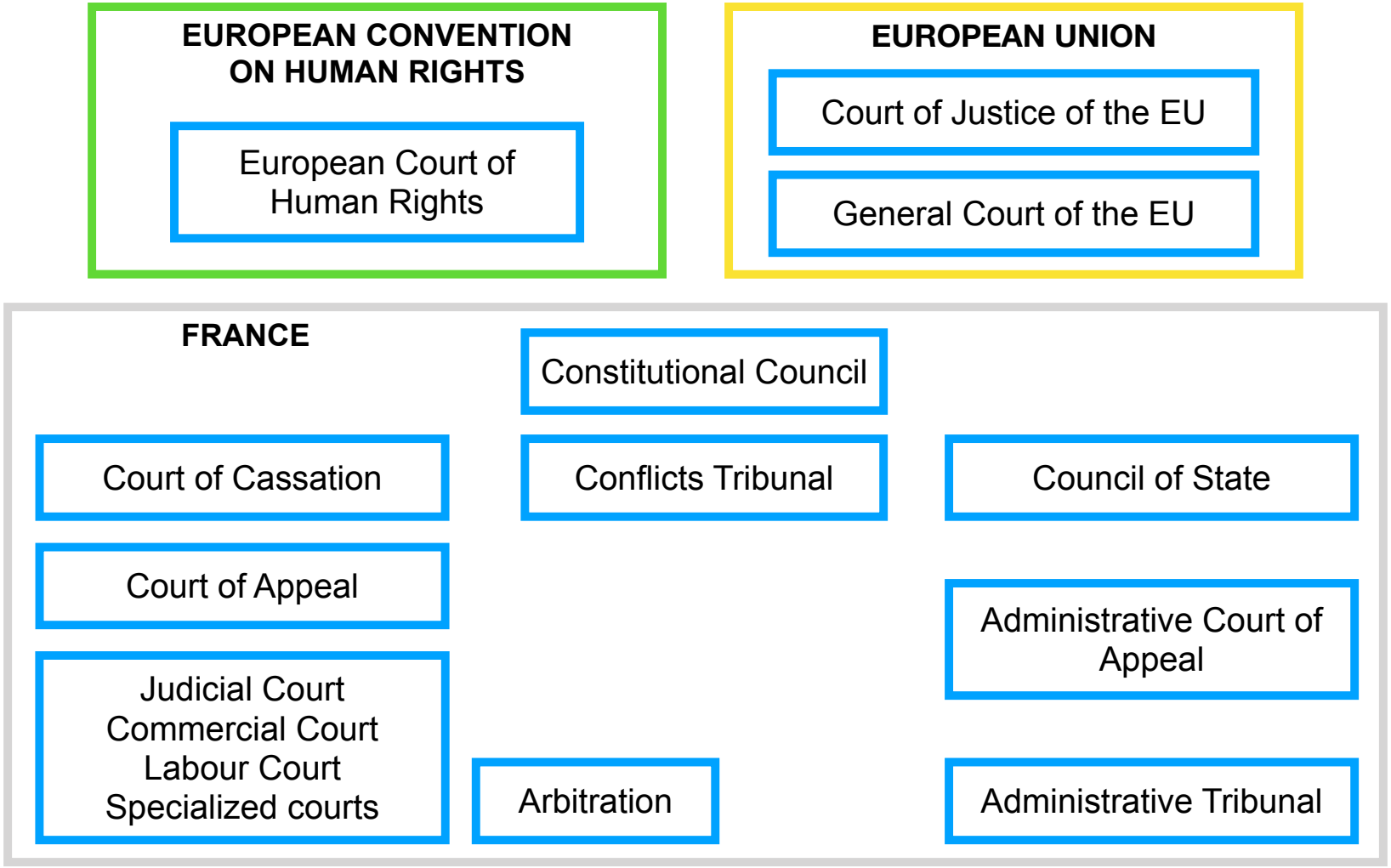
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JUDICIAL ORGANISATION



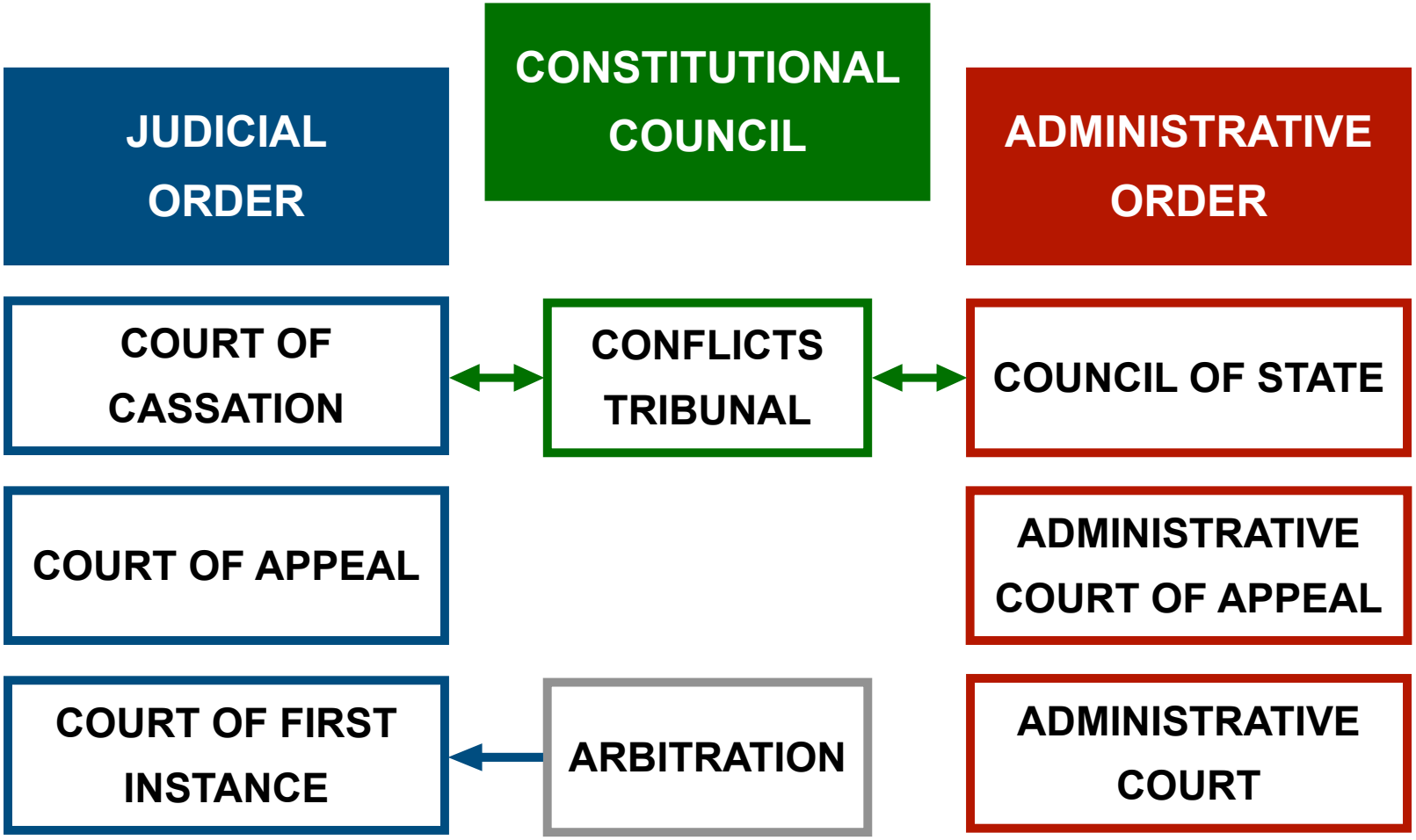
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JUDICIAL SYSTEM



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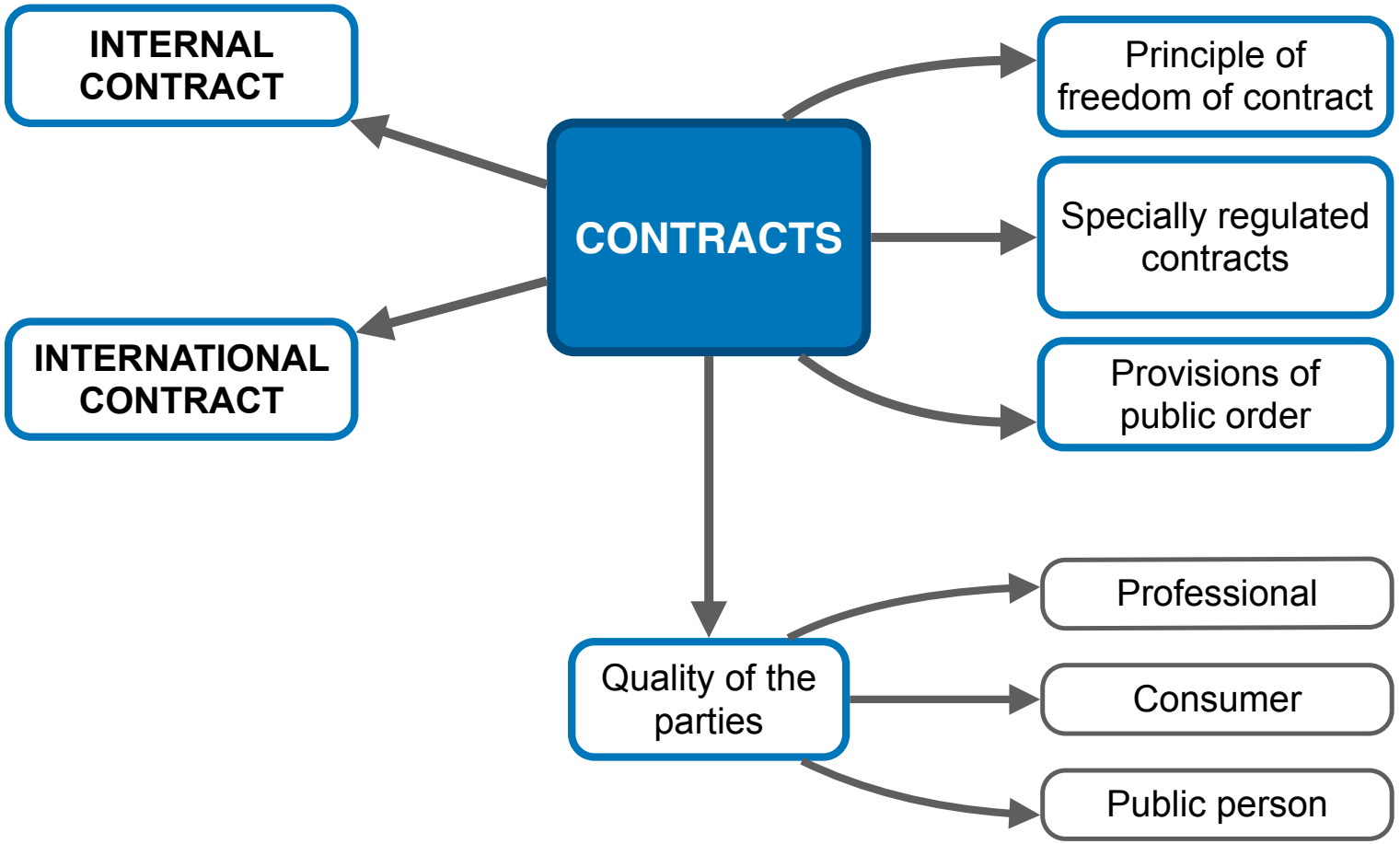
JUDICIAL POWER IN FRANCE



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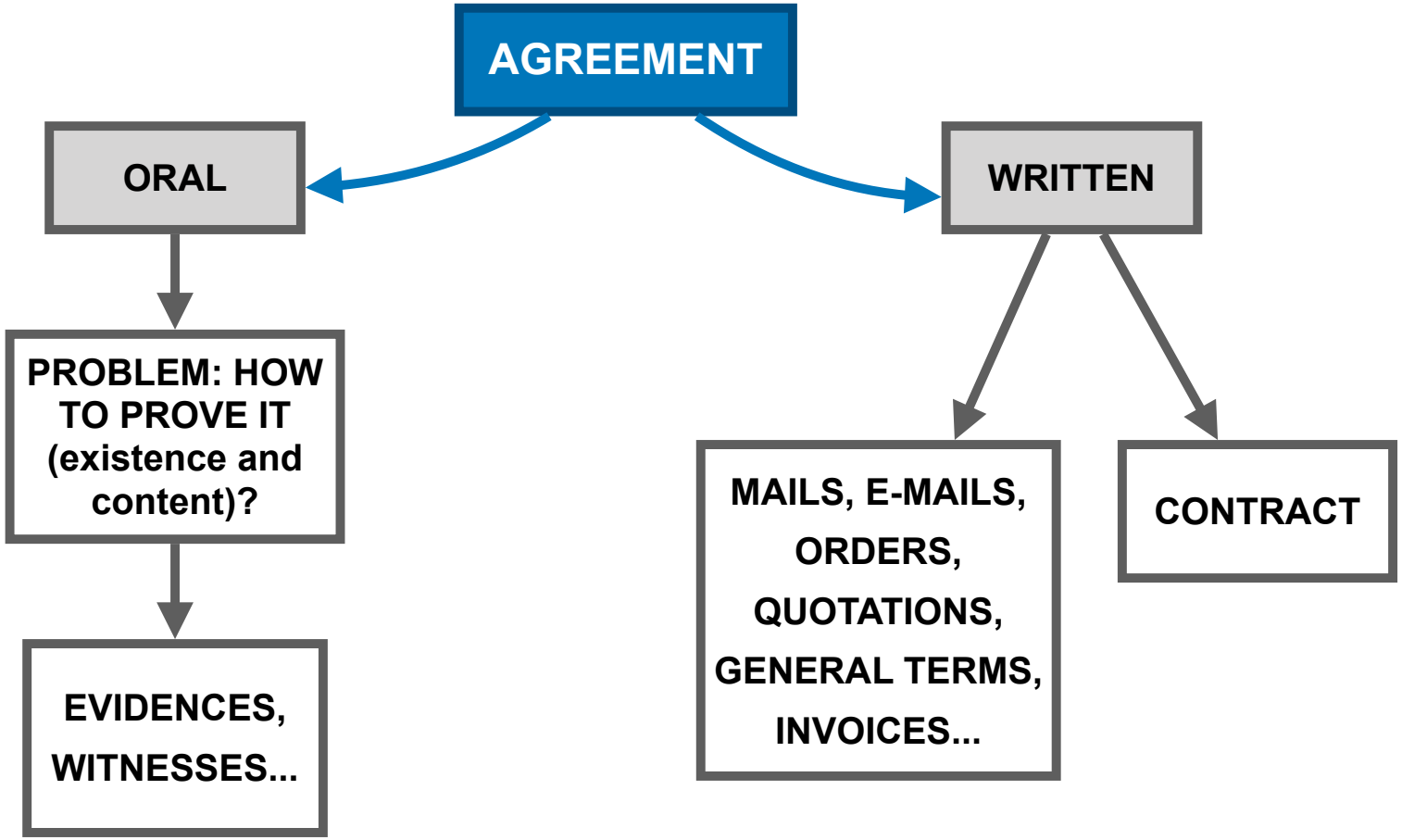
FRENCH LAW: CONTRACTS

CONTRACTS



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FORM OF THE CONTRACT



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FORM OF THE CONTRACT

B TO B

A WRITING IS NOT NECESSARY. GREAT FREEDOM CONCERNING THE CONTENT.

B TO C

A WRITING IS NECESSARY. THE CONTENT IS REGULATED.

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DEFINING THE CONTRACT

Article 1101 of the French Civil Code - The contract is an agreement of wills between two or more persons intended to create, modify, transmit or extinguish obligations.

1102 - Everyone is free to contract or not to contract, to choose his co-contractor and to determine the content and form of the contract within the limits set by law.

Freedom of contract does not allow derogation from rules of public order.

1103 - Legally formed contracts take the place of law to those who made them.

1104 - Contracts must be negotiated, formed and executed in good faith. This provision is of public order.

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BINDING FORCE OF THE CONTRACT

French Civil Code

Article 1193 - Contracts may only be modified or revoked with the mutual consent of the parties, or for reasons permitted by law.

1194 - Contracts bind not only to what is expressed in them, but also to all the consequences given to them by equity, usage or the law.

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NON-PERFORMANCE OF THE CONTRACT

Article 1217 of the French Civil Code

The party to whom the commitment has not been performed, or has been imperfectly executed, may:

- refuse to perform or suspend the performance of its own obligation;
- continue the enforcement in kind of the obligation;
- obtain a price reduction;
- cause the contract to be terminated;
- seek compensation for the consequences of non-performance.

Sanctions that are not incompatible may be cumulated; damages may always be added.

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EXCEPTION OF NON-PERFORMANCE

Articles 1219 and 1220 of the French Civil Code

A party may refuse to perform its obligation, even though it is due, if the other party does not perform its obligation and if such non-performance is sufficiently serious.

A party may suspend performance of its obligation if it is clear that its counterparty will not perform by the due date and the consequences of such non-performance are sufficiently serious for it. Such suspension must be notified as soon as possible.

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UNFORESEEABLE CHANGE

Article 1195 of the French Civil Code

If a change in circumstances unforeseeable at the time of the conclusion of the contract makes performance excessively onerous for a party who had not agreed to assume the risk, the latter may request a renegotiation of the contract from its counterparty. It shall continue to perform its obligations during the renegotiation.

In the event of refusal or failure of the renegotiation, the parties may agree on the termination of the contract, on the date and on the conditions they determine, or request by mutual agreement the judge to proceed with its adaptation. In the absence of agreement within a reasonable time, the judge may, at the request of a party, revise the contract or terminate it, on the date and on the conditions he fixes.

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FORCE MAJEURE

Article 1218 of the French Civil Code

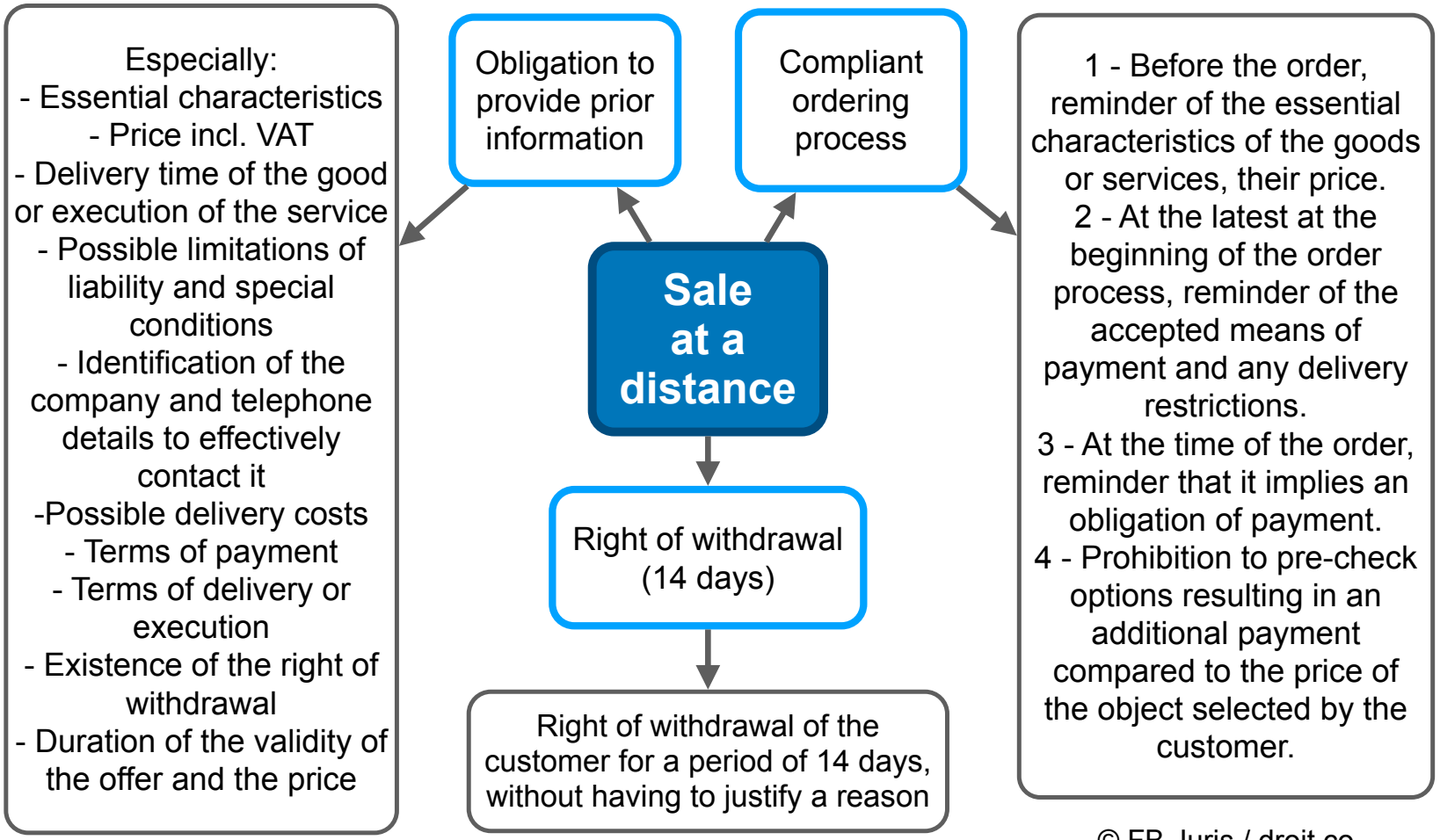
Force majeure in contractual matters occurs when an event beyond the control of the debtor, which could not reasonably have been foreseen at the time of the conclusion of the contract and the effects of which cannot be avoided by appropriate measures, prevents the performance of its obligation by the debtor.

If the impediment is temporary, the performance of the obligation shall be suspended unless the resulting delay justifies the termination of the contract. If the impediment is definitive, the contract is automatically terminated and the parties are released from their obligations under the conditions provided for in articles 1351 and 1351-1.

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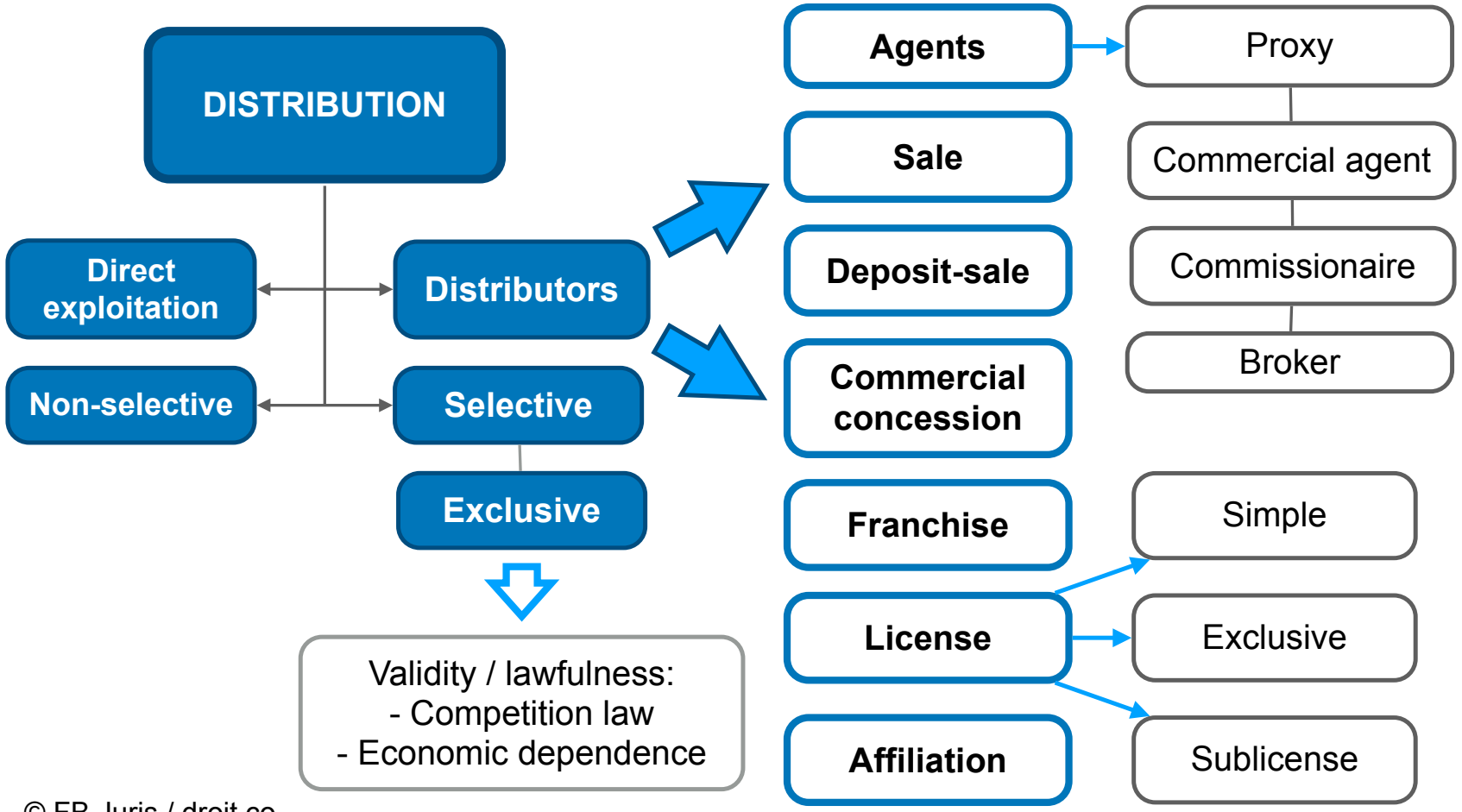
FRENCH COMMERCIAL LAW

DISTANCE CONTRACTS WITH CONSUMERS



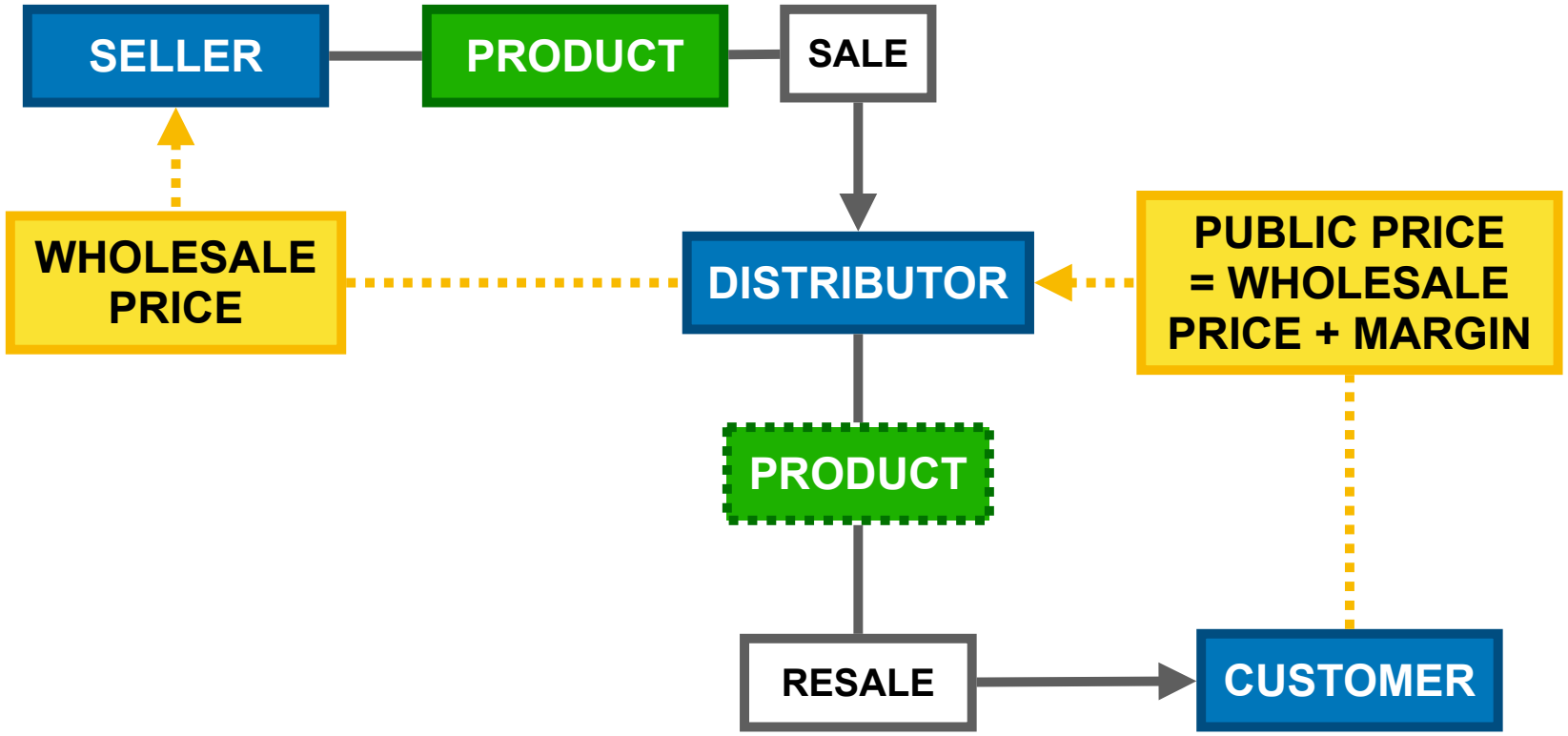
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DISTRIBUTION CONTRACTS



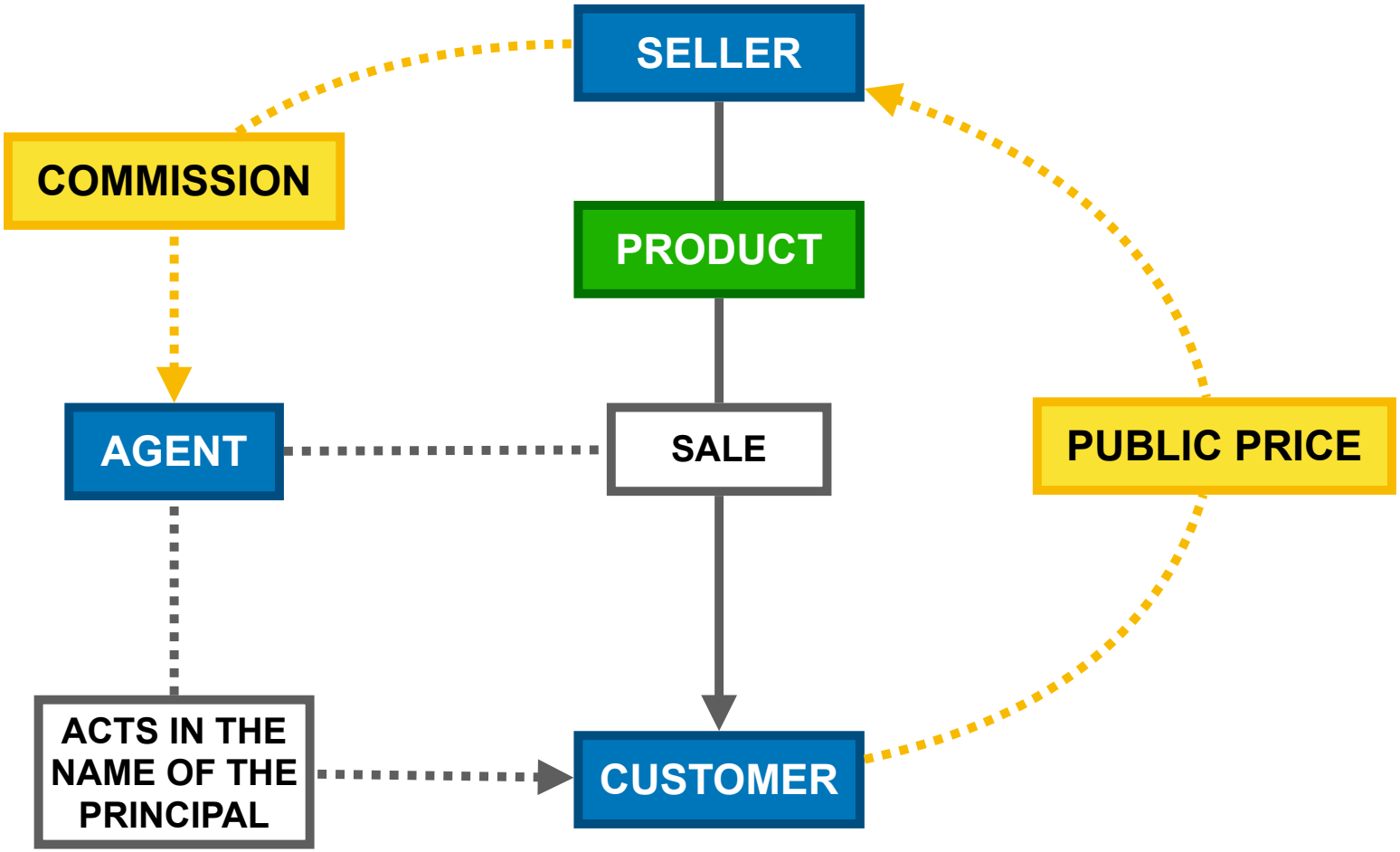
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PURCHASE AND RESALE



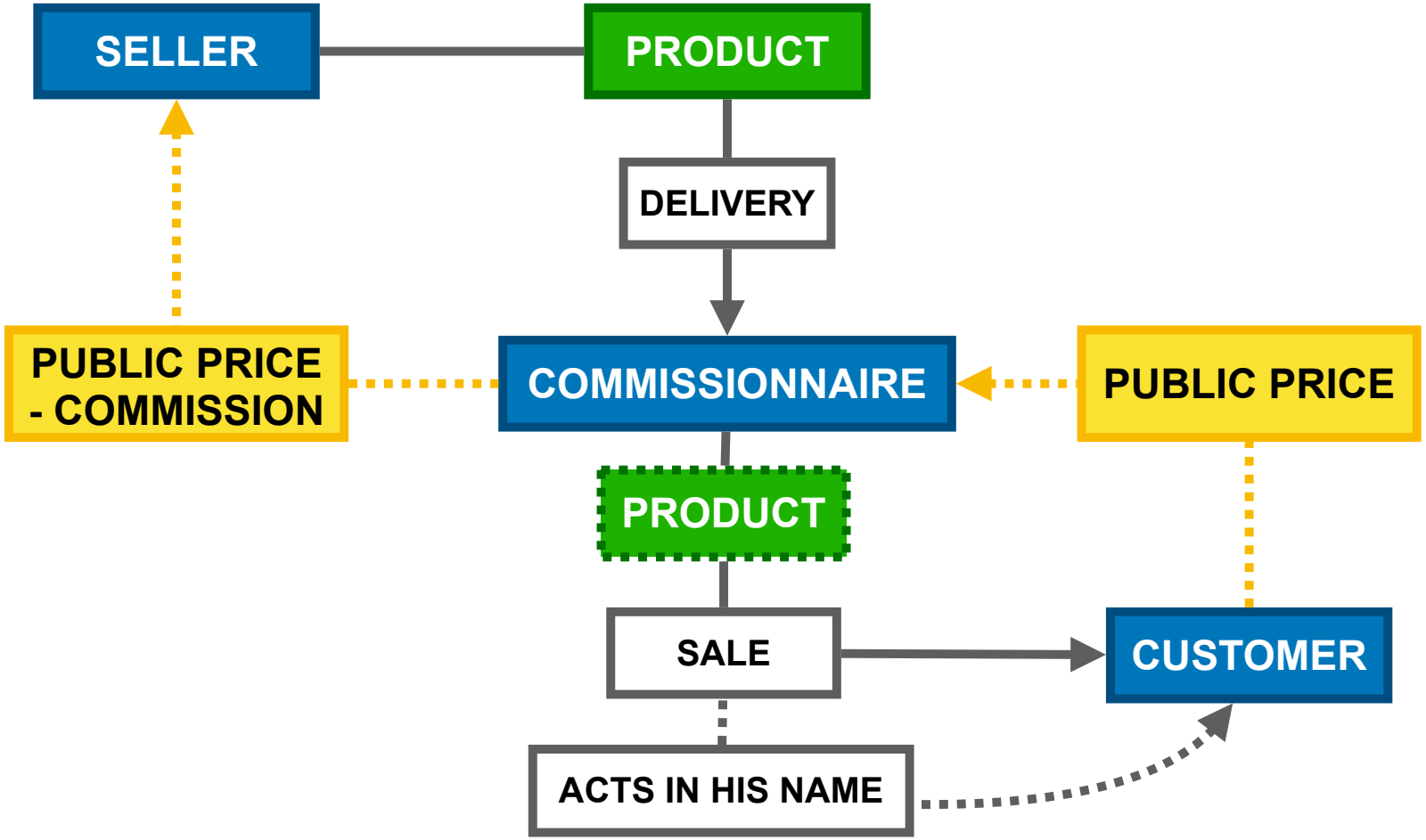
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COMMERCIAL AGENT



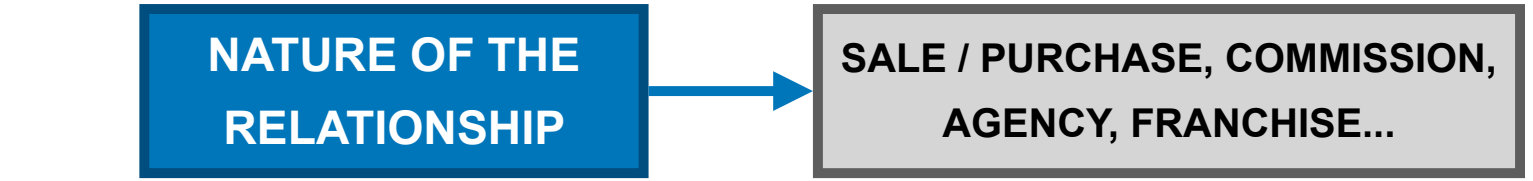
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COMMISSIONNAIRE



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DISTRIBUTION CONTRACT: CLAUSES



- PRODUCTS / SERVICES
- EXCLUSIVITY
- NON-COMPETITION
- TRADEMARK LICENCE
- KNOW-HOW
- COMMUNICATION

- FINANCIAL TERMS
- DURATION
- INSURANCE
- AUDIT

- DELIVERY
- TRANSFER OF OWNERSHIP
- TRANSFER OF RISKS
- TRANSPORT
- ADMINISTRATIVE FORMALITIES

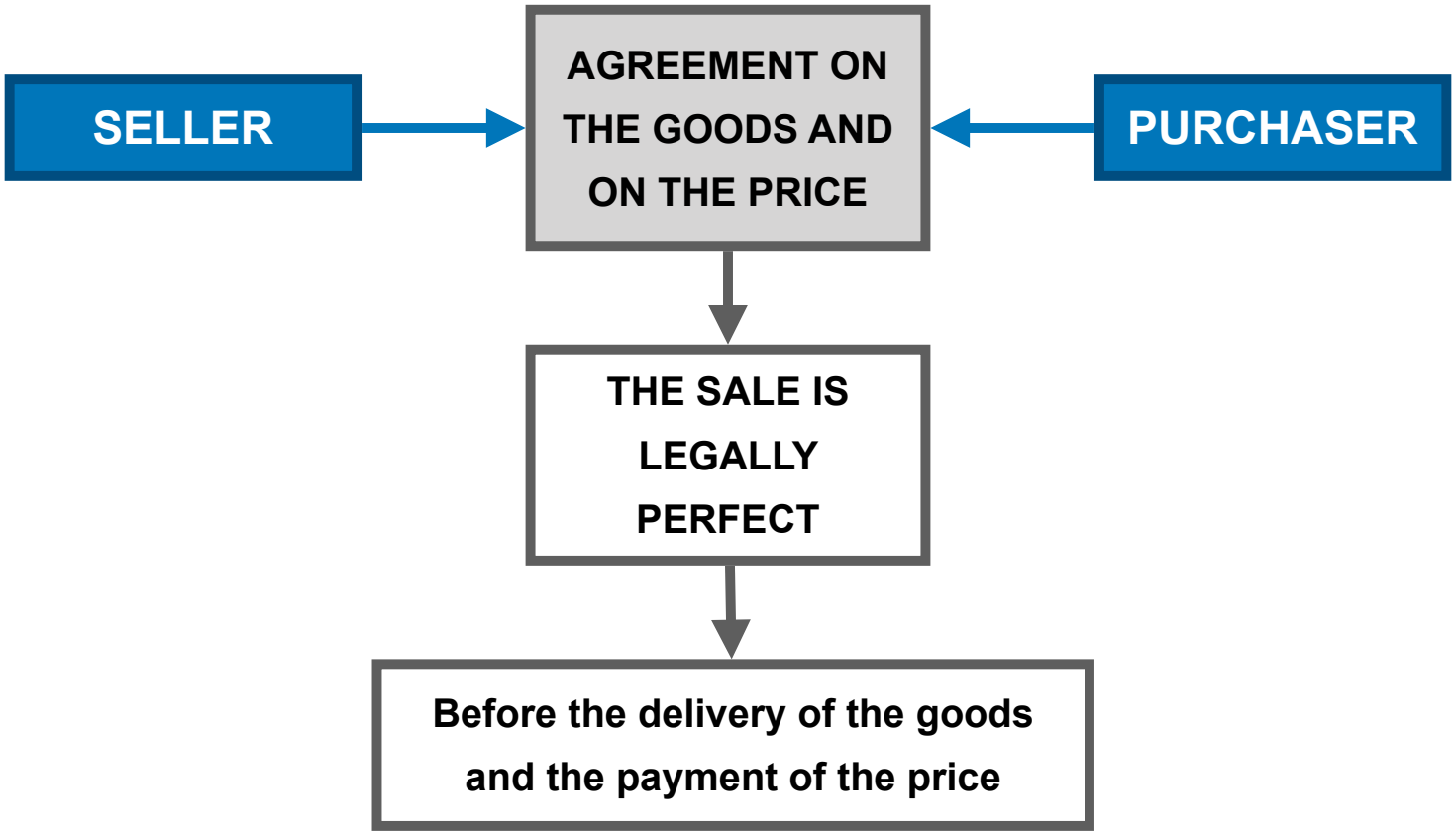
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PREVENTING THE RISKS / GUARANTEES

- Client information (KYC)
- Payment terms
- Retention of title clause
- Bank guarantee
- Personal surety
- Company surety

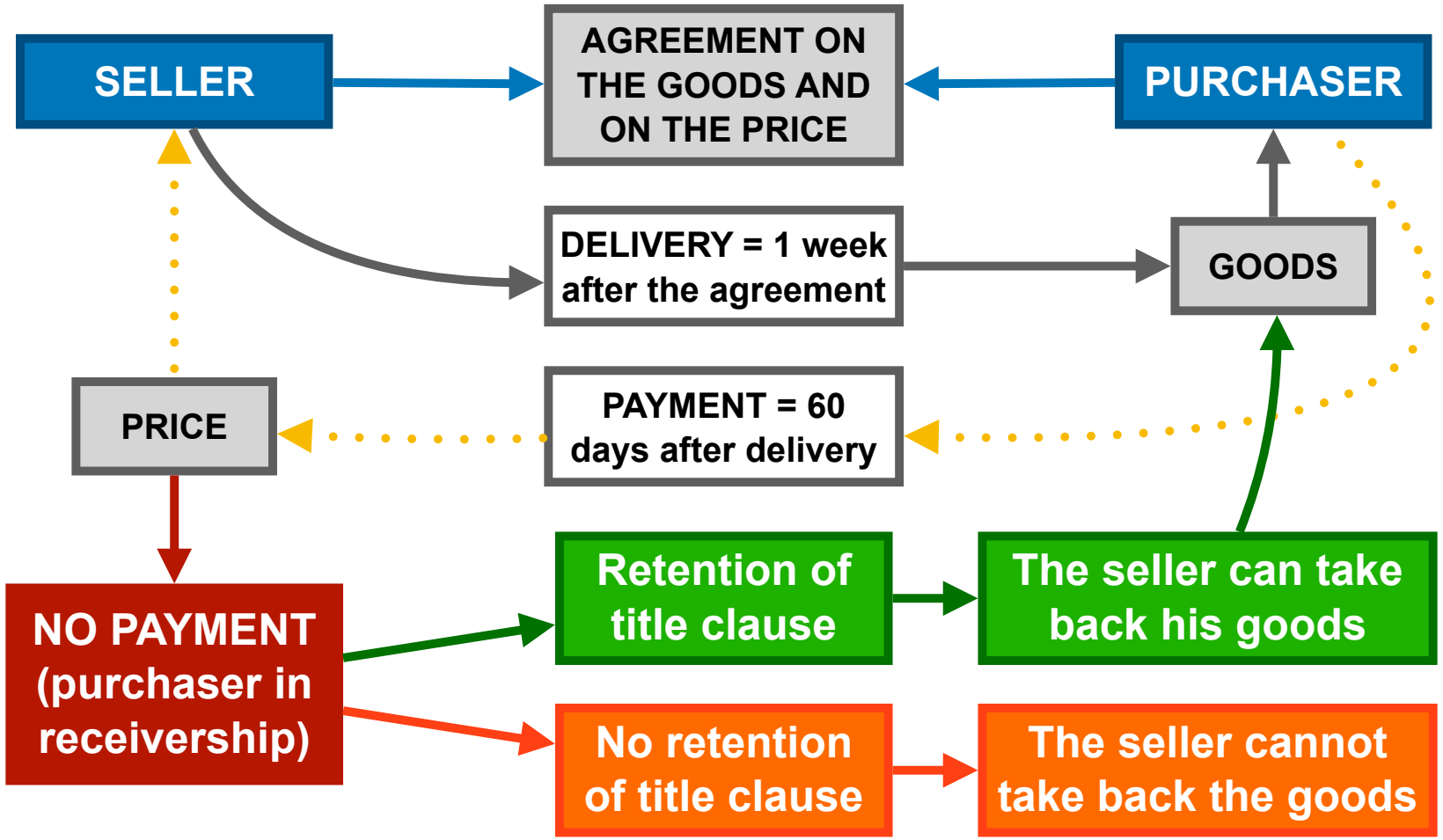
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SALE OF GOODS



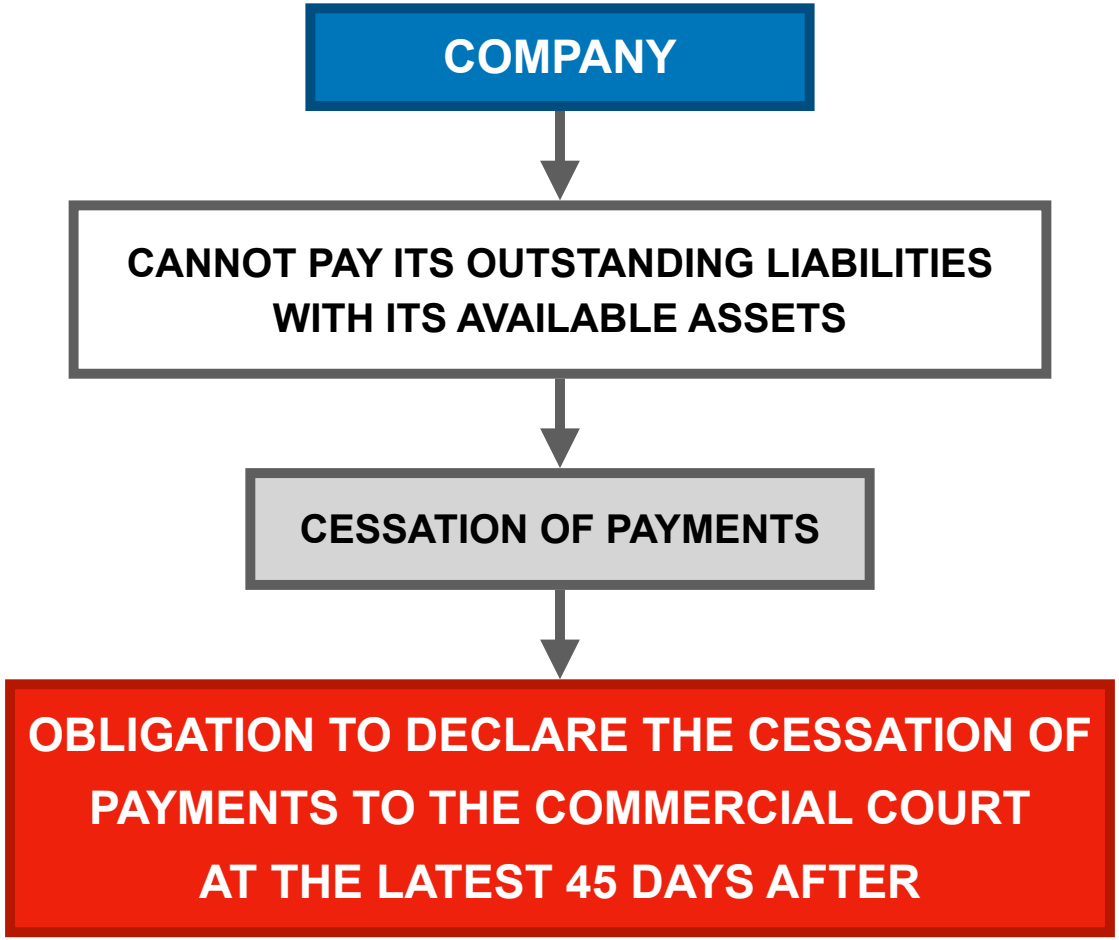
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SALE OF GOODS



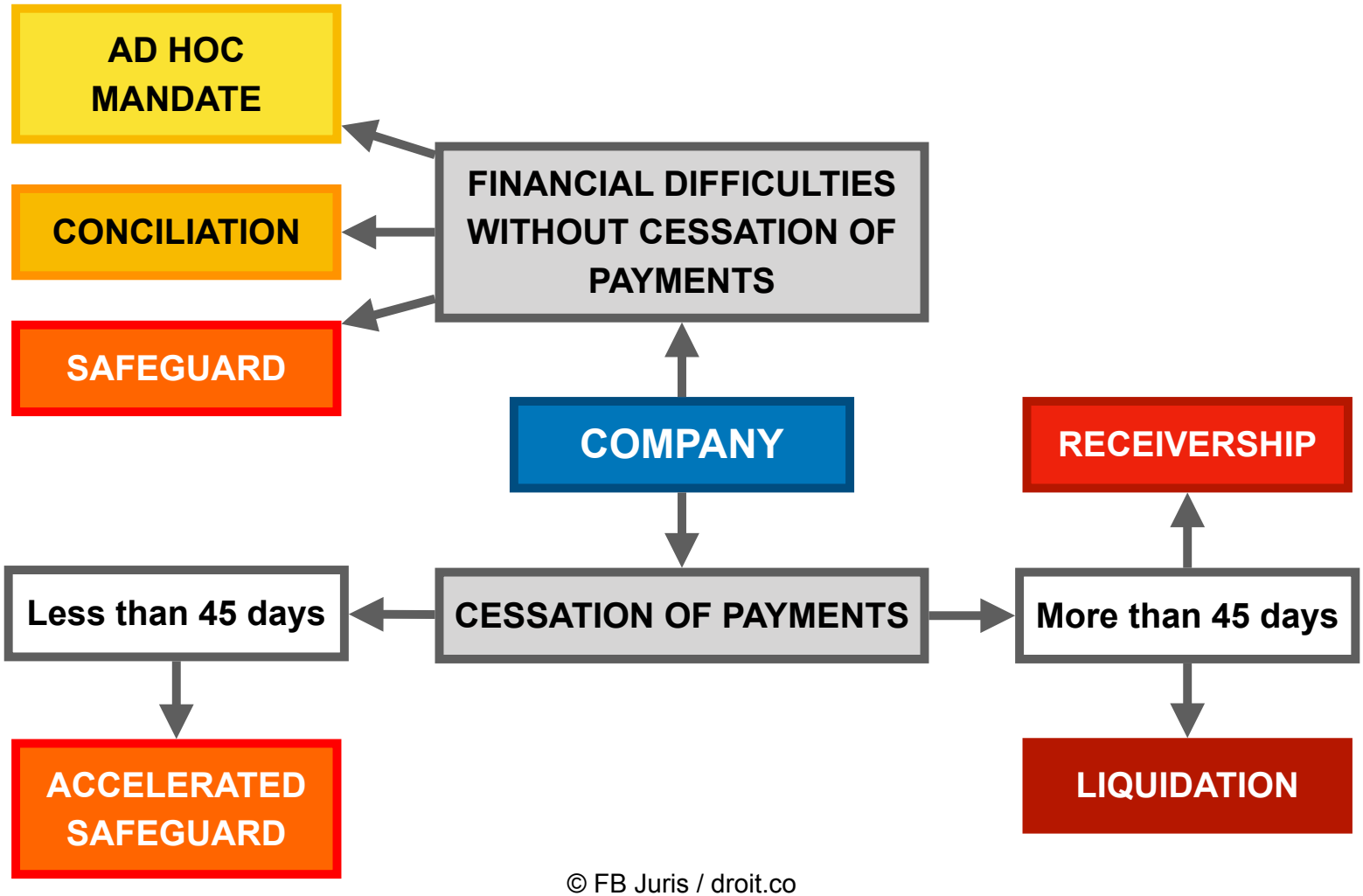
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CESSATION OF PAYMENT



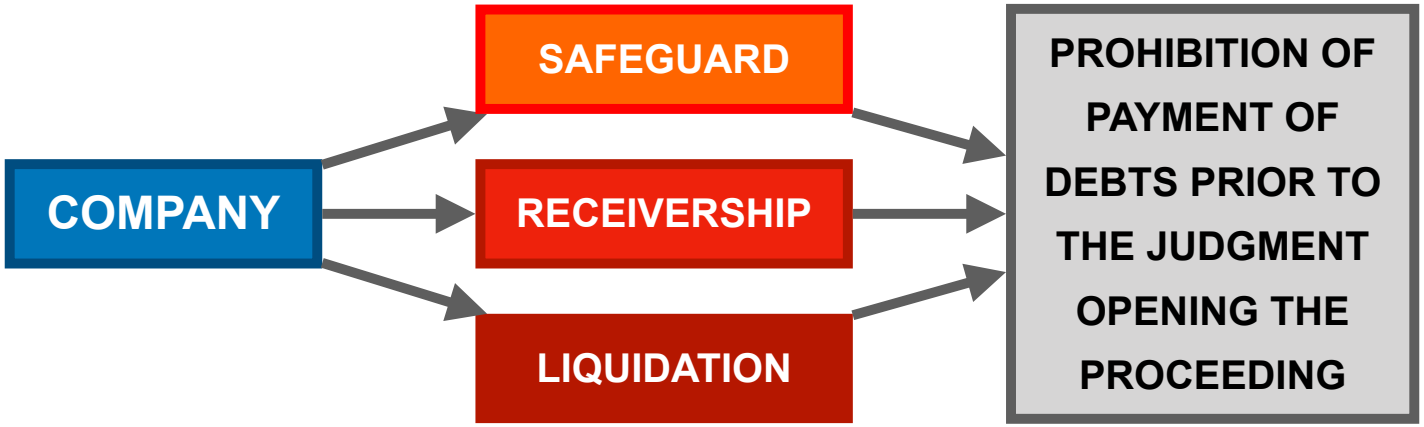
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CESSATION OF PAYMENT



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CESSATION OF PAYMENT



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TRANSLATIVE EFFECT

Article 1196 of the French Civil Code

In contracts having as their object the alienation of ownership or the assignment of another right, the transfer takes place at the time of the conclusion of the contract.

This transfer may be deferred by the will of the parties, the nature of things or by the effect of the law.

The transfer of ownership entails a transfer of risks of the thing.

[…]

CLAUSE: RETENTION OF TITLE

THE SELLER SHALL RETAIN THE OWNERSHIP OF THE GOOODS UNTIL THEY ARE FULLY PAID-UP.
HIS RIGHTS SHALL APPLY EQUALLY, IF APPLICABLE, EITHER TO THE PRICE OF THE PRODUCTS SOLD, OR TO ANY AMOUNT PAID BY AN INSURER FOR THE GOODS IN CASE OF DAMAGE.
THE PURCHASER SHALL DULY INFORM HIS CREDITORS OR ANY INTERESTED PARTY OF THIS RETENTION OF OWNERSHIP.

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THIRD PARTIES TO THE CONTRACT

Article 1199 of the French Civil Code

The contract only creates obligations between the parties.

Third parties may neither request the performance of the contract nor be obliged to perform it, subject to the provisions of this Section and those of Chapter III of Title IV.

Article 1200 - Third parties must respect the legal situation created by the contract.

They may rely on it in particular to prove a fact.

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NON-CONTRACTUAL LIABILITY

French Civil Code

Article 1240 - Any fact of man which causes damage to others obliges the one through whose fault he has come to repair it.

Article 1241 - Everyone is liable for the damage he has caused not only by his fact, but also by his negligence or recklessness.

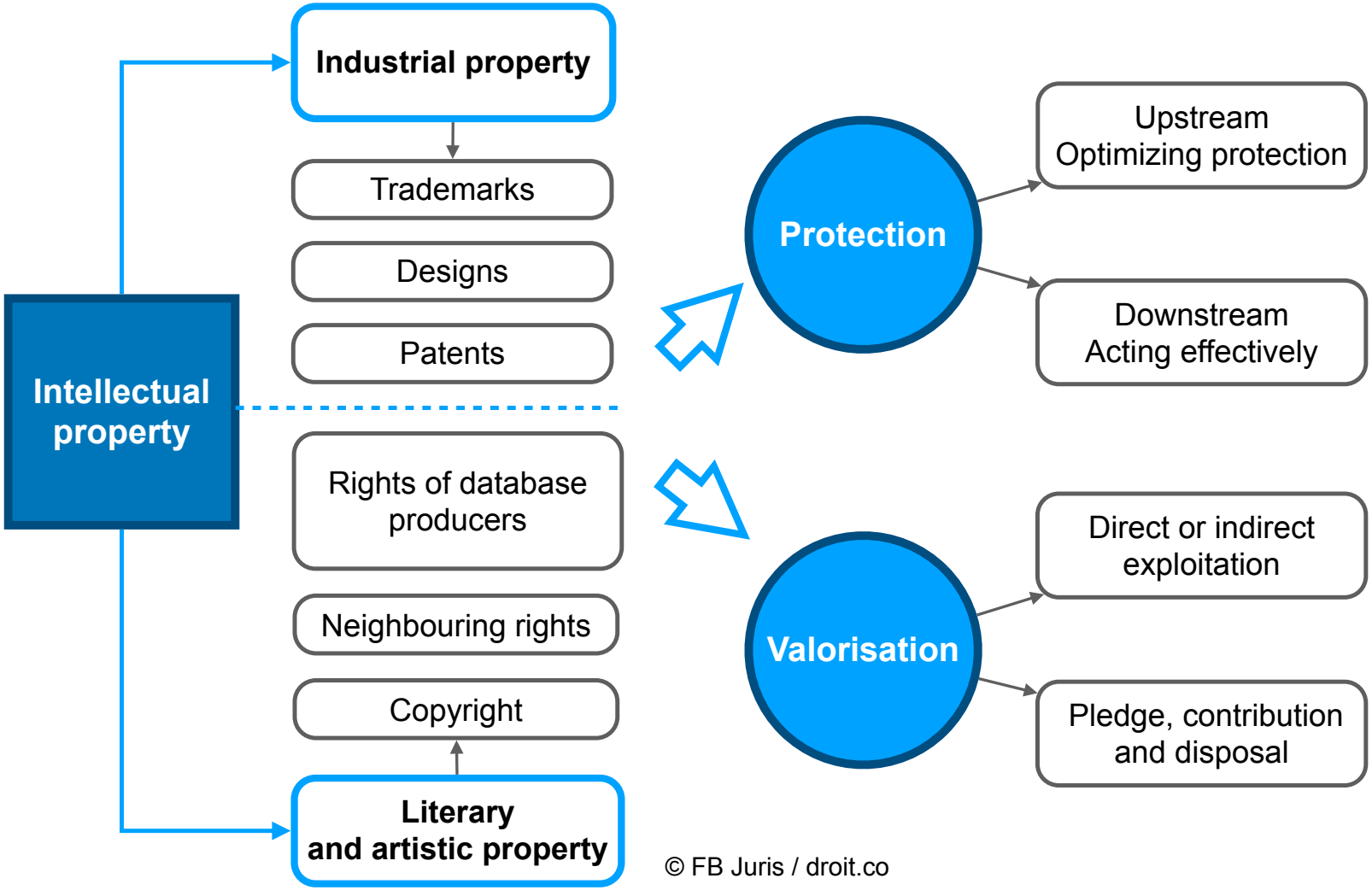
Article 1242 - One is responsible not only for the damage that one causes by one's own fact, but also for that which is caused by the fact of the people for whom one must answer, or the things that one has in one's custody. […]

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FRENCH LAW:

INTELLECTUAL PROPERTY (IP)

INTELLECTUAL PROPERTY



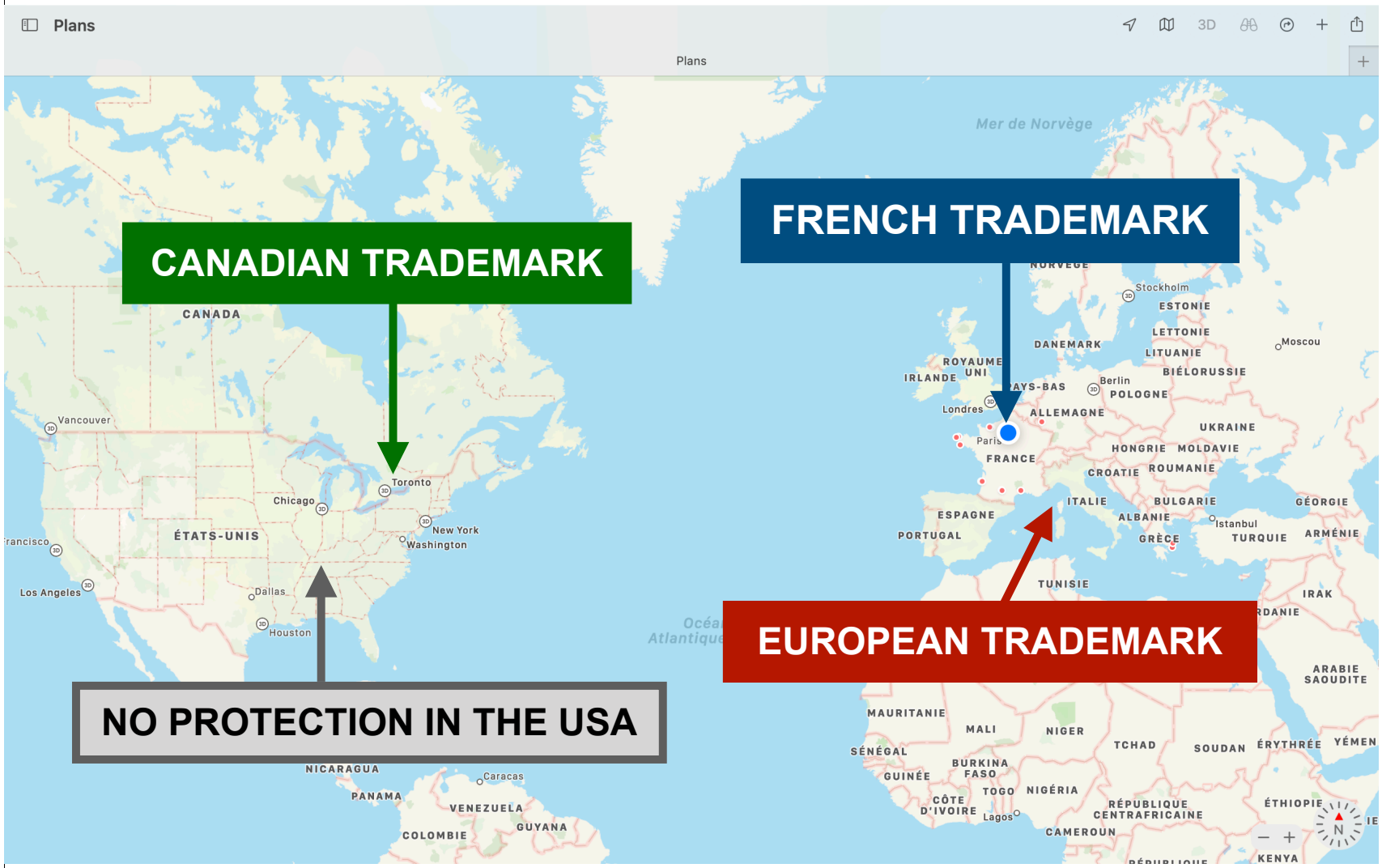
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INTELLECTUAL PROPERTY

Protection	Duration of the protection	Formality
Trademark	10 years renewable indefinitely	Deposit at the INPI
Design	5 years renewable 4 times, up to 25 years	Deposit at the INPI
Company name, trade name or sign	Duration of registration and use	Registration with the Trade and Companies
Domain name	Duration of registration and use	Registration
Patent	20 years	Deposit at the INPI
Utility Certificate	6 years	Deposit at the INPI
Copyright	70 years from disclosure for a legal person or death for a natural person	Optional: deposit with a public officer or an author's society or Soleau envelope.
Neighbouring rights	50 years	
Rights of database producers	15 years	

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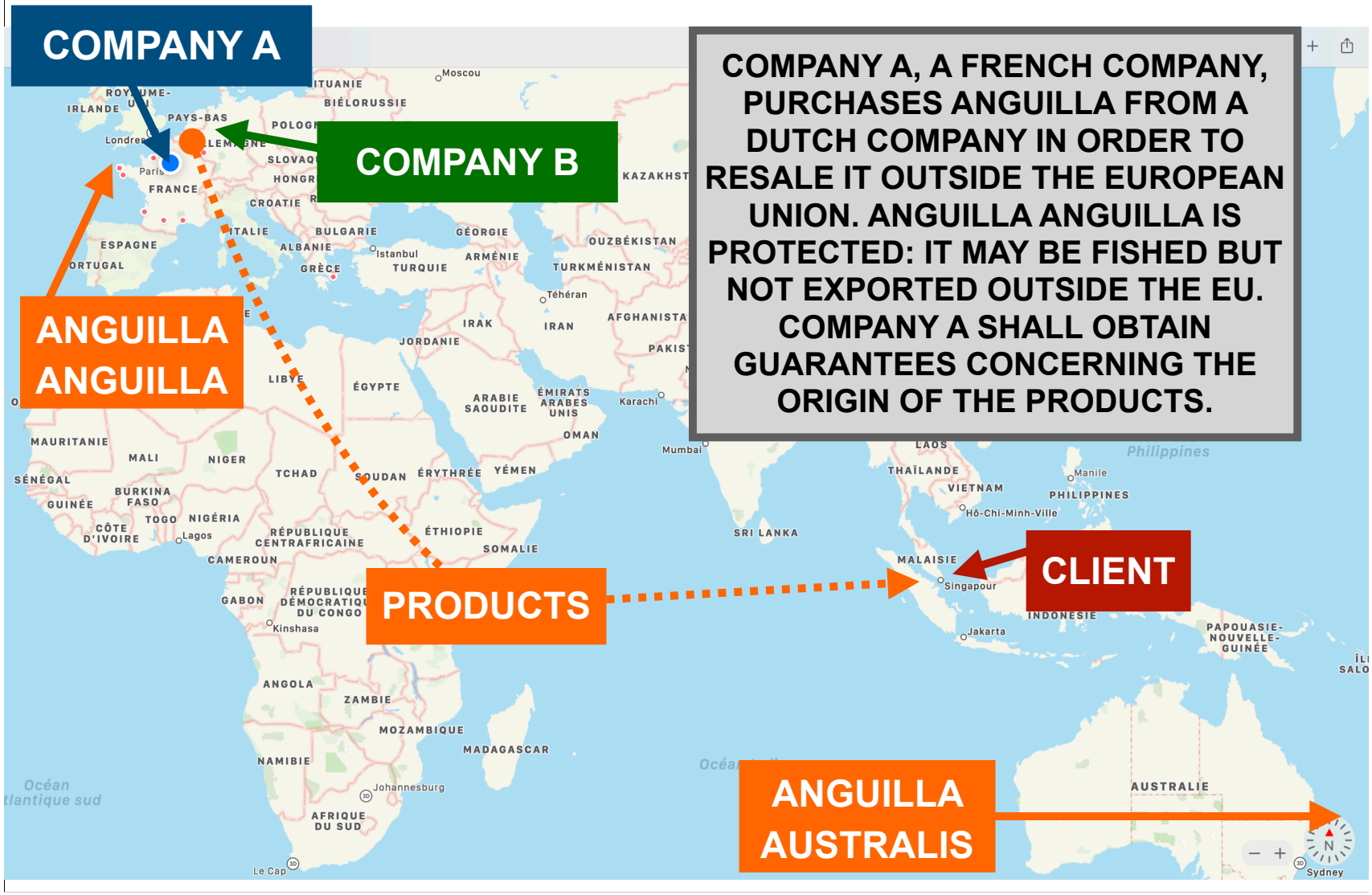
INTELLECTUAL PROPERTY



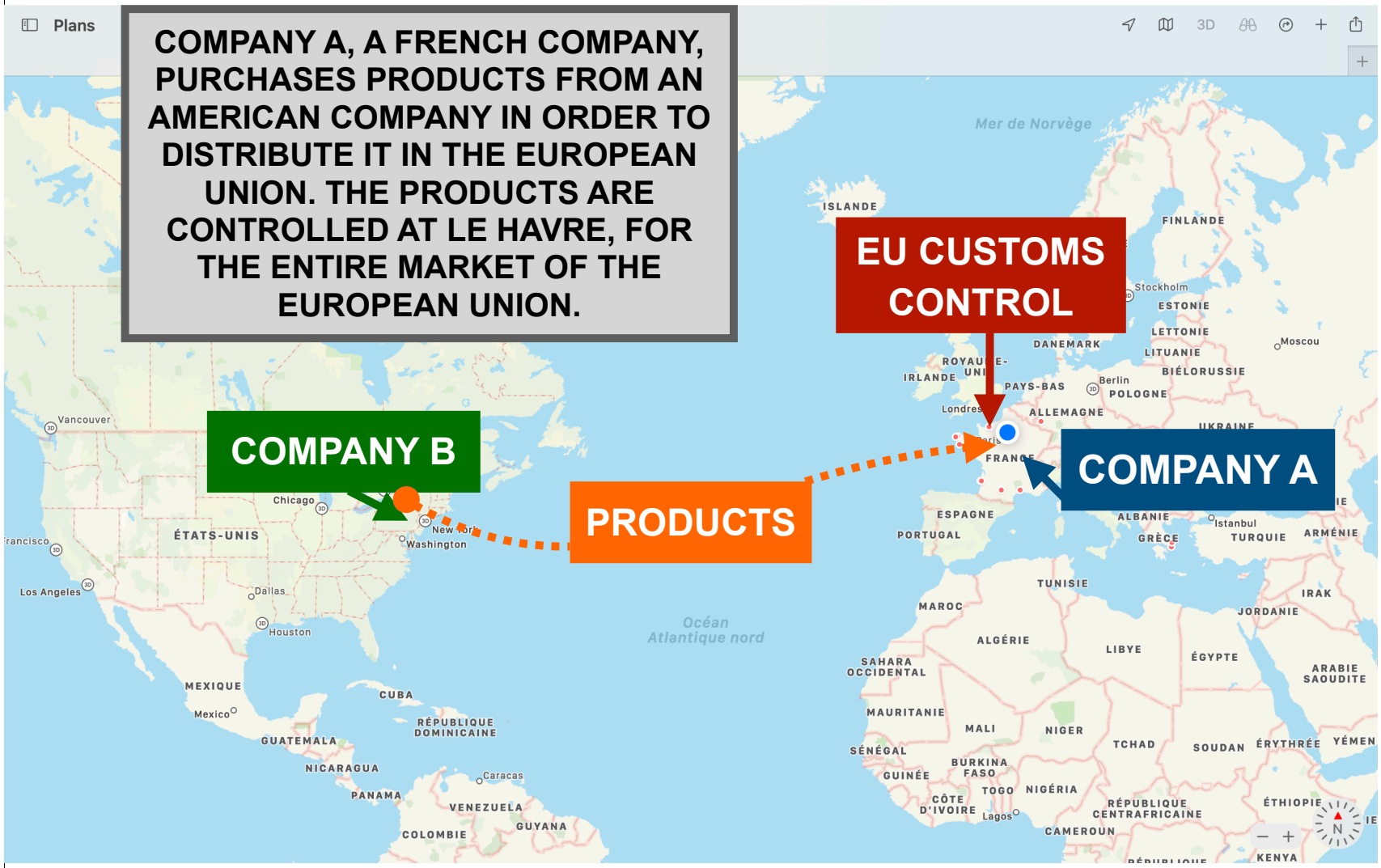
FRENCH LAW:

IMPORTING / EXPORTING

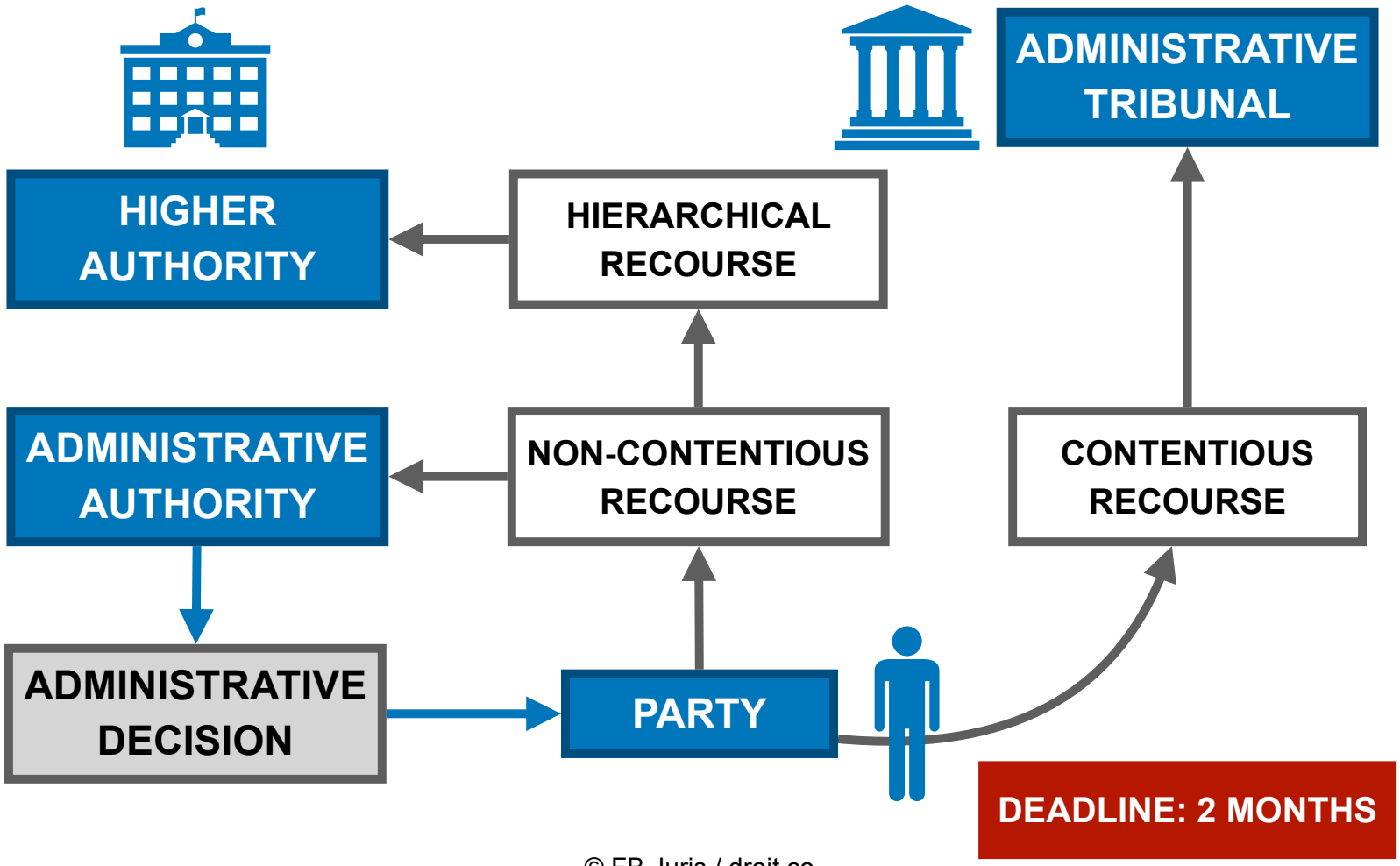
EXPORTING


COMPANY A
COMPANY B
ANGUILLA ANGUILLA
PRODUCTS
CLIENT
ANGUILLA AUSTRALIS
COMPANY A, A FRENCH COMPANY, PURCHASES ANGUILLA FROM A DUTCH COMPANY IN ORDER TO RESALE IT OUTSIDE THE EUROPEAN UNION. ANGUILLA ANGUILLA IS PROTECTED: IT MAY BE FISHED BUT NOT EXPORTED OUTSIDE THE EU. COMPANY A SHALL OBTAIN GUARANTEES CONCERNING THE ORIGIN OF THE PRODUCTS.
Moscou
PAYS-BAS
FRANCE
ESPAGNE
ITALIE
ALLEMAGNE
POLOGNE
BIÉLORUSSIE
UKRAINE
KAZAKHSTAN
OUZBÉKISTAN
TURKMÉNISTAN
Téhéran
IRAN
IRAK
AFGHANISTAN
PAKISTAN
Karachi
Mumbai
ARABIE SAOUDITE
ÉMIRATS ARABES UNIS
OMAN
YÉMEN
ÉRYTHRÉE
SOUDAN
ÉGYPTE
LIBYE
TCHAD
NIGER
MALI
MAURITANIE
SÉNÉGAL
GUINÉE
BURKINA FASO
NIGÉRIA
TOGO
CÔTE D'IVOIRE
Lagos
CAMEROUN
RÉPUBLIQUE CENTRAFRICAINE
ÉTHIOPIE
SOMALIE
GABON
RÉPUBLIQUE DÉMOCRATIQUE DU CONGO
Kinshasa
ANGOLA
ZAMBIE
MOZAMBIQUE
MADAGASCAR
NAMIBIE
Johannesburg
AFRIQUE DU SUD
Le Cap
Océan Atlantique sud
Istanbul
TURQUIE
ARMÉNIE
GÉORGIE
BULGARIE
ALBANIE
GRÈCE
CROATIE
HONGRIE
SLOVAQUIE
Londres
Paris
IRLANDE
SRI LANKA
LAOS
THAÏLANDE
VIETNAM
Hô-Chi-Minh-Ville
PHILIPPINES
Manile
Philippines
MALAISIE
Singapour
INDONÉSIE
Jakarta
PAPOUASIE-NOUVELLE-GUINÉE
AUSTRALIE
Sydney

IMPORTING


Plans
3D
COMPANY A, A FRENCH COMPANY, PURCHASES PRODUCTS FROM AN AMERICAN COMPANY IN ORDER TO DISTRIBUTE IT IN THE EUROPEAN UNION. THE PRODUCTS ARE CONTROLLED AT LE HAVRE, FOR THE ENTIRE MARKET OF THE EUROPEAN UNION.
EU CUSTOMS CONTROL
COMPANY B
PRODUCTS
COMPANY A
Mer de Norvège
ISLANDE
FINLANDE
Stockholm
ESTONIE
LETTONIE
LITUANIE
DANEMARK
Moscou
BIÉLORUSSIE
IRLANDE
PAYS-BAS
Berlin
POLOGNE
Londres
ALLEMAGNE
UKRAINE
FRANCE
Vancouver
Chicago
ÉTATS-UNIS
New York
Washington
ESPAGNE
PORTUGAL
ALBANIE
GRÈCE
Istanbul
TURQUIE
ARMÉNIE
Los Angeles
Dallas
Houston
TUNISIE
MAROC
IRAK
JORDANIE
ALGÉRIE
LIBYE
ÉGYPTE
SAHARA OCCIDENTAL
ARABIE SAOUDITE
Océan Atlantique nord
MEXIQUE
Mexico
CUBA
RÉPUBLIQUE DOMINICAINE
GUATEMALA
NICARAGUA
Caracas
PANAMA
VENEZUELA
COLOMBIE
GUYANA
MAURITANIE
MALI
NIGER
TCHAD
SOUDAN
ÉRYTHRÉE
YÉMEN
SÉNÉGAL
BURKINA FASO
GUINÉE
TOGO
NIGÉRIA
CÔTE D'IVOIRE
Lagos
RÉPUBLIQUE CENTRAFRICAINE
ÉTHIOPIE
CAMEROUN
KENYA

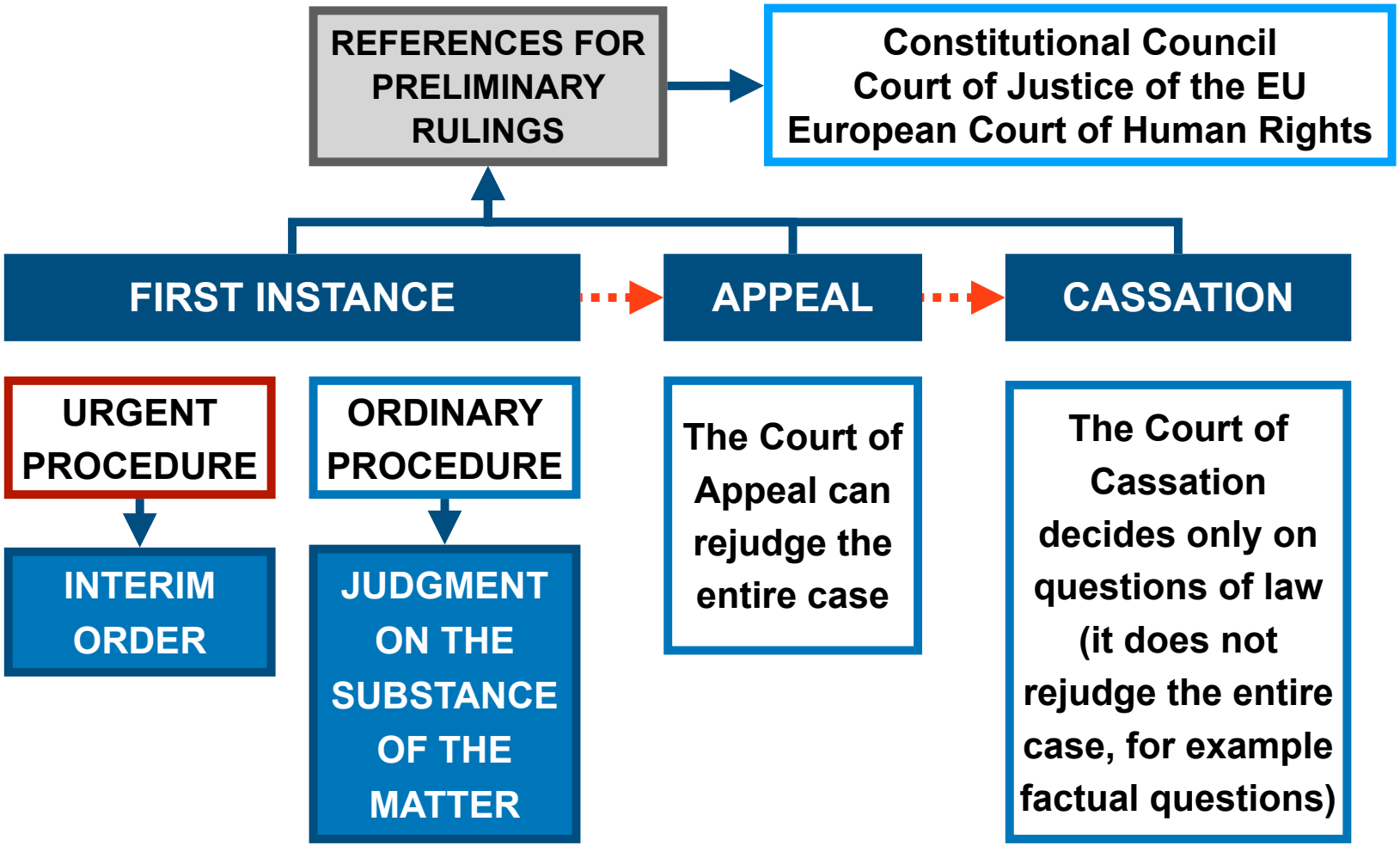
ADMINISTRATIVE LAW



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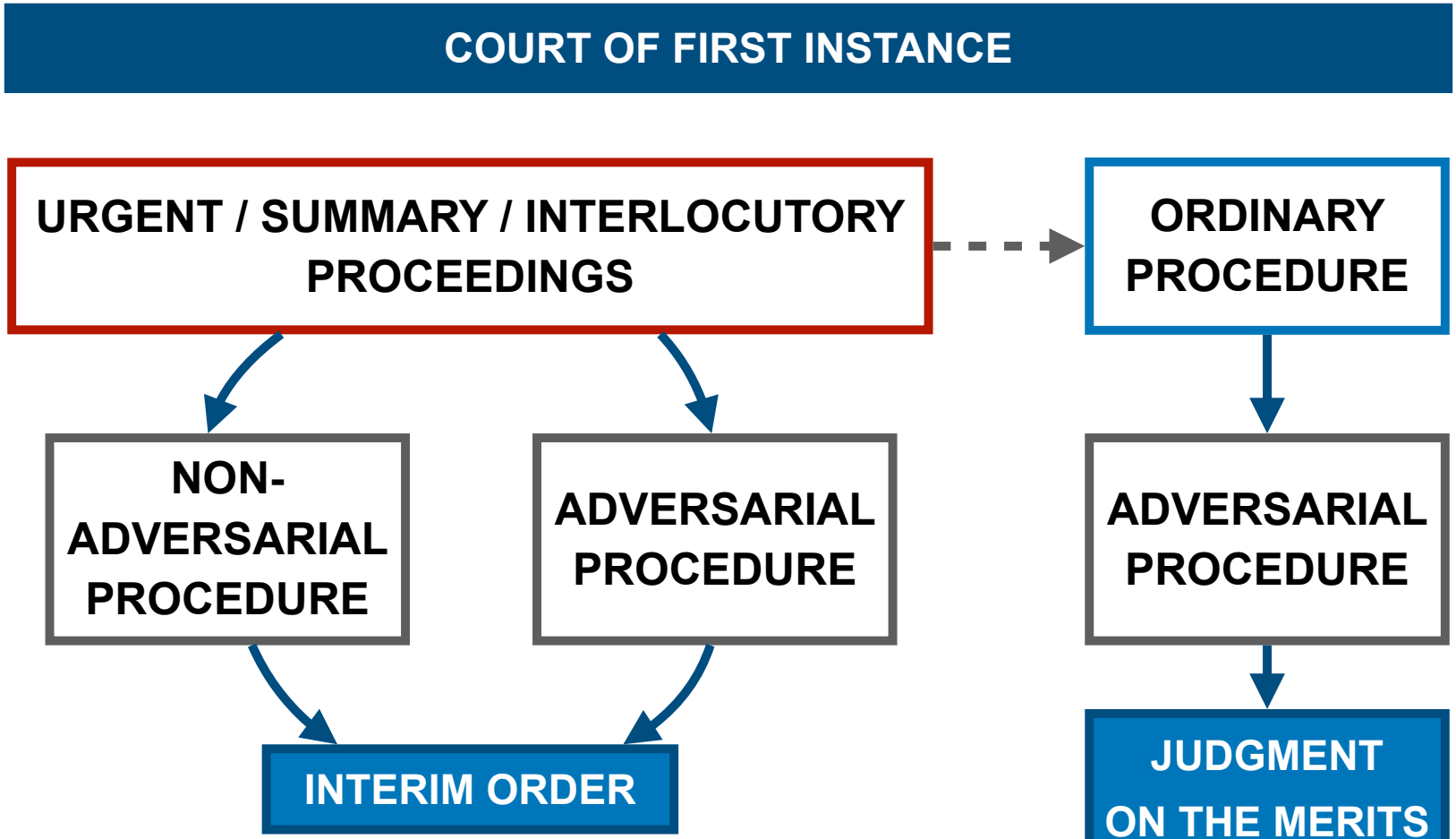
LITIGATIONS IN FRANCE

JUDICIAL PROCEEDINGS



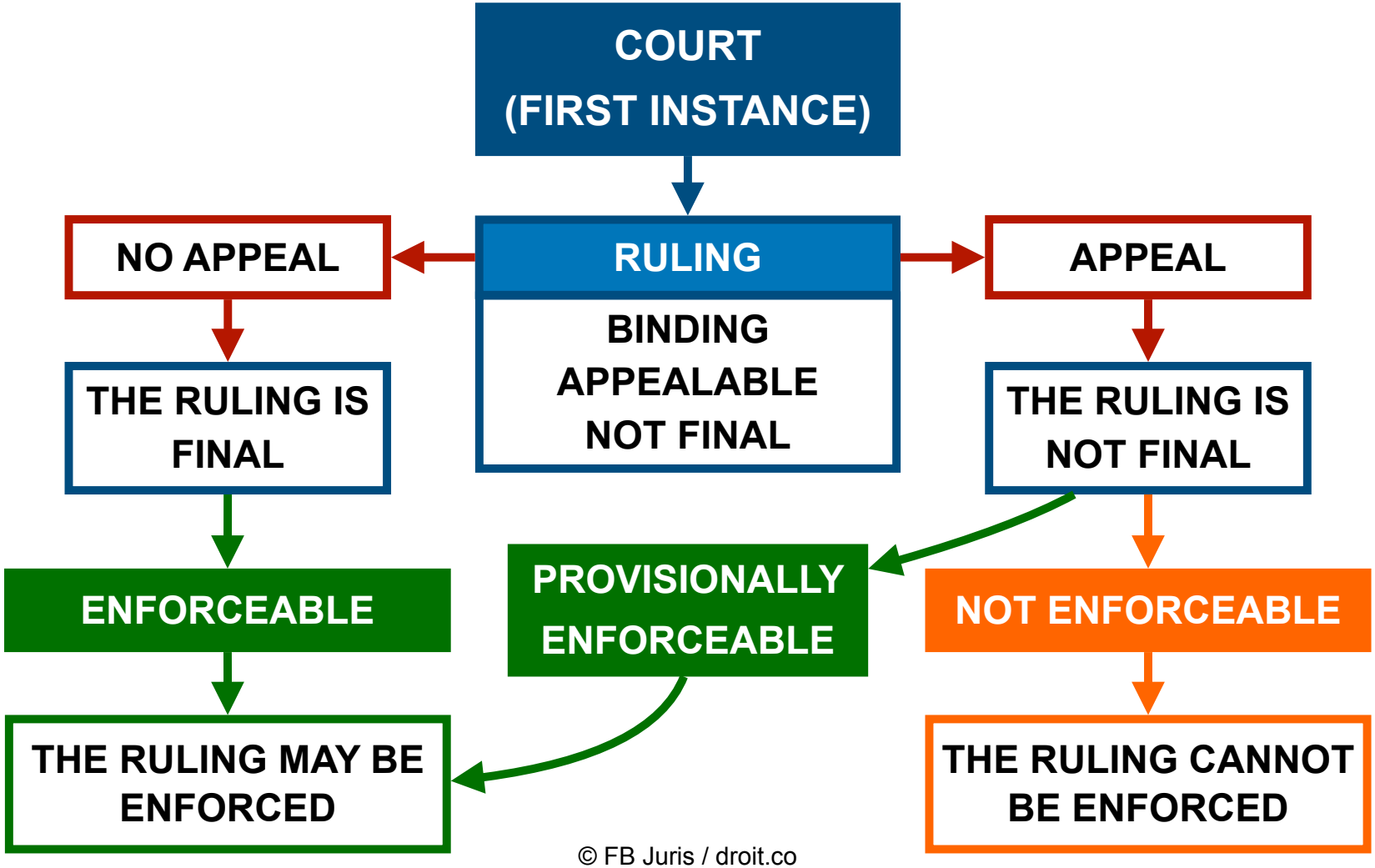
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JUDICIAL PROCEEDINGS



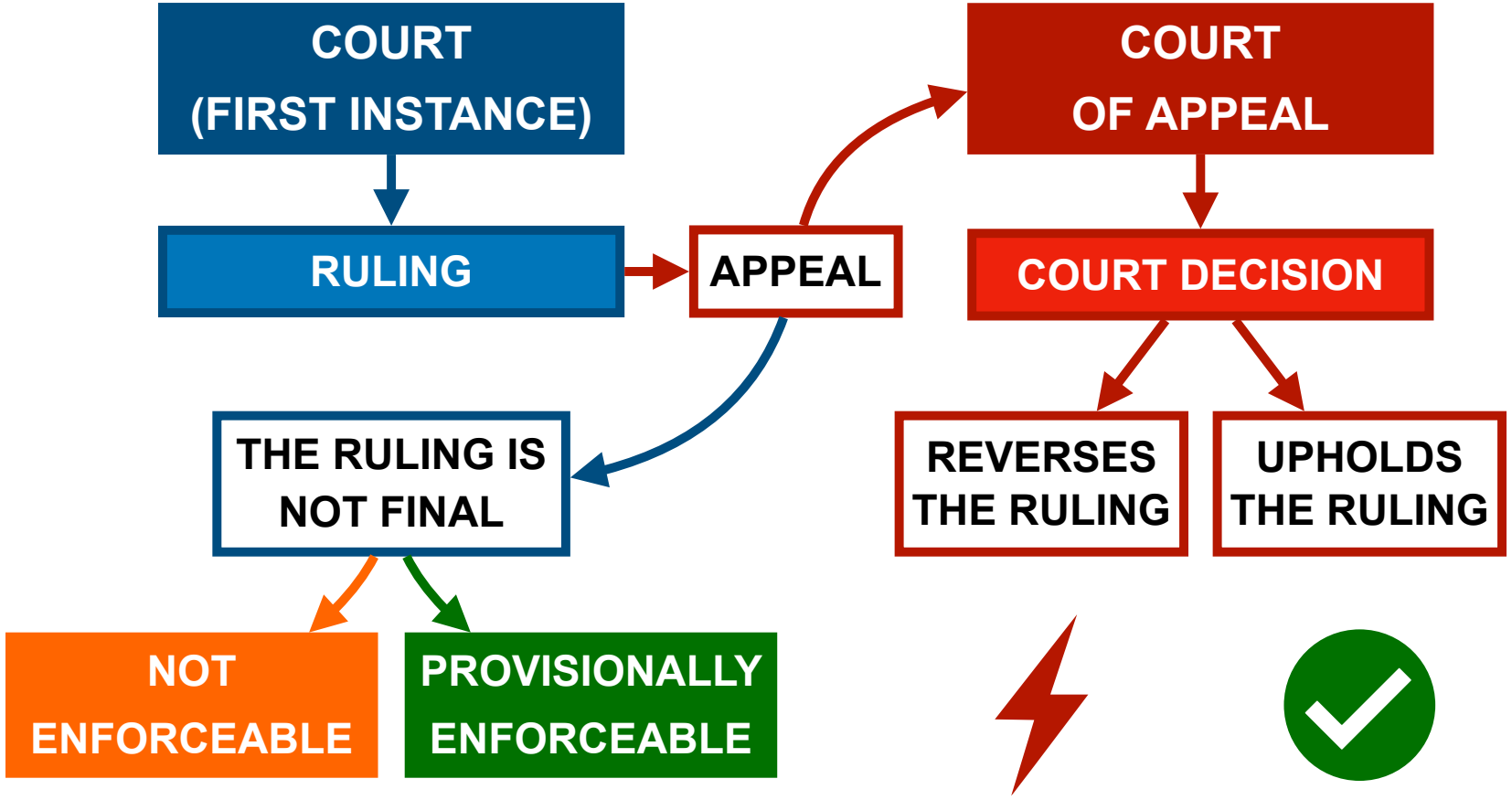
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ENFORCING A COURT DECISION



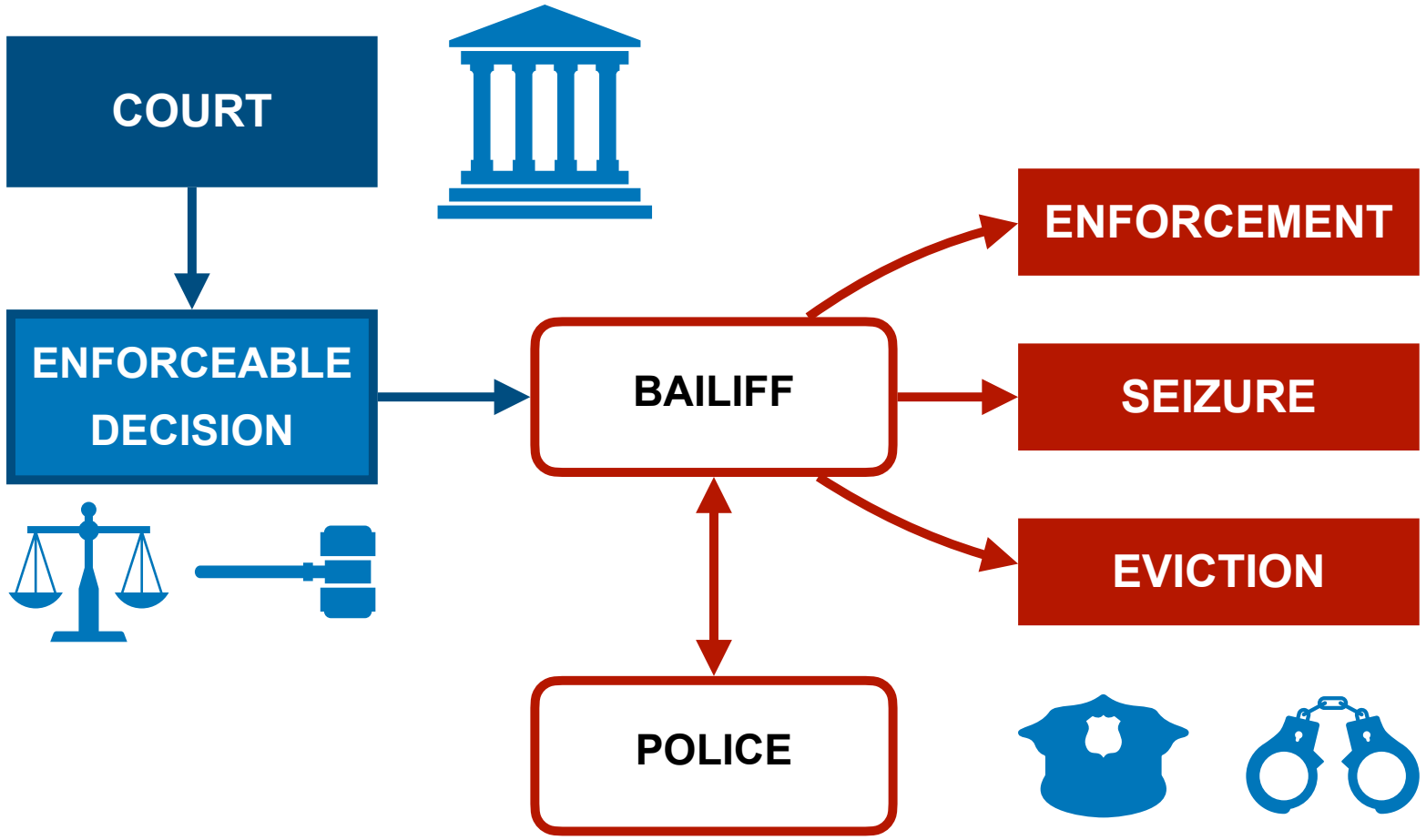
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ENFORCING A COURT DECISION



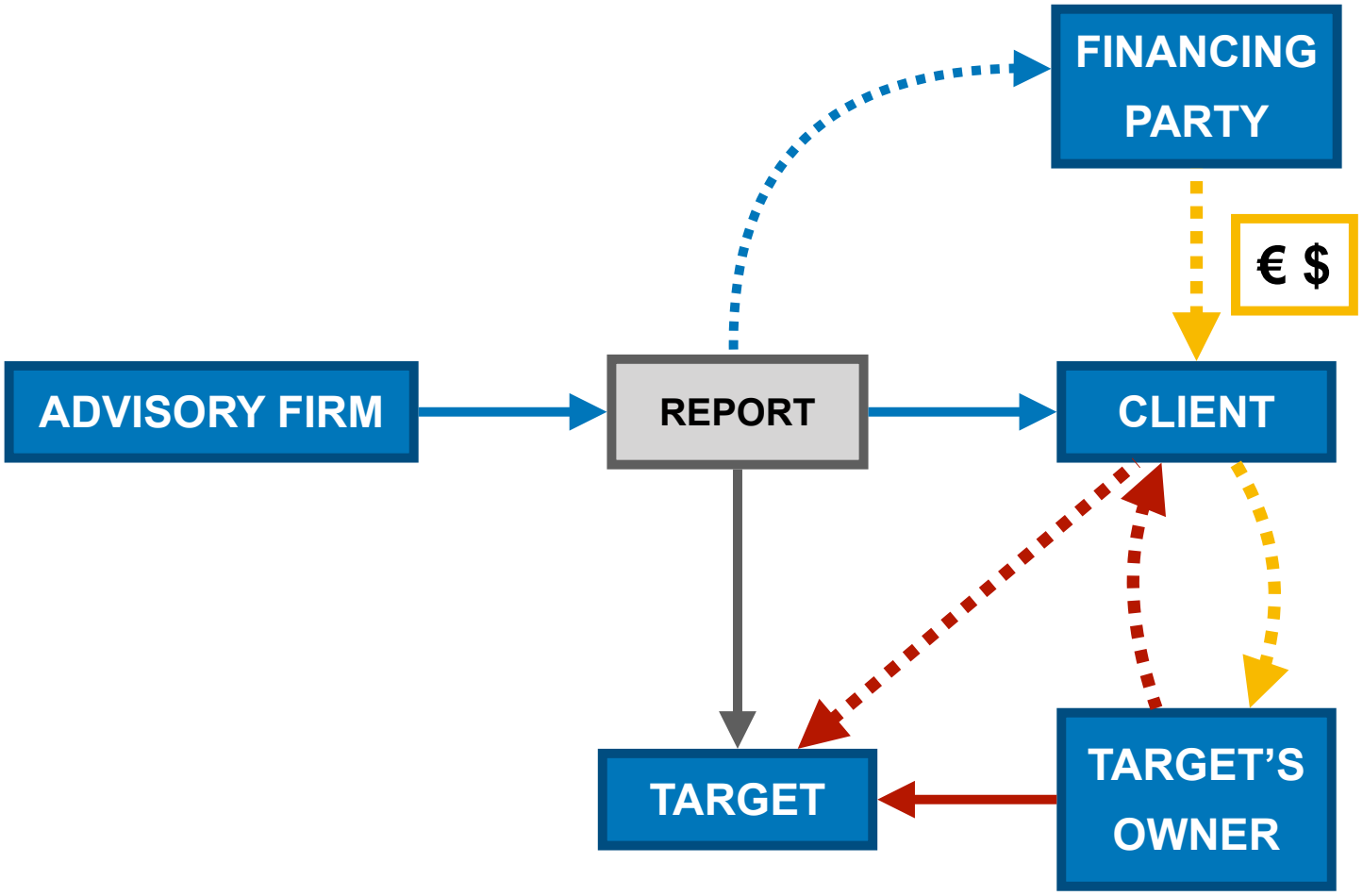
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ENFORCING A COURT DECISION



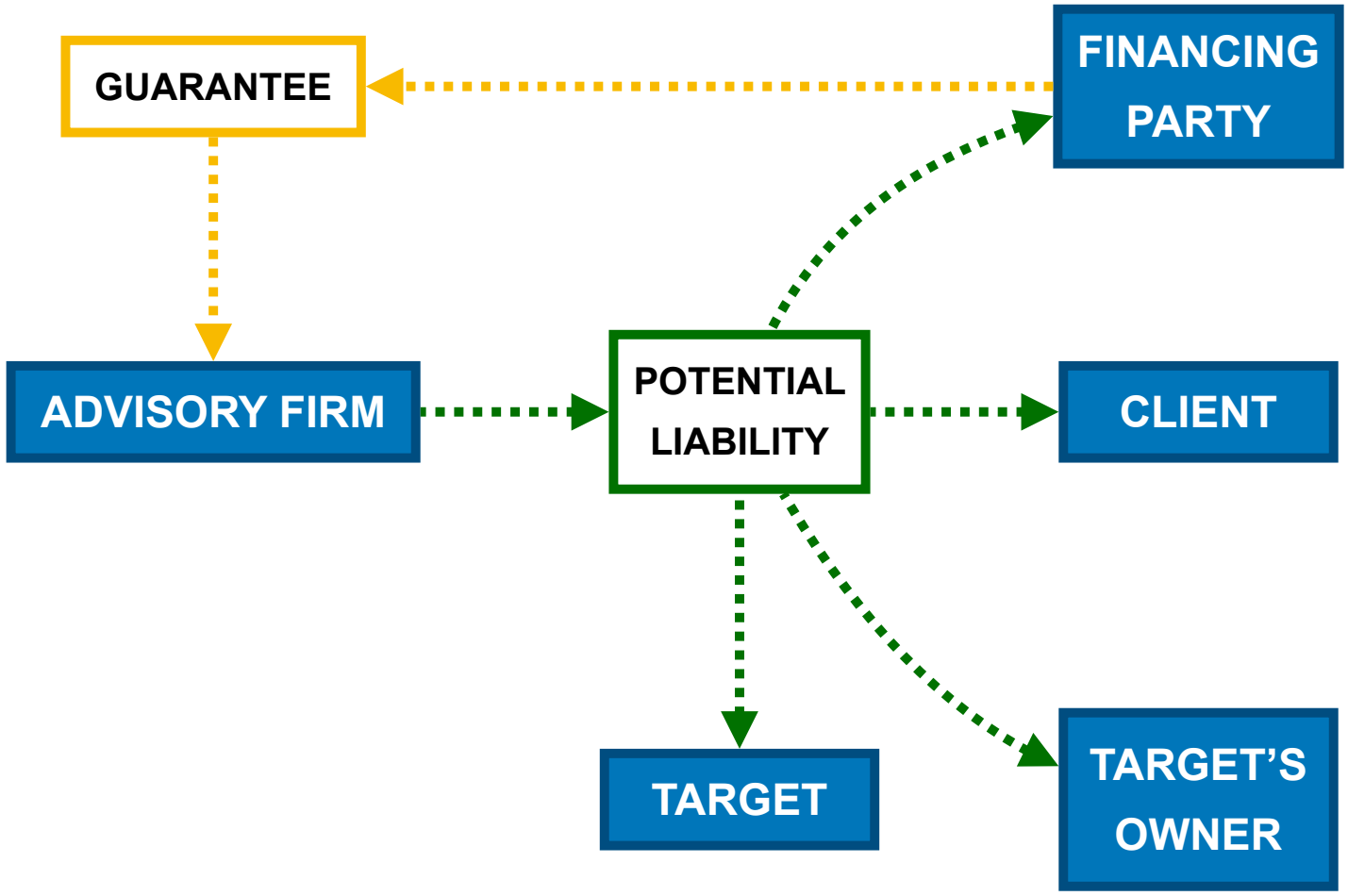
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LIABILITY / GUARANTEE



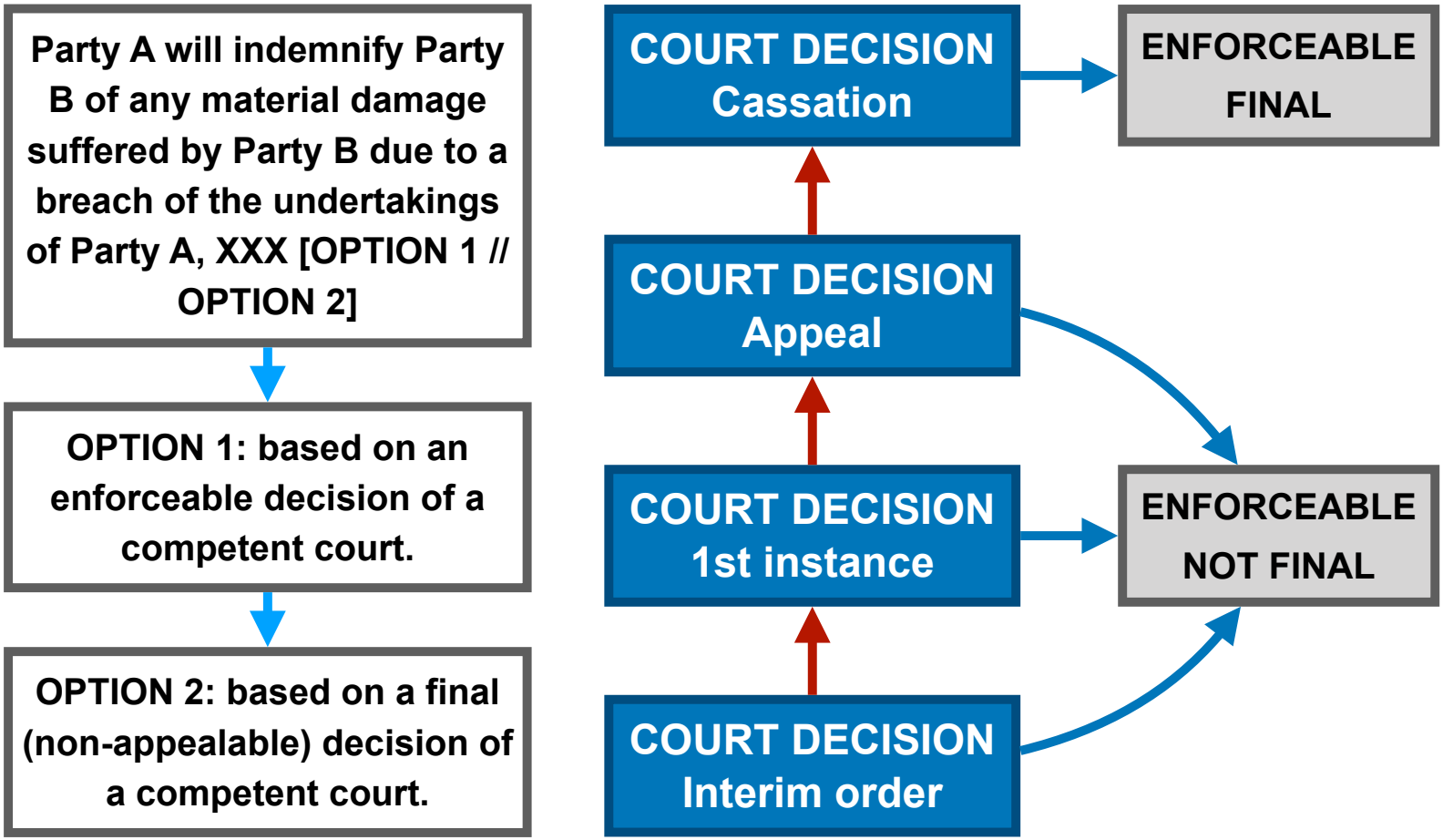
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LIABILITY / GUARANTEE



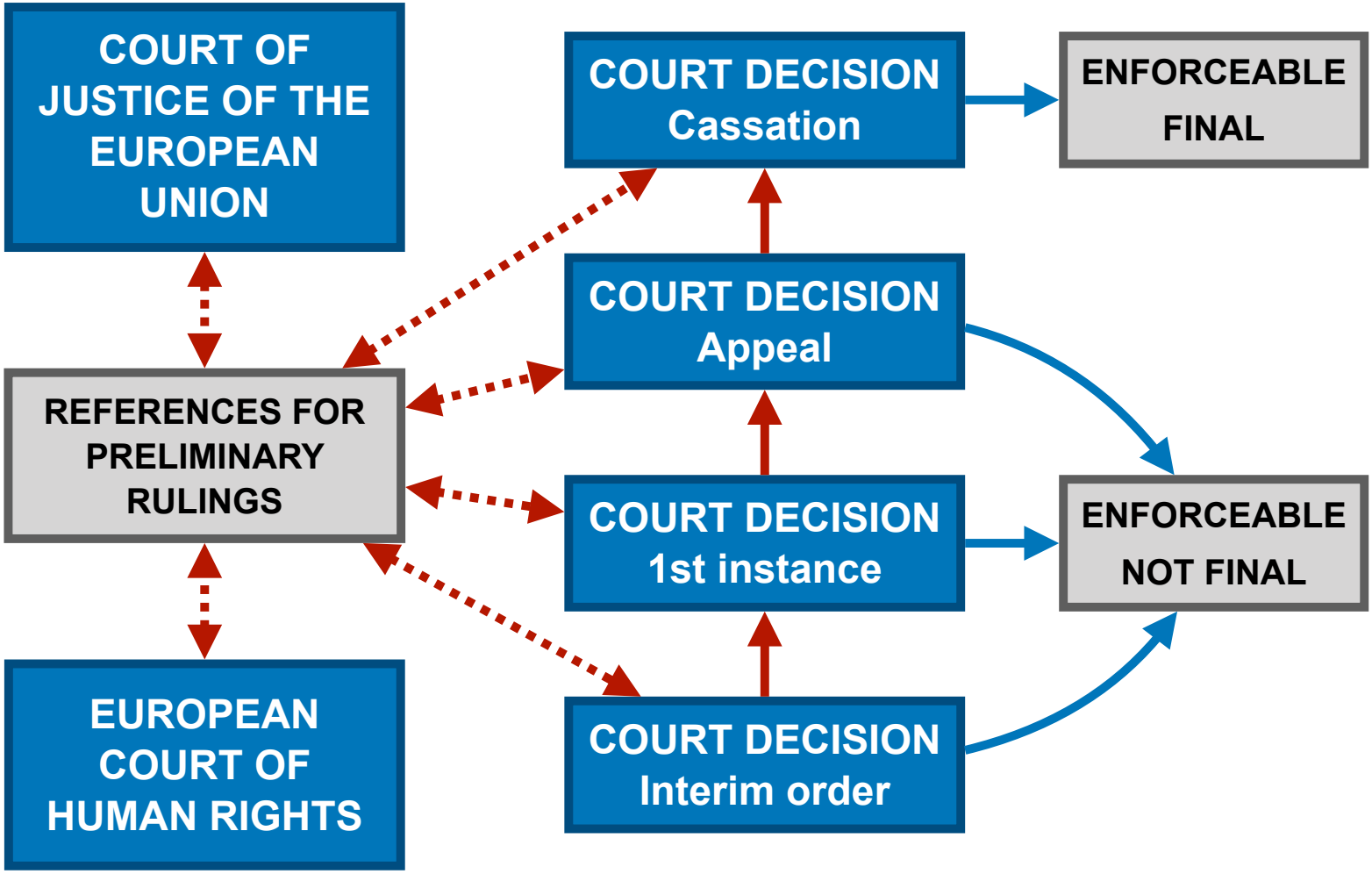
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INDEMNIFICATION



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JUDICIAL PROCEEDINGS



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PRESCRIPTION UNDER FRENCH LAW

2 months

Appeal against an administrative decision.

1 year

Action against a mover or a telephone or internet service provider.

This list is not exhaustive…

2 years

Actions brought by professionals against consumers.
Actions for guarantee of conformity.
Actions relating to an insurance contract.
Liability of sea and air carriers.

4 years

Prescription of claims on public persons.

5 years

ORDINARY LIMITATION PERIOD FOR CIVIL AND COMMERCIAL MATTERS.

6 years

Offences

10 years

Actions relating to bodily injury.
Enforcement of a court decision.

20 years

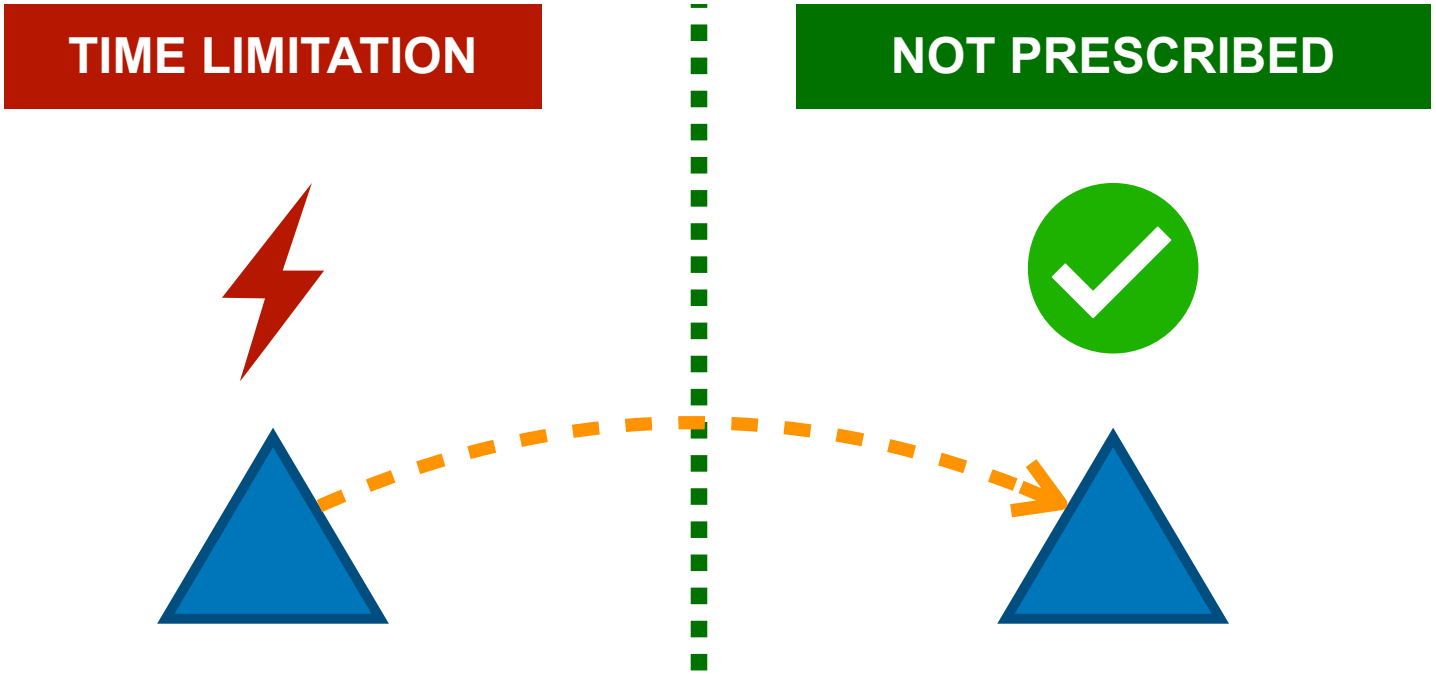
Crimes

30 years

Terrorism.
Real estate actions.
Damage to the environment.

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FORUM SHOPPING



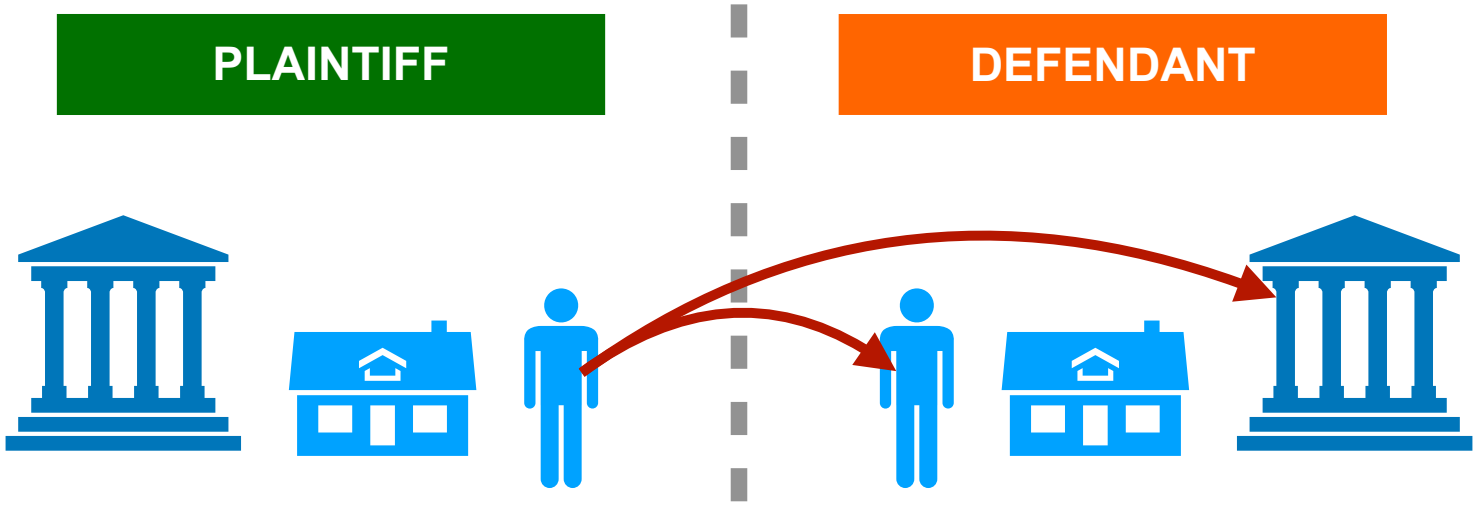
IN INTERNATIONAL LITIGATIONS, THE PARTIES MAY BE TEMPTED TO CHOOSE THEIR JURISDICTION BASED ON THE BENEFITS THEY HOPE TO DERIVE FROM IT.

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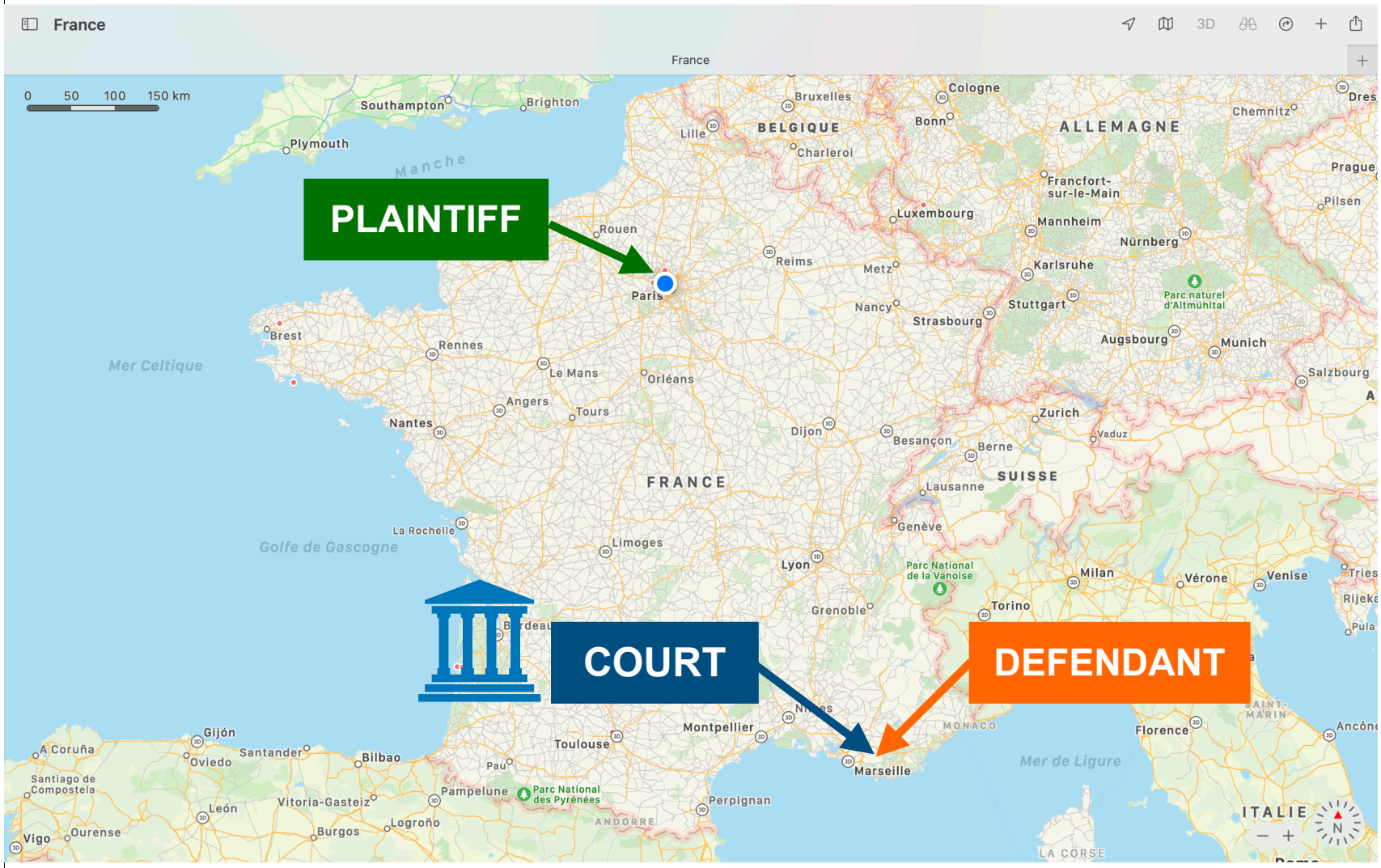
TERRITORIAL JURISDICTION

ARTICLE 42 OF THE FRENCH CODE OF CIVIL PROCEDURE

PRINCIPLE: THE COMPETENT COURT IS THAT OF THE PLACE WHERE THE DEFENDANT RESIDES



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France
PLAINTIFF
COURT
DEFENDANT
Paris
Marseille
Rouen
Brest
Nantes
Rennes
Le Mans
Orléans
Angers
Tours
Dijon
Besançon
Reims
Metz
Nancy
Strasbourg
Lyon
Grenoble
Toulouse
Montpellier
Perpignan
Pau
Bordeaux
Limoges
La Rochelle
Lille
Bruxelles
Cologne
Bonn
Charleroi
Luxembourg
Francfort-sur-le-Main
Mannheim
Karlsruhe
Stuttgart
Nürnberg
Augsbourg
Munich
Zurich
Berne
Lausanne
Genève
Milan
Torino
Florence
Vérone
Venise
Marseille
Nice
Monaco
Bilbao
Santander
Gijón
Oviedo
A Coruña
Santiago de Compostela
Vigo
Ourense
León
Burgos
Logroño
Vitoria-Gasteiz
Pampelune
Southampton
Brighton
Plymouth
Manche
Mer Celtique
Golfe de Gascogne
Mer de Ligure
BELGIQUE
ALLEMAGNE
FRANCE
SUISSE
ITALIE
ANDORRE
MONACO
LA CORSE
Parc National des Pyrénées
Parc National de la Vanoise
Parc naturel d'Altmühltal
0 50 100 150 km

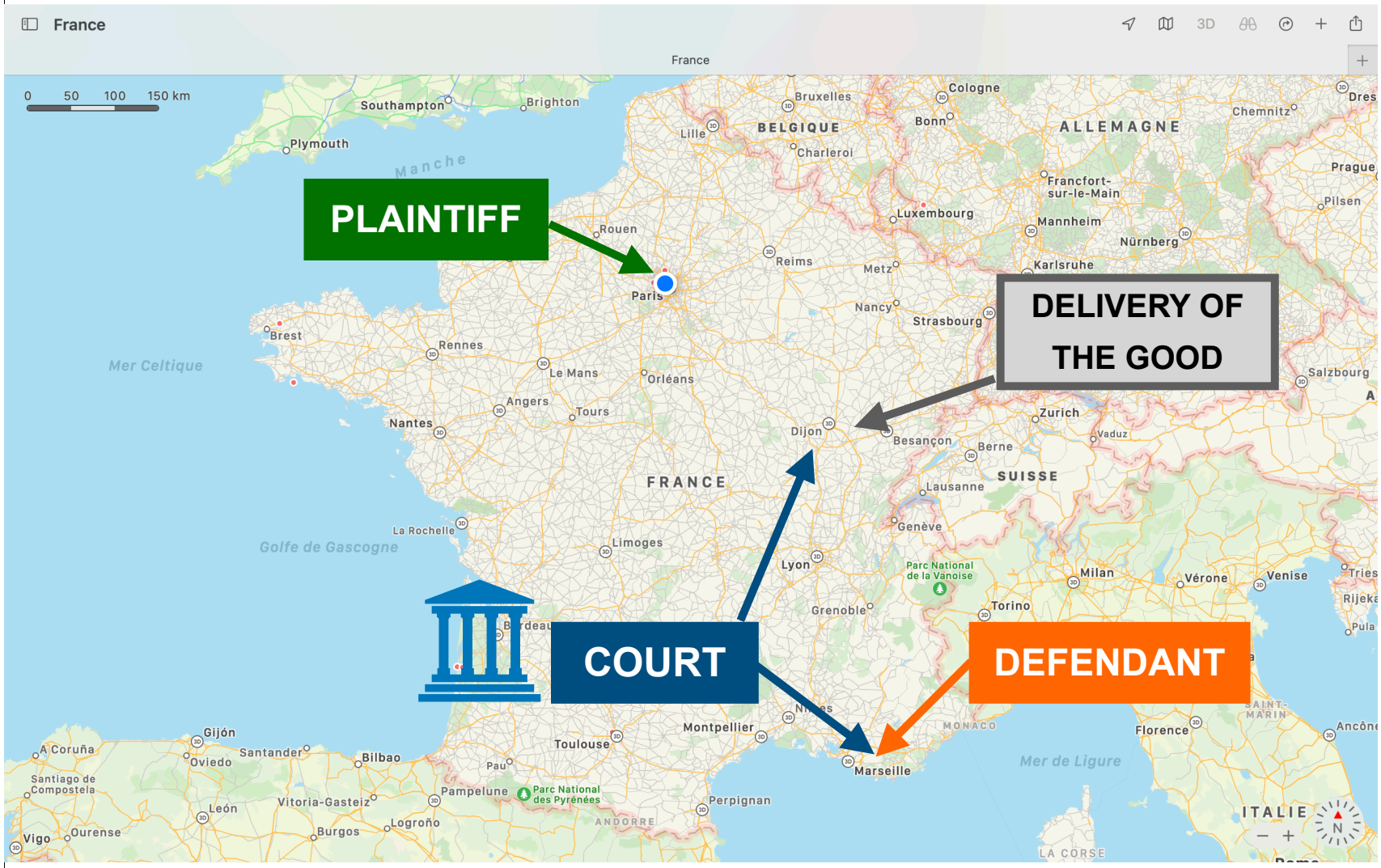
TERRITORIAL JURISDICTION

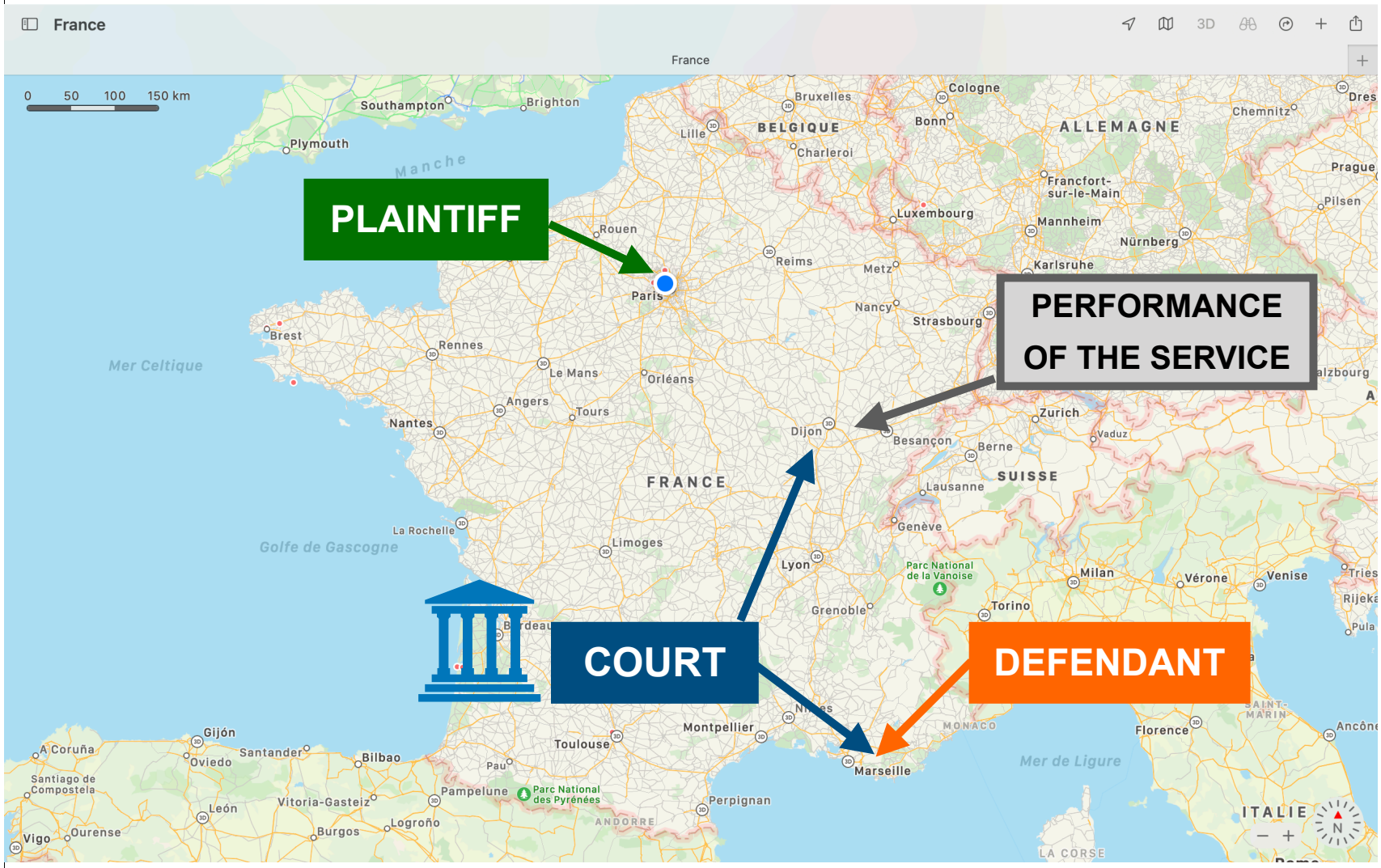
ARTICLE 46 OF THE FRENCH CODE OF CIVIL PROCEDURE

IN ADDITION TO THE COURT OF THE PLACE WHERE THE DEFENDANT RESIDES, THE PLAINTIFF MAY BRING AN ACTION AT HIS CHOICE BEFORE, NOTABLY:

IN CONTRACTUAL MATTERS	IN MATTERS RELATING TO TORT
THE COURT OF THE PLACE OF ACTUAL DELIVERY OF THE GOOD OR THE PLACE OF PERFORMANCE OF THE SERVICE	THE COURT OF THE PLACE OF THE HARMFUL EVENT OR THE COURT IN WHICH JURISDICTION THE DAMAGE WAS SUFFERED

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France
PLAINTIFF
DELIVERY OF THE GOOD
COURT
DEFENDANT
Paris
Marseille
Dijon
Rouen
Lyon
Toulouse
Montpellier
Nantes
Bordeaux
Strasbourg
Zurich
Genève
Milan
Manche
Mer Celtique
Golfe de Gascogne
Mer de Ligure
FRANCE
BELGIQUE
ALLEMAGNE
SUISSE
ITALIE
ANDORRE
MONACO


France
PLAINTIFF
PERFORMANCE OF THE SERVICE
COURT
DEFENDANT
Paris
Rouen
Reims
Metz
Nancy
Strasbourg
Dijon
Besançon
Zurich
Berne
Lausanne
Genève
Lyon
Grenoble
Marseille
Toulouse
Montpellier
Perpignan
Nantes
Rennes
Brest
Le Mans
Orléans
Angers
Tours
Limoges
La Rochelle
Bordeaux
Pau
Bilbao
Santander
Gijón
A Coruña
Santiago de Compostela
Oviedo
León
Vitoria-Gasteiz
Burgos
Logroño
Pampelune
Vigo
Ourense
Milan
Torino
Florence
Venise
Vérone
Mer Celtique
Golfe de Gascogne
Mer de Ligure
Manche
FRANCE
BELGIQUE
ALLEMAGNE
SUISSE
ITALIE
MONACO
ANDORRE
LA CORSE
Parc National des Pyrénées
Parc National de la Vanoise
Bruxelles
Lille
Charleroi
Cologne
Bonn
Francfort-sur-le-Main
Mannheim
Nürnberg
Karlsruhe
Luxembourg
Chemnitz
Prague
Pilsen
Southampton
Brighton
Plymouth
0 50 100 150 km

TERRITORIAL JURISDICTION

ARTICLE 44

IN REAL ESTATE MATTERS, THE COURT OF THE PLACE WHERE THE IMMOVABLE IS LOCATED HAS SOLE JURISDICTION.

ARTICLE 48

ANY CLAUSE WHICH, DIRECTLY OR INDIRECTLY, DEROGATES FROM THE RULES OF TERRITORIAL JURISDICTION SHALL BE DEEMED TO BE UNWRITTEN UNLESS IT HAS BEEN AGREED BETWEEN PERSONS WHO HAVE ALL CONTRACTED AS TRADERS AND HAS BEEN SPECIFIED IN A VERY APPARENT MANNER IN THE UNDERTAKING OF THE PARTY TO WHOM IT IS OPPOSED.

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EXTRA-TERRITORIAL APPLICATION OF FRENCH LAW

FRENCH CIVIL CODE

FRENCH PENAL CODE

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FRENCH CIVIL LAW

FRENCH CIVIL LAW

APPLICATION OF FRENCH LAW TO FOREIGNERS

> French laws of police and security apply to foreigners residing in France.
> Immovables, even those owned by foreigners, are governed by French law.

EXTRA-TERRITORIAL APPLICATION OF FRENCH LAW

The laws concerning the state and capacity of persons govern the French, even residing in a foreign country.

PRIVILEGE OF JURISDICTION

French courts may judge litigations between French people or entities and foreigners.

Articles 3, 14 and 15 of the French Civil Code

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APPLICATION OF FRENCH LAW TO FOREIGNERS AND OUTSIDE FRANCE

ARTICLE 3 OF THE FRENCH CIVIL CODE

The laws of police and security oblige all those who inhabit the territory.
Immovables, even those owned by foreigners, are governed by French law.
The laws concerning the state and capacity of persons govern the French, even residing in a foreign country.

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PRIVILEGE OF JURISDICTION

ARTICLE 14 OF THE FRENCH CIVIL CODE

THE FOREIGNER, EVEN IF NOT RESIDING IN FRANCE, MAY BE SUMMONED BEFORE THE FRENCH COURTS, FOR THE PERFORMANCE OF THE OBLIGATIONS CONTRACTED BY HIM IN FRANCE WITH A FRENCHMAN; HE MAY BE BROUGHT BEFORE THE COURTS OF FRANCE, FOR THE OBLIGATIONS CONTRACTED BY HIM IN A FOREIGN COUNTRY TOWARDS FRENCH PEOPLE.

ARTICLE 15 → **A FRENCHMAN MAY BE BROUGHT BEFORE A COURT IN FRANCE, FOR OBLIGATIONS CONTRACTED BY HIM IN A FOREIGN COUNTRY, EVEN WITH A FOREIGNER.**

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FRENCH PENAL LAW

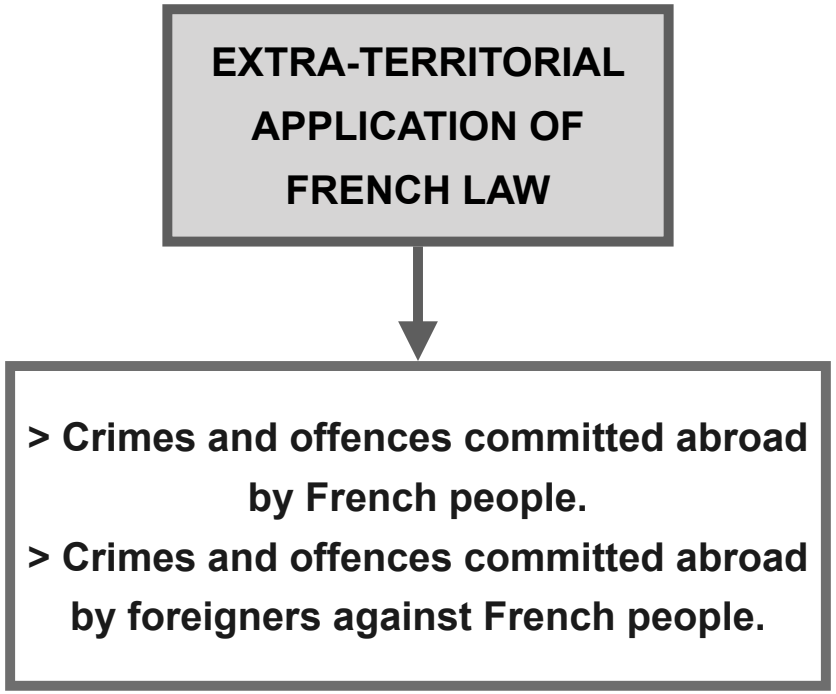
PENAL LAW

WHEREAS THE PARTIES MAY ALWAYS SETTLE A CIVIL OR COMMERCIAL CASE, IN PRINCIPLE, SETTLING A PENAL CASE IS NOT POSSIBLE.

BY EXCEPTION, SETTLEMENT IS POSSIBLE FOR MINOR OFFENCES.

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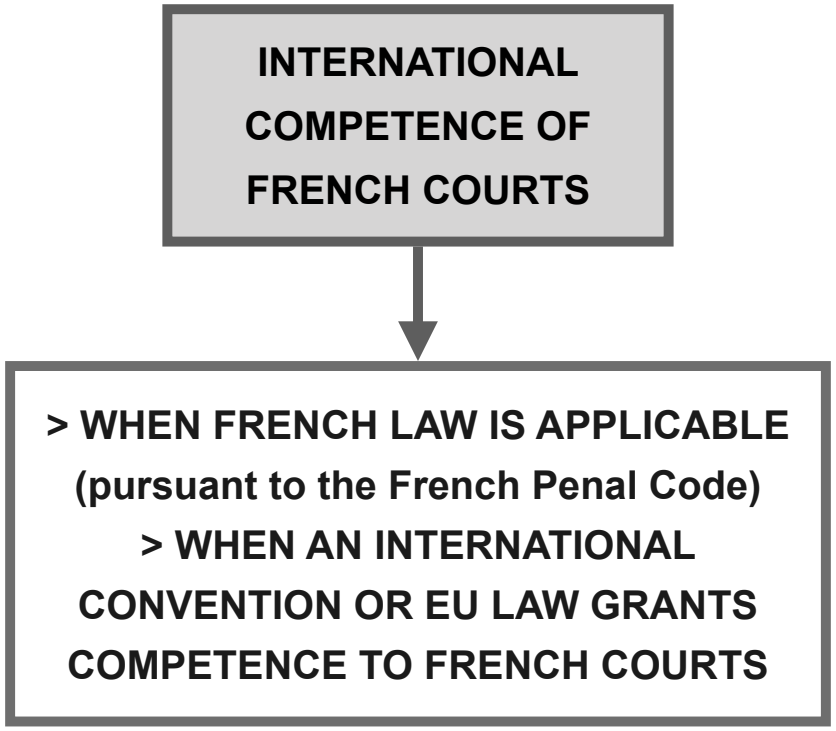
FRENCH PENAL LAW



Article 113-6 and followings of the French Penal Code

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FRENCH PENAL LAW



Article 689 and followings of the French Code of Penal Procedure

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PENAL LAW

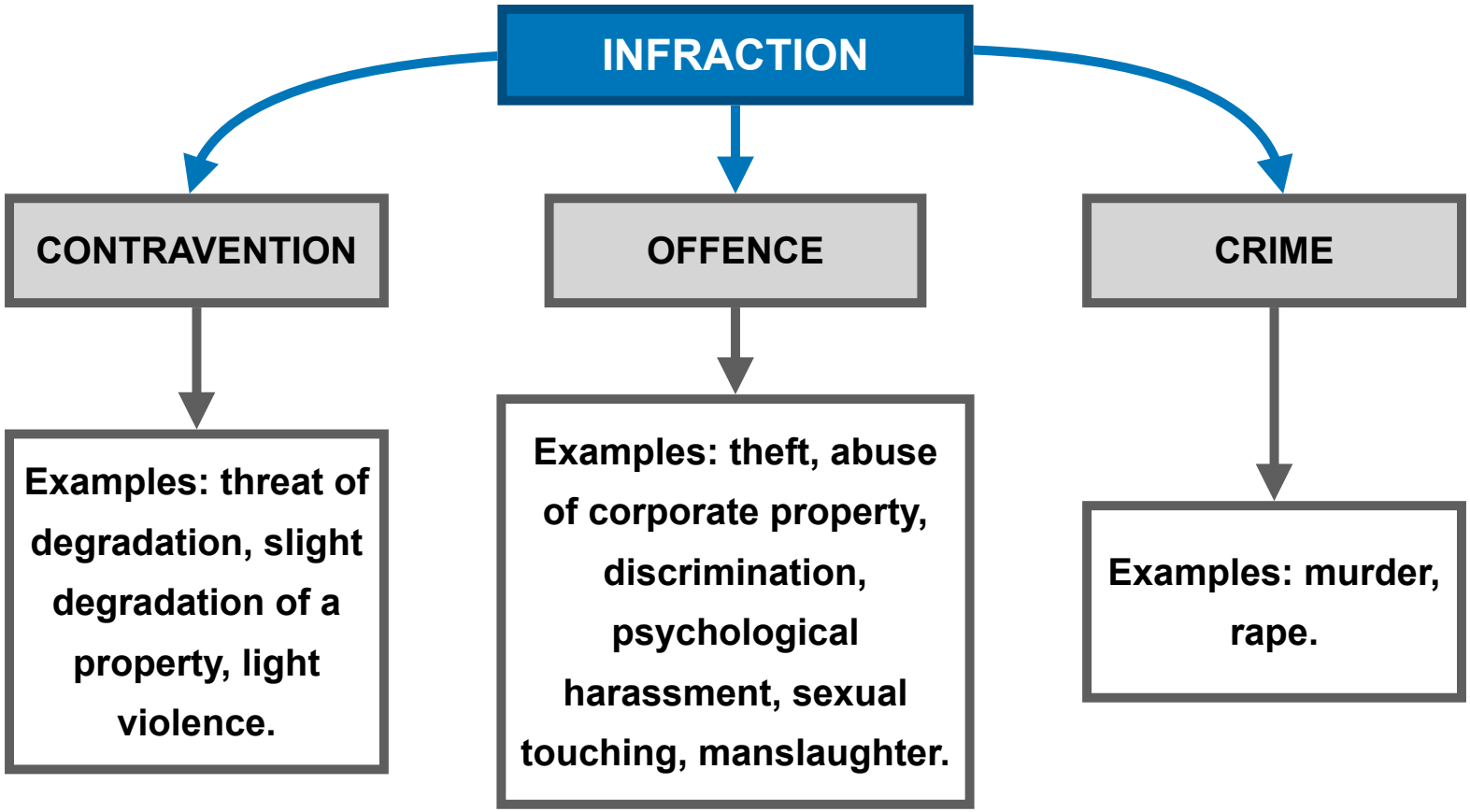
ARTICLE 113-6 AND FOLLOWINGS OF THE FRENCH PENAL CODE

FRENCH PENAL LAW IS APPLICABLE TO ANY CRIME COMMITTED BY A FRENCHMAN OUTSIDE THE TERRITORY OF THE REPUBLIC.

IT IS APPLICABLE TO OFFENCES COMMITTED BY FRENCH PEOPLE OUTSIDE THE TERRITORY OF THE REPUBLIC IF THE ACTS ARE PUNISHABLE UNDER THE LEGISLATION OF THE COUNTRY WHERE THEY WERE COMMITTED.

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PENAL LAW



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PENAL LAW

	CONTRAVENTION	OFFENCE	CRIME
PRESCRIPTION	1 year	6 years	20 years (30 years for the worse crimes)
PENALTY INCURRED	Fine (38 € to 3,000 €)	2 months to 10 years imprisonment + Fine (at least 3,750 €)	15 years to life imprisonment + Fine (at least 3,750 €)
COURT	Tribunal de police	Tribunal correctionnel	Cour d'assises

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PENAL LAW

ARTICLE 113-6 AND FOLLOWINGS OF THE FRENCH PENAL CODE

French penal law is applicable to any crime, as well as to any offence punishable by imprisonment, committed by a Frenchman or by a foreigner outside the territory of the Republic when the victim is of French nationality at the time of the offence.

French penal law applies to crimes and offences classified as attacks on the fundamental interests of the nation and to any crime or offence against French diplomatic or consular agents or premises, committed outside the territory of the Republic.

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PENAL LAW

ARTICLE 113-6 AND FOLLOWINGS OF THE FRENCH PENAL CODE

FRENCH PENAL LAW IS APPLICABLE TO OFFENCES COMMITTED BEYOND THE TERRITORIAL SEA, AS LONG AS INTERNATIONAL CONVENTIONS AND THE LAW SO PROVIDE.

FRENCH PENAL LAW APPLIES TO CRIMES AND OFFENCES CLASSIFIED AS ACTS OF TERRORISM COMMITTED ABROAD BY A FRENCHMAN OR BY A PERSON ORDINARILY RESIDENT ON FRENCH TERRITORY.

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PENAL LAW

ARTICLE 113-6 AND FOLLOWINGS OF THE FRENCH PENAL CODE

FRENCH PENAL LAW IS APPLICABLE TO CRIMES AND OFFENCES COMMITTED ON BOARD OR AGAINST AIRCRAFTS NOT REGISTERED IN FRANCE OR PERSONS ON BOARD:

1 ° WHEN THE PERPETRATOR OR THE VICTIM IS OF FRENCH NATIONALITY;

2 ° WHEN THE AIRCRAFT LANDS IN FRANCE AFTER THE CRIME OR OFFENCE;

3 ° WHEN THE AIRCRAFT HAS BEEN LEASED WITHOUT CREW TO A PERSON WHO HAS THE MAIN SEAT OF ITS OPERATION OR, FAILING THAT, HIS PERMANENT RESIDENCE IN THE TERRITORY OF THE REPUBLIC.

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FINDINGS

 # French legal system and judicial organisation ensures respect for the rule of law and the separation of powers.

 # Technically, the legal system and the judicial organisation are characterised as a complete and coherent set of norms controlled by hierarchically and materially organised courts.

 # The judicial organisation guarantees that there can be no positive or negative conflict of jurisdictions.

 # As a principle, French law applies in France to French litigants and/or cases. French law may also be applied extraterritorially, to foreign litigants and/or international cases. By way of exception, French judges may apply foreign laws.

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ENGLISH-FRENCH VOCABULARY

 # Case law: jurisprudence.

 # Codified law: droit codifié.

 # Democracy: démocratie.

 # French law / laws of France: droit français.

 # Hierarchy of norms: hiérarchie des normes.

 # Judicial system: système judiciaire.

 # Legal system: système juridique.

 # Normative system: système normatif.

 # Oral law: droit oral.

 # Pyramid: pyramide.

 # Republic: République.

 # Rule of law: État de droit.

 # Rule of precedent / doctrine of precedent: règle des précédents / doctrine des précédents

 # Written law: droit écrit.

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LEGAL SYSTEM OF THE EUROPEAN UNION

A sui generis legal system, intermediate between a developed legal system instituted by a treaty and a federal State.

OBJECTIVES

 # Understand the differences between international law and European Union law.

 # Remember that European Union law defines the applicable law and the competent courts within the Union.

SUMMARY

 # The legal system of the European Union is a developed and consistent body of rules, controlled by hierarchically organised courts.

 # European Union law contains both conflict rules and substantive rules.

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THE MEMBER STATES OF THE EUROPEAN UNION
Council of the European Union
Rue de la Loi/Wetstraat 175
1048 Bruxelles/Brussel
BELGIQUE/BELGIË
Tel. +32 22816111
www.consilium.europa.eu
NON-CONTINENTAL AND OVERSEAS TERRITORIES OF MEMBER STATES
Azores (PT)
Madeira (PT)
Canary Is. (ES)
Guadeloupe (FR)
Martinique (FR)
French Guyana (FR)
Mayotte Islands (FR)
Réunion (FR)
BARENTS SEA
WHITE SEA
SEA OF NORWAY
SWEDEN
FINLAND
GULF OF BOTHNIA
Helsinki
Tallinn
Stockholm
ESTONIA
Riga
LATVIA
LITHUANIA
Vilnius
BALTIC SEA
SKAGERRAK
NORTH SEA
DENMARK
Copenhagen
IRELAND
Dublin
CELTIC SEA
ATLANTIC OCEAN
THE NETHERLANDS
Amsterdam
Berlin
Warsaw
POLAND
ENGLISH CHANNEL
Brussels
BELGIUM
LUXEMBOURG
Luxembourg
GERMANY
Paris
Prague
CZECHIA
SLOVAKIA
Vienna
Bratislava
AUSTRIA
Budapest
HUNGARY
FRANCE
BAY OF BISCAY
SLOVENIA
Ljubljana
Zagreb
CROATIA
ROMANIA
Bucharest
GULF OF LIONS
PORTUGAL
Lisbon
Madrid
SPAIN
ITALY
Rome
ADRIATIC SEA
BULGARIA
Sofia
BLACK SEA
TYRRHENIAN SEA
MEDITERRANEAN SEA
GREECE
AEGEAN SEA
Athens
IONIAN SEA
CYPRUS
Nicosia
MALTA
Valletta
Belgium
Bulgaria
Czechia
Denmark
Germany
Estonia
Ireland
Greece
Spain
France
Croatia
Italy
Cyprus
Latvia
Lithuania
Luxembourg
Hungary
Malta
Netherlands
Austria
Poland
Portugal
Romania
Slovenia
Slovakia
Finland
Sweden
The protocol order of the member states is based on the alphabetical order of their geographical names in the original language.
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EUROPEAN UNION

1957 (6)

France

Belgium

Luxembourg

The Netherlands

Germany

Italy

1973 (9)

Denmark

Ireland

~~United Kingdom~~

1981 (10)

Greece

1986 (12)

Spain

Portugal

1995 (15)

Austria

Sweden

Finland

2004 (25)

Estonia

Latvia

Lithuania

Poland

Czechia

Slovakia

Hungary

Slovenia

Malta

Cyprus

2007 (27)

Bulgaria

Romania

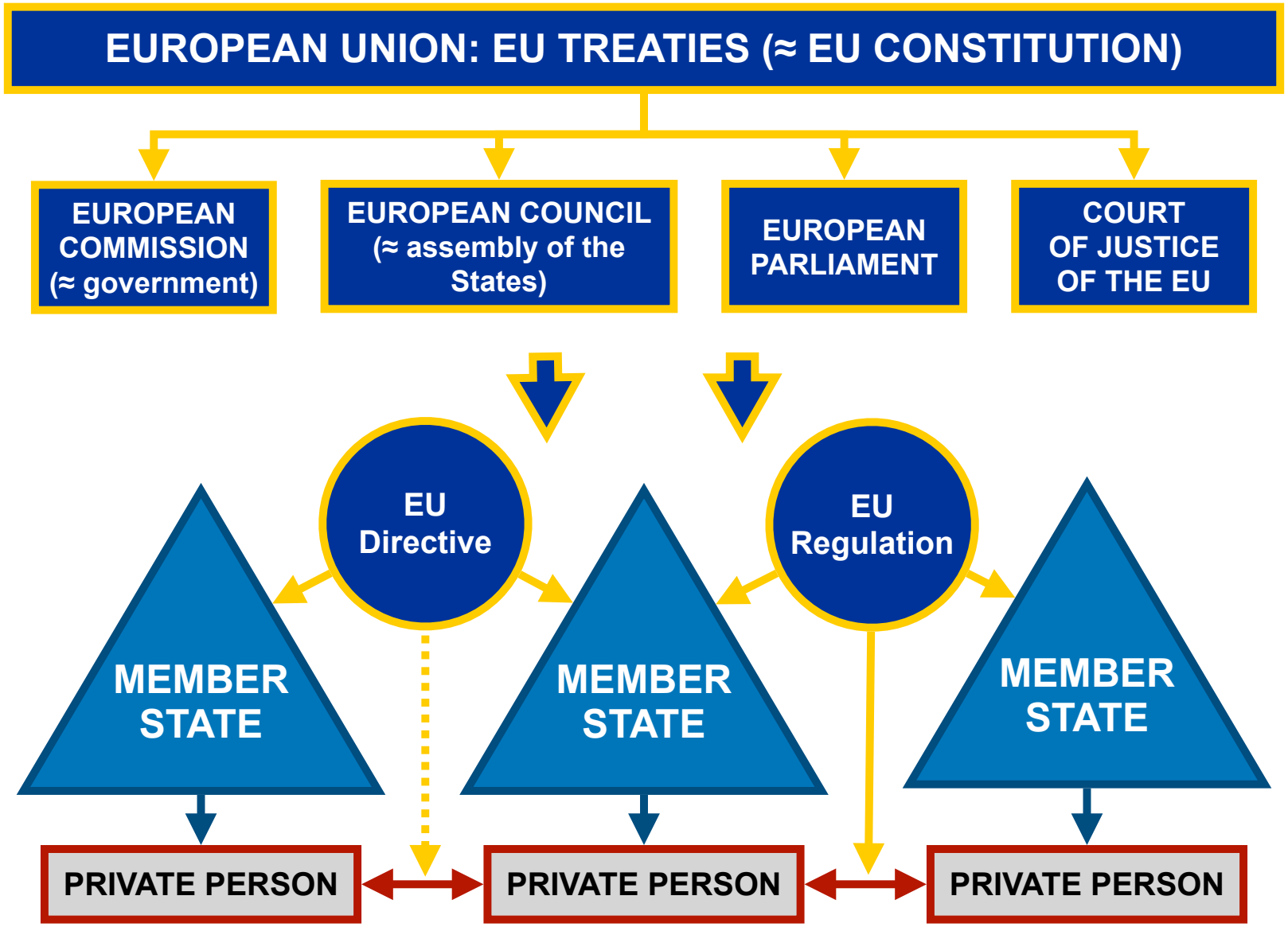
2013 (28)

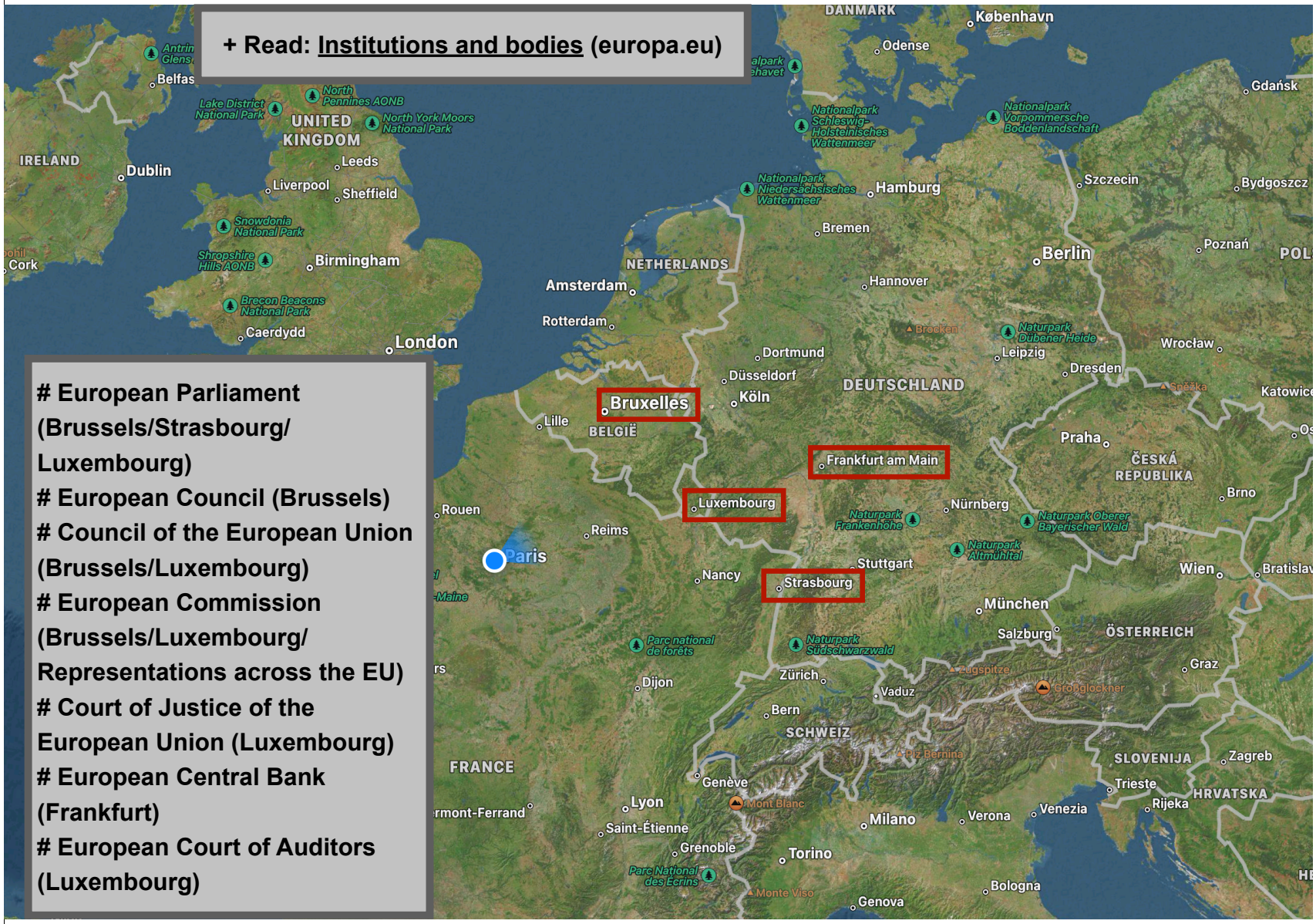
Croatia

2020 (27)

Brexit

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EUROPEAN UNION: EU TREATIES (≈ EU CONSTITUTION)
EUROPEAN COMMISSION (≈ government)
EUROPEAN COUNCIL (≈ assembly of the States)
EUROPEAN PARLIAMENT
COURT OF JUSTICE OF THE EU
EU Directive
EU Regulation
MEMBER STATE
MEMBER STATE
MEMBER STATE
PRIVATE PERSON
PRIVATE PERSON
PRIVATE PERSON
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+ Read: Institutions and bodies (europa.eu)
# European Parliament (Brussels/Strasbourg/ Luxembourg)
# European Council (Brussels)
# Council of the European Union (Brussels/Luxembourg)
# European Commission (Brussels/Luxembourg/ Representations across the EU)
# Court of Justice of the European Union (Luxembourg)
# European Central Bank (Frankfurt)
# European Court of Auditors (Luxembourg)
Bruxelles
Luxembourg
Frankfurt am Main
Strasbourg
DANMARK
København
Odense
Gdańsk
Belfast
UNITED KINGDOM
IRELAND
Dublin
Leeds
Liverpool
Sheffield
Birmingham
Cork
London
Caerdydd
Amsterdam
Rotterdam
NETHERLANDS
Hamburg
Bremen
Hannover
Berlin
Poznań
Szczecin
Bydgoszcz
Dortmund
Düsseldorf
Köln
Lille
BELGIË
DEUTSCHLAND
Leipzig
Dresden
Wrocław
Praha
ČESKÁ REPUBLIKA
Brno
Nürnberg
Rouen
Reims
Paris
Nancy
Stuttgart
München
Wien
Salzburg
ÖSTERREICH
Graz
Zürich
Vaduz
Bern
SCHWEIZ
Dijon
FRANCE
Genève
Lyon
Saint-Étienne
Grenoble
Milano
Verona
Venezia
Torino
Genova
Bologna
Trieste
Rijeka
SLOVENIJA
Zagreb
HRVATSKA

THE EUROPEAN UNION

EU CITIZENS	EU INSTITUTIONS	MEMBER STATES
INTEGRATED LEGAL AND POLITICAL SYSTEM	SPECIAL YET WIDE COMPETENCES	INTERNATIONAL TREATIES FOUNDED THE EU

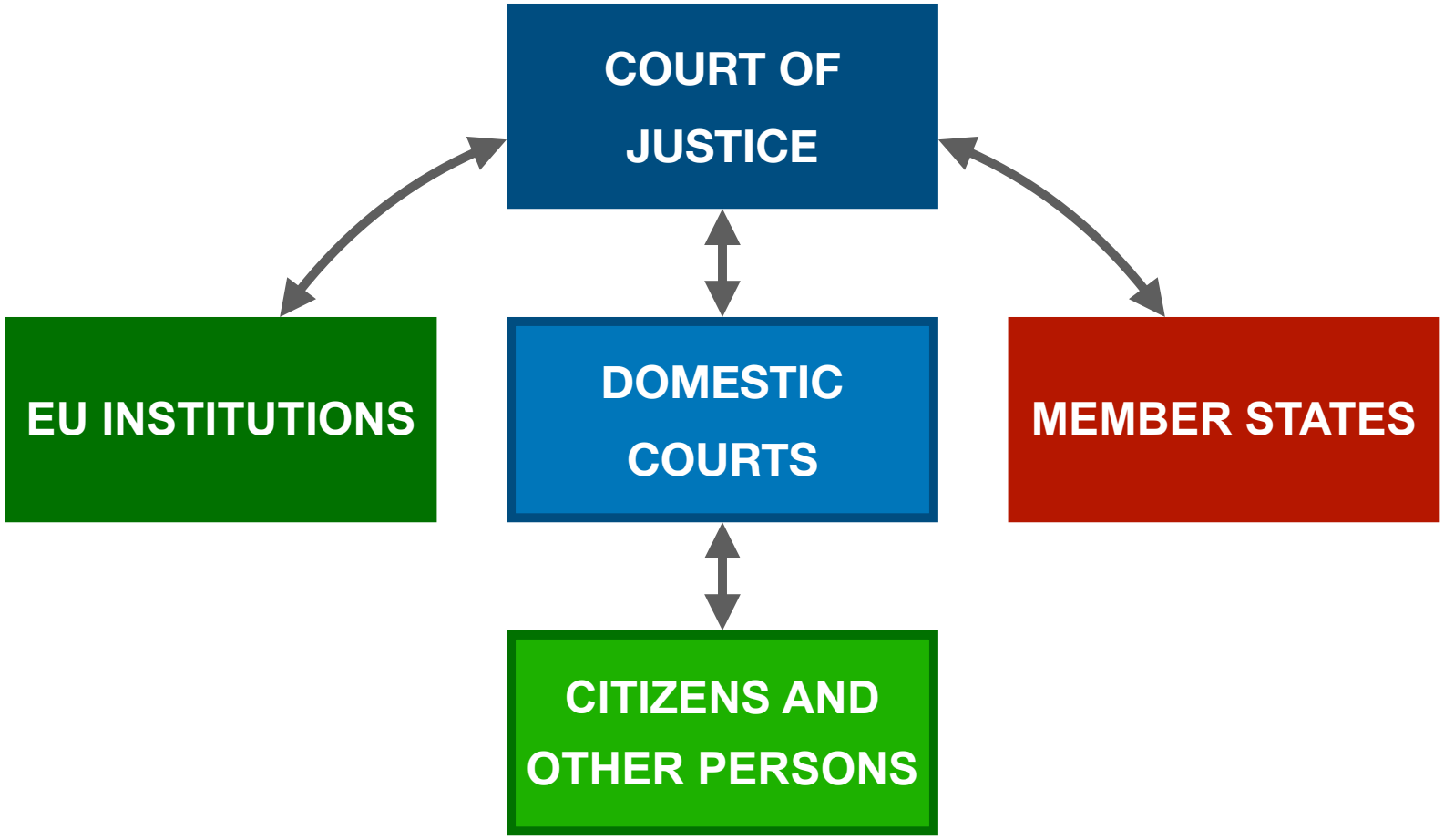
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EUROPEAN UNION LAW

PRIMACY	CONSISTENCY	DIRECT EFFECT
PRIMACY OF EU LAW OVER DOMESTIC LAW	THE COURT OF JUSTICE HARMONISES EU LAW	DIRECT EFFECT OF EU LAW IN THE MEMBER STATES

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EU JUDICIAL SYSTEM



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FUNDAMENTAL PRINCIPLES OF EU LAW

- Principle of conferral (the EU has only the competences conferred on it by the Treaties);
- Direct application of EU law;
- Primacy of EU law over national law;
- Liability of Member States for breach of EU law;
- European citizens may bring an action for damages against a State which infringes a EU rule.

+ Read: Division of competences within the European Union (eur-lex.europa.eu).

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FUNDAMENTAL RULES OF EU LAW

- Fundamental rights;
- European citizenship;
- Equal treatment and social rights;
- Freedom of movement of persons;
- Free movement of goods;
- Freedom to provide services.

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EU NORMATIVE PYRAMID

- Regulations
- Directives
- Decisions
- Recommendations
- Opinions

European Union (EU) law is incorporated into the laws of the Member States.

+ Read: Regulations, Directives and other acts (europa.eu)

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COURTS OF THE EUROPEAN UNION

- Court of Justice
- General court

The EU Courts are based in Luxembourg.

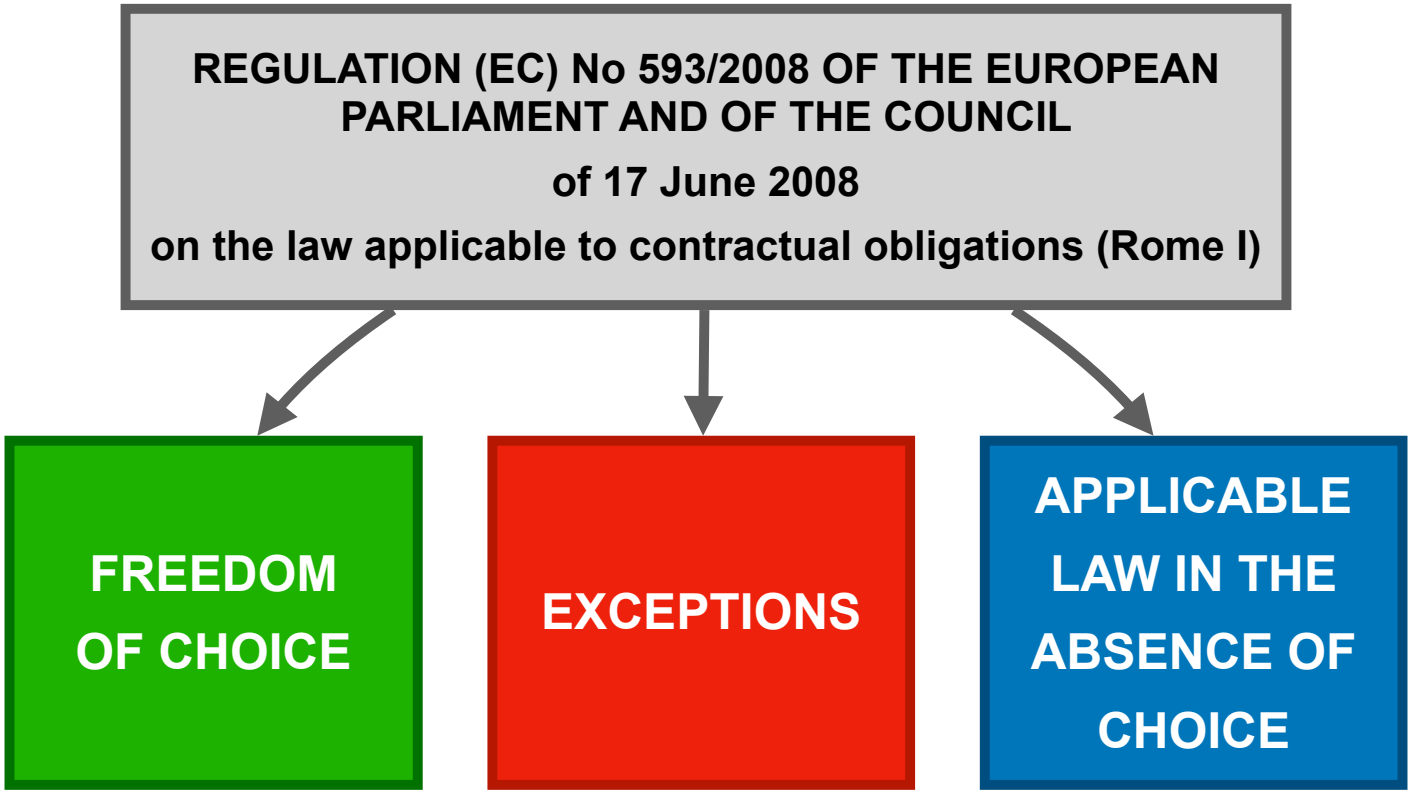
The national courts are the ordinary courts applying EU law; they shall apply it in any case.

National courts or tribunals dealing with litigations involving EU law may, and sometimes must, submit questions to the Court of Justice for a preliminary ruling. The Court of Justice gives its interpretation or reviews the legality of rules of EU law.

+ Read: Court of Justice (curia.euopa.eu)

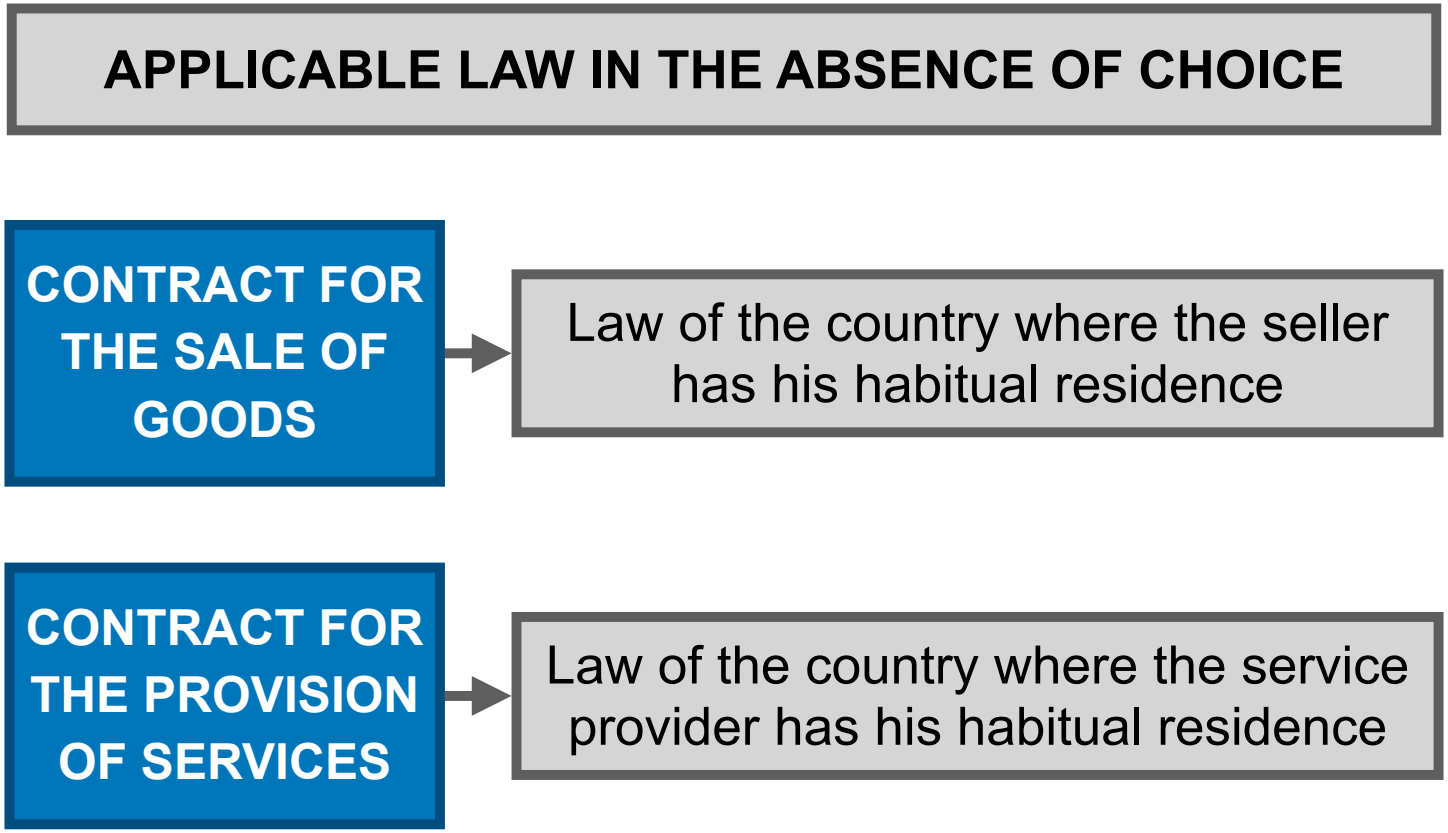
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APPLICABLE LAW IN THE EU



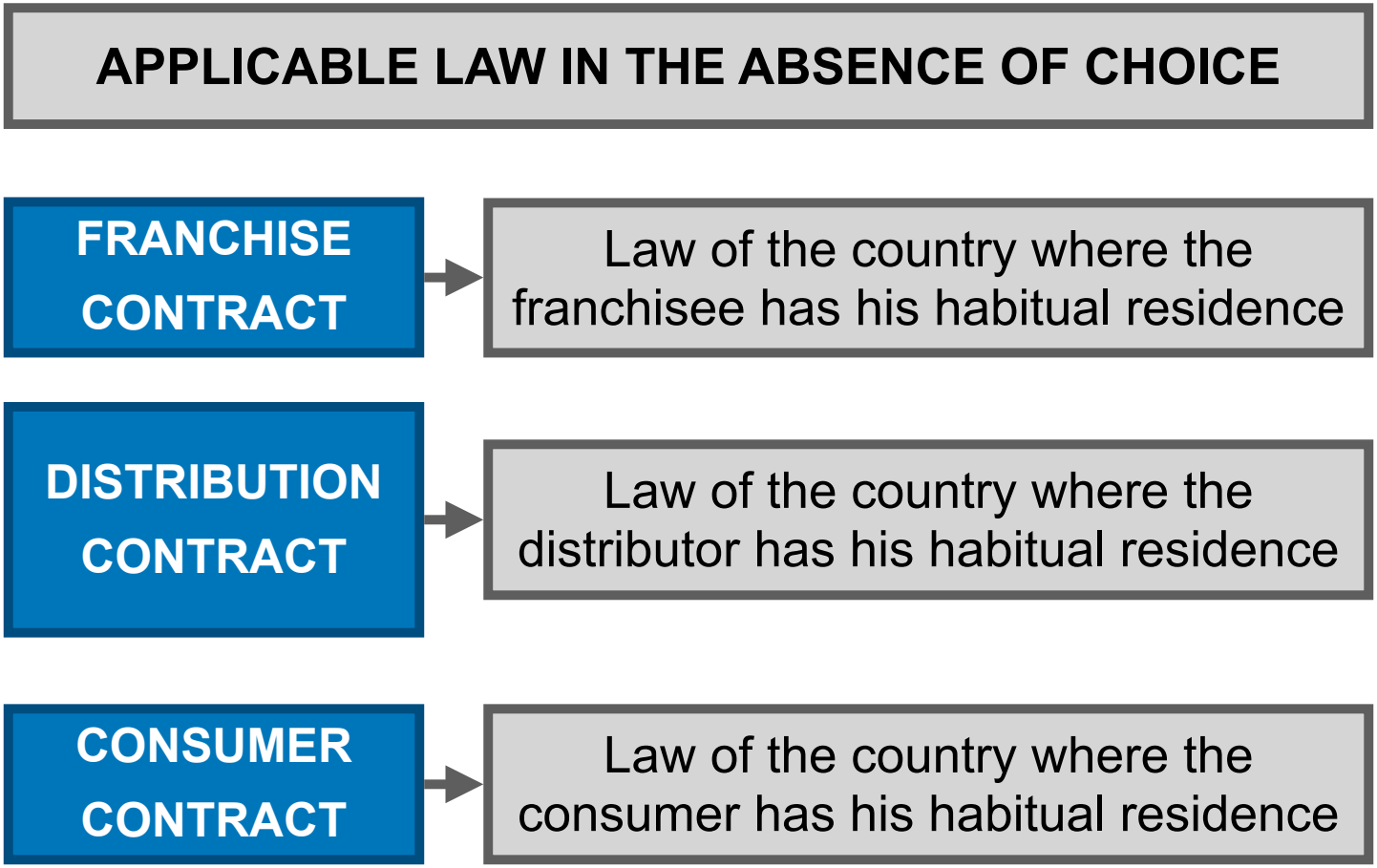
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APPLICABLE LAW IN THE EU



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APPLICABLE LAW IN THE EU



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APPLICABLE LAW IN THE EU

APPLICABLE LAW IN THE ABSENCE OF CHOICE

OTHER → Contract of carriage, consumer contract, insurance contract, employment contract, immovable property...

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APPLICABLE LAW IN THE EU

APPLICABLE LAW IN THE ABSENCE OF CHOICE

Where the contract is not covered by article 4, paragraph 1, or where the elements of the contract would be covered by more than one of points (a) to (h) of paragraph 1, the contract shall be governed by the law of the country where the party required to effect the characteristic performance of the contract has his habitual residence.

Where it is clear from all the circumstances of the case that the contract is manifestly more closely connected with a country other than that indicated in paragraphs 1 or 2 of article 4, the law of that other country shall apply.

Where the law applicable cannot be determined pursuant to paragraphs 1 or 2, the contract shall be governed by the law of the country with which it is most closely connected.

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APPLICABLE LAW IN THE EU

OVERRIDING MANDATORY PROVISIONS (ART. 9)

1. Overriding mandatory provisions are provisions the respect for which is regarded as crucial by a country for safeguarding its public interests, such as its political, social or economic organisation, to such an extent that they are applicable to any situation falling within their scope, irrespective of the law otherwise applicable to the contract under this Regulation.

2. Nothing in this Regulation shall restrict the application of the overriding mandatory provisions of the law of the forum.

3. Effect may be given to the overriding mandatory provisions of the law of the country where the obligations arising out of the contract have to be or have been performed, in so far as those overriding mandatory provisions render the performance of the contract unlawful. In considering whether to give effect to those provisions, regard shall be had to their nature and purpose and to the consequences of their application or non-application.

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APPLICABLE LAW IN THE EU

REGULATION (EC) No 864/2007 of the European Parliament and of the Council

of 11 July 2007

on the law applicable to non-contractual obligations (Rome II)



Cases of tort (a wrong under civil law) and delict (civil liability)

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COMPETENT COURTS IN THE EU

REGULATION (EU) No 1215/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 December 2012

on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

(Bruxelles I bis)

GENERAL PROVISIONS

SPECIAL JURISDICTION

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COMPETENT COURTS IN THE EU

GENERAL PROVISIONS

PERSONS DOMICILED IN A MEMBER STATE SHALL, WHATEVER THEIR NATIONALITY, BE SUED IN THE COURTS OF THAT MEMBER STATE.

PERSONS WHO ARE NOT NATIONALS OF THE MEMBER STATE IN WHICH THEY ARE DOMICILED SHALL BE GOVERNED BY THE RULES OF JURISDICTION APPLICABLE TO NATIONALS OF THAT MEMBER STATE.

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COMPETENT COURTS IN THE EU

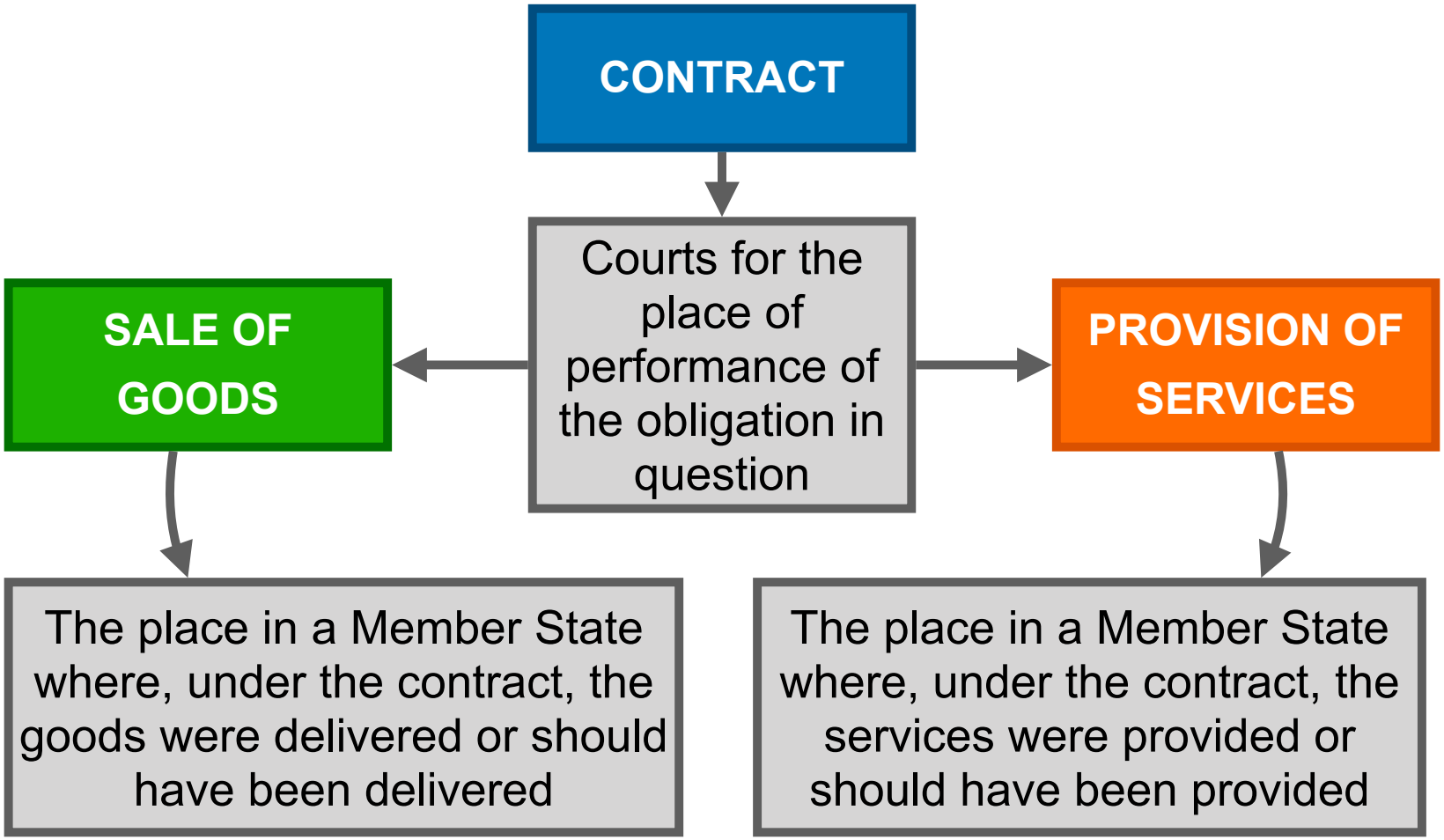
SPECIAL JURISDICTION

A person domiciled in a Member State may be sued in another Member State

CONTRACT	Courts for the place of performance of the obligation in question
TORT, DELICT, QUASI-DELICT	Courts for the place where the harmful event occurred or may occur
OTHER	Companies, insurance, employment contract, immovable property, IP...

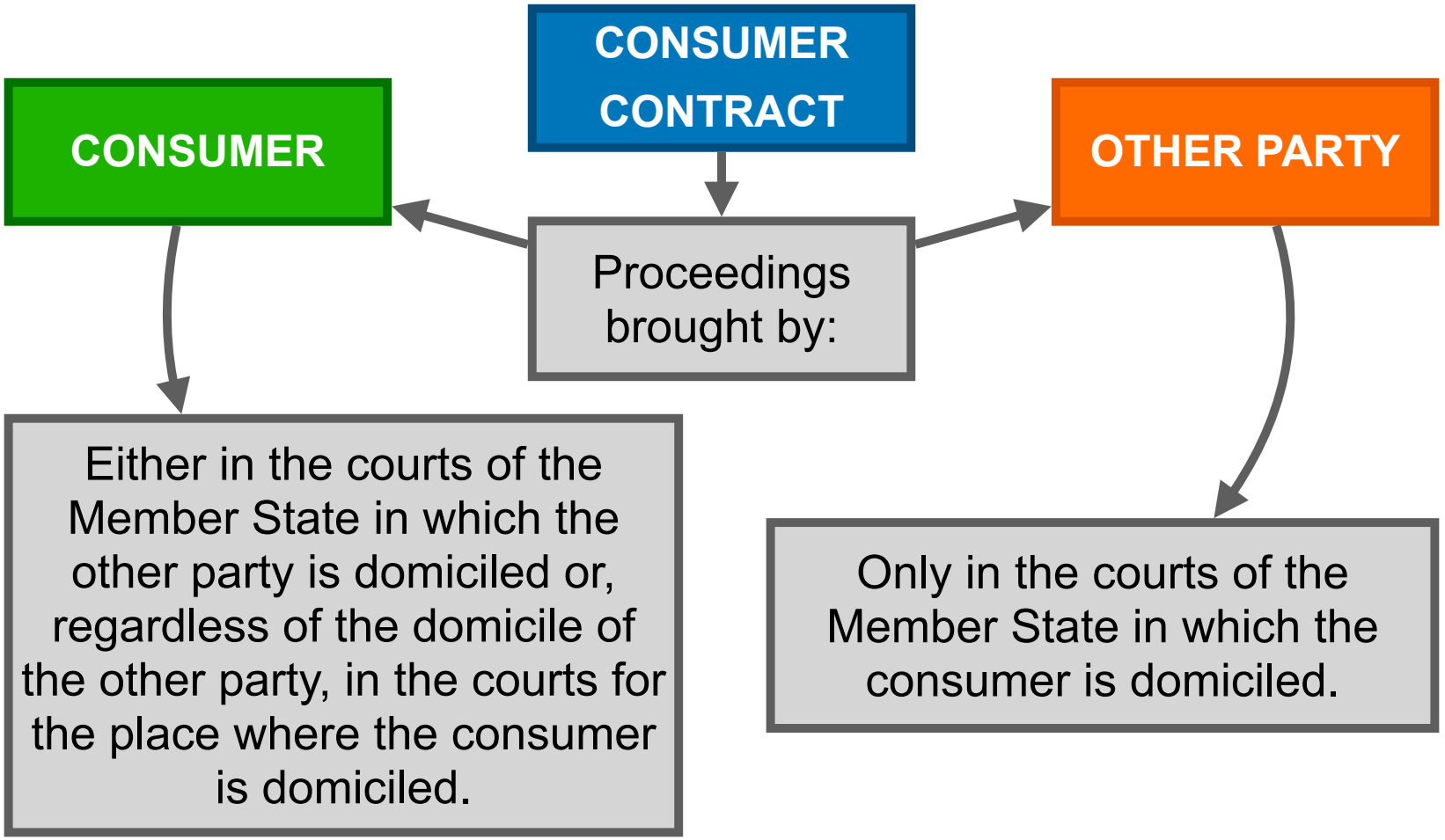
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COMPETENT COURTS IN THE EU



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COMPETENT COURTS IN THE EU



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COMPETENT COURTS IN THE EU

PROROGATION OF JURISDICTION
(article 25 of EU REGULATION No 1215/2012)

If the parties, regardless of their domicile, have agreed that a court or the courts of a Member State are to have jurisdiction to settle any disputes which have arisen or which may arise in connection with a particular legal relationship, that court or those courts shall have jurisdiction, unless the agreement is null and void as to its substantive validity under the law of that Member State. Such jurisdiction shall be exclusive unless the parties have agreed otherwise.

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FINDINGS

 # Although the European Union was instituted by international treaties, today it is much more than a traditional international organisation. The European legal system is not fundamentally different from that of a federal State.

 # European Union law and the legal systems of the Member States are fully integrated.

 # The judges of the Member States are the ordinary European judges.

 # The judicial organisation guarantees that there can be no positive or negative conflict of jurisdictions and that European Union law is applied consistently in the Union.

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QUIZZ

In case of litigation relating to a contract entered into between parties residing in different Member States of the European Union, if the parties did not choose the governing law, the applicable law shall be determined by:

A - a European regulation;

B - an international convention (treaty);

C - the laws of the Member States.

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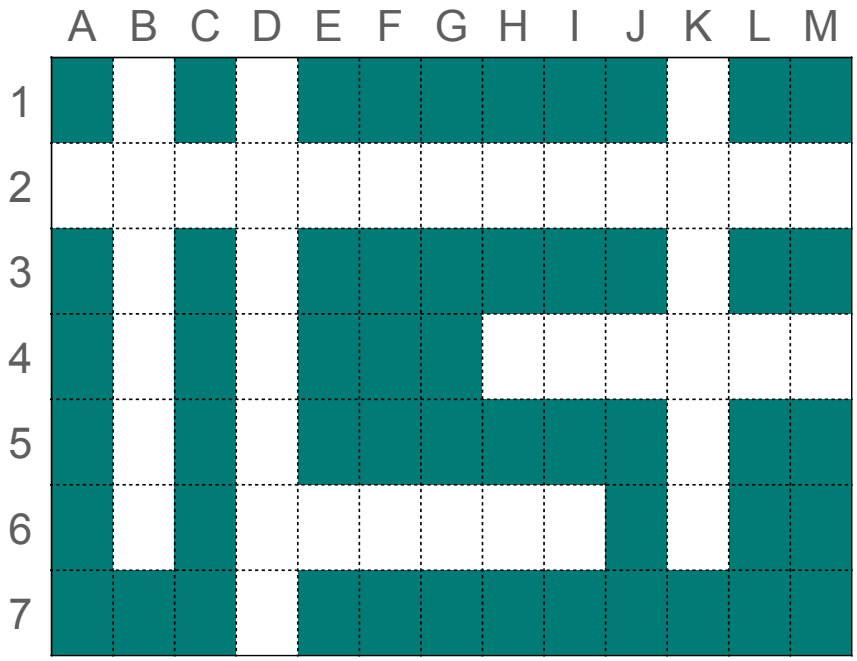
CROSSWORDS

VERTICALLY

B - One of the two continents on which Istanbul is built.

D - The principle according to which EU law shall prevail over the laws of the Member States.

K - The principle according to which a litigant may invoke EU law before a court (1/2).



HORIZONTALLY

2 - A rule of the European Union that applies directly in the Member States.

4 - The principle according to which a litigant may invoke EU law before a court (2/2).

6 - The institutions that control the application of law.

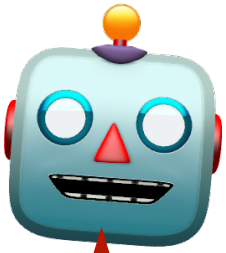
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PROCESSING PERSONAL DATA IN THE EUROPEAN UNION

GDPR

SUBSTANTIVE LAW

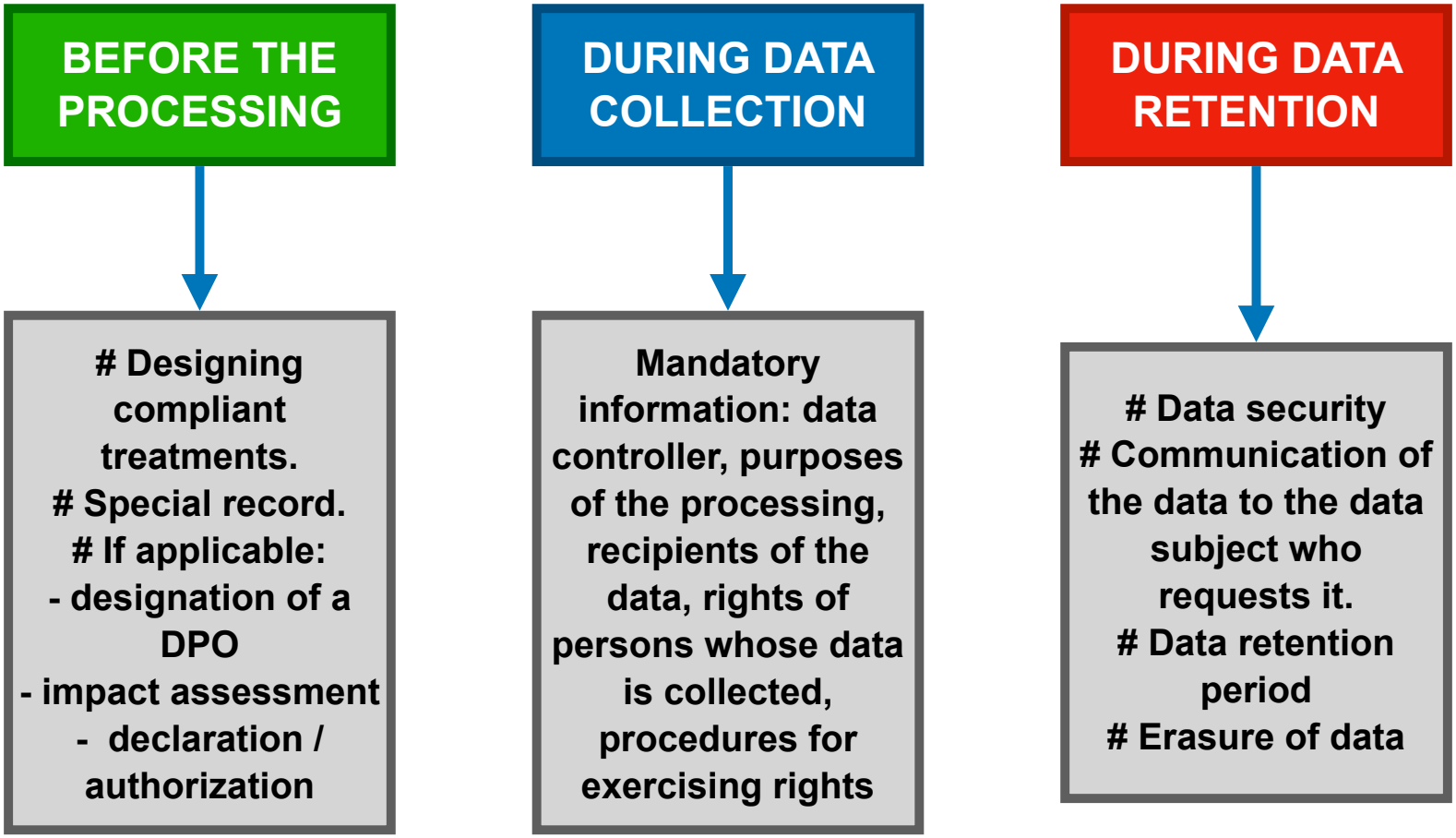
Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)
+ Link



Let's take a closer look!

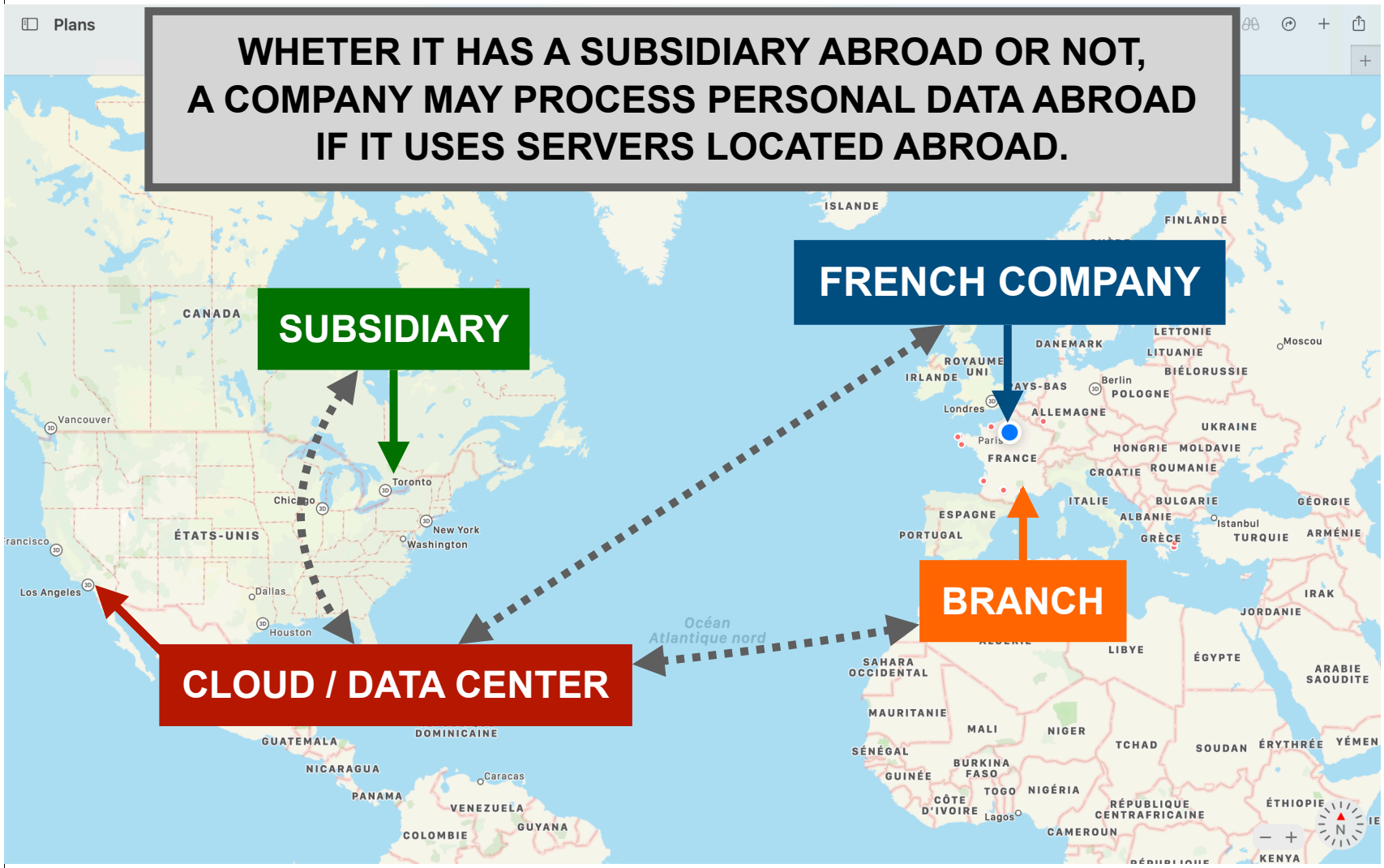
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PROCESSING PERSONAL DATA



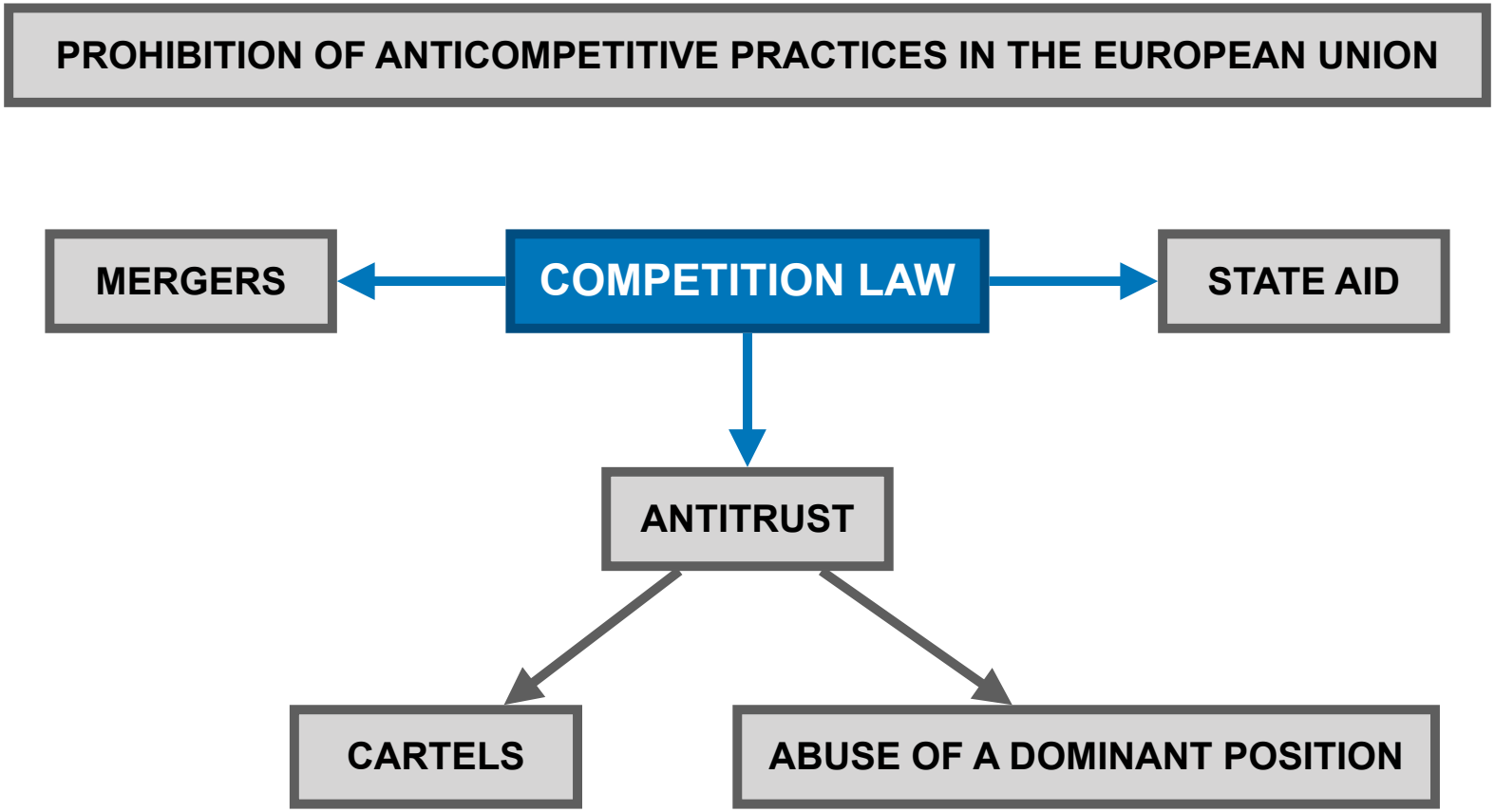
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PROCESSING PERSONAL DATA



COMPETITION LAW
IN THE EUROPEAN UNION

COMPETITION LAW



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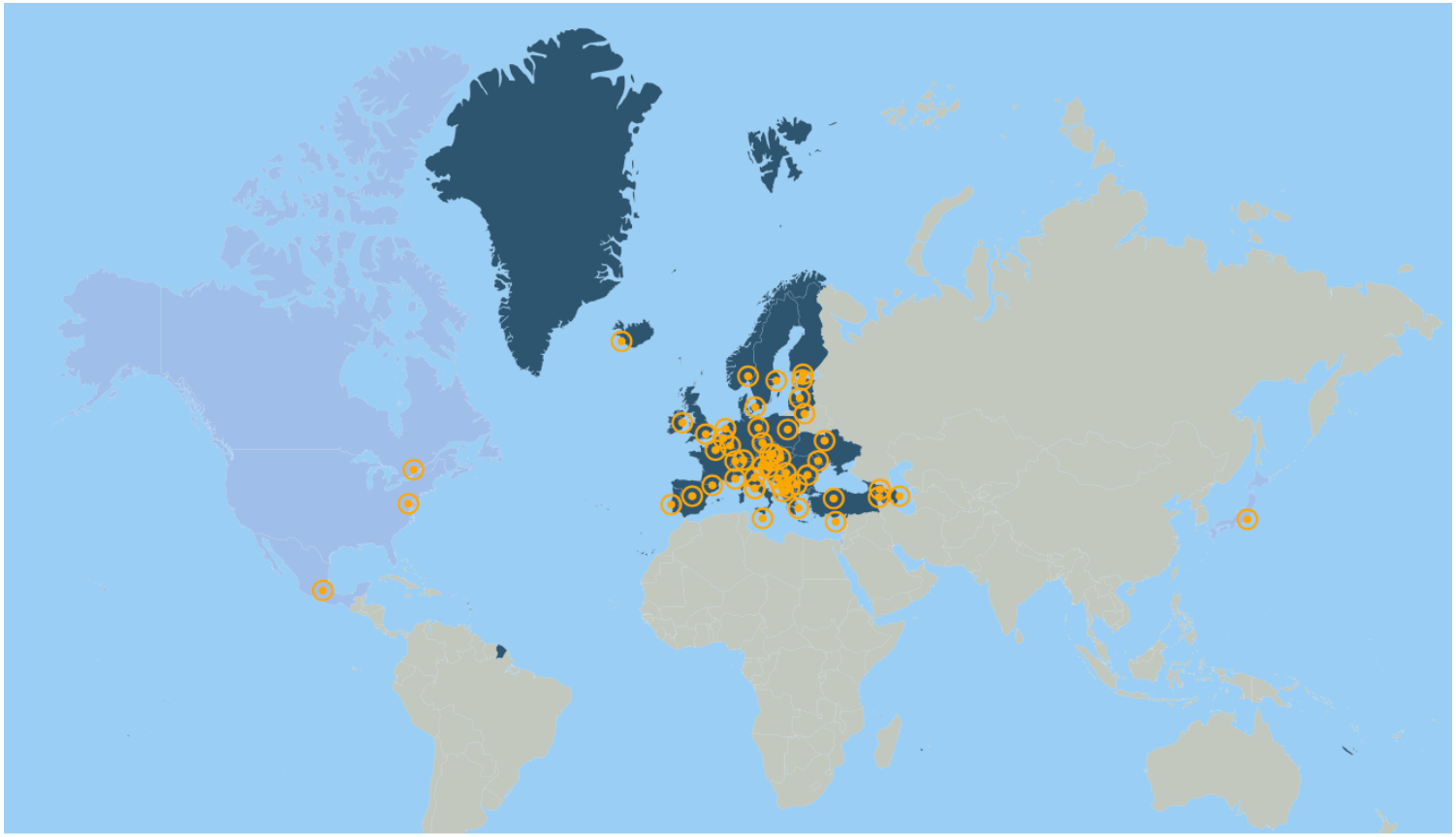
THE COUNCIL OF EUROPE

Human rights organisation.

European Convention on Human Rights:

a treaty designed to protect human rights, democracy and the rule of law.

COUNCIL OF EUROPE: MEMBER STATES



https://www.coe.int/en/web/about-us/our-member-states

COUNCIL OF EUROPE

- Founded in 1949.
- 46 member States, 27 of which are members of the European Union (the Russian Federation ceased to be a High Contracting Party to the Convention on 16 September 2022)
- European Court of Human Rights based in Strasbourg.
- This Convention is an international treaty under which the member States of the Council of Europe undertake to secure fundamental civil and political rights, to everyone within their jurisdiction.

+ Read: European Convention on Human Rights (official website echr.coe.int)

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EU-UK AGREEMENT

The EU-UK Trade and Cooperation Agreement signed on 30 December 2020 is an international agreement applied provisionally as of 1 January 2021, which entered into force on 1 May 2021.

OBJECTIVES

 # Perceive the differences between the legal system of the European Union and a relatively developed international treaty.

 # Know the main features of the dispute settlement mechanism provided for in the treaty.

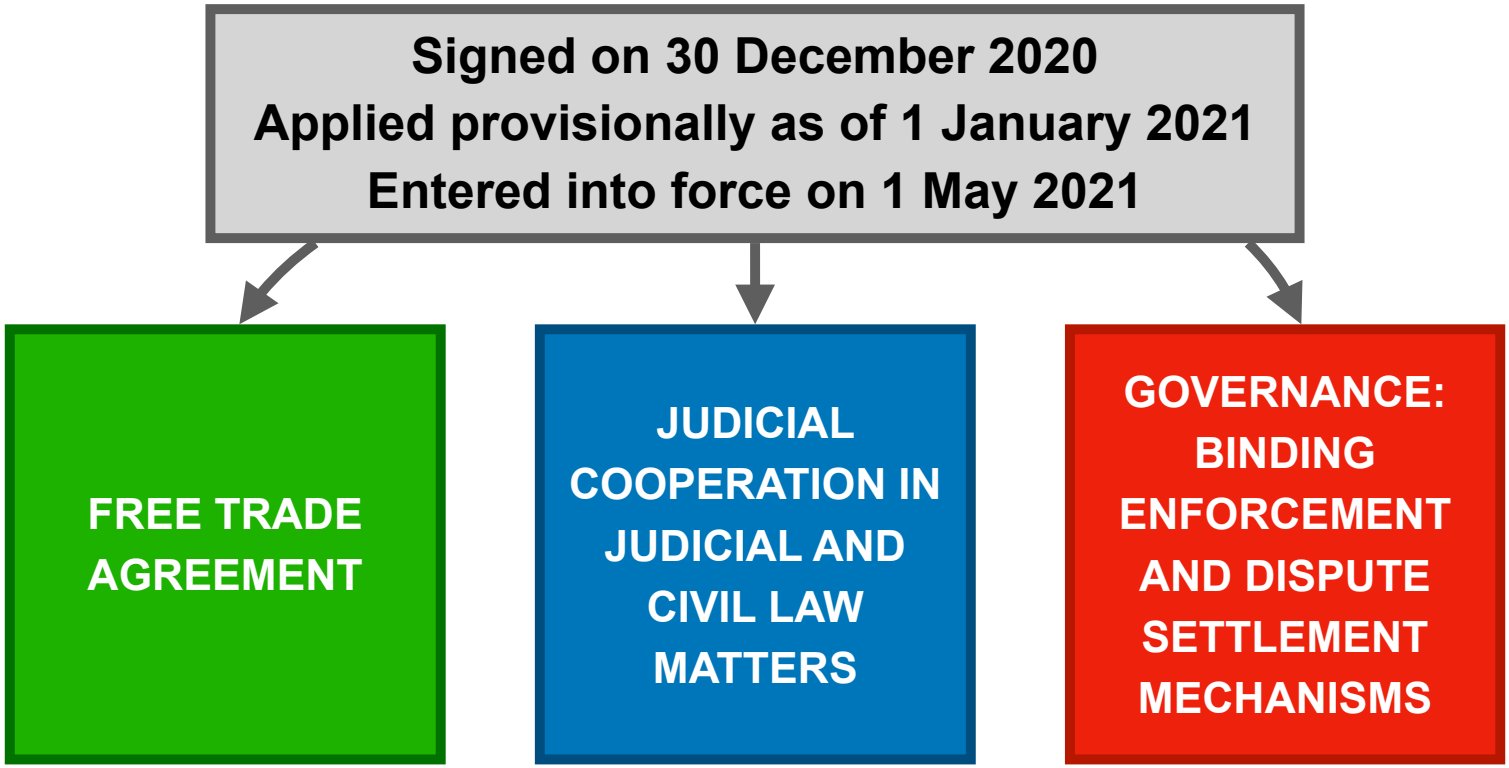
SUMMARY

 # The United Kingdom is (so far) the only State which has left the European Union.

 # The international treaty entered into between the EU and the UK underlines the differences between the EU and a developed international treaty.

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THE EU-UK TRADE AND COOPERATION AGREEMENT

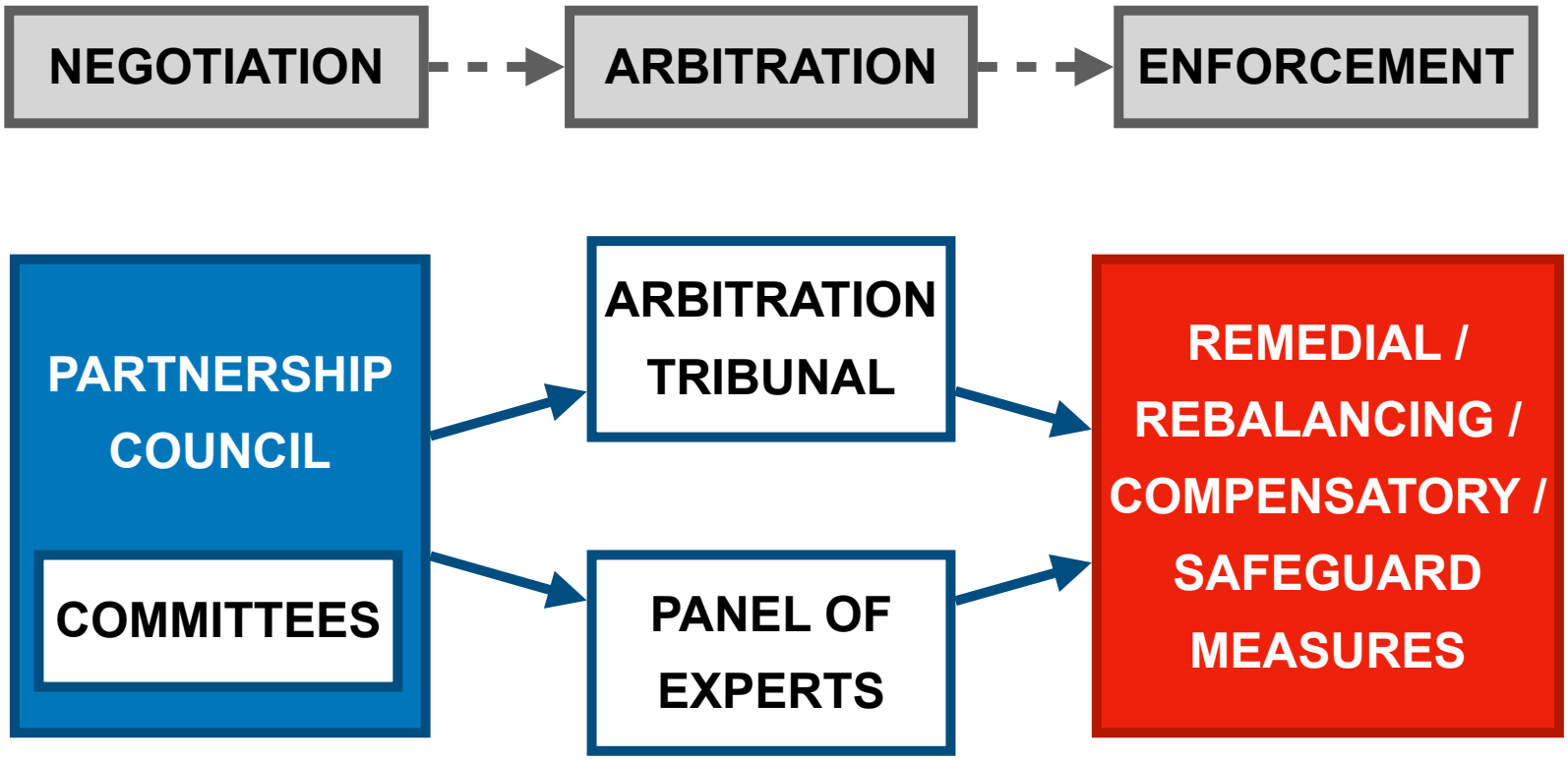


Official website of the European Union

Official website of the United Kingdom

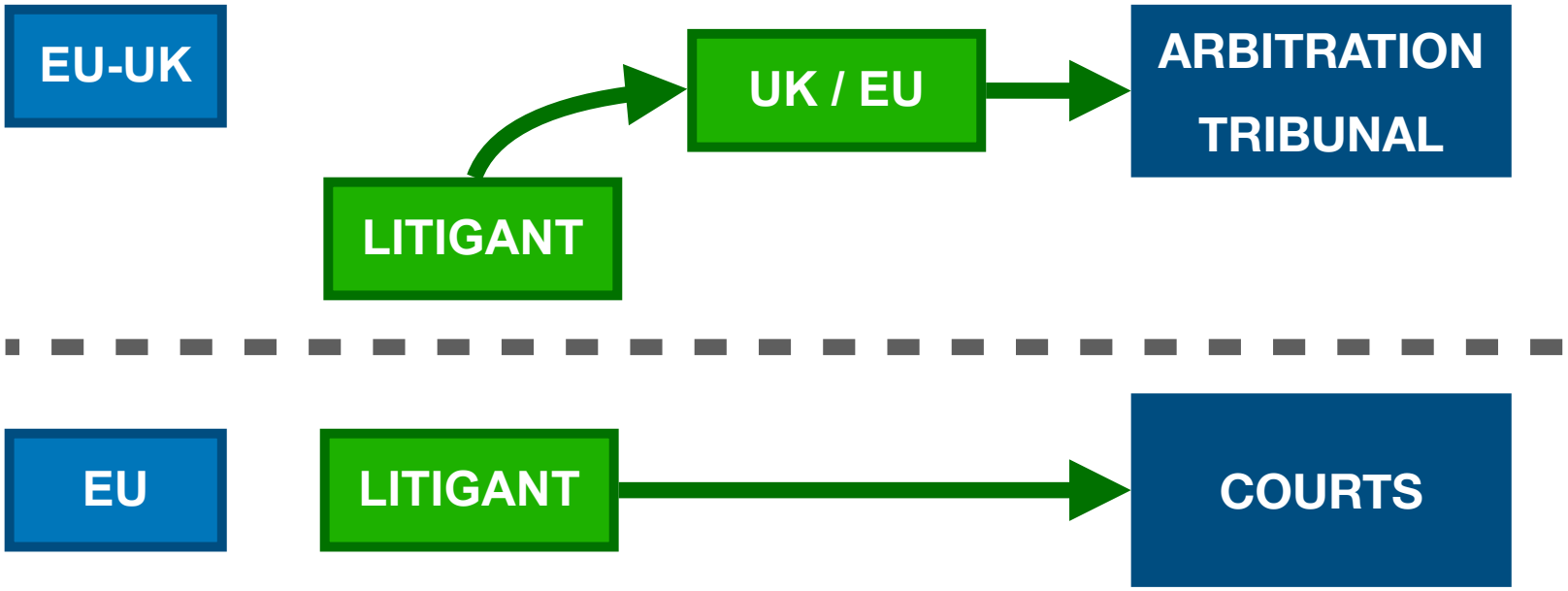
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THE EU-UK TRADE AND COOPERATION AGREEMENT



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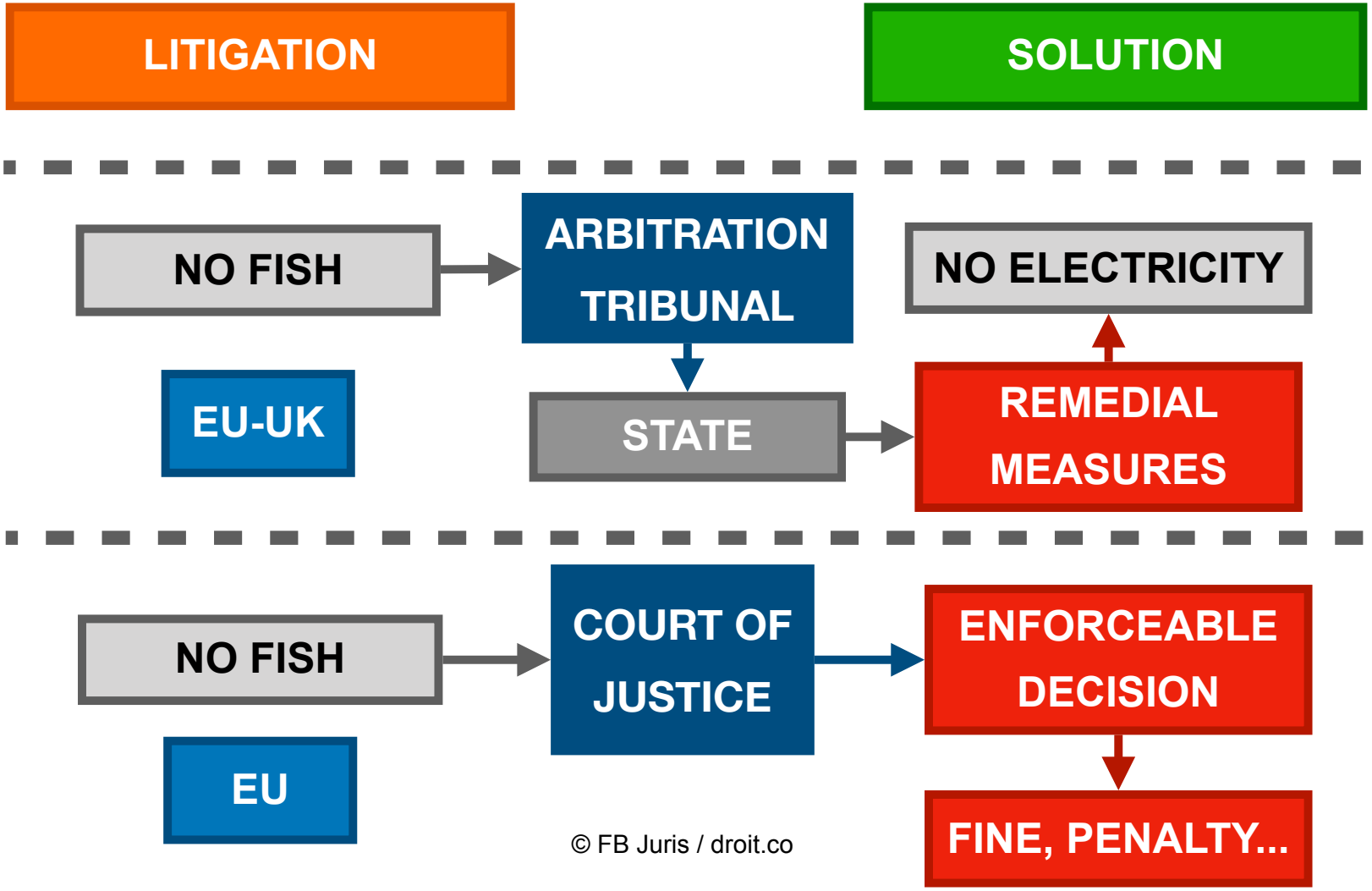
EU-UK AGREEMENT
VS EUROPEAN UNION



IN THE EU, THE LITIGANTS CAN DIRECTLY BRING AN ACTION BEFORE A COURT AND REQUEST THE APPLICATION OF EU LAW. IN THE EU-UK AGREEMENT, ONLY THE PARTIES TO THE AGREEMENT MAY BRING AN ACTION BEFORE THE ARBITRATION TRIBUNAL.

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EU-UK AGREEMENT VS EUROPEAN UNION



FINDINGS

 # The scope of the EU-UK Trade and Cooperation Agreement is much narrower than that of European Union law.

 # The dispute resolution mechanism is very limited in the EU-UK agreement.

 # Citizens, companies and organisations cannot bring an action before the arbitration tribunal of the EU-UK Agreement. Only the parties to the Agreement (i.e., the EU and the UK) can bring such action.

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INTERNATIONAL LEGAL SYSTEMS

International business law is not an integrated legal system.
Instead, several legal systems address international matters.

OBJECTIVES

 # Understand the differences between internal law, private international law and public international law.

 # Understand the essential issues of private international law.

 # Master the concept of international public order.

SUMMARY

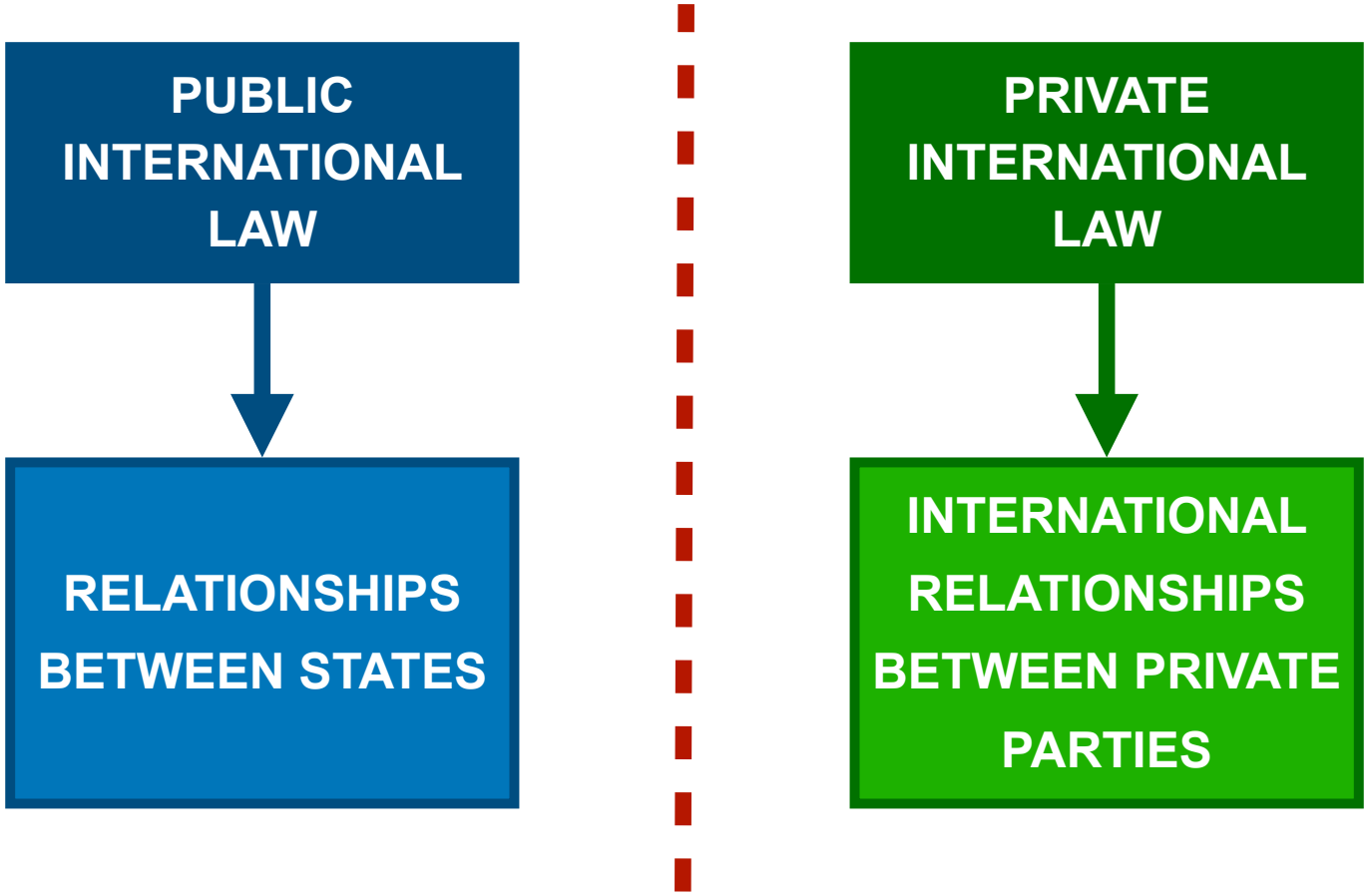
 # Private international law deals with the international relationships between private parties.

 # The legal systems of the States form the basis of private international law.

 # Private international law comprises various norms, notably State laws, international treaties, principles.

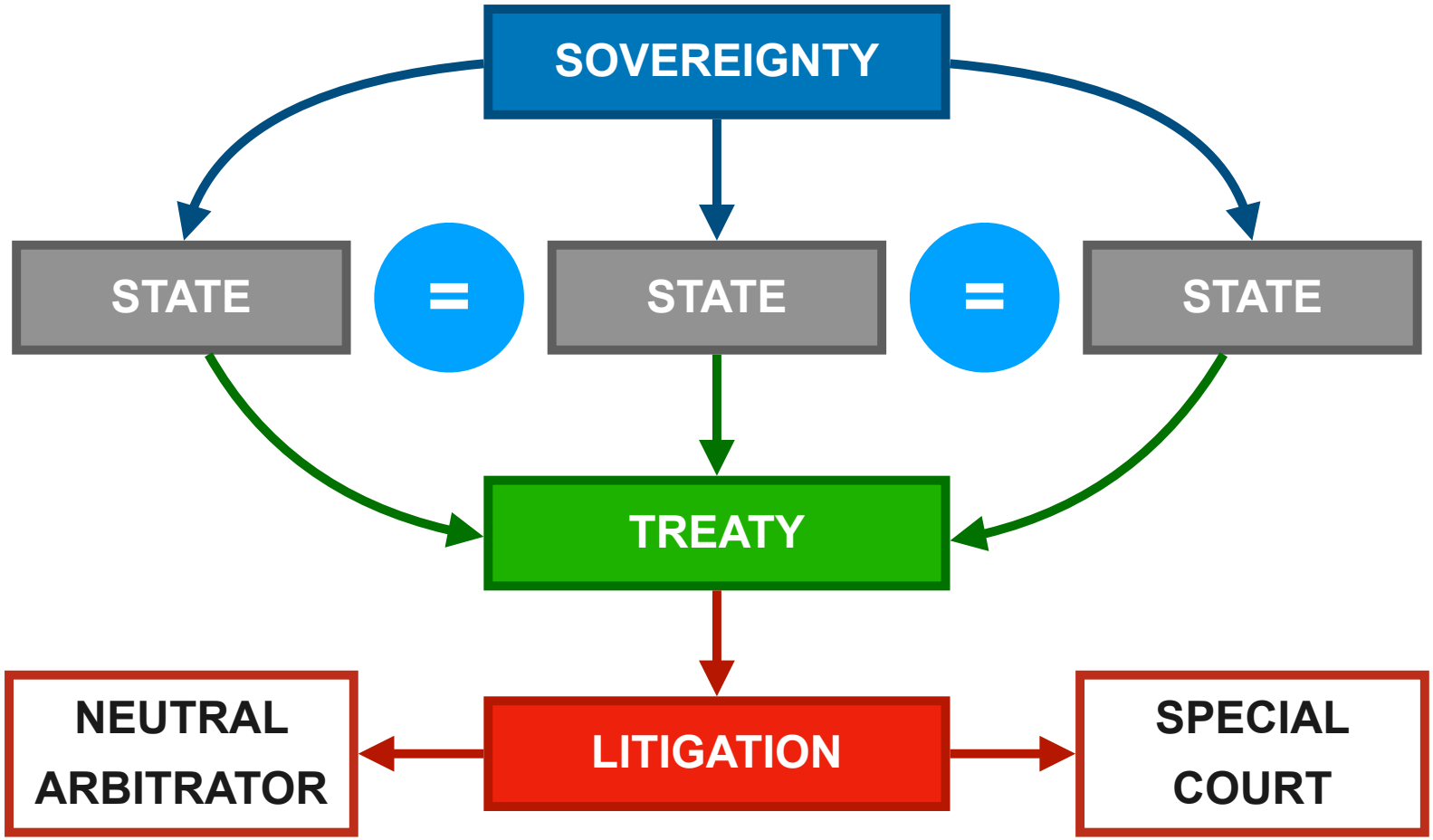
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INTERNATIONAL LAW



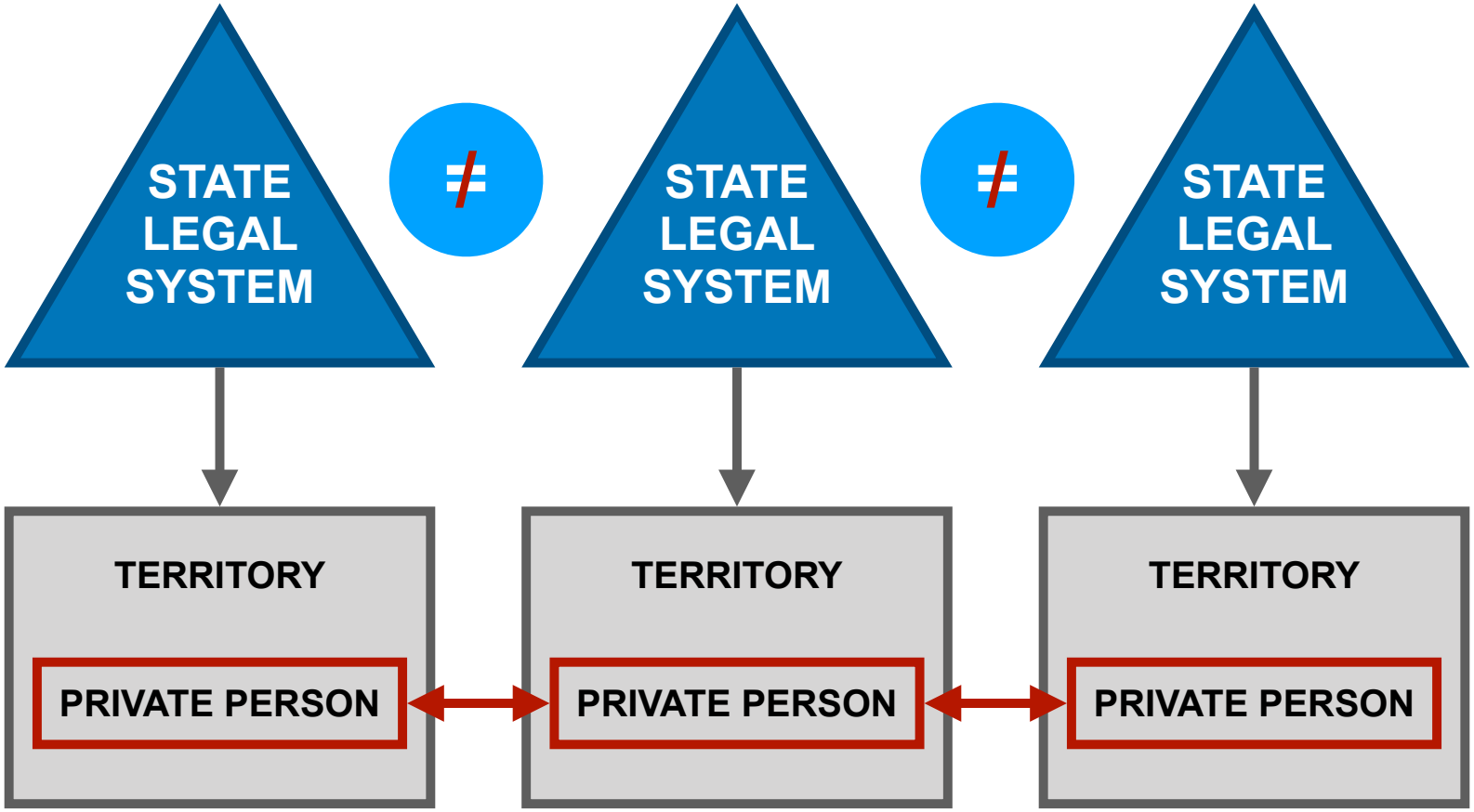
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PUBLIC INTERNATIONAL LAW



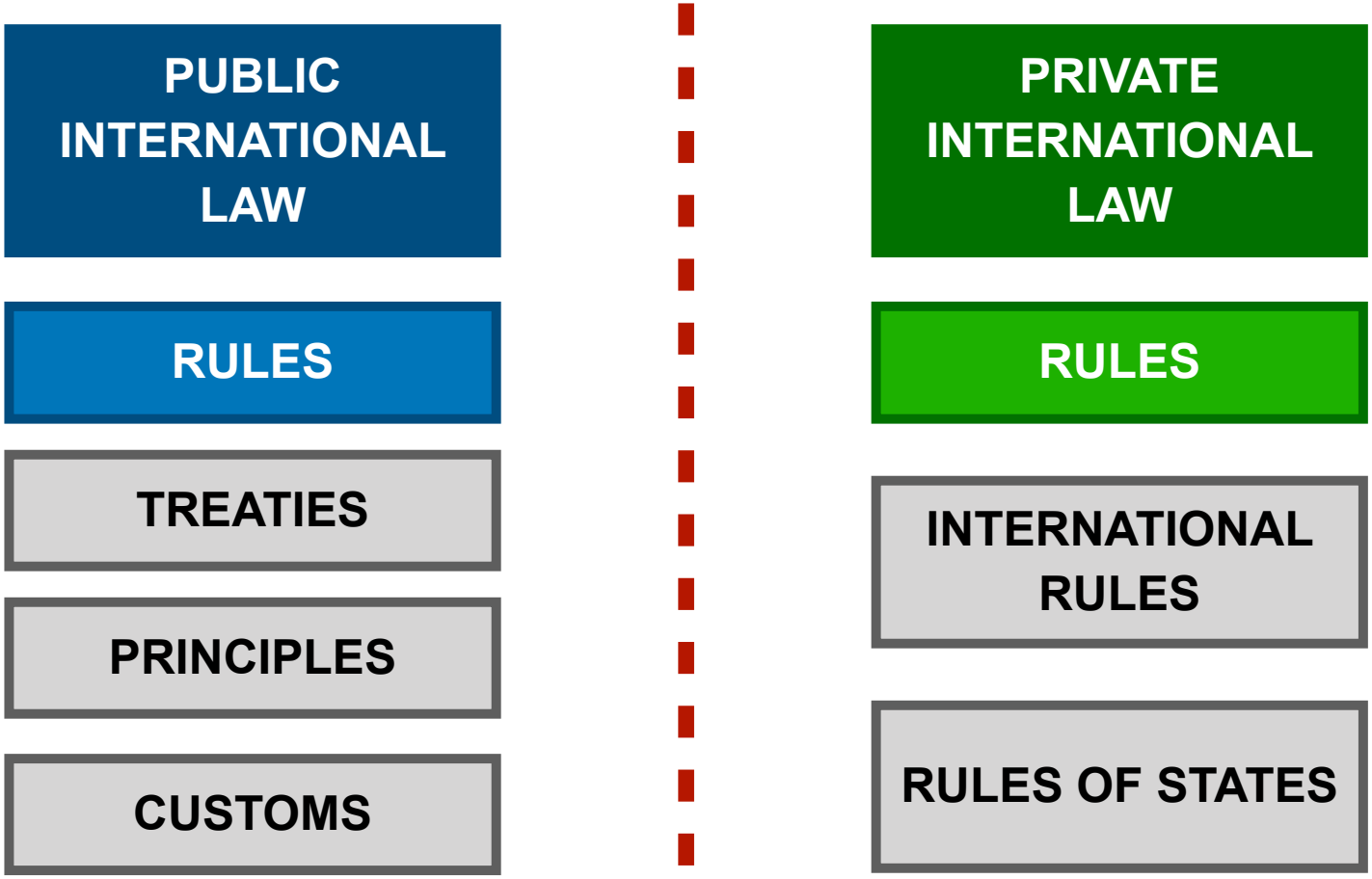
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PRIVATE INTERNATIONAL LAW



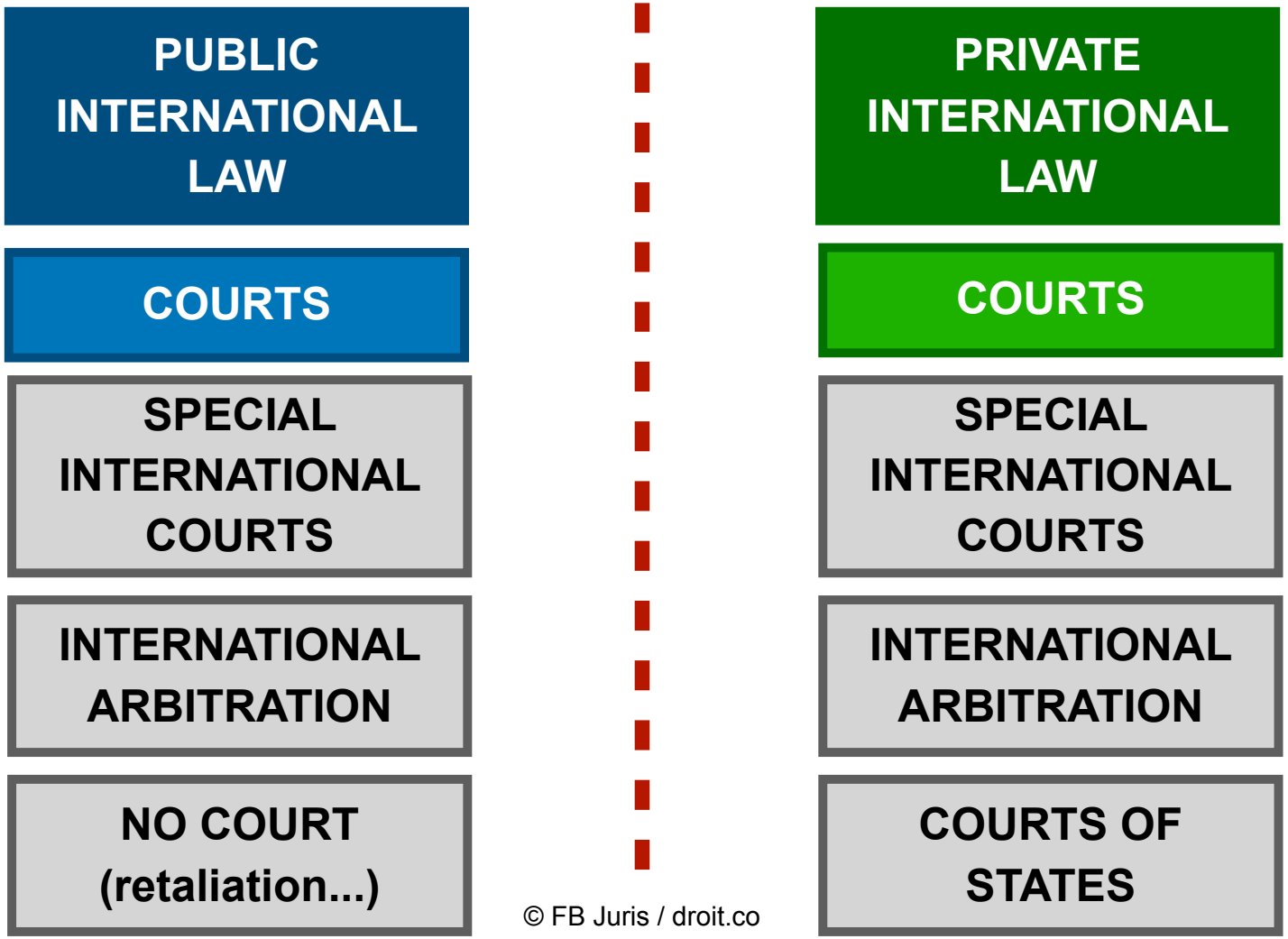
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INTERNATIONAL LAW



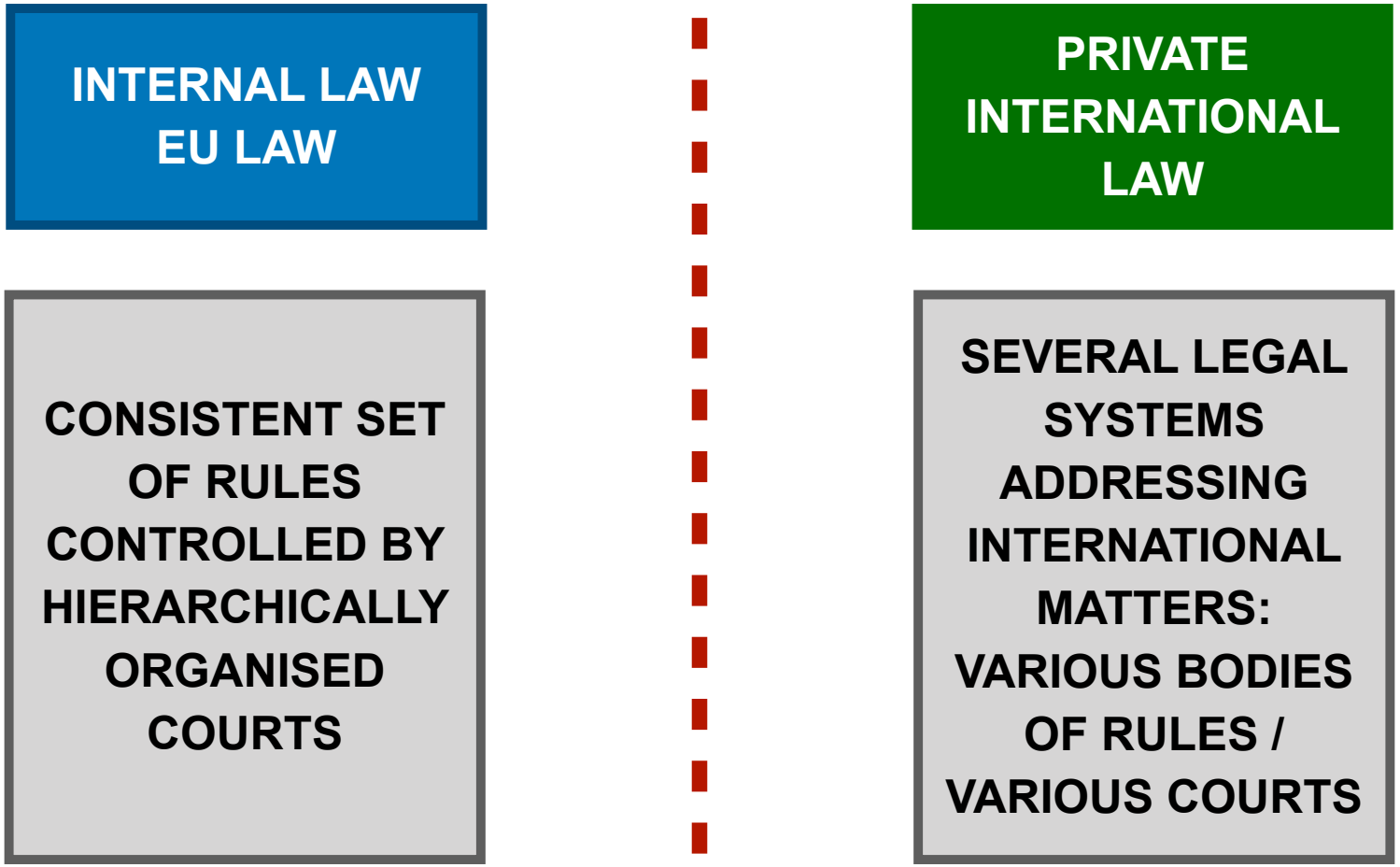
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INTERNATIONAL LAW



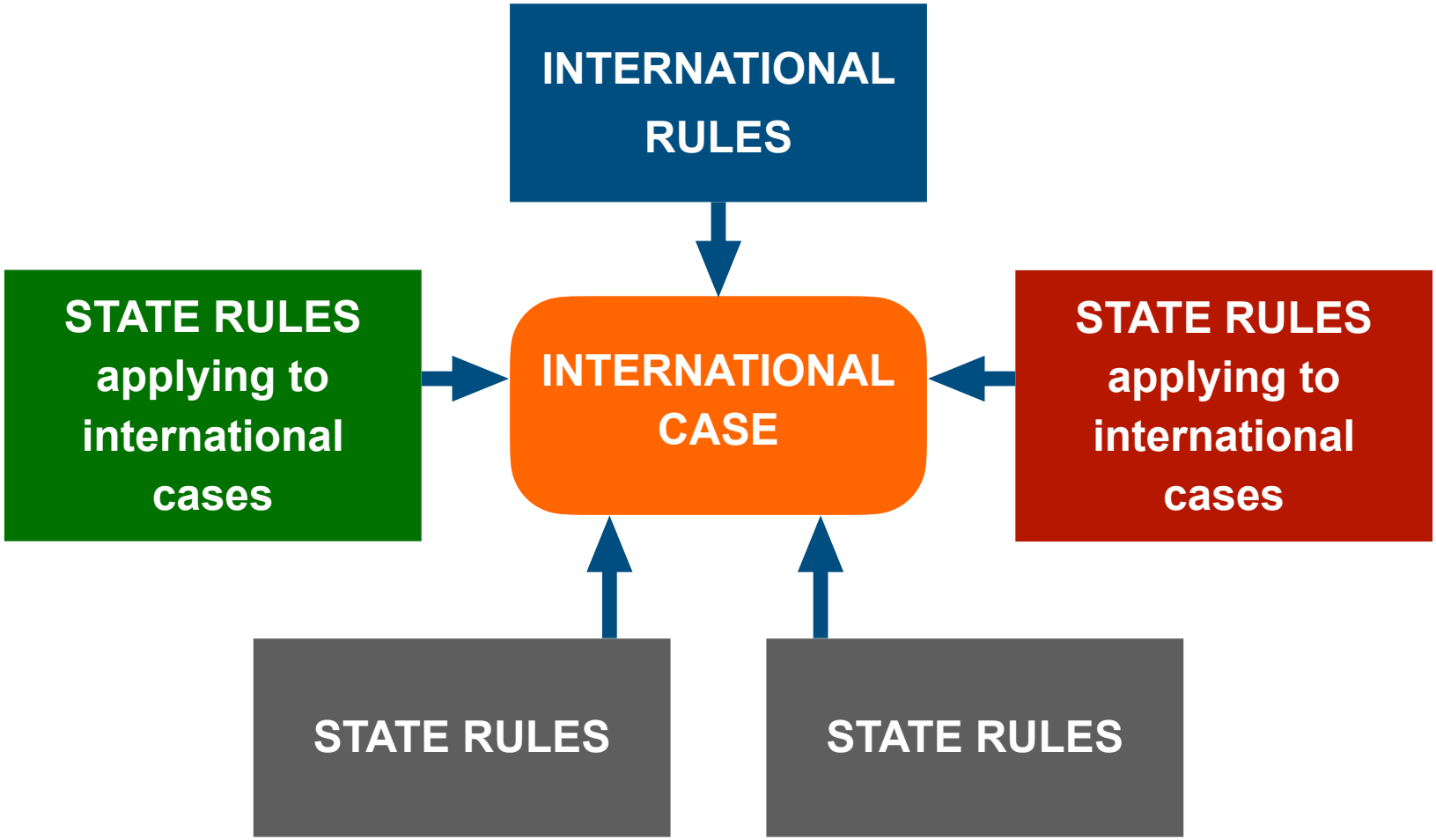
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INTERNAL LAW / INTERNATIONAL LAW



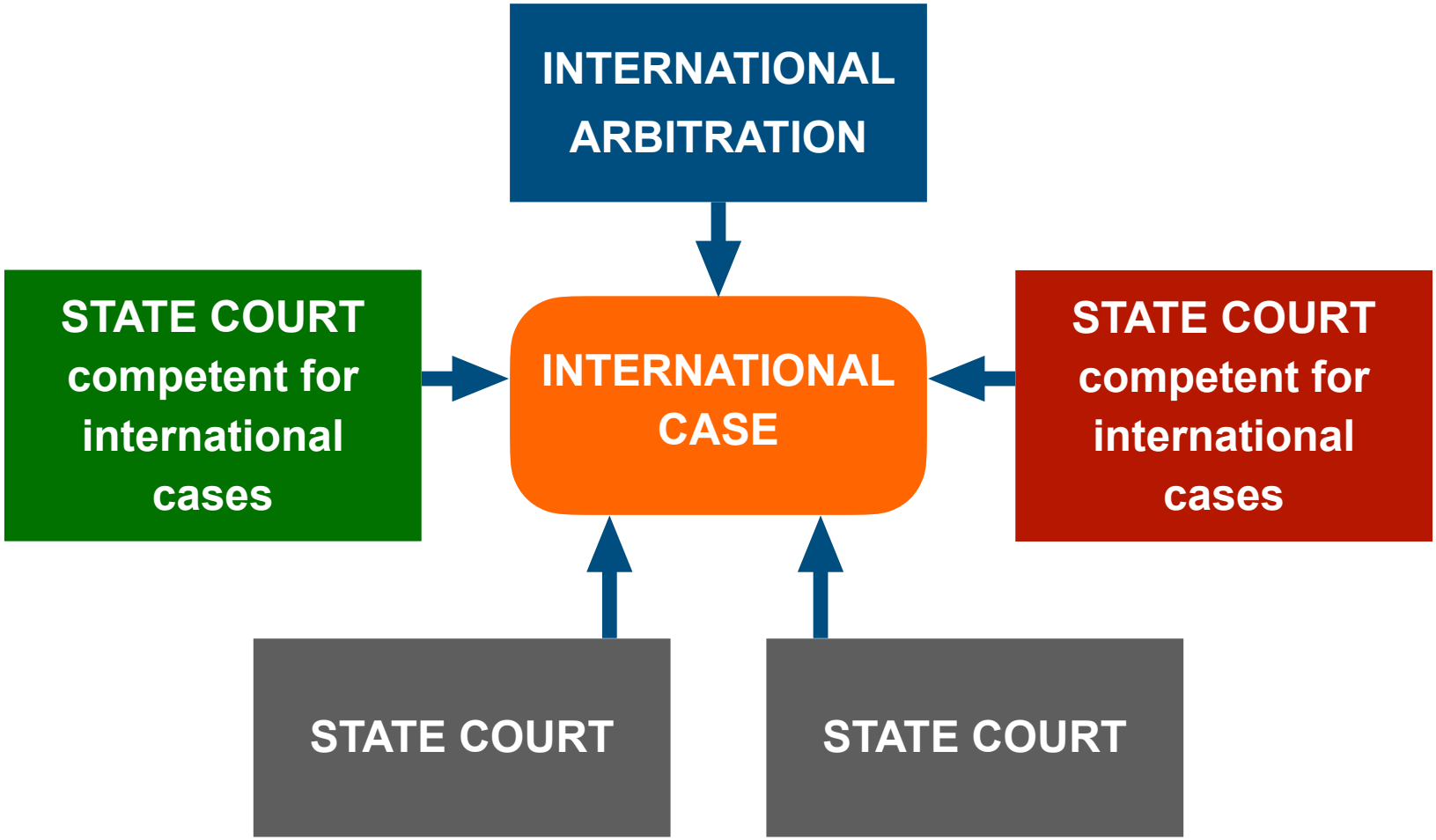
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INTERNATIONAL BUSINESS LAW



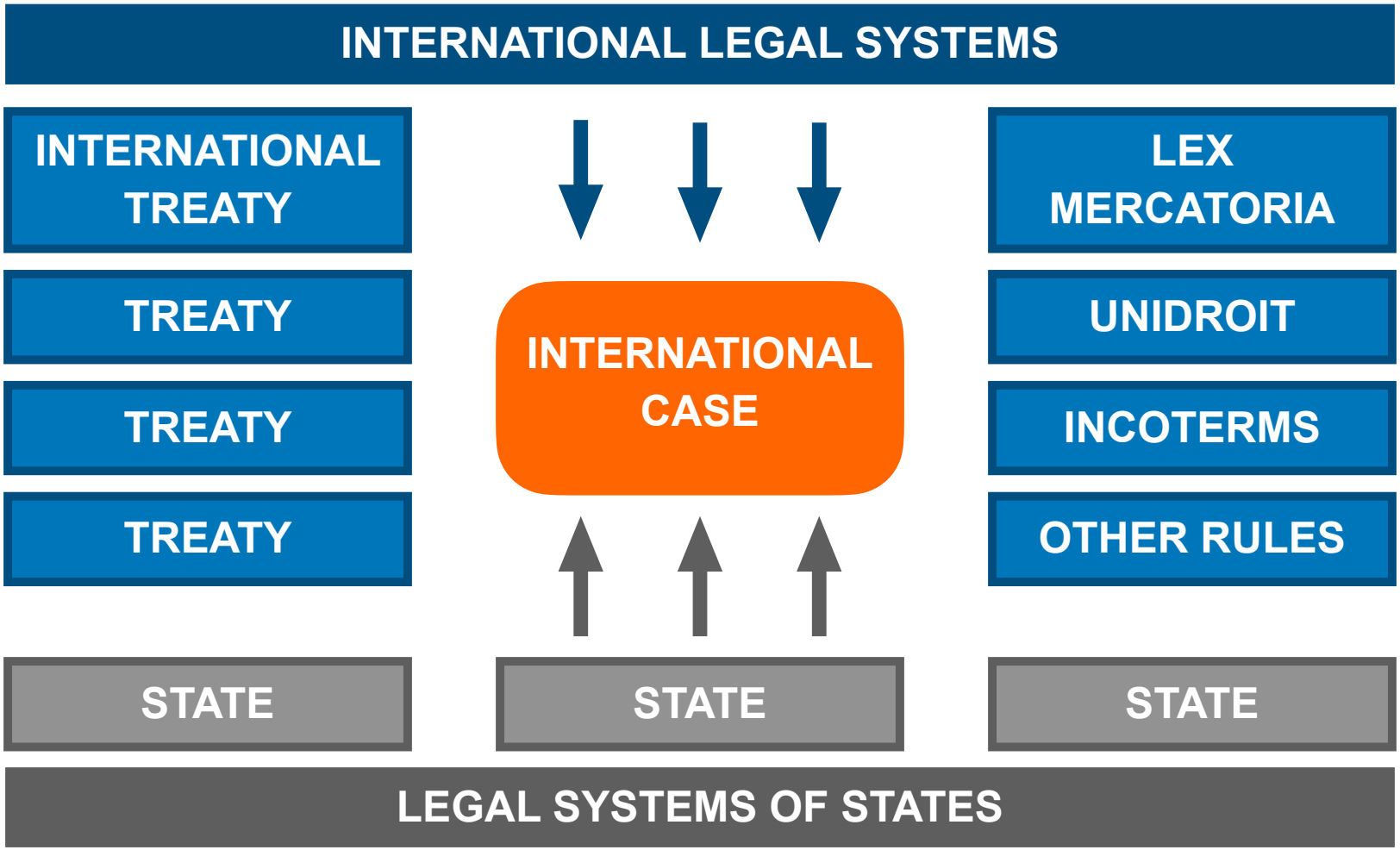
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INTERNATIONAL BUSINESS LITIGATION



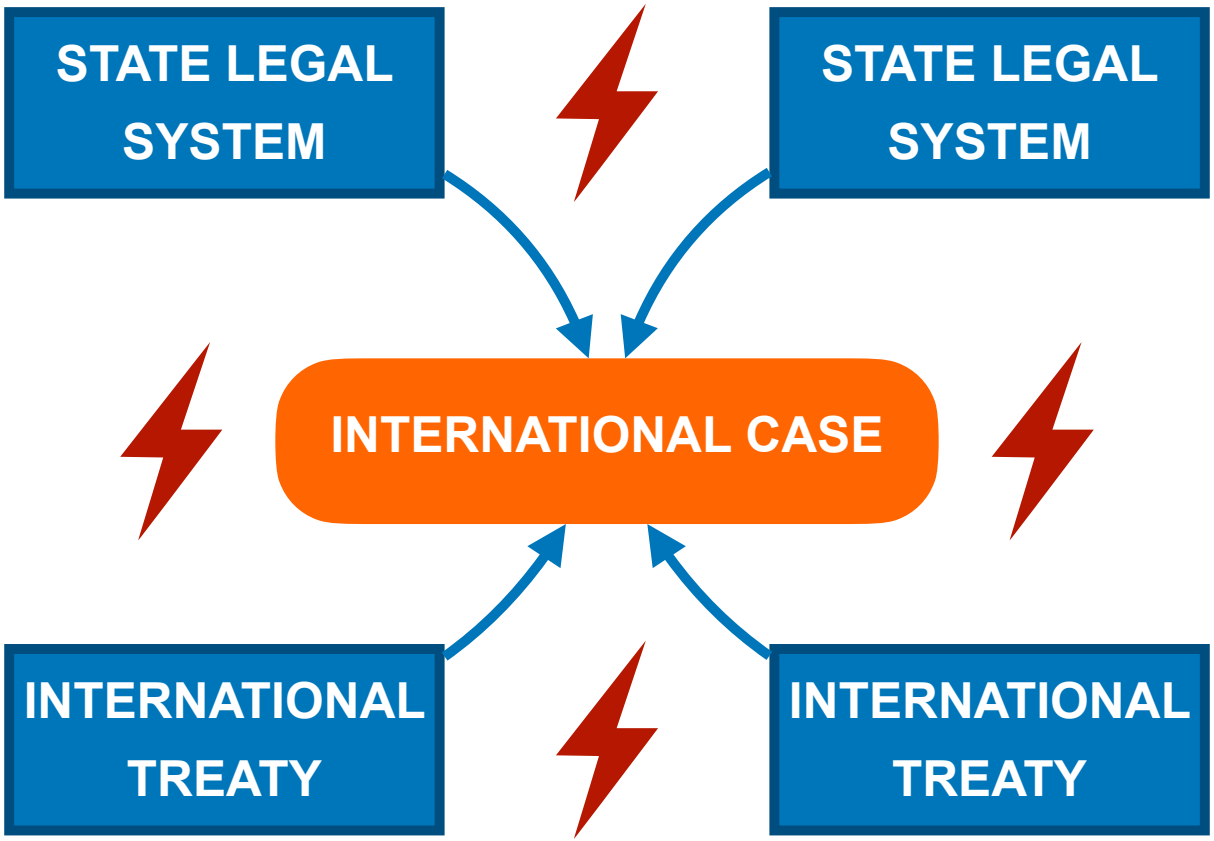
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INTERNATIONAL BUSINESS LAW



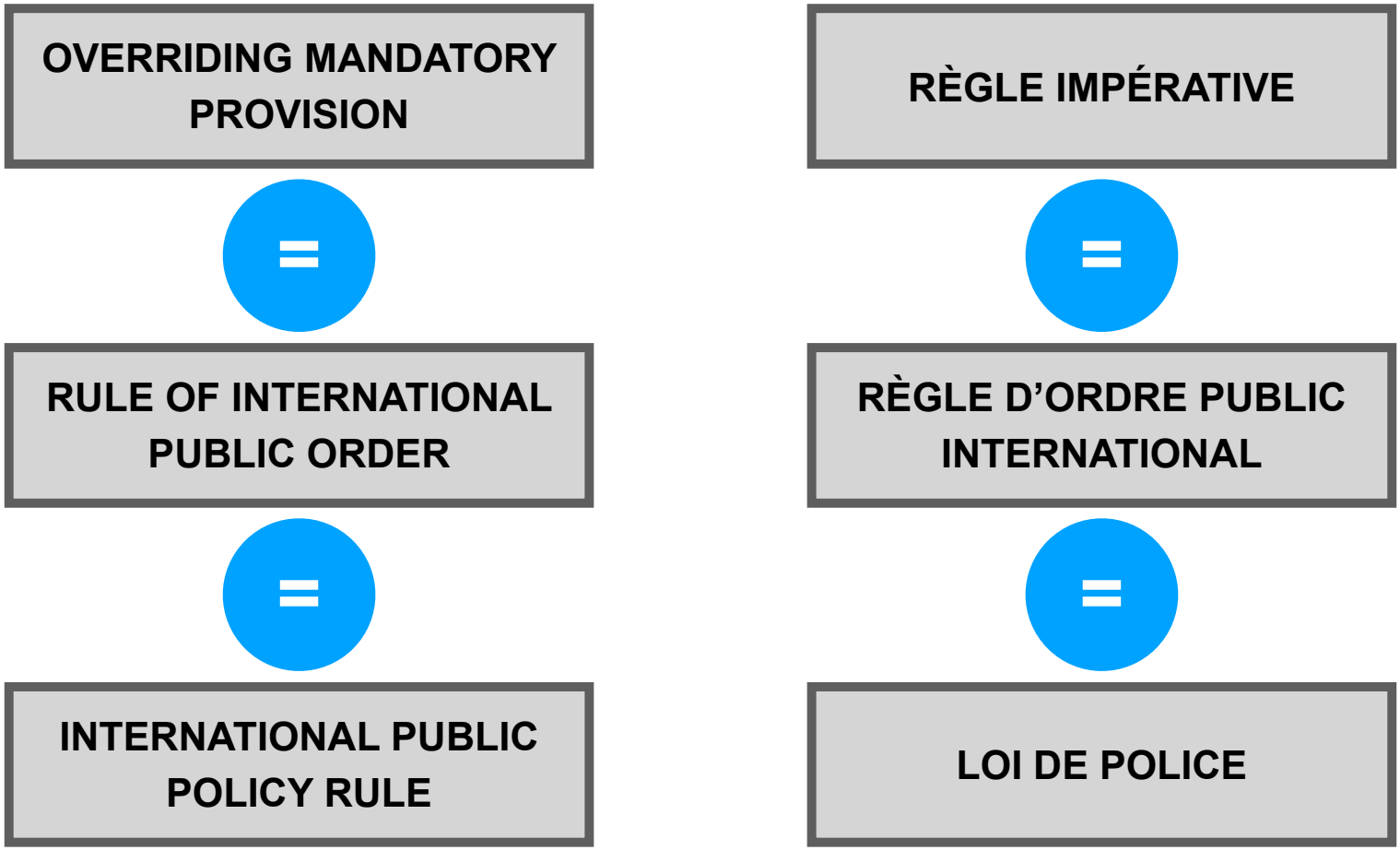
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CONFLICTS



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INTERNATIONAL PUBLIC ORDER



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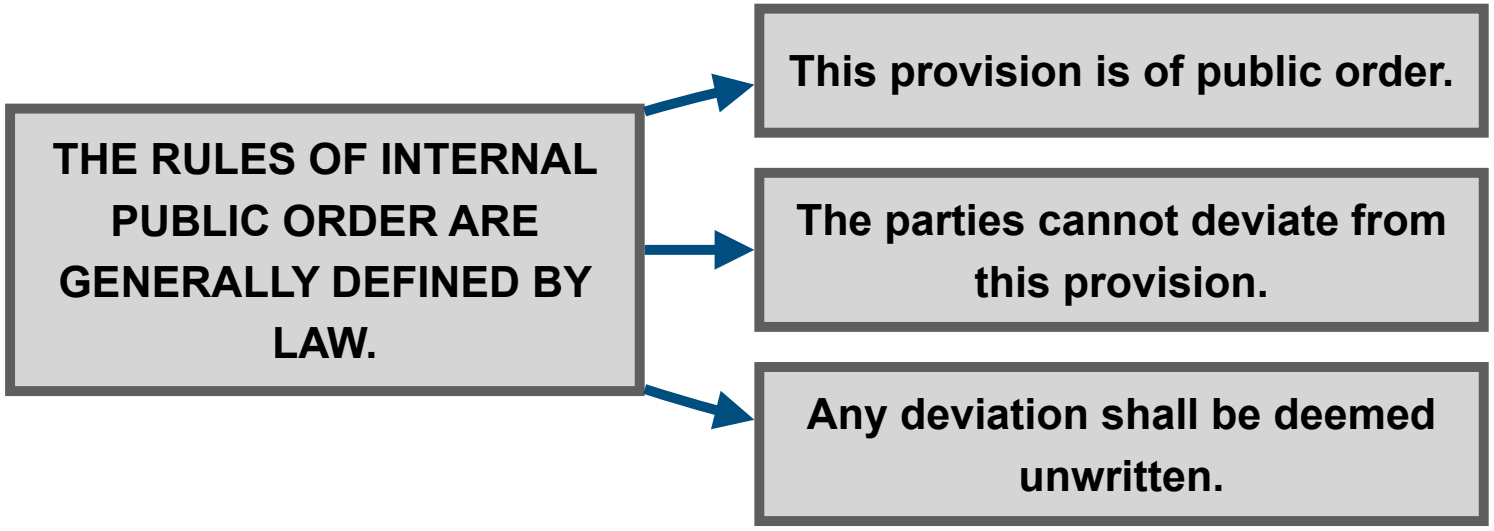
INTERNATIONAL PUBLIC ORDER

THE EXPRESSION "INTERNATIONAL PUBLIC ORDER" MAY BE MISLEADING, BECAUSE THE PUBLIC ORDER IS NOT INTERNATIONAL BY ITS ORIGIN, BUT BY ITS SUBJECT, BY ITS PURPOSE. IT IS THE STATE RULE THAT A JUDGE WILL APPLY IN ANY CASE, EVEN TO AN INTERNATIONAL LITIGATION.

THE RULES OF INTERNATIONAL PUBLIC ORDER ARE DEFINED BY THE JUDGES. THERE IS A POLITICAL DIMENSION.

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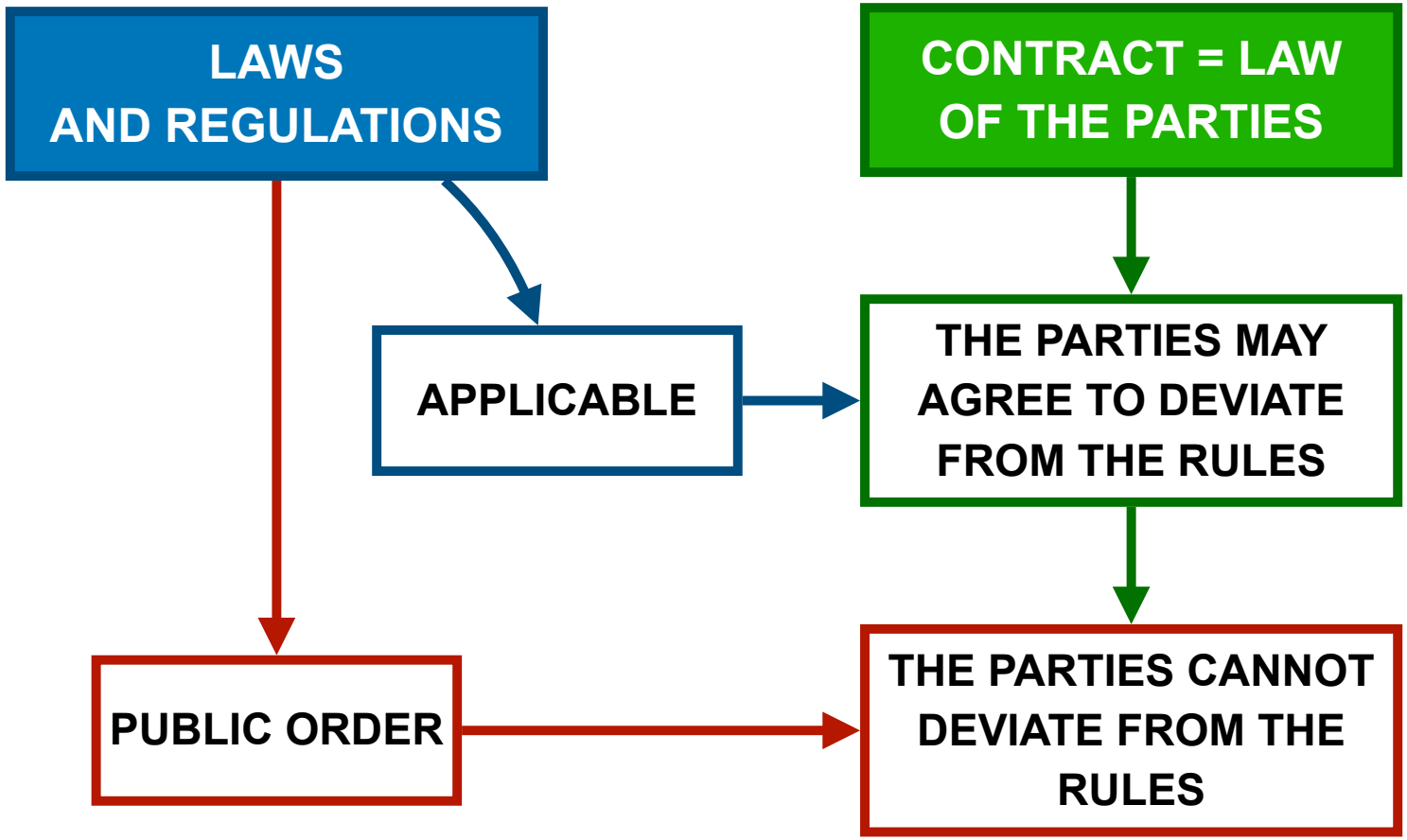
INTERNATIONAL PUBLIC ORDER



THE RULES OF INTERNATIONAL PUBLIC ORDER ARE GENERALLY NOT DEFINED BY LAW, BUT BY THE JUDGES, AMONG THE RULES OF INTERNAL PUBLIC ORDER.

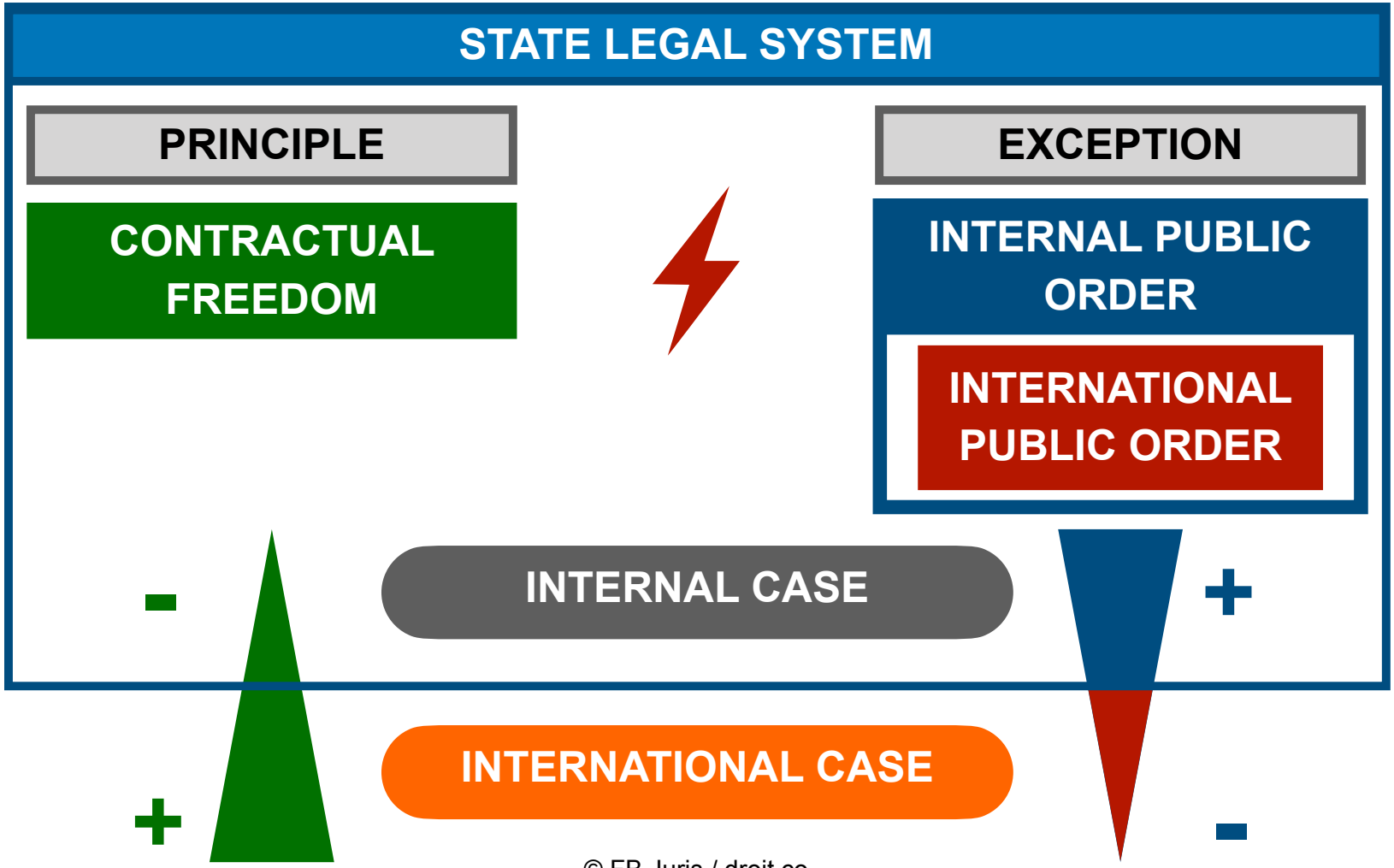
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RULES / PUBLIC ORDER



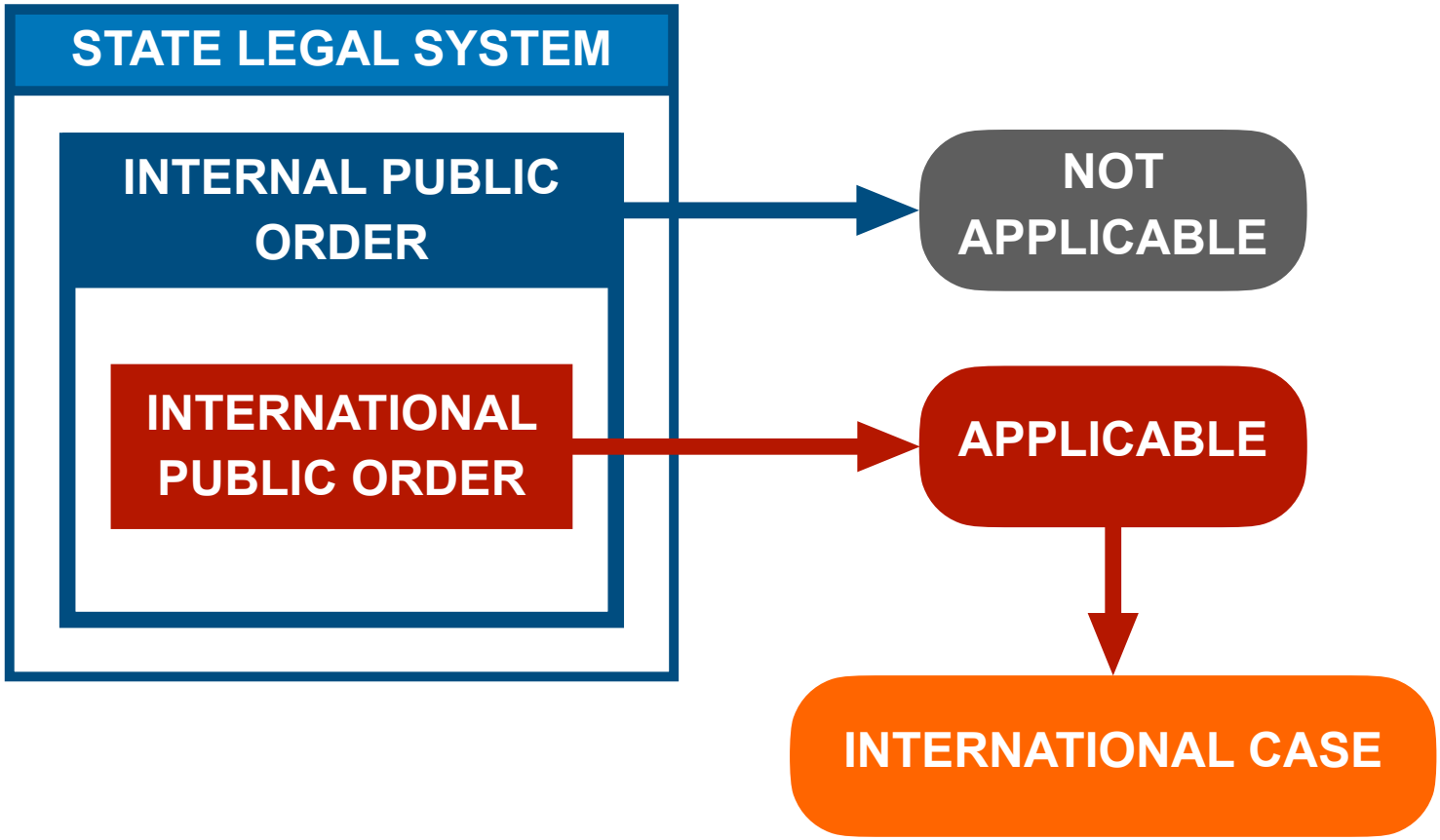
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FREEDOM VS PUBLIC ORDER



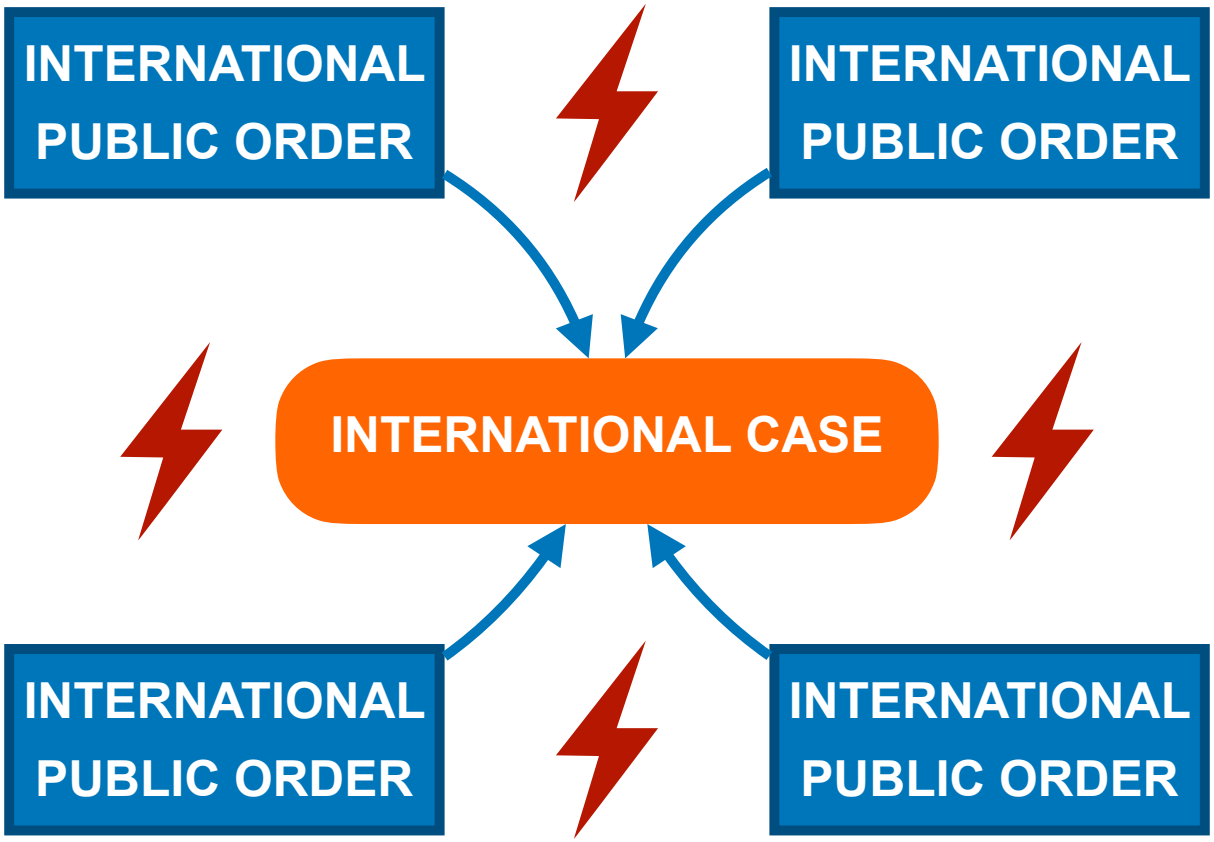
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INTERNATIONAL PUBLIC ORDER



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CONFLICTS



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INTERNATIONAL ORGANISATIONS
INTERNATIONAL RULES

- The Council of Europe
- The EU-UK Agreement
- The Word Trade Organization (WTO)
- United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG)
- Hague conference on private international law
- International Chamber of Commerce (ICC)
- Incoterms
- Unidroit
- Lex Mercatoria
- …

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QUIZZ

Right or wrong?

A - International business law is an integrated legal system, controlled by transnational courts.

B - International public order does not refer to rules applying beyond the States, but to the rules that the judges of a given State will always apply, even to international cases.

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THE WORLD TRADE ORGANIZATION

The leading international organisation.

WTO: MEMBER STATES



https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm

THE WORLD TRADE ORGANIZATION

- **The World Trade Organization (WTO) was established on 1 January 1995. It is based in Geneva, Switzerland.**
- **It presents itself as the only global international organisation dealing with the rules of trade between nations.**
- **The WTO is mainly aimed at States rather than private operators.**
- **Over 160 members representing 98 per cent of world trade. Over 20 countries are seeking to join the WTO.**
- **+ Read: About the WTO (website wto.org)**

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OHADA

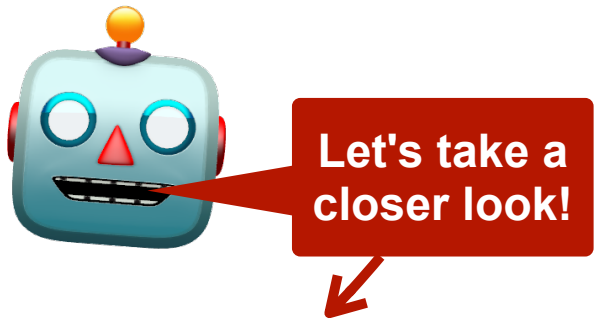
Organisation for the Harmonisation of Corporate Law in Africa

(acronym for the French "Organisation pour l'Harmonisation en Afrique du Droit des Affaires").

OHADA

17 MEMBER STATES

Benin 🇧🇯 , Burkina Faso 🇧🇫, Cameroon 🇨🇲, Central African Republic 🇨🇫, Chad 🇹🇩, Comoros 🇰🇲, Congo 🇨🇬, Ivory Coast 🇨🇮, Democratic Republic of Congo 🇨🇩, Equatorial Guinea 🇬🇶, Gabon 🇬🇦, Guinea 🇬🇳, Guinea-Bissau 🇬🇼, Mali 🇲🇱, Niger 🇳🇪, Senegal 🇸🇳, Togo 🇹🇬



https://www.ohada.com

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OHADA

 # Created by the Port-Louis Treaty of 17 October 1993 (revised on 17 October 17 2008 in Quebec City - Canada).

 # A full-time international organisation, with an international legal personality, that pursues a work of legal integration between the countries that are members of it.

 # Ten uniform acts already entered into force in the Member States.

 # The working languages of OHADA are French, English, Spanish and Portuguese.

 # The objective of OHADA is to facilitate trade and investment, to guarantee the legal and judicial certainty of companies' activities.

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ASEAN

The Association of Southeast Asian Nations.

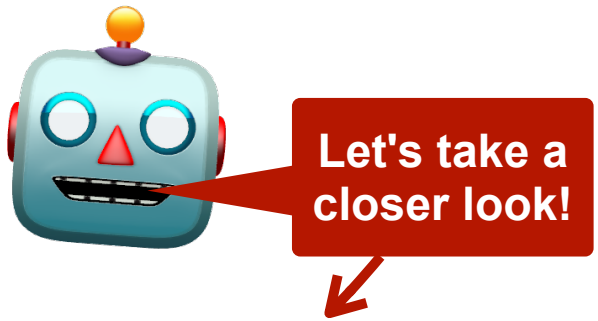
ASEAN

10 MEMBER STATES

Indonesia 🇮🇩, Malaysia 🇲🇾, Philippines 🇵🇭, Singapore 🇸🇬, Thailand 🇹🇭,

Brunei Darussalam 🇧🇳, Viet Nam 🇻🇳, Lao PDR 🇱🇦, Myanmar 🇲🇲,

Cambodia 🇰🇭



https://asean.org

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ASEAN

 # Created on 8 August 1967.

 # Main objectives: accelerate the economic growth, social progress and cultural development in the region; promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter; promote active collaboration and mutual assistance on matters of common interest in the economic, social, cultural, technical, scientific and administrative fields.

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MERCOSUR

The Southern Common Market (acronym for the Spanish “Mercado Común del Sur”).

MERCOSUR

5 STATES PARTIES

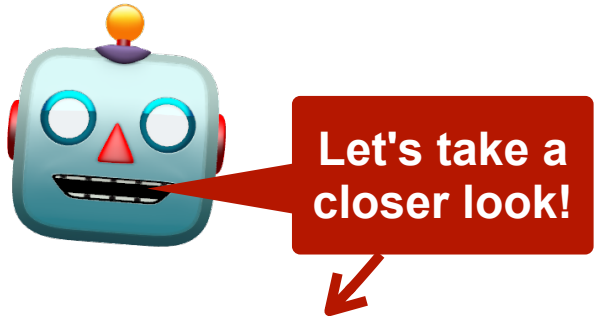
Argentina 🇦🇷, Brazil 🇧🇷, Paraguay 🇵🇾, Uruguay 🇺🇾,

Venezuela 🇻🇪 (suspended).

7 ASSOCIATED STATES

Bolivia 🇧🇴 (in the process of accession), Chile 🇨🇱, Colombia 🇨🇴,

Ecuador 🇪🇨, Guyana 🇬🇾, Peru 🇵🇪, Surinam 🇸🇷



https://www.mercosur.int/en

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MERCOSUR

 # Instituted by treaties in 1991 and 1994.

 # The fifth largest economy in the world. Its population exceeds 295,007,000 inhabitants.

 # The official working languages are Spanish and Portuguese.

 # The main objective is to promote a common space that generates business and investment opportunities through the competitive integration of national economies into the international market.

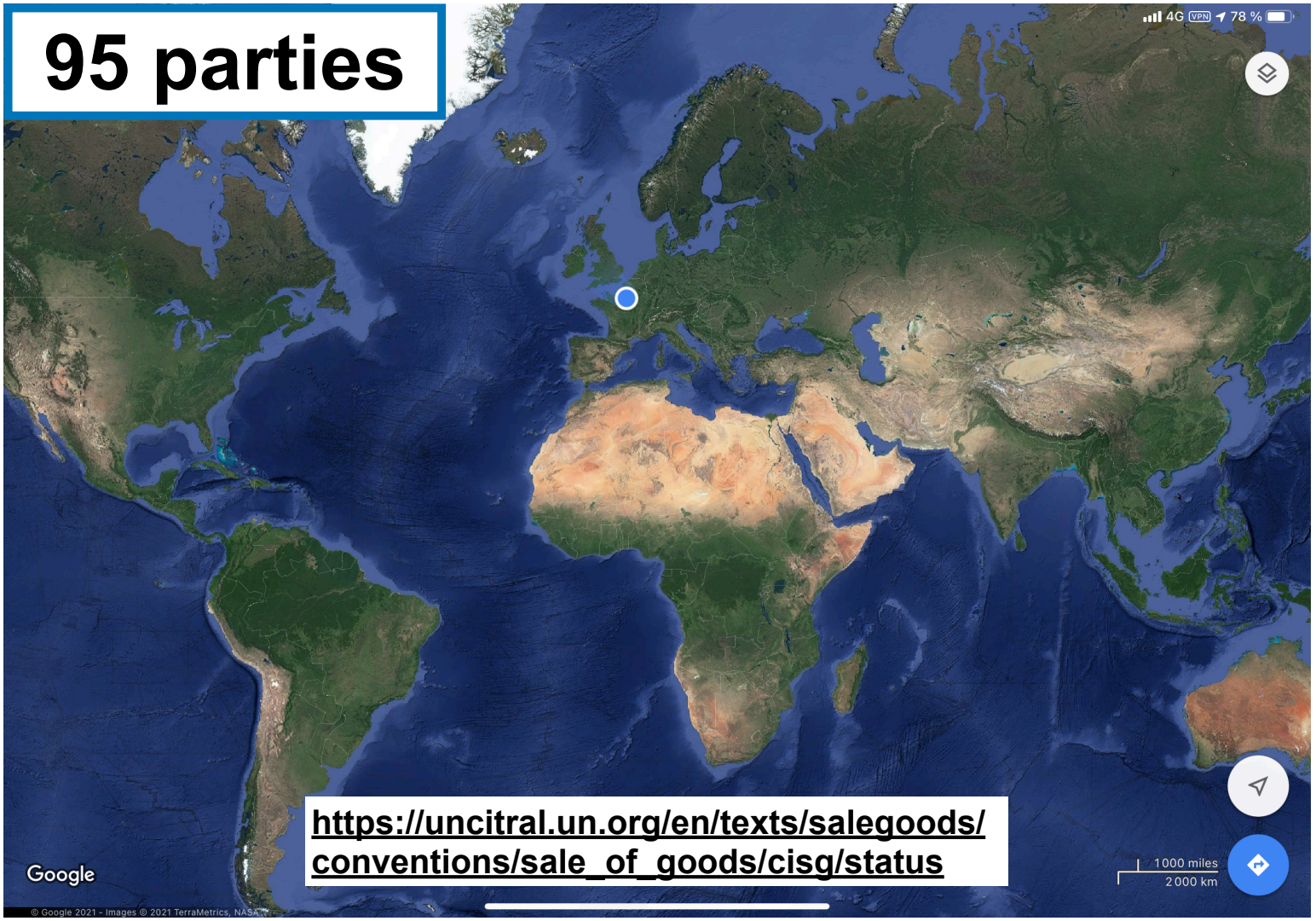
 # Mercosur has established multiple agreements with countries or groups of countries, granting them, in some cases, the status of Associated States.

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United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG)

An international agreement between 94 parties.

CONVENTION OF VIENNA (CISG, 1980)



CONVENTION OF VIENNA (CISG, 1980)

- CISG governs contracts for the international sales of goods between private businesses, excluding sales to consumers and sales of services, as well as sales of certain specified types of goods.
- It applies to contracts for sale of goods:
  - between parties whose places of business are in different Contracting States,
  - or when the rules of private international law lead to the application of the law of a Contracting State,
  - or by virtue of the parties' choice.

THE ENERGY CHARTER TREATY

An example of international treaty containing mechanisms to settle disputes between States and between States and investors, notably binding international arbitration.

THE ENERGY CHARTER TREATY

- Protection of foreign investments.
- Fair trade (non-discrimination).
- Resolution of disputes between participating States and, in the case of investments, between investors and host States (including binding arbitration).
- “Promotion of energy efficiency, and attempts to minimise the environmental impact of energy production.” However, in 2022, States are withdrawing from this treaty claiming it prevents them from complying with their environmental commitments.

www.energycharter.org

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HAGUE CONFERENCE ON PRIVATE INTERNATIONAL LAW

A global inter-governmental organisation based in The Hague (The Netherlands).


The Hague
Belfast
ROYAUME-UNI
Irish Sea
Leeds
Liverpool
Sheffield
Parc national Snowdonia
Northampton
Parc National de Brecon Beacons
Cardiff
Londres
Southampton
Plymouth
Manche
Parc national Schleswig-Holsteinisches Wattenmeer
Kiel
Rostock
Lübeck
Hambourg
Szczecin
Groningue
Bremen
PAYS-BAS
Amsterdam
Utrecht
Münster
Bielefeld
Hannover
Magdeburg
Berlin
Zielona Góra
Essen
Anvers
Düsseldorf
Kassel
Leipzig
Bruxelles
Cologne
Dresde
Chemnitz
Bonn
BELGIQUE
Lille
Charleroi
ALLEMAGNE
Prague
Francfort-sur-le-Main
Pilsen
Luxembourg
Le Havre
Rouen
Reims
Mannheim
Nürnberg
Caen
Metz
Karlsruhe
Paris
Parc naturel d'Altmuhltal
Nancy
Stuttgart
Strasbourg
Brest
Augsbourg
Munich
Rennes
Le Mans
Orléans
Salzbourg
AUTRICHE
Angers
Tours
Dijon
Zurich
Nantes
Besançon
Vaduz
Berne
7°
Air

HAGUE CONFERENCE

- **An intergovernmental organisation, the purpose of which is "to work for the progressive unification of the rules of private international law" (Statute, Article 1).**
- **90 members (89 States and the European Union).**
- **First meeting in 1893.**
- **Became a permanent inter-governmental organisation in 1955.**

HAGUE CONFERENCE

- **The conventions are drafted in French and in English.**
- **40 conventions are in force: https://www.hcch.net/en/instruments/conventions.**

HAGUE CONFERENCE

- **Meet in principle every four years in Plenary Session (ordinary Diplomatic Session) to negotiate and adopt Conventions and to decide upon future work.**
- **Special Commissions or working groups held several times a year prepare the new Conventions, review the operation of the existing Conventions and adopt recommendations with the object of improving the effectiveness of the Conventions and promoting consistent practices and interpretation.**

HAGUE CONFERENCE

CONVENTION OF 15 JUNE 1955 ON THE LAW APPLICABLE TO INTERNATIONAL SALES OF GOODS

8 contracting parties
+ Status

Drawn up in French only
+ Full text

Applicable to international sales of goods (art. 1)

Principle: the sale is governed by the internal law of the country designated by the contracting parties (art. 2).

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HAGUE CONFERENCE

CONVENTION OF 15 JUNE 1955 ON THE LAW APPLICABLE TO INTERNATIONAL SALES OF GOODS

In the absence of a law declared applicable by the parties (art. 3):

The sale is governed by the internal law of the country where the seller has his habitual residence or where his establishment which received the order is located.

However, the sale is governed by the internal law of the country where the buyer has his habitual residence, or in which he owns the establishment that placed the order, if it is in that country that the order was received, either by the seller or by his representative, agent or travel clerk.

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HAGUE CONFERENCE

CONVENTION OF 14 MARCH 1978
ON THE LAW APPLICABLE TO AGENCY

4 contracting parties
+ Status

Drawn up in French and English + Full text

Applicable to international agency (art. 1)

Principle: the agency relationship is governed by the internal law chosen by the principal and the agent (art. 5).

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HAGUE CONFERENCE

CONVENTION OF 14 MARCH 1978
ON THE LAW APPLICABLE TO AGENCY

In the absence of a law declared applicable by the parties (art. 6):

The applicable law shall be the internal law of the State where, at the time of formation of the agency relationship, the agent has his business establishment or, if he has none, his habitual residence.

However, the internal law of the State where the agent is primarily to act shall apply if the principal has his business establishment or, if he has none, his habitual residence in that State.

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INTERNATIONAL CHAMBER OF COMMERCE (ICC)

A private international organisation based in Paris, France.

INTERNATIONAL CHAMBER OF COMMERCE (ICC)

- **The International Chamber of Commerce (ICC) is based in Paris, France. It was founded in 1919 by entrepreneurs who wanted to create an organisation that would represent business everywhere, set global standards for business and avoid war. They called themselves the Merchants of Peace.**
- **The ICC is a private organisation that presents itself as the institutional representative of more than 45 million companies in over 100 countries.**
- **ICC is a leading arbitral institution for international business matters.**
- **+ Read: About ICC**

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INCOTERMS

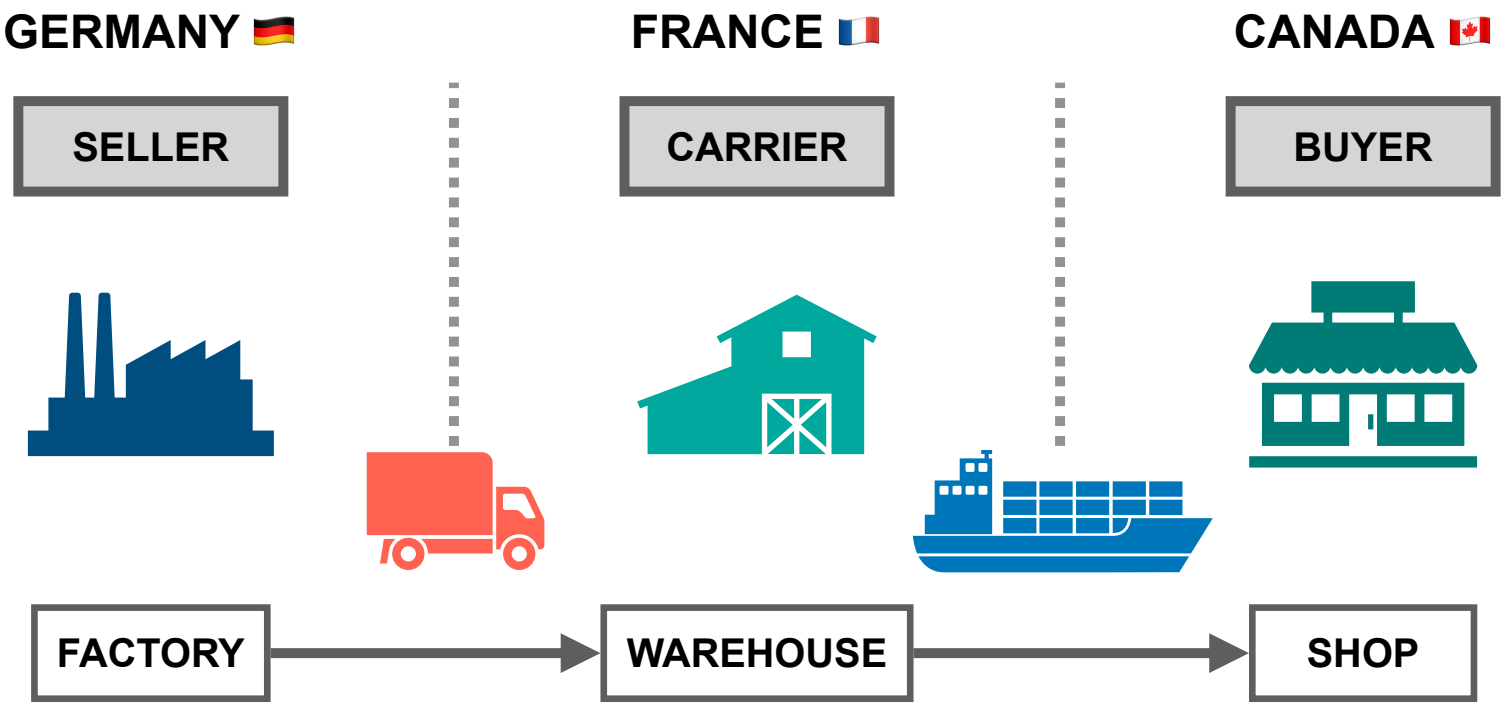
- **The ICC defines the Incoterms (International Commercial Terms). These private terms may be legally binding only if the parties so decide freely.**
- **The Incoterms are trade terms that may be incorporated in contracts for the delivery of goods.**
- **The Incoterms 2010 edition, the most current one, comprises 11 rules concerning the delivery of goods.**

+ Read:

- **Incoterms rules (ICC's website)**
- **Les nouvelles règles Incoterms® 2020 et la valeur en douane (official website douane.gouv.fr)**

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DELIVERY OF GOODS



WHEN OCCURS THE TRANSFER OF RISKS / OWNERSHIP?
WHO ATTENDS TO INSURANCE, COSTS, FORMALITIES?

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INCOTERMS 2010

RULES FOR ANY MODE OR MODES OF TRANSPORT

EXW – Ex Works

FCA – Free Carrier

CPT – Carriage Paid to

CIP – Carriage and Insurance Paid to

DAT – Delivered at Terminal

DAP – Delivered at Place

DDP – Delivered Duty Paid

RULES FOR SEA AND INLAND WATERWAY TRANSPORT

FAS – Free Alongside Ship

FOB – Free On Board

CFR – Cost and Freight

CIF – Cost, Insurance and Freight

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INCOTERMS 2010

EXAMPLE OF INCOTERMS

EXW – Ex Works

“Ex Works” means that the seller delivers when it places the goods at the disposal of the buyer at the seller’s premises or at another named place (i.e., works, factory, warehouse, etc.). The seller does not need to load the goods on any collecting vehicle, nor does it need to clear the goods for export, where such clearance is applicable.

Source: https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-rules-2010

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INCOTERMS 2010

EXAMPLE OF INCOTERMS

DDP – Delivered Duty Paid

“Delivered Duty Paid” means that the seller delivers the goods when the goods are placed at the disposal of the buyer, cleared for import on the arriving means of transport ready for unloading at the named place of destination. The seller bears all the costs and risks involved in bringing the goods to the place of destination and has an obligation to clear the goods not only for export but also for import, to pay any duty for both export and import and to carry out all customs formalities.

Source: https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-rules-2010

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INCOTERMS

INCOTERMS ARE NOT A GOVERNING LAW.

A CONTRACT CAN APPLY A SPECIFIC INCOTERM,

BUT CANNOT BE “GOVERNED BY INCOTERMS”.

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UNIDROIT

An independent intergovernmental organisation based in Rome, Italy.

UNIDROIT

- **Based in Rome, Italy, the International Institute for the Unification of Private Law (UNIDROIT) presents itself as an independent intergovernmental organisation which purpose is to « study needs and methods for modernising, harmonising and co-ordinating private and in particular commercial law as between States and groups of States and to formulate uniform law instruments, principles and rules to achieve those objectives ».**
- **+ Read: About UNIDROIT (website unidroit.org)**

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UNIDROIT

- **UNIDROIT WORK AND INSTRUMENTS IN THE AREA OF CONTRACT LAW: + READ**
- **UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (2016): + READ**
- **UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS MAY BE CHOSEN AS A GOVERNING LAW.**

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PRINCIPLES, CUSTOMS

Customs, principles generally admitted,

may be applied as rules.

LEX MERCATORIA

- **Lex mercatoria ("merchant law" in Latin), often referred to as "the Law Merchant" in English.**
- **Lex mercatoria refers to the rules generally applied between merchants.**
- **It is composed of general principles of law and usages of international trade.**

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INTERNATIONAL BUSINESS AGREEMENT

Great freedom but possibly great uncertainty

if the parties do not define precisely

the governing law and the competent courts.

QUESTIONS

What is the definition of a contract?

What is an international contract?

What are the specificities of the international contract?

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OBJECTIVES

 # Define the international contract.

 # Know the legal regime of the international contract.

 # Remember to define the governing law and the competent courts.

SUMMARY

 # Several criteria can be used to identify an international contract.

 # The international agreement has a specific legal regime.

 # The international contract is characterised by a very high degree of contractual freedom.

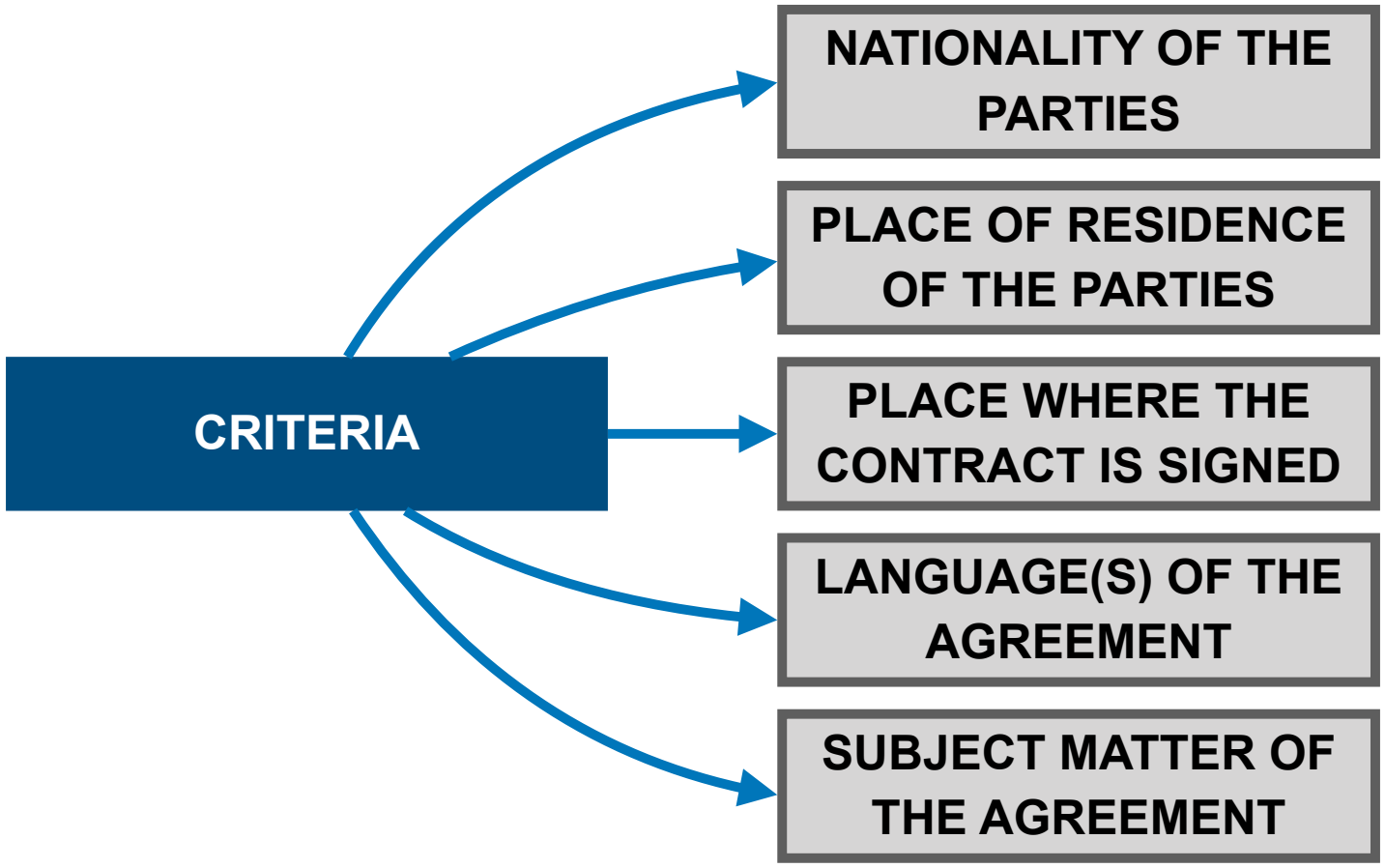
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UNIDROIT

UNIDROIT PRINCIPLES OF INTERNATIONAL COMMERCIAL CONTRACTS (2016): + READ

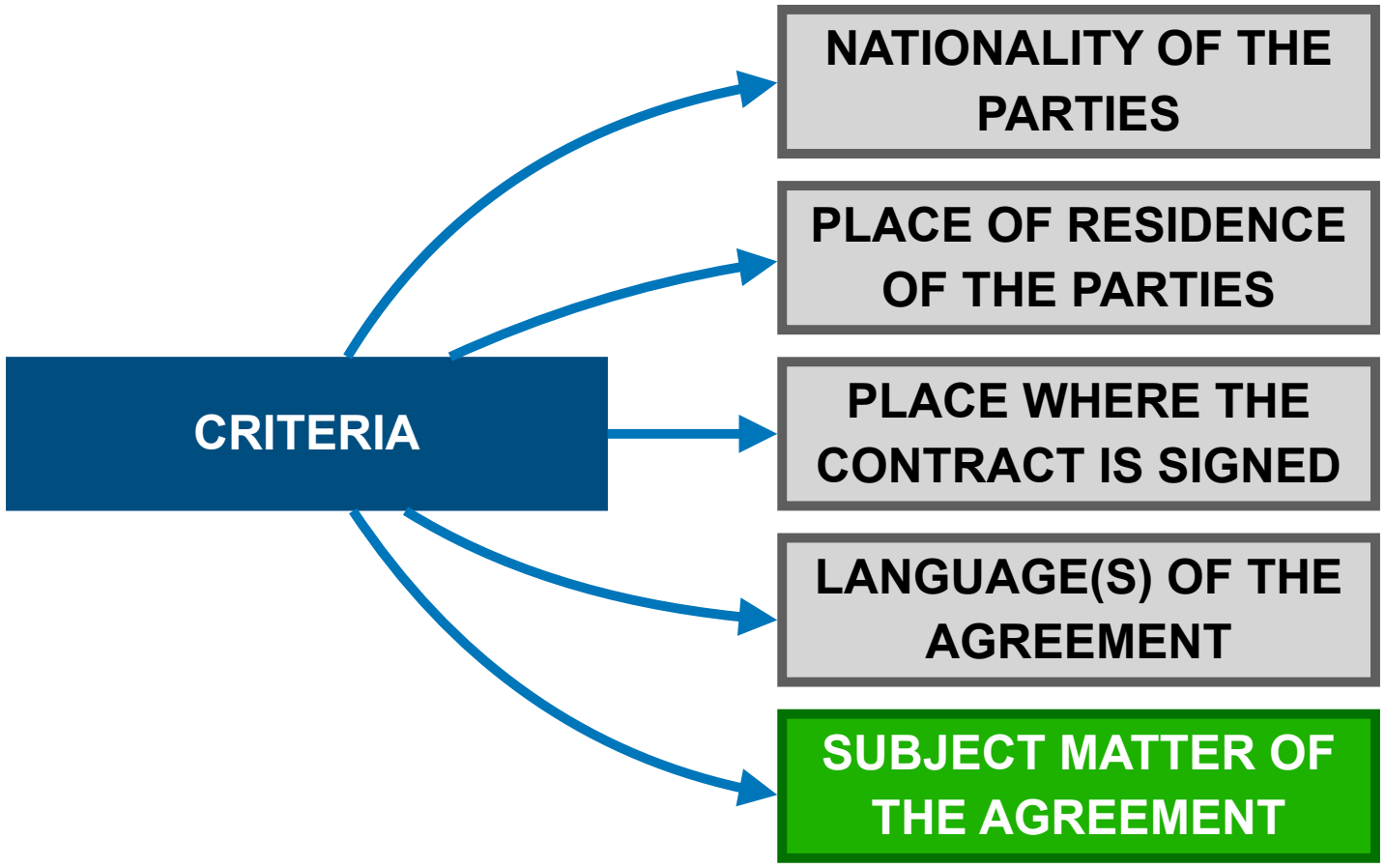
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INTERNATIONAL AGREEMENT



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INTERNATIONAL AGREEMENT

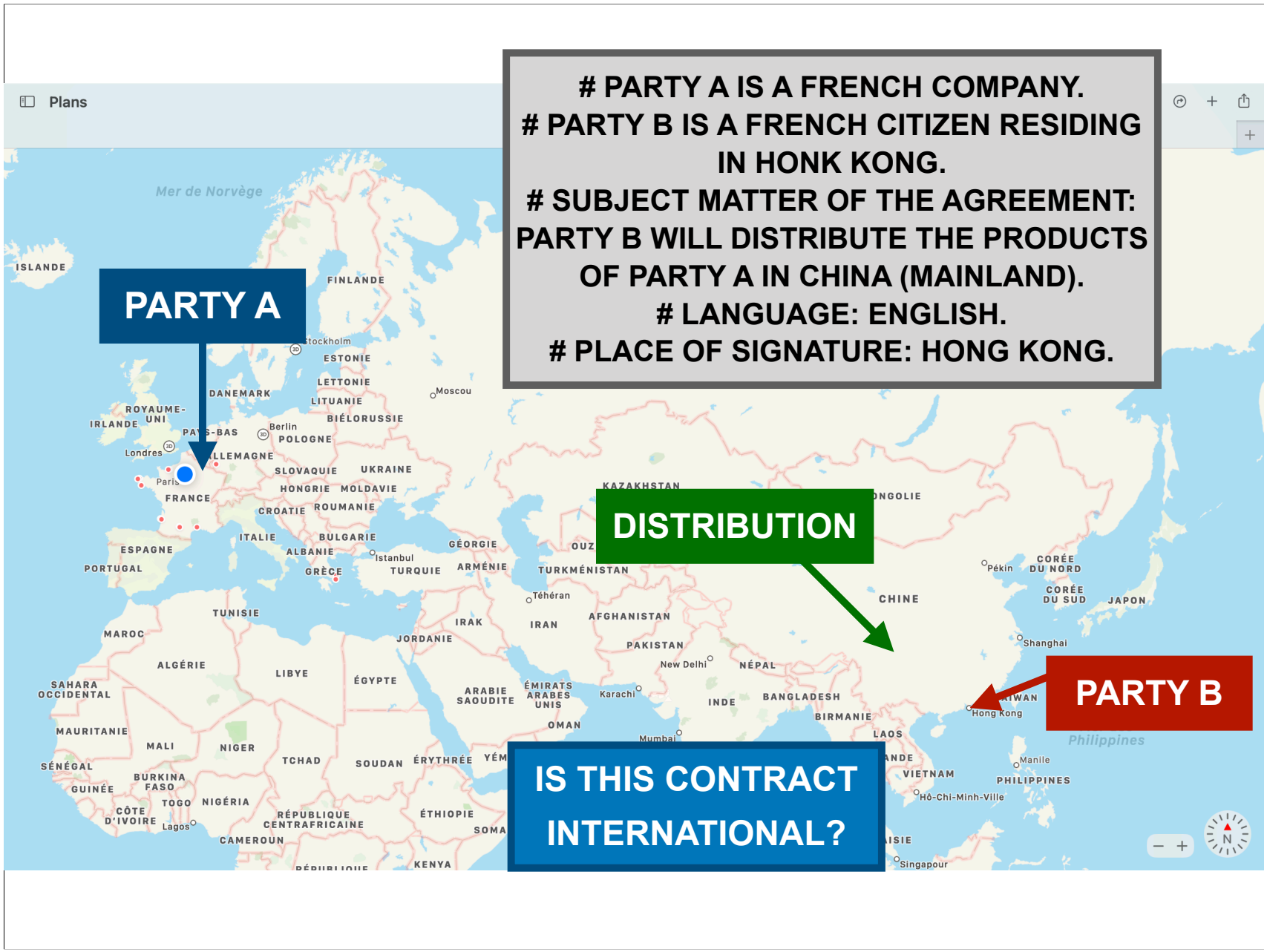


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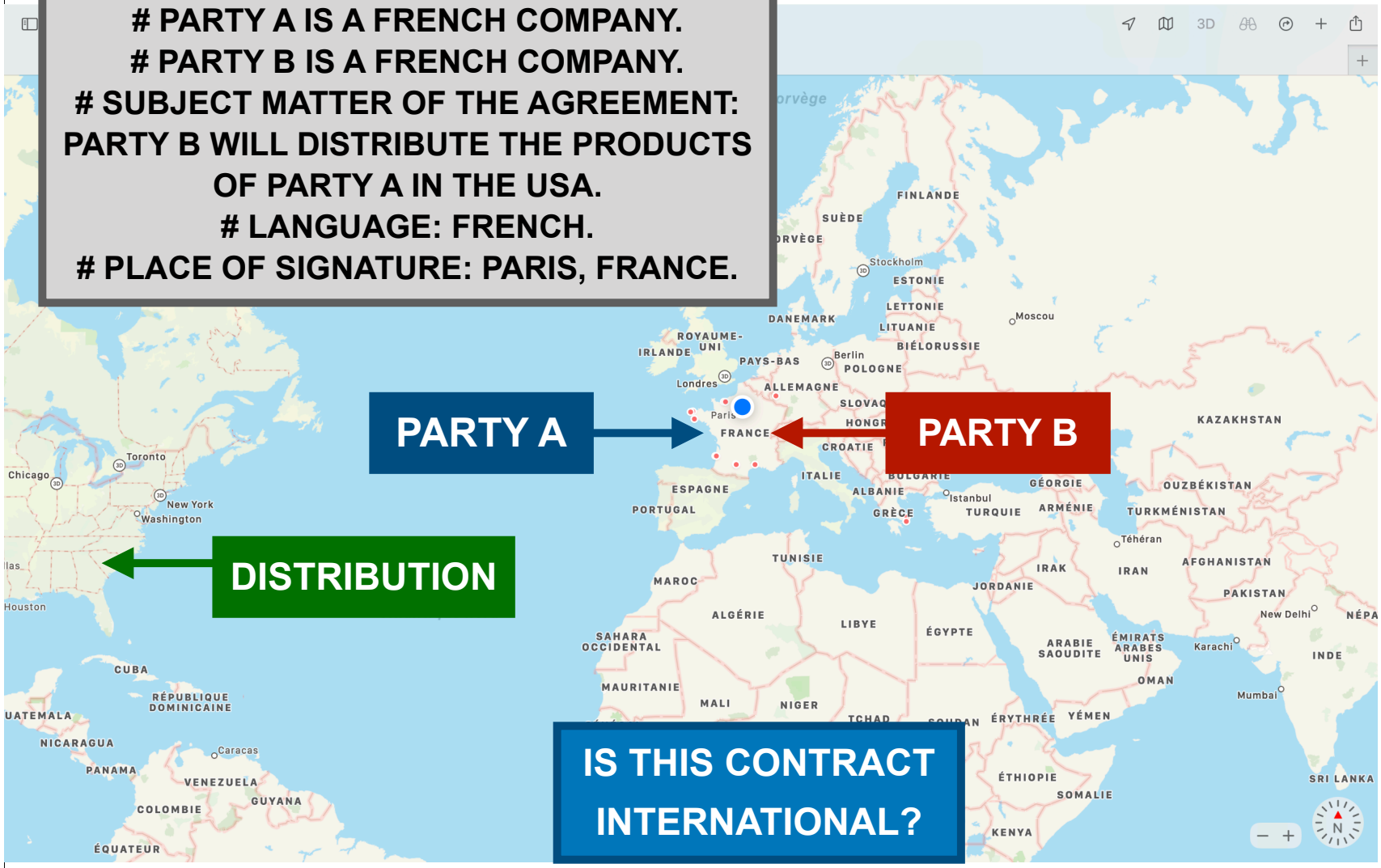

PARTY A IS A FRENCH COMPANY.
PARTY B IS A COLUMBIAN COMPANY.
SUBJECT MATTER OF THE AGREEMENT:
PARTY B WILL DISTRIBUTE THE PRODUCTS OF PARTY A IN COLOMBIA.
LANGUAGE: ENGLISH.
PLACE OF SIGNATURE: BOGOTA, COLOMBIA.
PARTY A
DISTRIBUTION
PARTY B
IS THIS CONTRACT INTERNATIONAL?
Océan Atlantique nord
Houston
MEXIQUE
Mexico
CUBA
RÉPUBLIQUE DOMINICAINE
GUATEMALA
NICARAGUA
PANAMA
COLOMBIE
GUYANA
ÉQUATEUR
PÉROU
Lima
BRÉSIL
BOLIVIE
CHILI
Londres
Paris
FRANCE
PAYS-BAS
Berlin
POLOGNE
ALLEMA
ESPAGNE
PORTUGAL
ITALIE
BULGARIE
ALBANIE
GRÈCE
Istanbul
TURQUIE
GÉORGIE
ARMÉNIE
TUNISIE
MAROC
ALGÉRIE
SAHARA OCCIDENTAL
LIBYE
ÉGYPTE
IRAK
JORDANIE
ARABIE SAOUDITE
MAURITANIE
MALI
NIGER
TCHAD
SOUDAN
ÉRYTHRÉE
YÉMEN
SÉNÉGAL
GUINÉE
BURKINA FASO
TOGO
NIGÉRIA
CÔTE D'IVOIRE
Lagos
RÉPUBLIQUE CENTRAFRICAINE
ÉTHIOPIE
SOMALIE
CAMEROUN
GABON
RÉPUBLIQUE DÉMOCRATIQUE DU CONGO
Kinshasa
KENYA
TANZANIE
ANGOLA
ZAMBIE
MOZAMBIQUE
MADAGASCAR
NAMIBIE
Johannesburg
AFRIQUE DU SUD
Le Cap
3D


PARTY A IS A FRENCH COMPANY.
PARTY B IS A TURKISH COMPANY.
SUBJECT MATTER OF THE AGREEMENT:
PARTY A (LESSOR) WILL RENT PREMISES TO
PARTY B (LESSEE) IN PARIS.
LANGUAGE: FRENCH.
PLACE OF SIGNATURE: PARIS, FRANCE.
RENT PREMISES
PARTY A
PARTY B
IS THIS CONTRACT INTERNATIONAL?
FINLANDE
SUÈDE
Stockholm
ROYAUME-UNI
IRLANDE
PAYS-BAS
Londres
Paris
FRANCE
SLOVAQUIE
UKRAINE
HONGRIE
MOLDAVIE
CROATIE
ROUMANIE
ESPAGNE
PORTUGAL
ITALIE
BULGARIE
ALBANIE
GRÈCE
Istanbul
TURQUIE
GÉORGIE
ARMÉNIE
OUZBÉKISTAN
TURKMÉNISTAN
Téhéran
IRAK
IRAN
AFGHANISTAN
PAKISTAN
New Delhi
Karachi
INDE
Mumbai
JORDANIE
TUNISIE
MAROC
ALGÉRIE
LIBYE
ÉGYPTE
SAHARA OCCIDENTAL
MAURITANIE
MALI
NIGER
TCHAD
ÉRYTHRÉE
YÉMEN
ARABIE SAOUDITE
ÉMIRATS ARABES UNIS
OMAN
ÉTHIOPIE
SOMALIE
KENYA
SRI LANKA
Océan Atlantique nord
Toronto
Chicago
New York
Washington
Houston
CUBA
RÉPUBLIQUE DOMINICAINE
NICARAGUA
PANAMA
Caracas
VENEZUELA
GUYANA
COLOMBIE
ÉQUATEUR

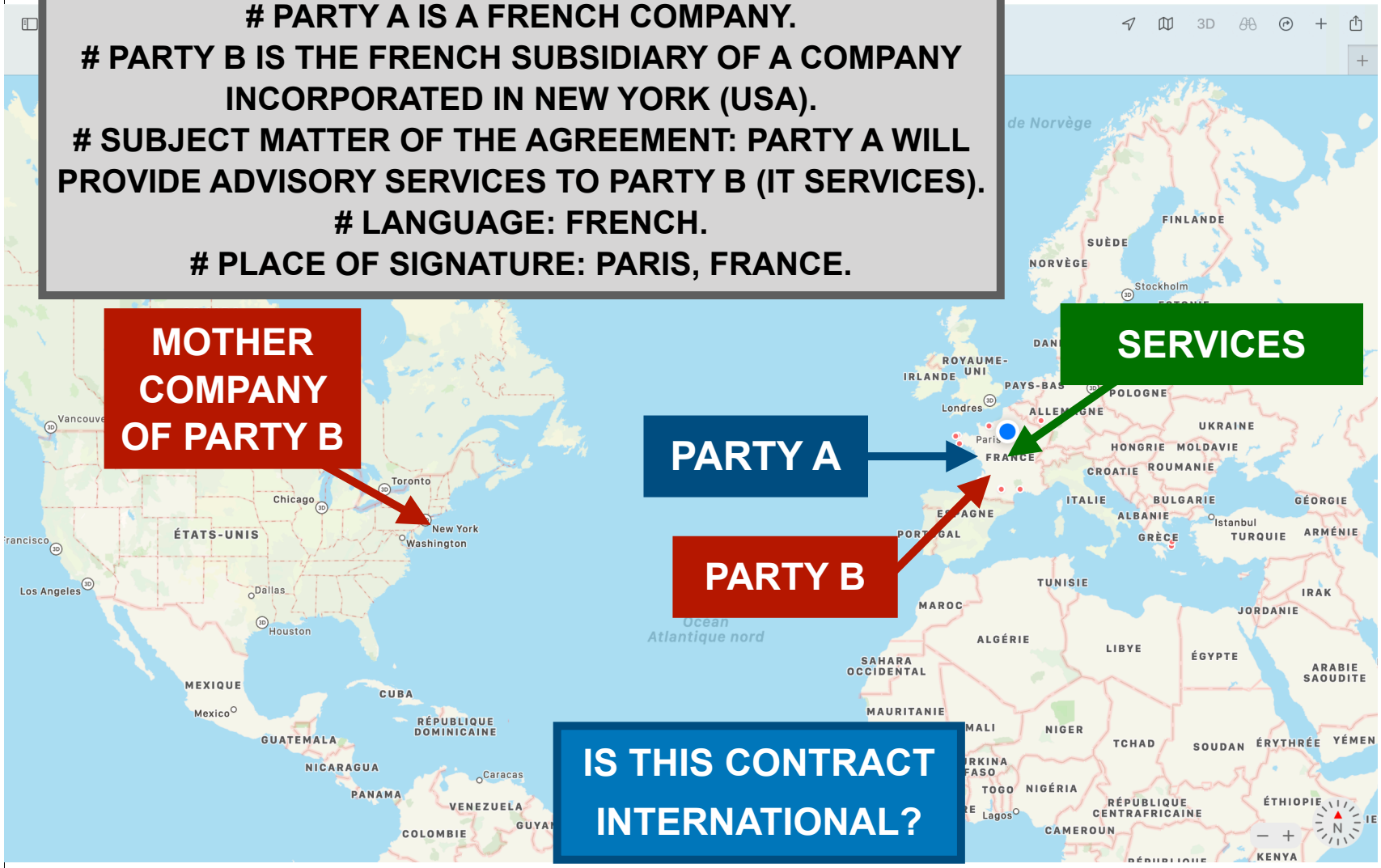

PARTY A IS AN IRANIAN COMPANY.
PARTY B IS AN INDIAN COMPANY.
SUBJECT MATTER OF THE AGREEMENT:
PARTY B WILL SELL PRODUCTS TO PARTY A.
LANGUAGE: ENGLISH.
PLACE OF SIGNATURE: NEW DELHI, INDIA.
PARTY A
PARTY B
PRODUCTS
IS THIS CONTRACT INTERNATIONAL?
RUSSIE
Stockholm
ESTONIE
LETTONIE
LITUANIE
Moscou
DANEMARK
ROYAUME-UNI
IRLANDE
BIÉLORUSSIE
PAYS-BAS
Berlin
POLOGNE
Londres
ALLEMAGNE
SLOVAQUIE
UKRAINE
Paris
HONGRIE
MOLDAVIE
FRANCE
CROATIE
ROUMANIE
KAZAKHSTAN
MONGOLIE
ITALIE
BULGARIE
GÉORGIE
OUZBÉKISTAN
ESPAGNE
ALBANIE
Istanbul
PORTUGAL
GRÈCE
TURQUIE
ARMÉNIE
TURKMÉNISTAN
Pékin
CORÉE DU NORD
CORÉE DU SUD
JAPON
Téhéran
IRAK
IRAN
AFGHANISTAN
MAROC
PAKISTAN
Shanghai
ALGÉRIE
New Delhi
NÉPAL
LIBYE
ÉGYPTE
SAHARA OCCIDENTAL
ARABIE SAOUDITE
ÉMIRATS ARABES UNIS
Karachi
INDE
BANGLADESH
TAÏWAN
Hong Kong
BIRMANIE
OMAN
MAURITANIE
Mumbai
LAOS
MALI
NIGER
SÉNÉGAL
TCHAD
SOUDAN
ÉRYTHRÉE
YÉMEN
BURKINA FASO
GUINÉE
TOGO
NIGÉRIA
CÔTE D'IVOIRE
Lagos
RÉPUBLIQUE CENTRAFRICAINE
ÉTHI
SRI LANKA
CAMEROUN
KENYA


Plans
PARTY A IS A FRENCH COMPANY.
PARTY B IS A FRENCH CITIZEN RESIDING IN HONK KONG.
SUBJECT MATTER OF THE AGREEMENT: PARTY B WILL DISTRIBUTE THE PRODUCTS OF PARTY A IN CHINA (MAINLAND).
LANGUAGE: ENGLISH.
PLACE OF SIGNATURE: HONG KONG.
PARTY A
DISTRIBUTION
PARTY B
IS THIS CONTRACT INTERNATIONAL?
Mer de Norvège
ISLANDE
FINLANDE
Stockholm
ESTONIE
LETTONIE
LITUANIE
DANEMARK
Moscou
ROYAUME-UNI
IRLANDE
BIÉLORUSSIE
Berlin
POLOGNE
Londres
Paris
FRANCE
SLOVAQUIE
UKRAINE
HONGRIE
MOLDAVIE
CROATIE
ROUMANIE
ITALIE
BULGARIE
ESPAGNE
ALBANIE
Istanbul
GÉORGIE
PORTUGAL
GRÈCE
TURQUIE
ARMÉNIE
KAZAKHSTAN
TURKMÉNISTAN
Téhéran
CHINE
Pékin
CORÉE DU NORD
CORÉE DU SUD
JAPON
TUNISIE
MAROC
IRAK
IRAN
AFGHANISTAN
JORDANIE
PAKISTAN
Shanghai
ALGÉRIE
LIBYE
ÉGYPTE
New Delhi
NÉPAL
SAHARA OCCIDENTAL
ARABIE SAOUDITE
ÉMIRATS ARABES UNIS
Karachi
INDE
BANGLADESH
Hong Kong
MAURITANIE
OMAN
BIRMANIE
Philippines
MALI
NIGER
TCHAD
SOUDAN
ÉRYTHRÉE
LAOS
Manile
SÉNÉGAL
BURKINA FASO
VIETNAM
PHILIPPINES
GUINÉE
TOGO
NIGÉRIA
Hô-Chi-Minh-Ville
CÔTE D'IVOIRE
Lagos
RÉPUBLIQUE CENTRAFRICAINE
ÉTHIOPIE
CAMEROUN
KENYA
Singapour

PARTY A IS A FRENCH COMPANY.
PARTY B IS A FRENCH COMPANY.
SUBJECT MATTER OF THE AGREEMENT: PARTY B WILL DISTRIBUTE THE PRODUCTS OF PARTY A IN THE USA.
LANGUAGE: FRENCH.
PLACE OF SIGNATURE: PARIS, FRANCE.

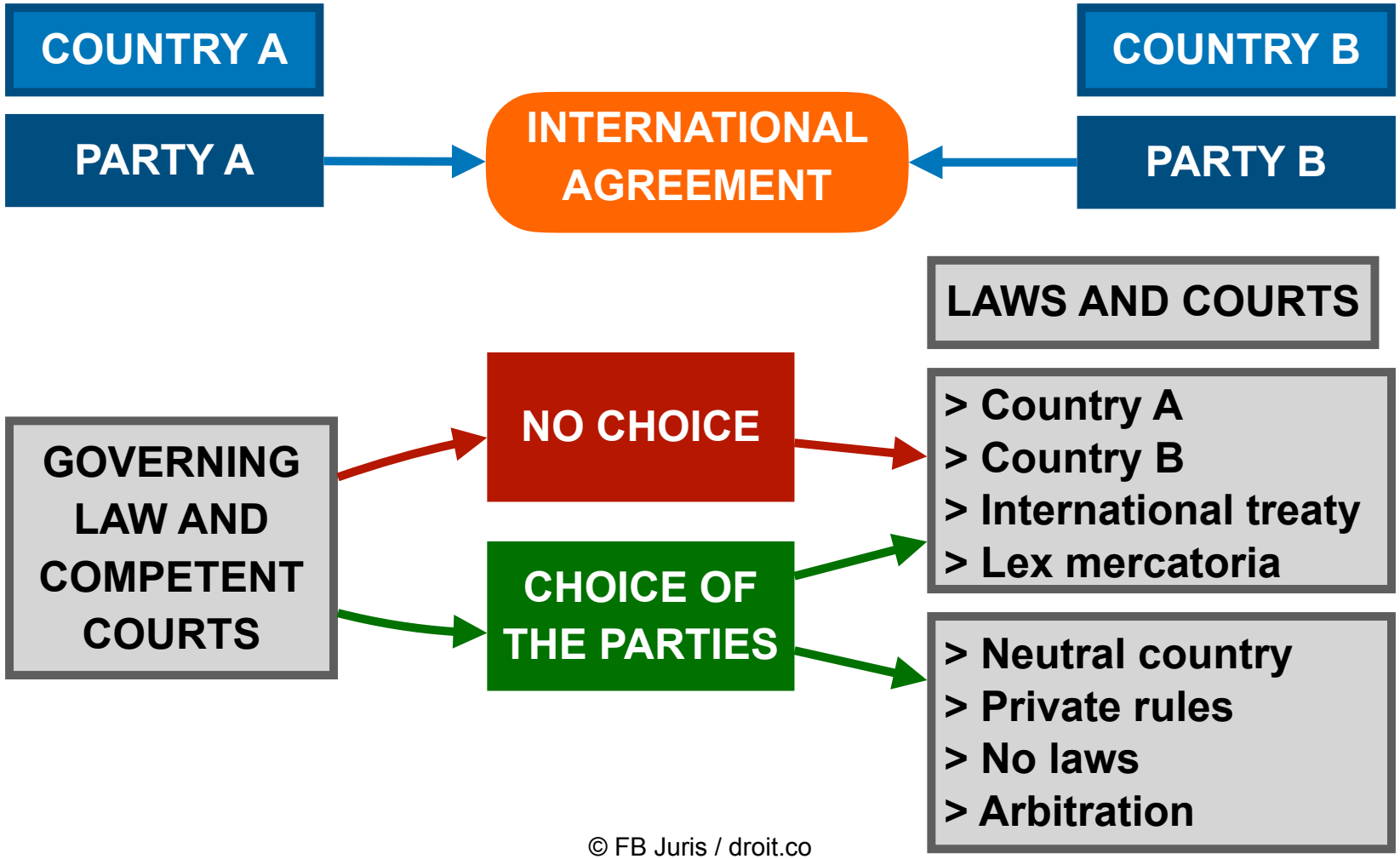


PARTY A IS A FRENCH COMPANY.
PARTY B IS THE FRENCH SUBSIDIARY OF A COMPANY INCORPORATED IN NEW YORK (USA).
SUBJECT MATTER OF THE AGREEMENT: PARTY A WILL PROVIDE ADVISORY SERVICES TO PARTY B (IT SERVICES).
LANGUAGE: FRENCH.
PLACE OF SIGNATURE: PARIS, FRANCE.



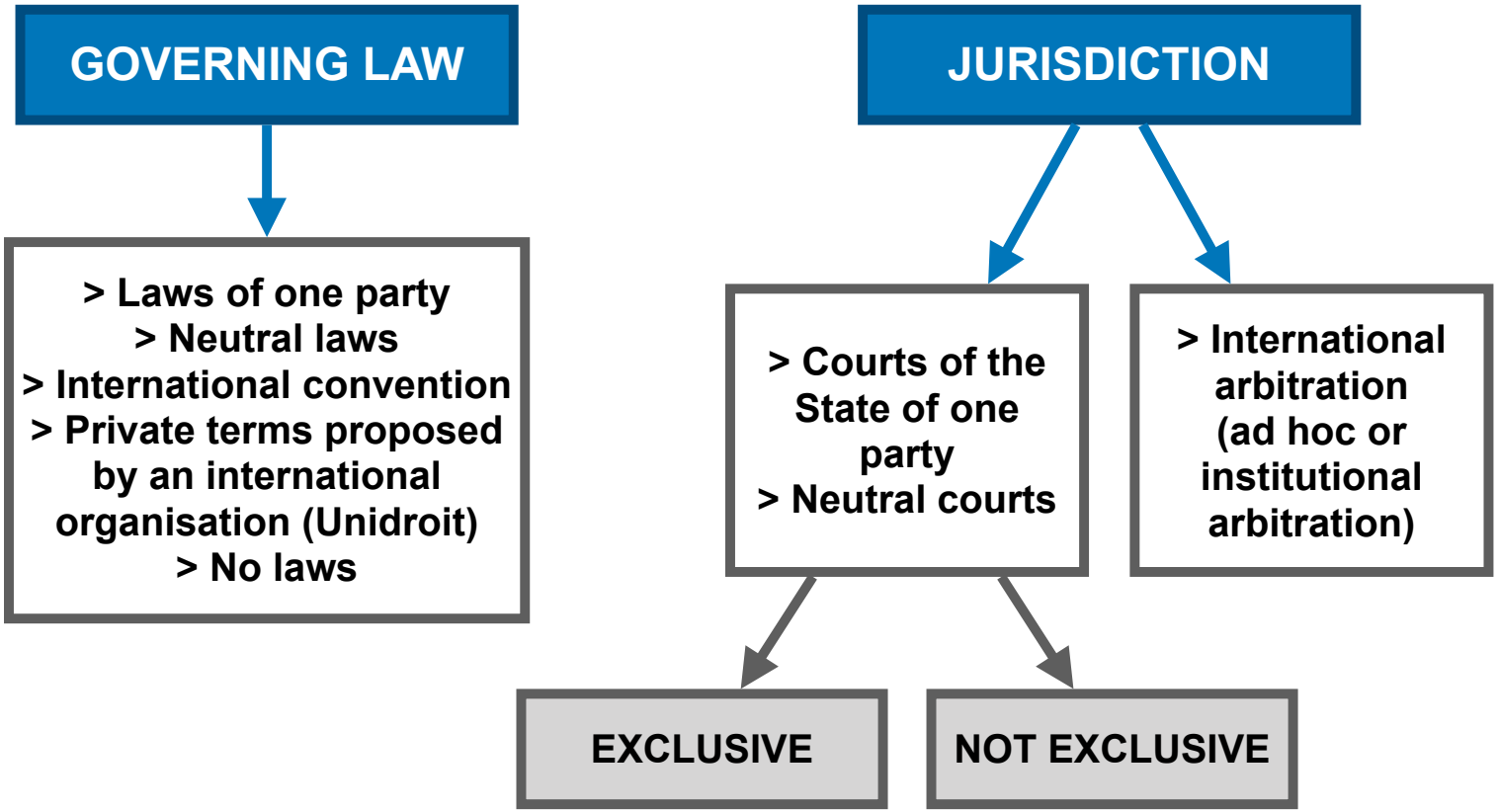

PARTY A IS A FRENCH COMPANY.
PARTY B IS A FRENCH COMPANY.
SUBJECT MATTER OF THE AGREEMENT: PARTY B WILL DISTRIBUTE THE PRODUCTS OF PARTY A IN FRANCE.
LANGUAGE: ENGLISH.
PLACE OF SIGNATURE: NEW YORK, USA.
PARTY A
PARTY B
SIGNATURE
IS THIS CONTRACT INTERNATIONAL?
FINLANDE
SUÈDE
Stockholm
ESTONIE
LETTONIE
LITUANIE
Moscou
DANEMARK
ROYAUME-UNI
IRLANDE
PAYS-BAS
Berlin
POLOGNE
BIÉLORUSSIE
Londres
ALLEMAGNE
Paris
FRANCE
CROATIE
ITALIE
ESPAGNE
PORTUGAL
ALBANIE
Istanbul
GÉORGIE
ARMÉNIE
TURQUIE
GRÈCE
KAZAKHSTAN
OUZBÉKISTAN
TURKMÉNISTAN
Téhéran
IRAN
IRAK
AFGHANISTAN
PAKISTAN
New Delhi
Karachi
INDE
Mumbai
JORDANIE
ARABIE SAOUDITE
ÉMIRATS ARABES UNIS
OMAN
YÉMEN
ÉRYTHRÉE
ÉTHIOPIE
SOMALIE
KENYA
SRI LANKA
TUNISIE
MAROC
ALGÉRIE
LIBYE
ÉGYPTE
SAHARA OCCIDENTAL
MAURITANIE
MALI
NIGER
TCHAD
Toronto
Chicago
New York
Washington
Houston
CUBA
RÉPUBLIQUE DOMINICAINE
NICARAGUA
PANAMA
Caracas
VENEZUELA
GUYANA
COLOMBIE
ÉQUATEUR
3D

INTERNATIONAL AGREEMENT



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INTERNATIONAL CONTRACT: GOVERNING LAW AND JURISDICTION



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CLAUSE: GOVERNING LAW

THIS CONTRACT IS GOVERNED BY THE LAWS OF FRANCE.
IT SHALL BE ENFORCED AND INTERPRETED PURSUANT TO THESE LAWS.

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CLAUSE: GOVERNING LAW
AUTONOMOUS INTERNATIONAL CONTRACT
(CONTRACT WITHOUT LAW)

The Parties expressly state that the Contract, which governs international relationships and operations, shall be construed and interpreted as an independent international contract, governed exclusively by the rules expressly defined by the Parties, as far as possible.

Thus the Parties intend the Contract to be performed, enforced, interpreted and judged exclusively pursuant to its provisions, excluding as far as possible any provisions whatsoever, notably State or regional or international provisions, not explicitly mentioned by this Contract, except in case of obvious gap in the Contract, in which case the Parties expressly acknowledge that exclusively French law shall apply to fill in the gap only to the extent that is needed, this notwithstanding the place where the Contract may have effects, with the sole exception of the imperative rules of the State where the Contract may have effects.

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CLAUSE: EXCLUSIVE JURISDICTION

IN CASE OF ANY LITIGATION ARISING IN RELATION WITH THIS CONTRACT, THE PARTIES HEREBY GRANT EXCLUSIVE JURISDICTION TO THE COURTS OF PARIS (FRANCE).

THIS CLAUSE PROVIDING FOR AN EXCLUSIVE JURISDICTION SHALL BE GIVEN THE BROADEST EFFECT AND SHALL APPLY IN ANY CASE, INCLUDING IN CASE OF LITIGATION RELATING TO THE PRE-CONTRACTUAL PHASE OR IN CASE OF EMERGENCY OR PROTECTIVE PROCEEDINGS, AND NOTWITHSTANDING THE EXISTENCE OF OTHER DEFENDANTS OR GUARANTEES.

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CLAUSE: PROROGATION OF COMPETENCE

IN CASE OF ANY LITIGATION ARISING IN RELATION WITH THIS CONTRACT, THE PARTIES HEREBY GRANT XXX

OPTION 1: EXCLUSIVE JURISDICTION

OPTION 2: JURISDICTION

OPTION 3: NON-EXCLUSIVE JURISDICTION

TO THE COURTS OF PARIS (FRANCE).

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CLAUSE: PROROGATION OF COMPETENCE

IN CASE OF ANY LITIGATION ARISING IN RELATION WITH THIS CONTRACT, THE PARTIES HEREBY GRANT JURISDICTION TO THE COURTS OF PARIS (FRANCE).

IN THE EUROPEAN UNION, THE JURISDICTION IS PRESUMED EXCLUSIVE (article 25 of EU Regulation n° 1215/2012)



WHERE THE EU REGULATION N° 1215/2012 IS NOT APPLICABLE, THE PROROGATION OF COMPETENCE IS NORMALLY NOT EXCLUSIVE

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CLAUSE: PROROGATION OF COMPETENCE

IN CASE OF ANY LITIGATION ARISING IN RELATION WITH THIS CONTRACT, THE PARTIES HEREBY GRANT EXCLUSIVE JURISDICTION TO THE COURTS OF PARIS (FRANCE).

THE CASE MAY STILL BE REFERRED TO THE COURT OF JUSTICE OF THE EUROPEAN UNION AND/OR TO THE EUROPEAN COURT OF HUMAN RIGHTS (REFERENCES FOR PRELIMINARY RULINGS)



THESE COURTS ARE INTEGRATED TO THE JUDICIAL SYSTEMS OF THE STATES MEMBERS

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ICC ARBITRATION CLAUSE

All disputes arising out of or in connection with the present Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by XXX [OPTION 1: one or more // OPTION 2: three] arbitrators appointed in accordance with the said Rules.
The place of the arbitration shall be XXX [TO BE SPECIFIED].
The language of the arbitration shall be XXX [TO BE SPECIFIED].
The law applicable to the merits shall be XXX [TO BE SPECIFIED, FOR EXAMPLE: the governing law specified above].
No award or procedural order made in the arbitration shall be published.

https://iccwbo.org/publication/standard-icc-arbitration-clauses-english-version/

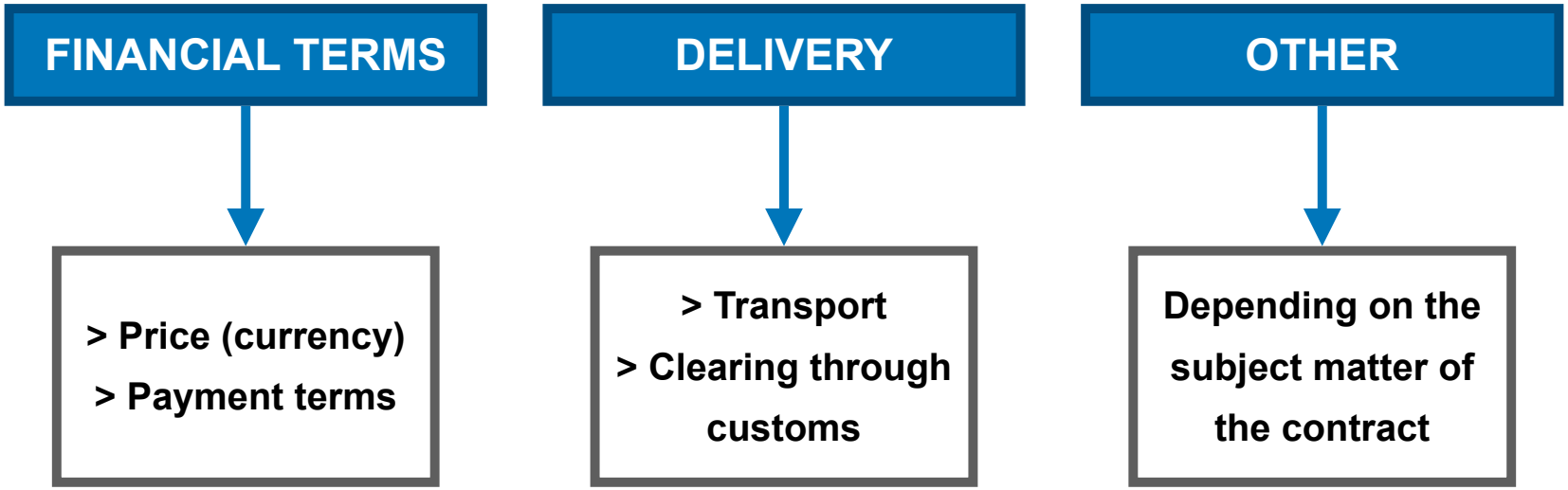
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INTERNATIONAL BUSINESS CONTRACT: SPECIFIC CLAUSES



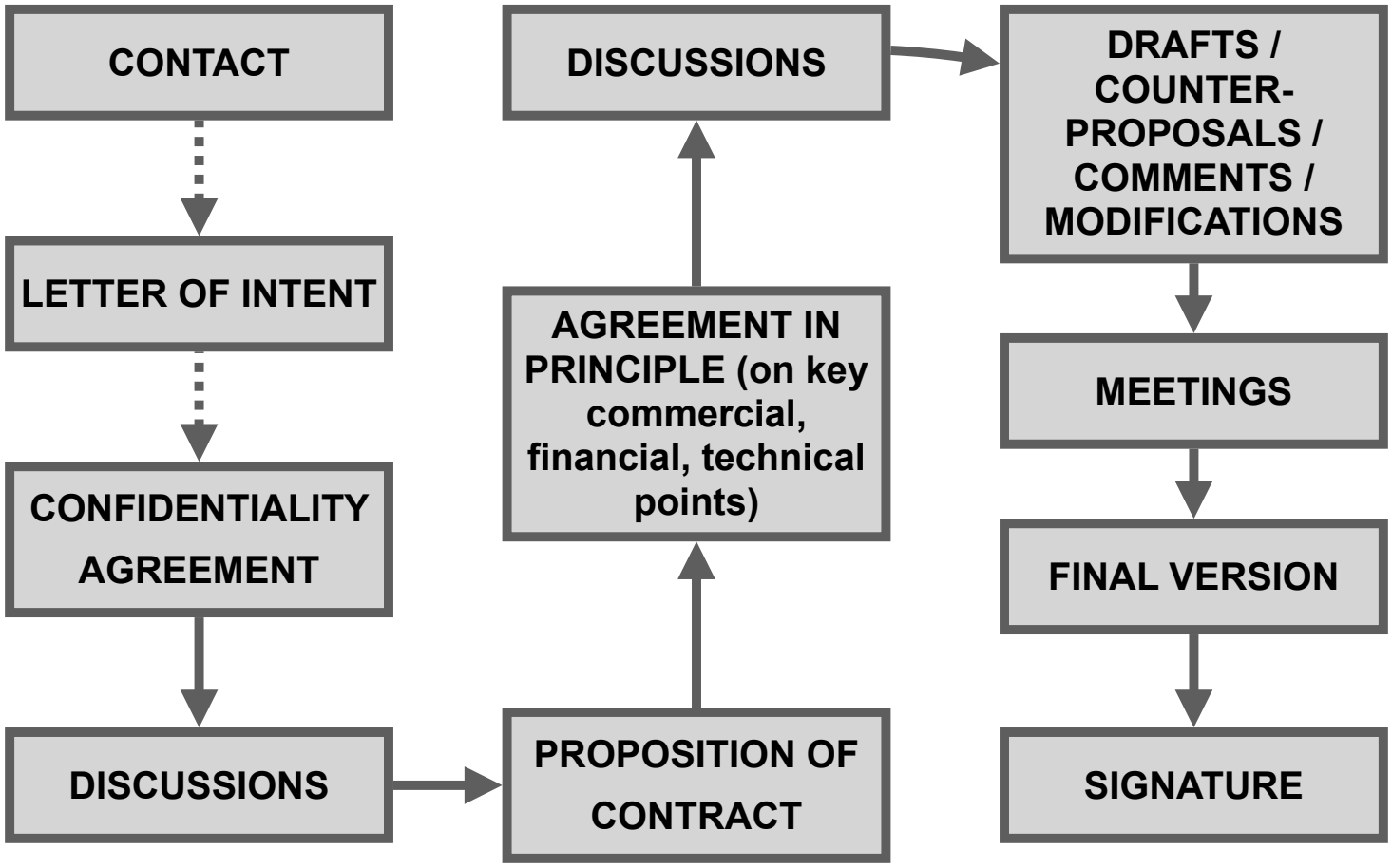
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INTERNATIONAL BUSINESS CONTRACT: OTHER SPECIFIC CLAUSES



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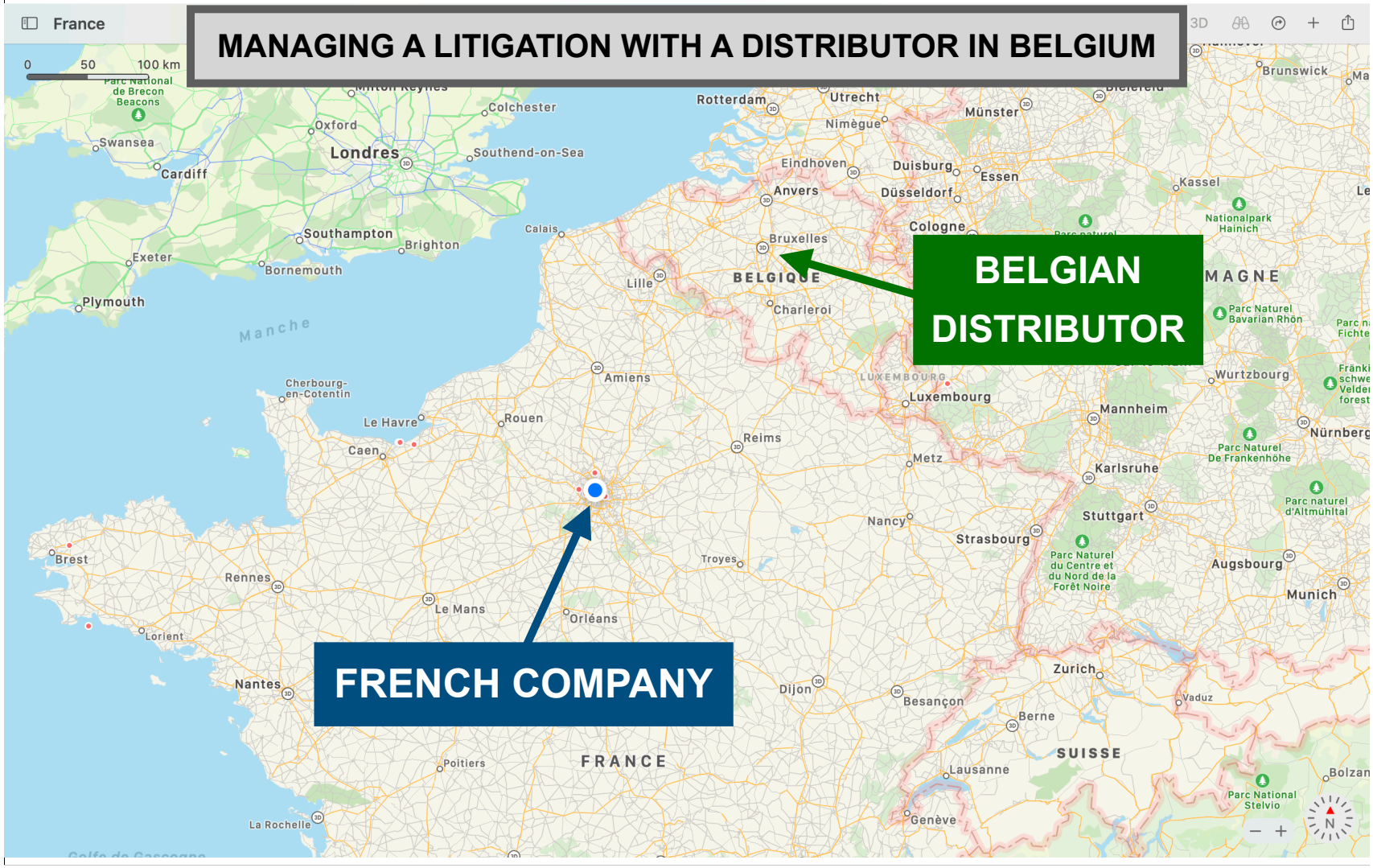
NEGOTIATION: TYPICAL PROCESS



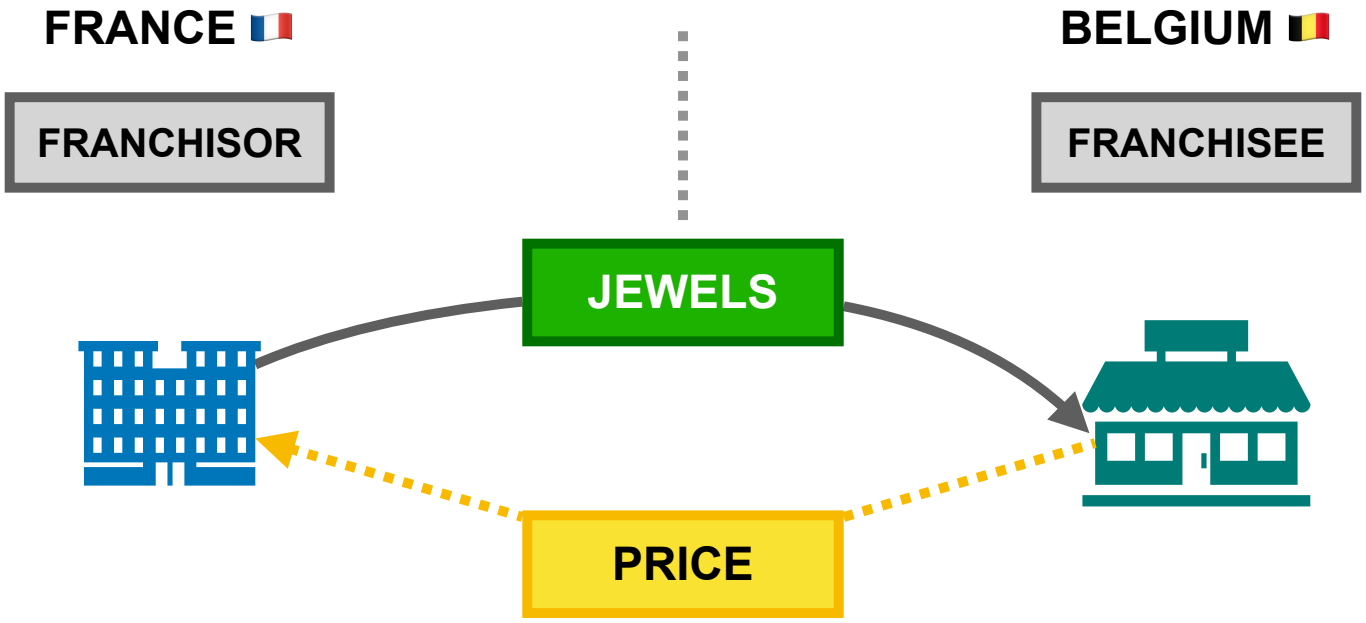
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INTERNATIONAL COMMERCIAL LAW

PRACTICAL CASE



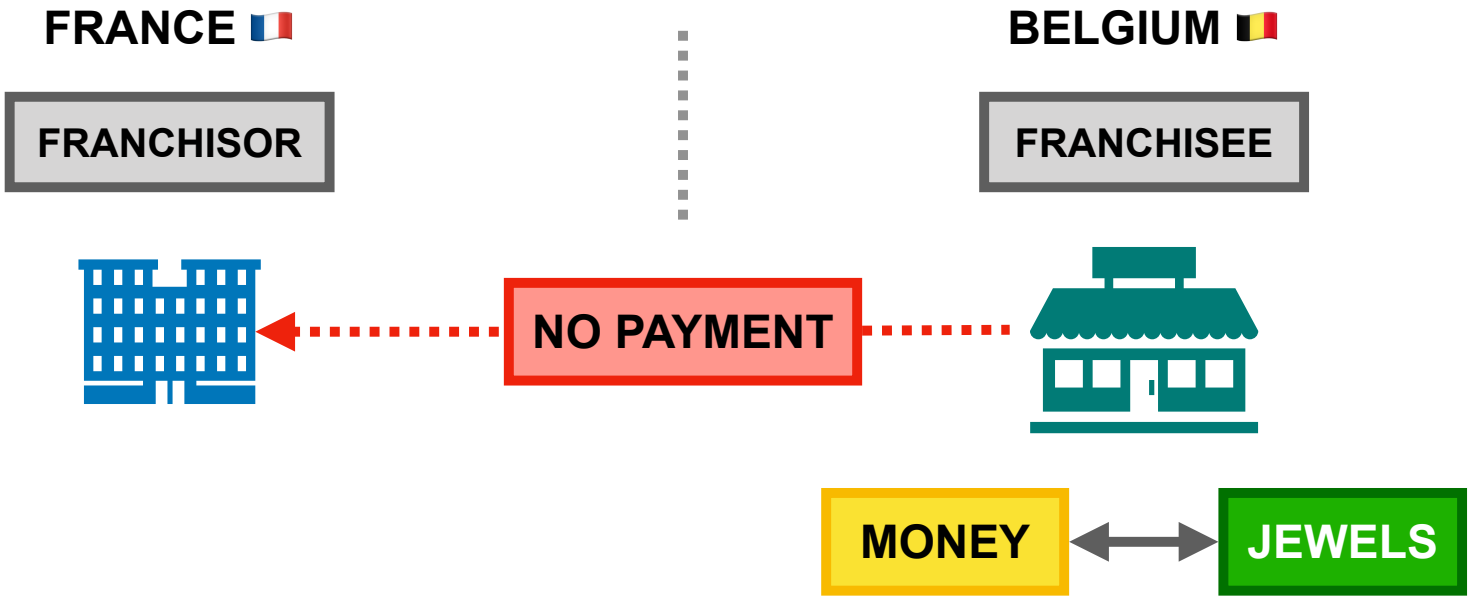
DISTRIBUTION / LITIGATION



Generally, the products are provided to the distributor before payment.
In order to reduce the risks, the franchisor needs guarantees.
At least, a retention of title clause should be inserted in the contract.

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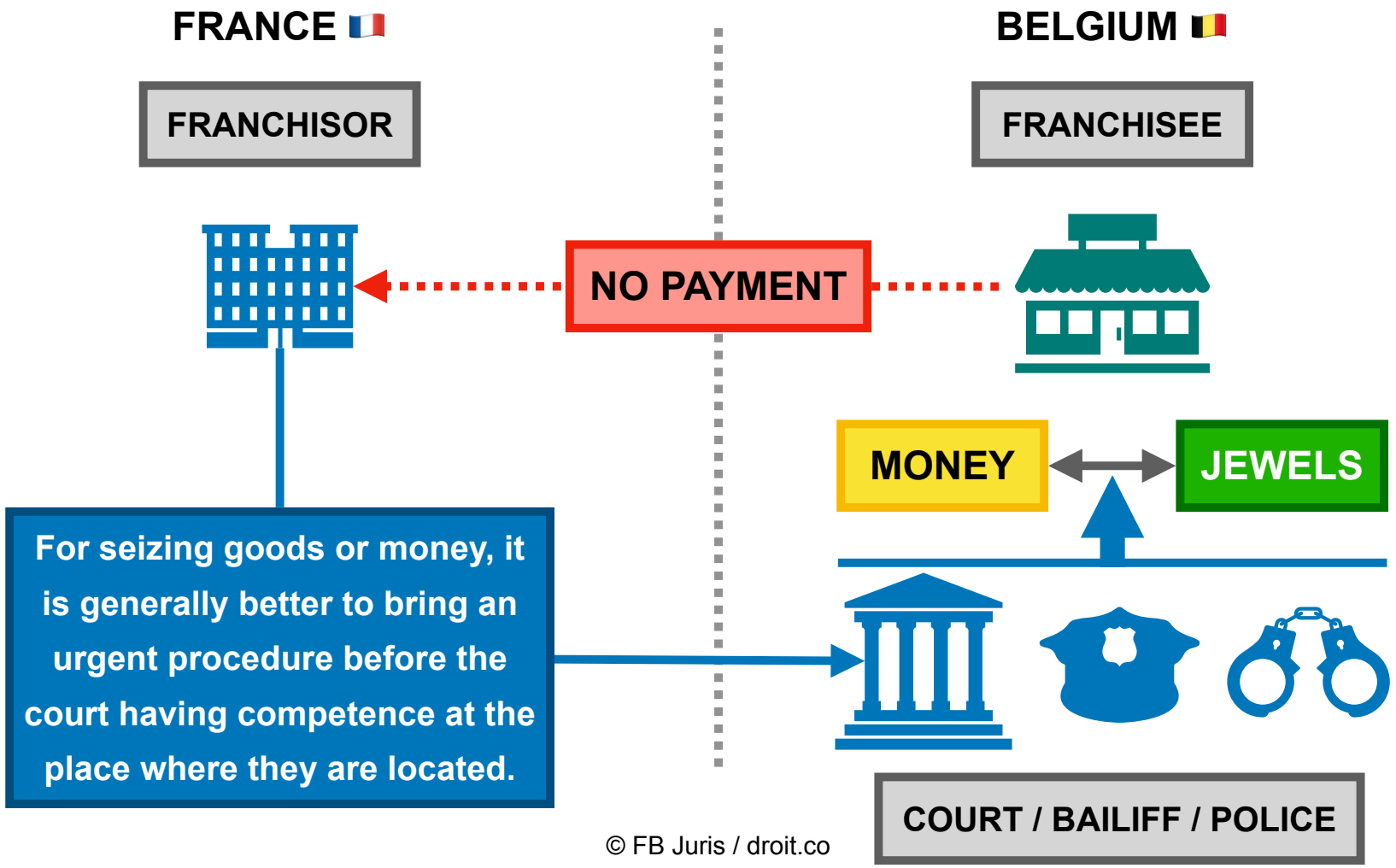
DISTRIBUTION / LITIGATION



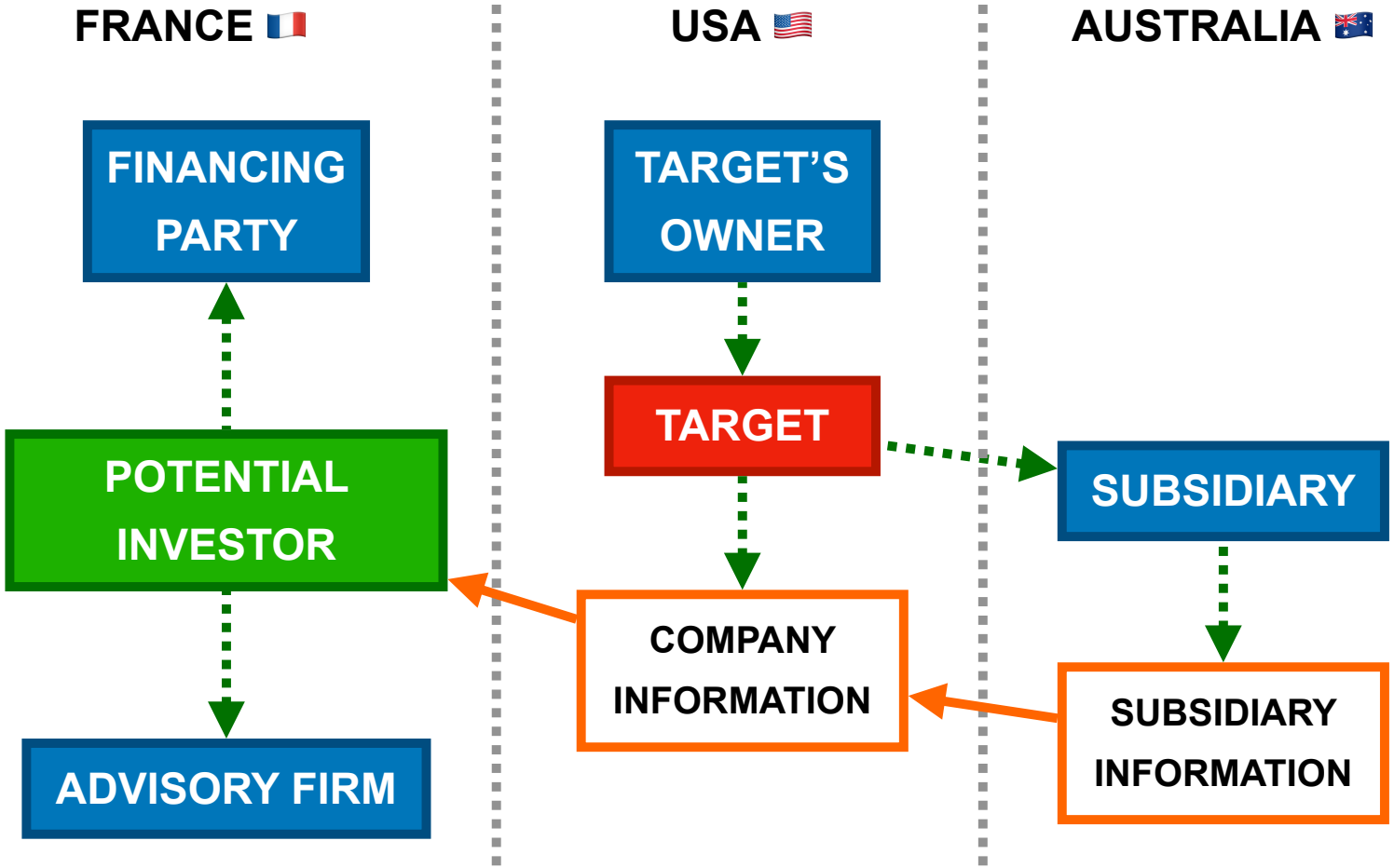
If the franchisee does not pay the price, the franchisor should try to seize the remaining products and/or their resale price and/or the insurance indemnity held by the franchisee. An urgent procedure is needed for this.

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DISTRIBUTION / LITIGATION



INVESTMENT / NDA



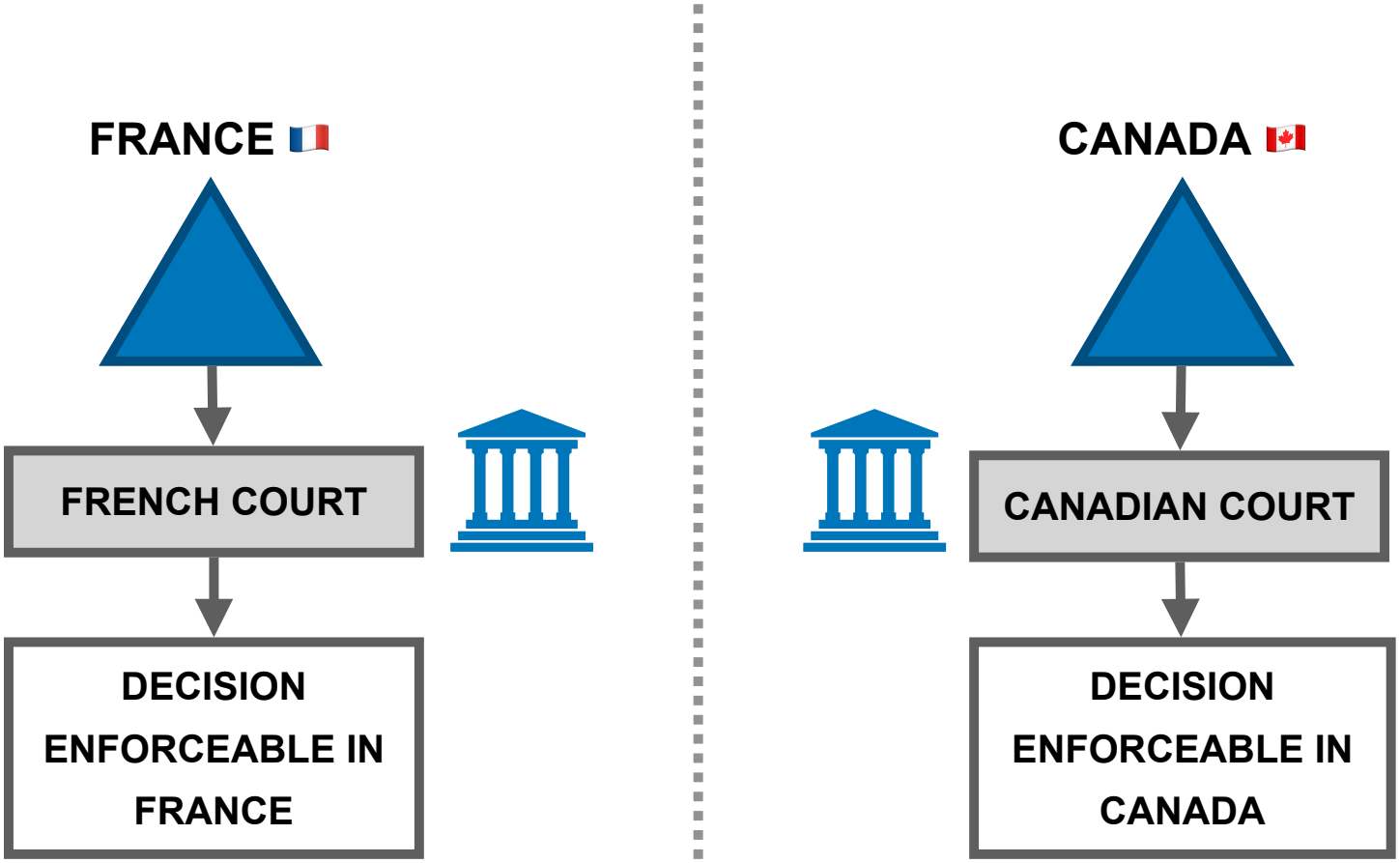
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INTERNATIONAL LITIGATION

Private international litigations are judged by State courts or by arbitral tribunals.

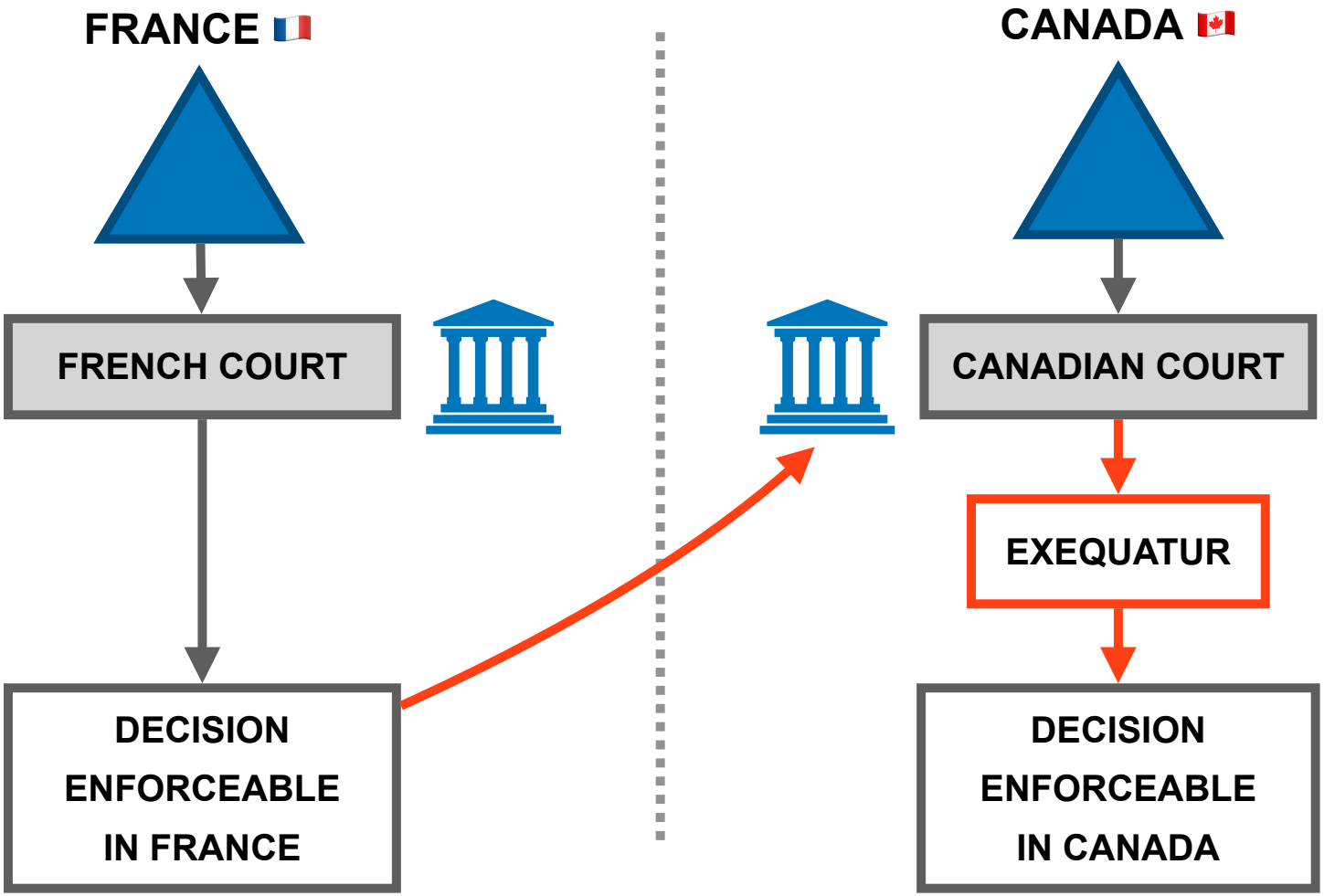
Key issues are jurisdiction and the enforcement of decisions.

INTERNATIONAL LITIGATION



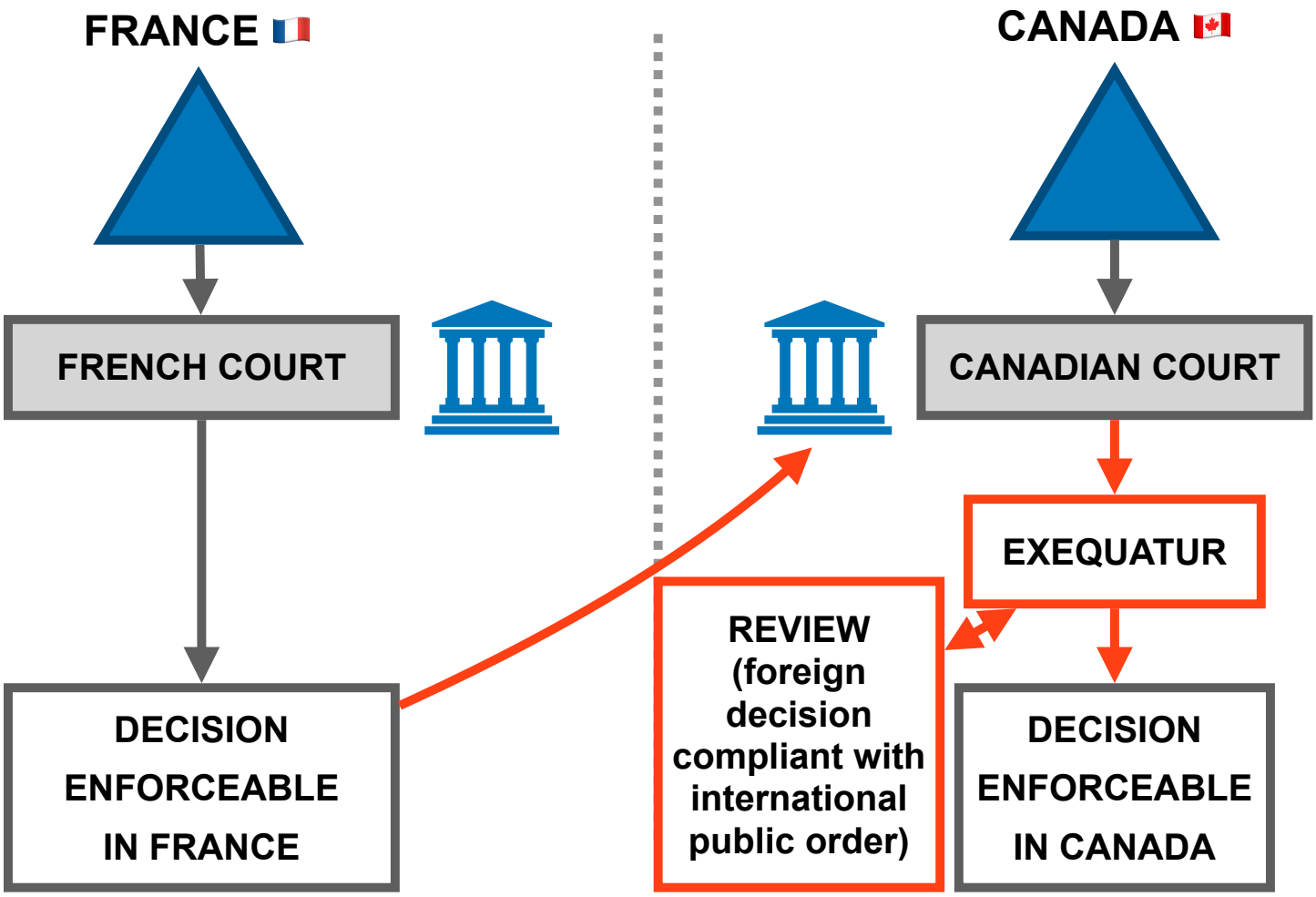
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INTERNATIONAL LITIGATION



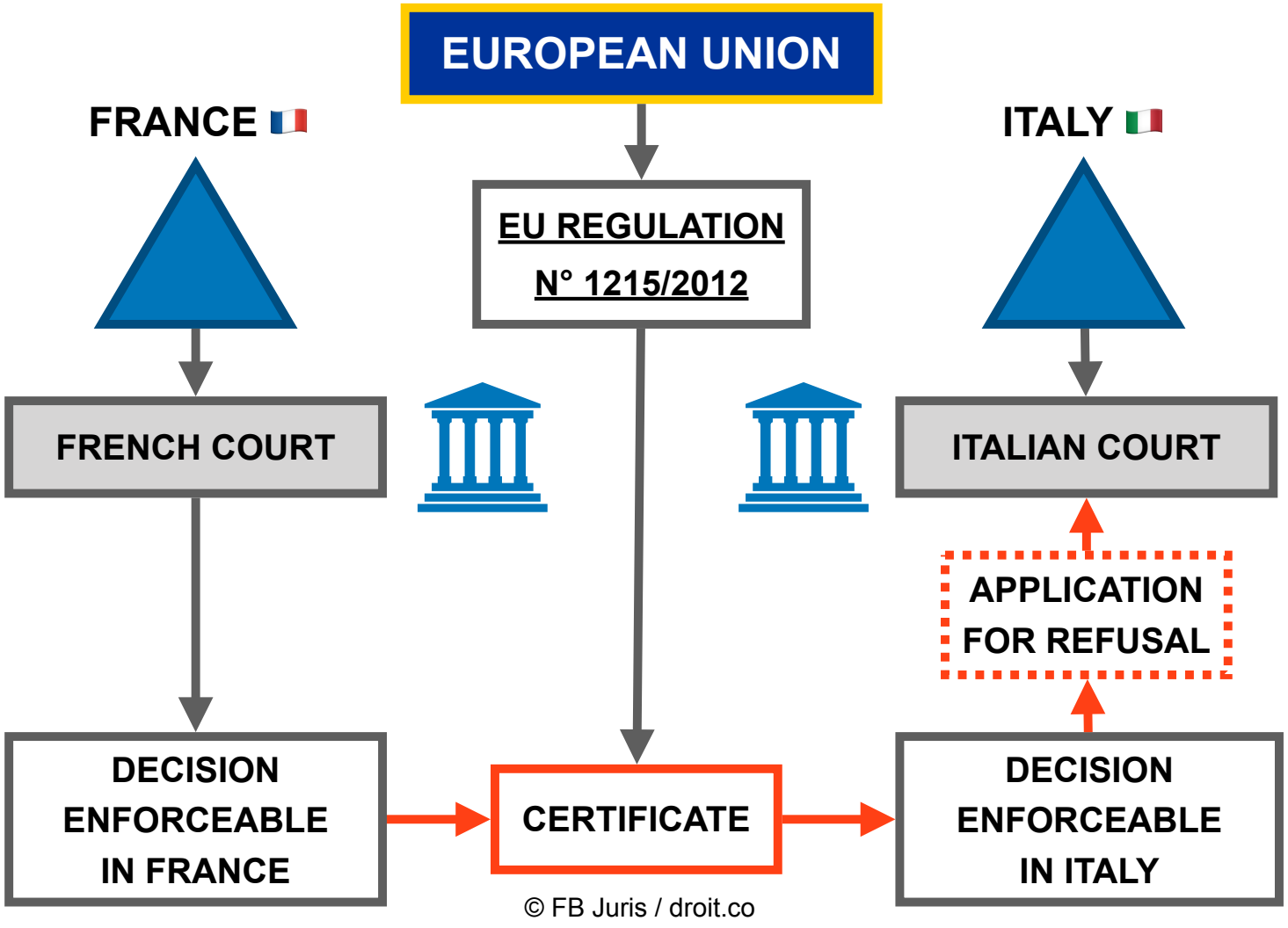
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INTERNATIONAL LITIGATION

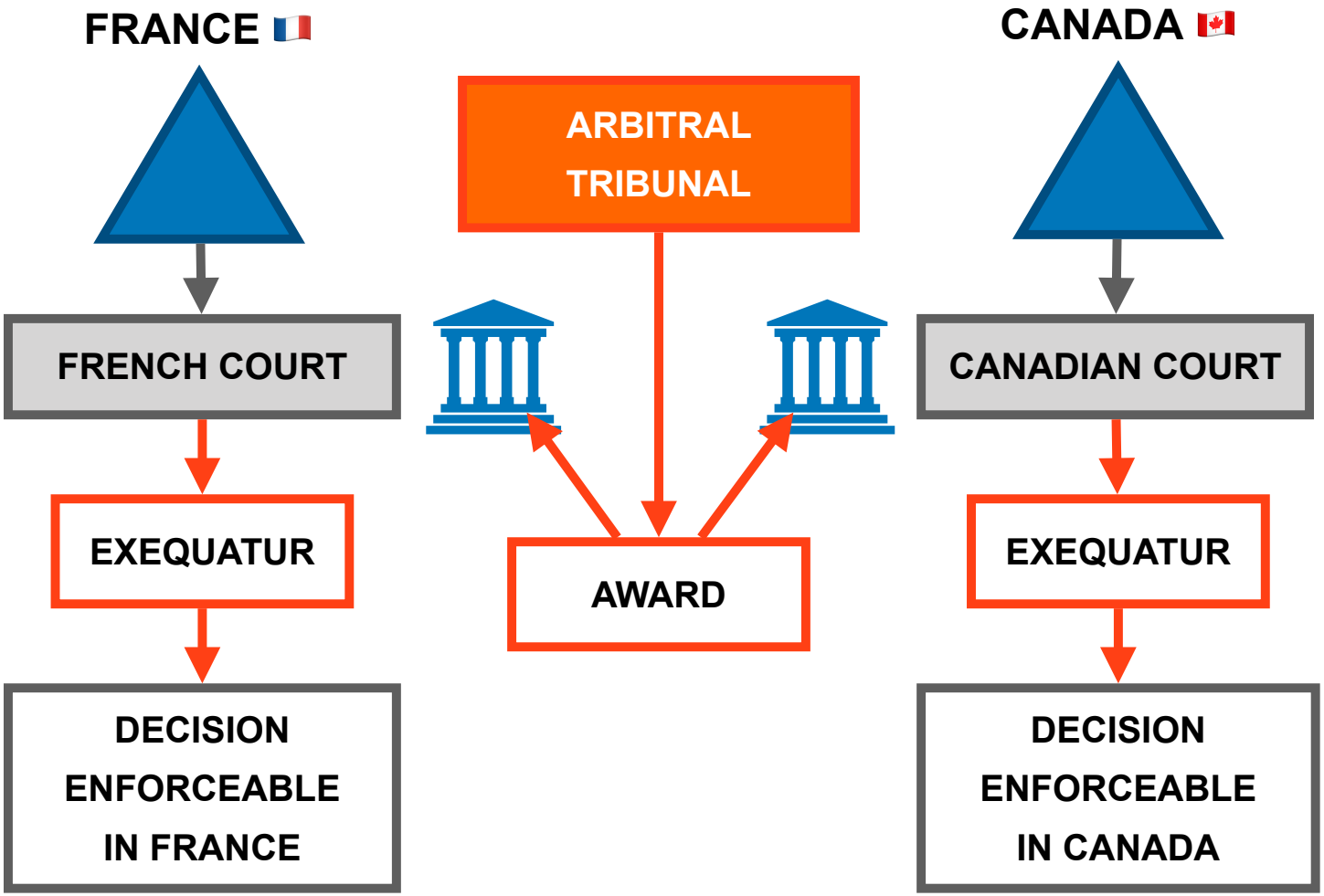


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EUROPEAN LITIGATION

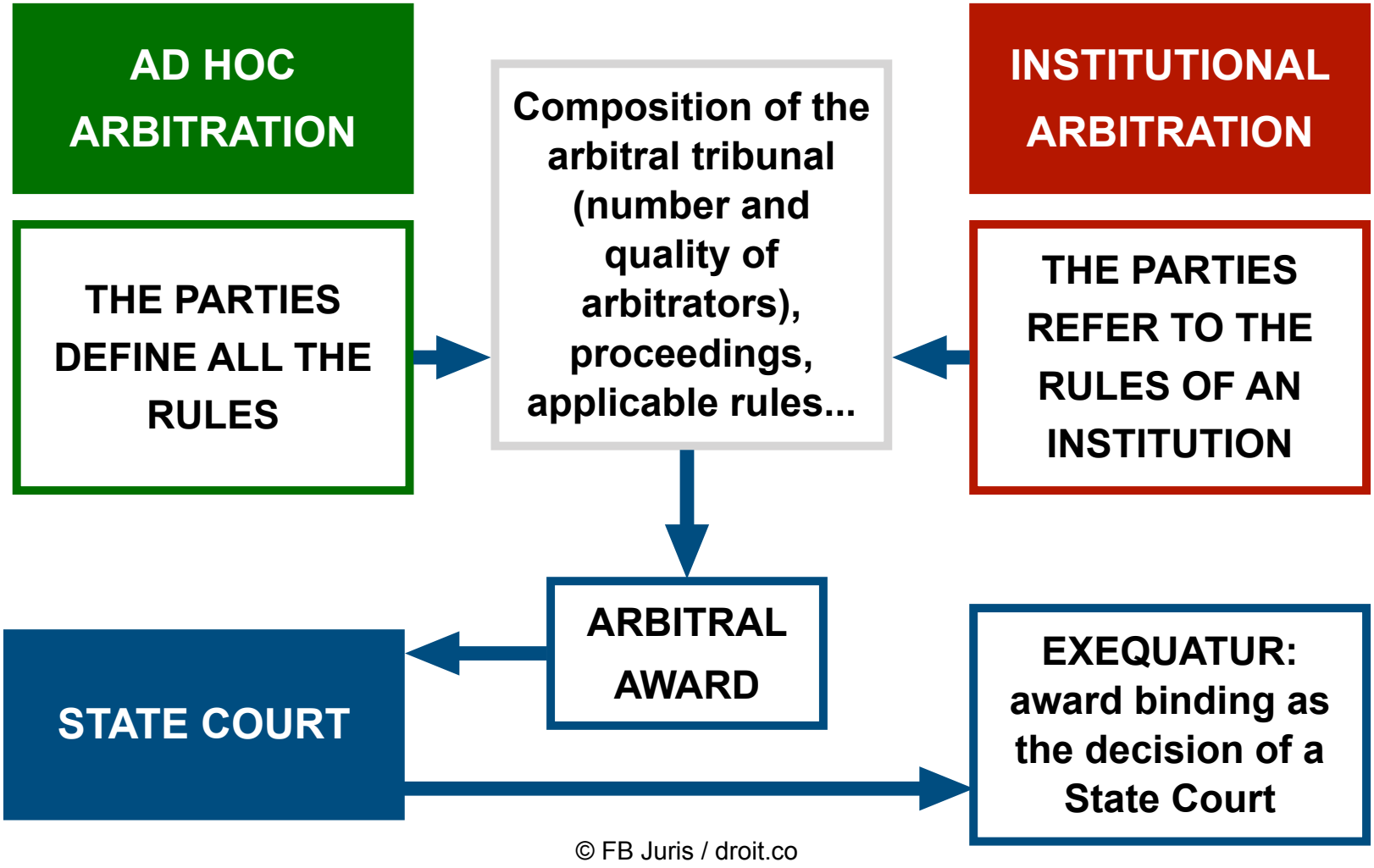


INTERNATIONAL ARBITRATION



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INTERNATIONAL ARBITRATION



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STATE COURT / ARBITRATION

STATE COURT (PUBLIC JUSTICE)	ARBITRATION (PRIVATE JUSTICE)
STATE JUSTICE	NEUTRALITY / INDEPENDANCE FROM STATES
THE JUDGES MAY NOT KNOW THE TECHNICAL ASPECTS OF THE CASE	THE PARTIES CAN CHOOSE THE ARBITRATORS (THEY MAY APPOINT EXPERTS)
THE HEARINGS AND THE COURT DECISION ARE IN PRINCIPLE PUBLIC	THE ARBITRATION AND THE AWARD MAY BE CONFIDENTIAL
JUSTICE IS NORMALLY FREE (WITHOUT CONSIDERING LAWYERS AND EXPERTS)	THE PARTIES HAVE TO PAY THE ARBITRATORS IN ADDITION TO LAWYERS AND EXPERTS

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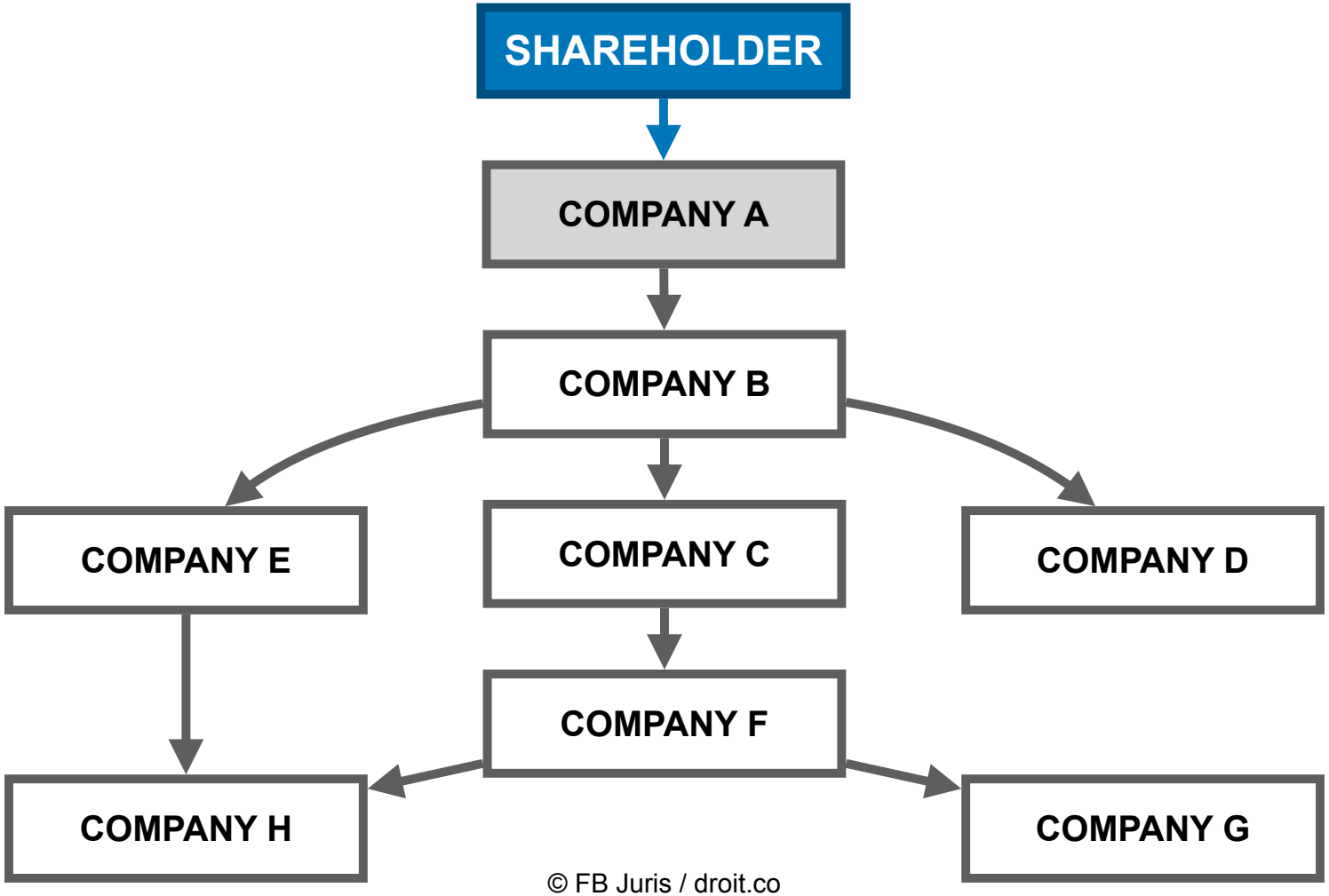
MEDIATION / ARBITRATION

MEDIATION	ARBITRATION
THE MEDIATOR HELPS THE PARTIES FIND A NEGOTIATED SOLUTION. THE MEDIATOR CANNOT IMPOSE A DECISION.	THE ARBITRATOR JUDGES THE CASE. THE ARBITRATOR IMPOSES A DECISION TO THE PARTIES.

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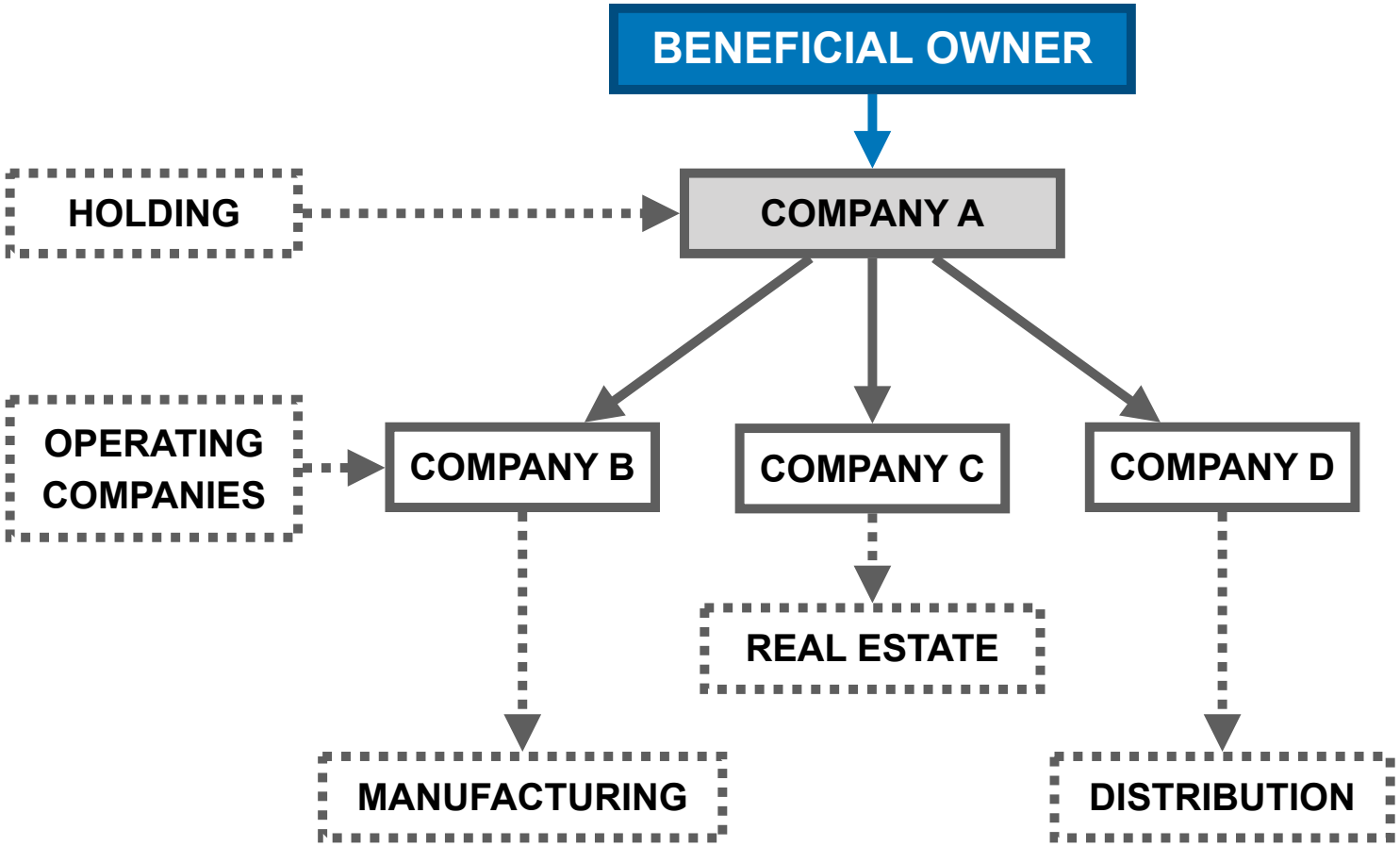
COMPANY LAW

GROUP OF COMPANIES



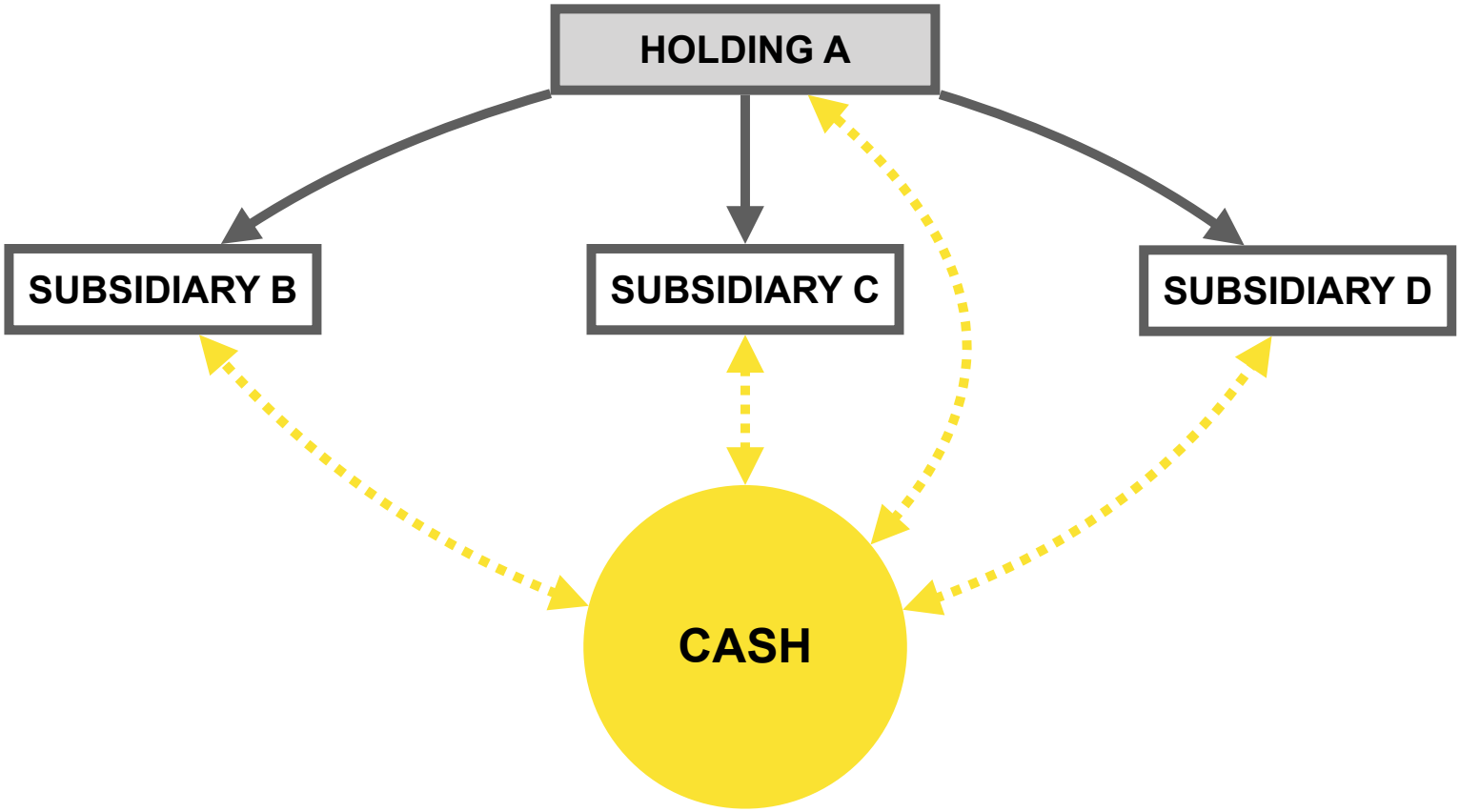
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GROUP OF COMPANIES



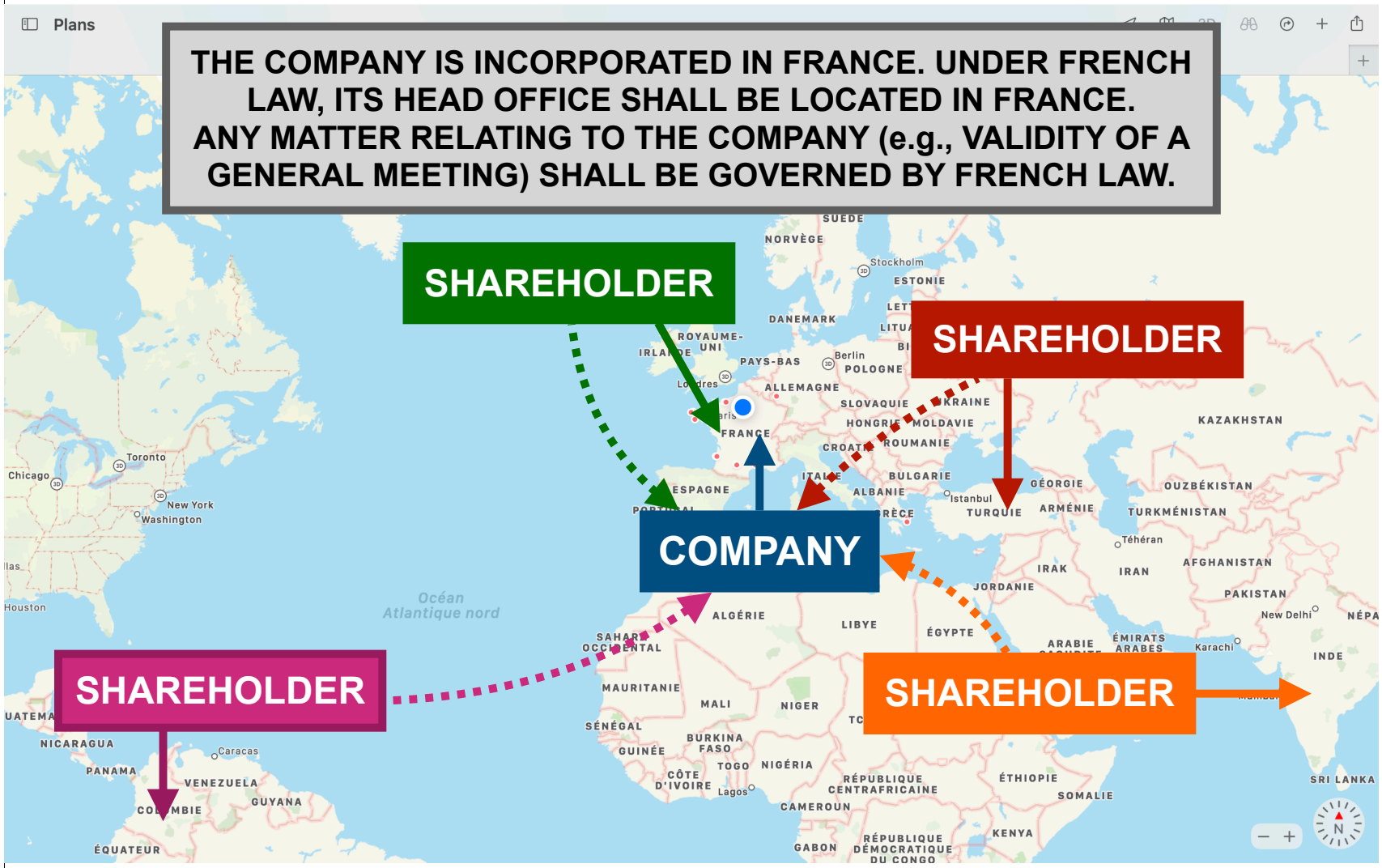
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CASH POOLING

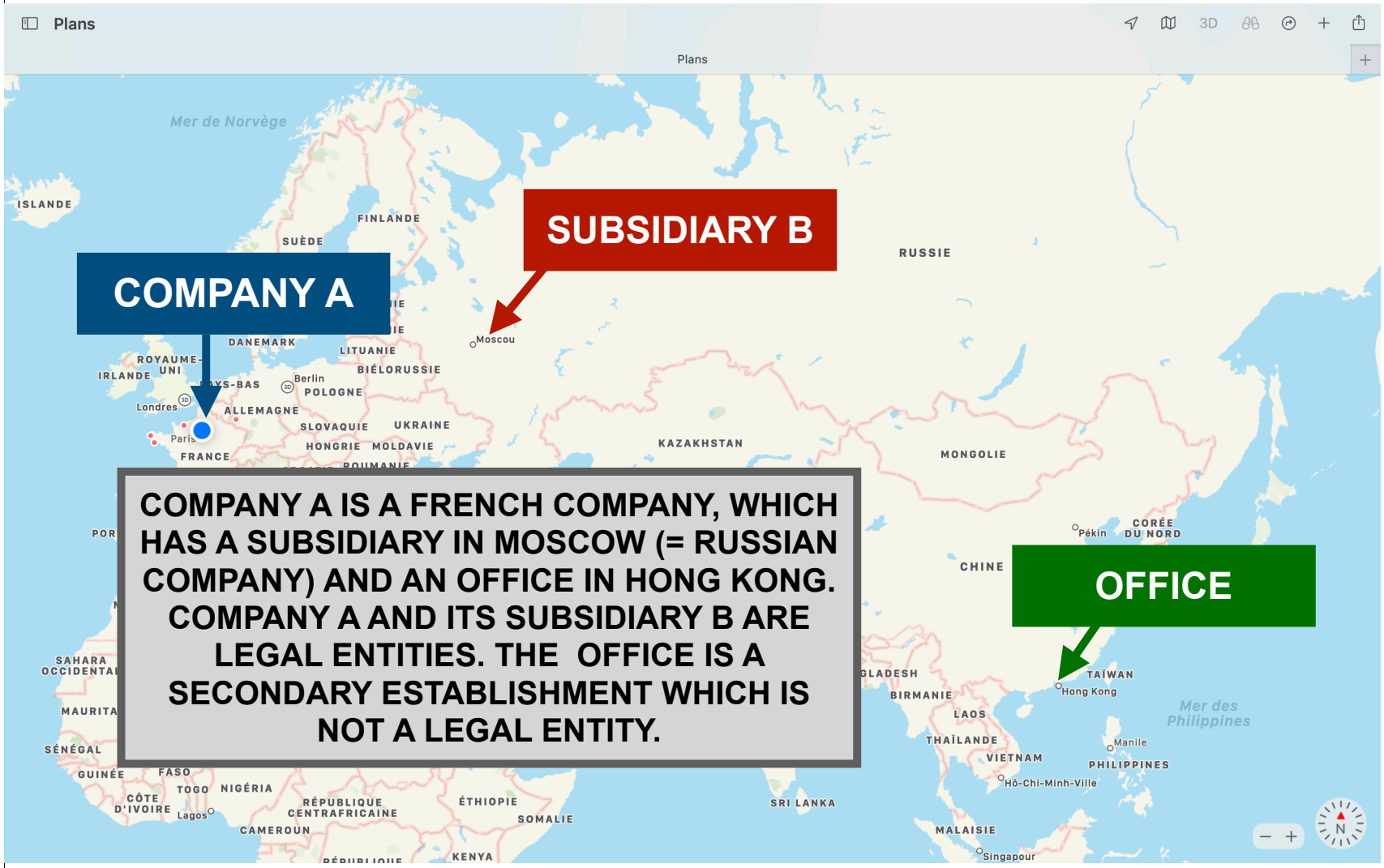


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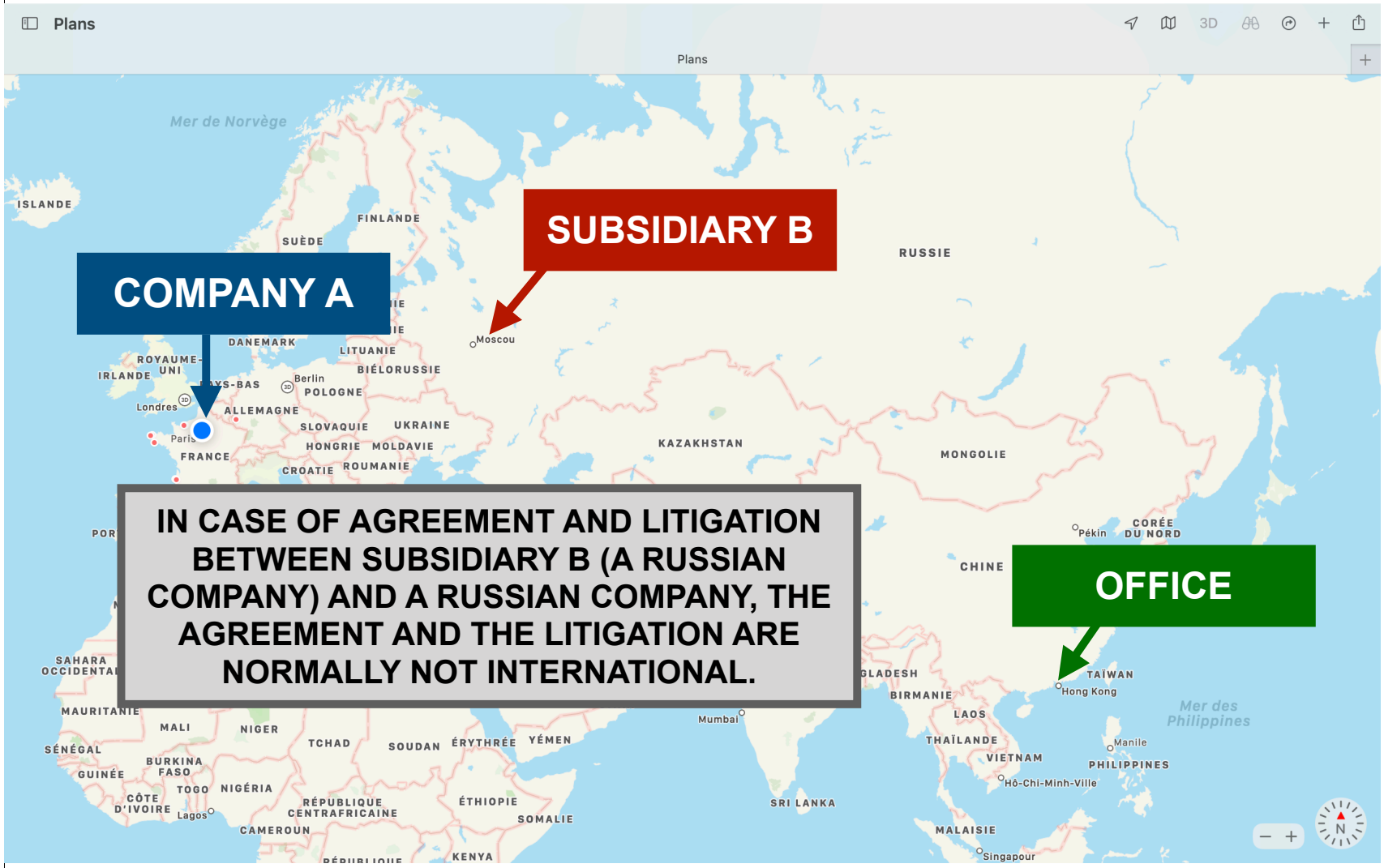
COMPANY


Plans
THE COMPANY IS INCORPORATED IN FRANCE. UNDER FRENCH LAW, ITS HEAD OFFICE SHALL BE LOCATED IN FRANCE.
ANY MATTER RELATING TO THE COMPANY (e.g., VALIDITY OF A GENERAL MEETING) SHALL BE GOVERNED BY FRENCH LAW.
SHAREHOLDER
SHAREHOLDER
COMPANY
SHAREHOLDER
SHAREHOLDER
SUÈDE
NORVÈGE
Stockholm
ESTONIE
DANEMARK
ROYAUME-UNI
PAYS-BAS
Berlin
POLOGNE
ALLEMAGNE
SLOVAQUIE
UKRAINE
HONGRIE
MOLDAVIE
FRANCE
ROUMANIE
BULGARIE
ESPAGNE
ALBANIE
Istanbul
TURQUIE
GÉORGIE
ARMÉNIE
KAZAKHSTAN
OUZBÉKISTAN
TURKMÉNISTAN
Téhéran
IRAN
IRAK
AFGHANISTAN
PAKISTAN
New Delhi
JORDANIE
ÉGYPTE
LIBYE
ALGÉRIE
ARABIE
ÉMIRATS ARABES
Karachi
INDE
SRI LANKA
Toronto
Chicago
New York
Washington
Houston
Océan Atlantique nord
MAURITANIE
MALI
NIGER
SÉNÉGAL
BURKINA FASO
GUINÉE
TOGO
NIGÉRIA
CÔTE D'IVOIRE
Lagos
CAMEROUN
RÉPUBLIQUE CENTRAFRICAINE
ÉTHIOPIE
SOMALIE
KENYA
GABON
RÉPUBLIQUE DÉMOCRATIQUE DU CONGO
NICARAGUA
PANAMA
Caracas
VENEZUELA
GUYANA
ÉQUATEUR

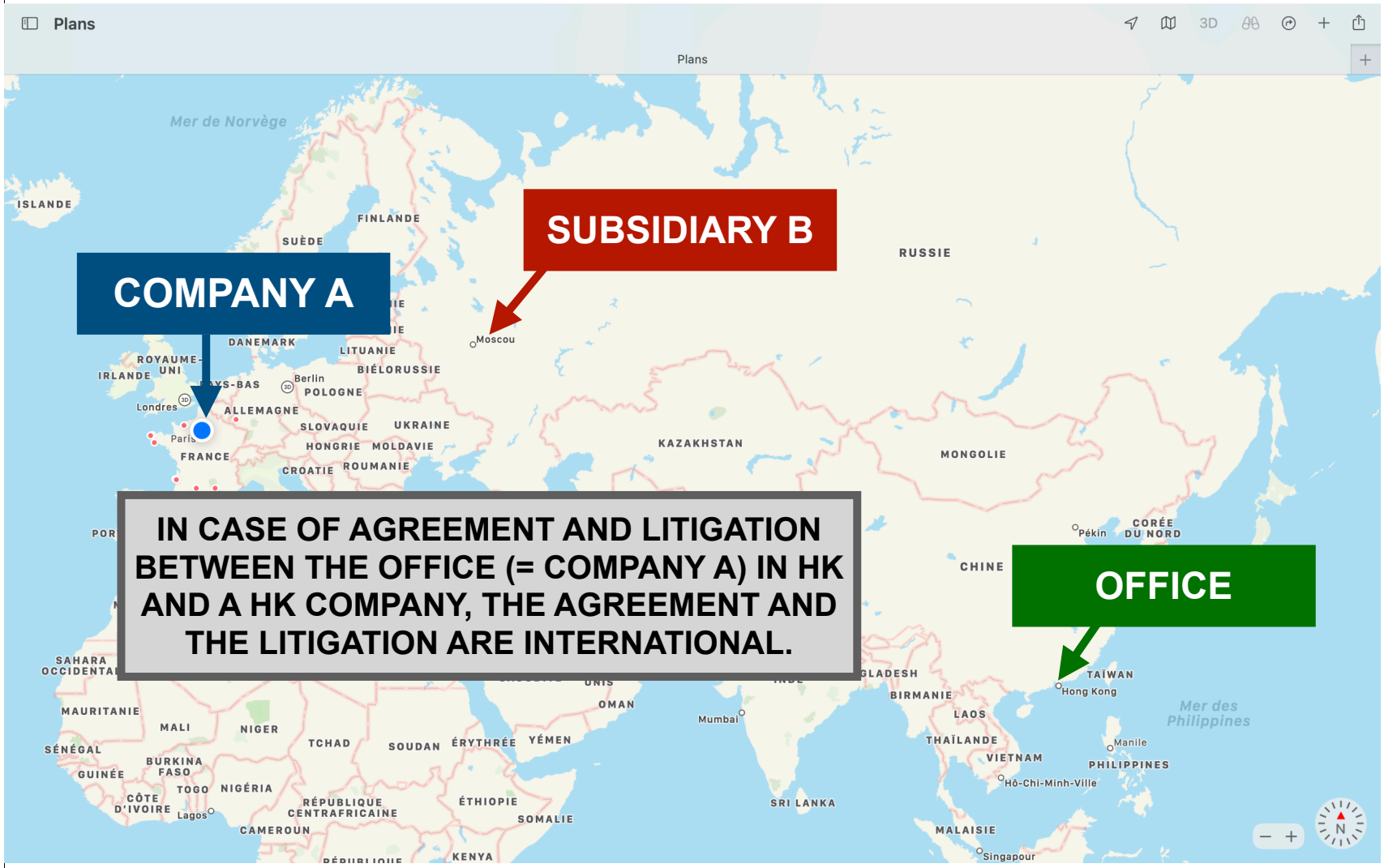
COMPANY, SUBSIDIARY, ESTABLISHMENT



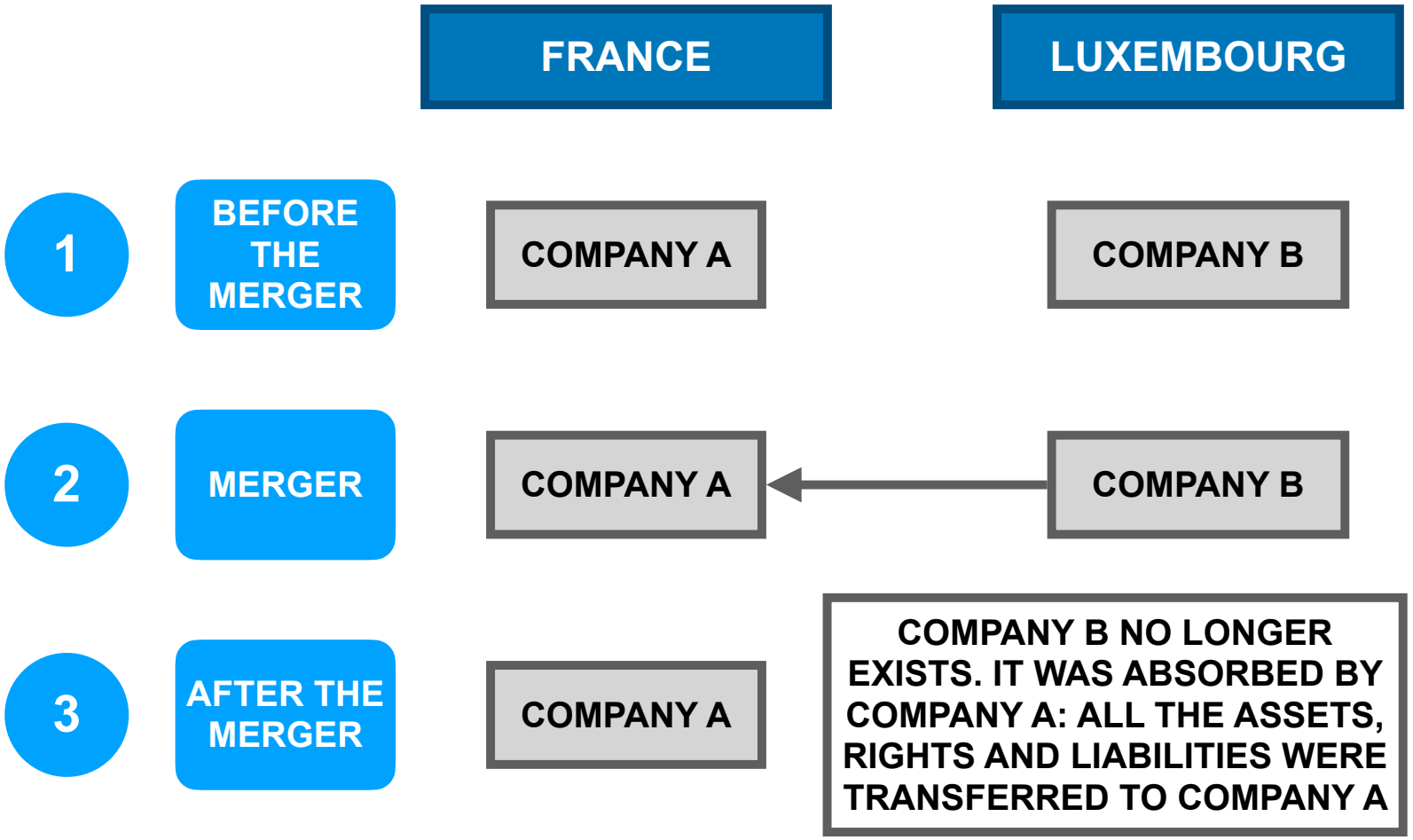
COMPANY, SUBSIDIARY, ESTABLISHMENT



COMPANY, SUBSIDIARY, ESTABLISHMENT

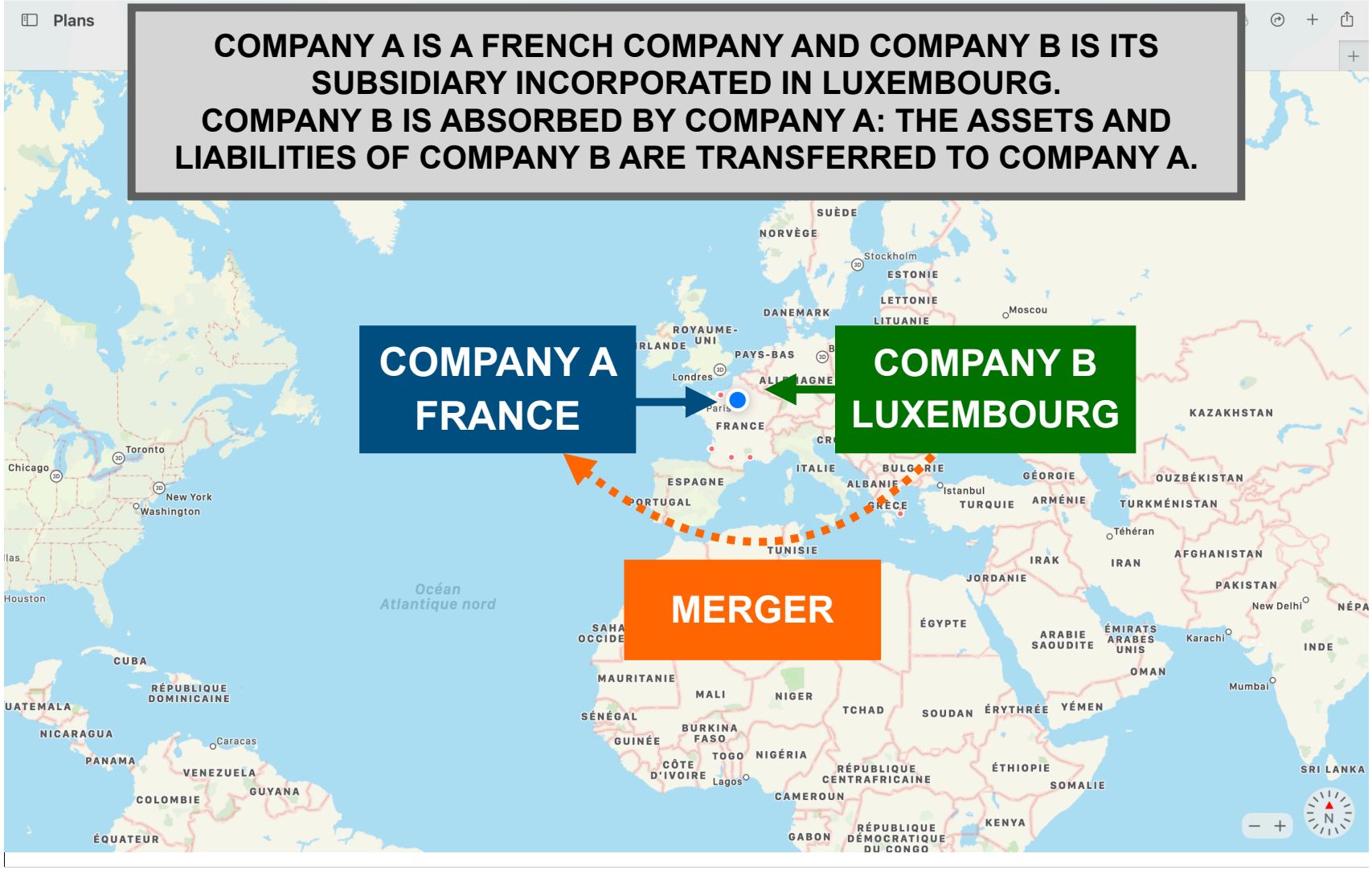


MERGER

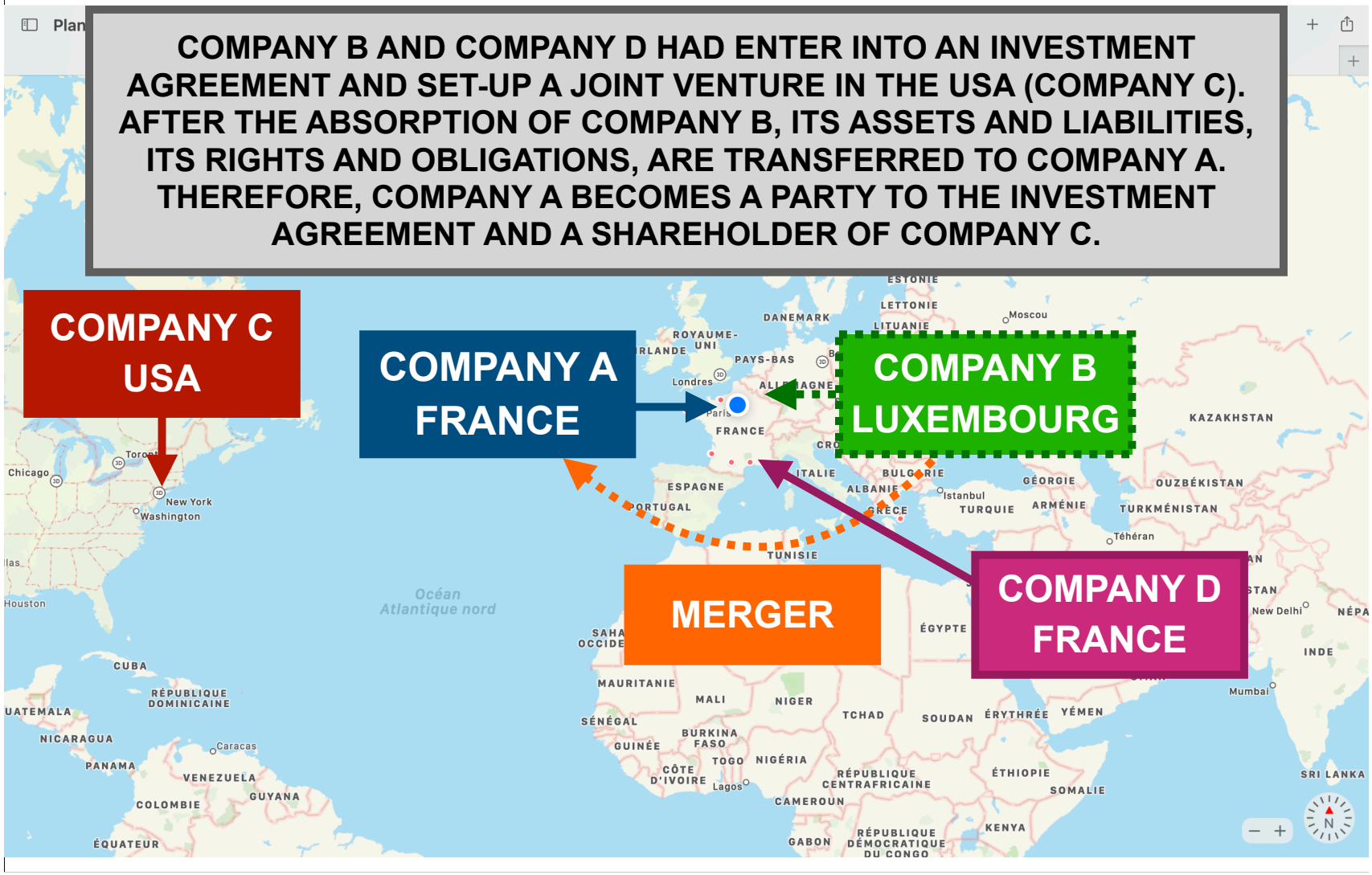


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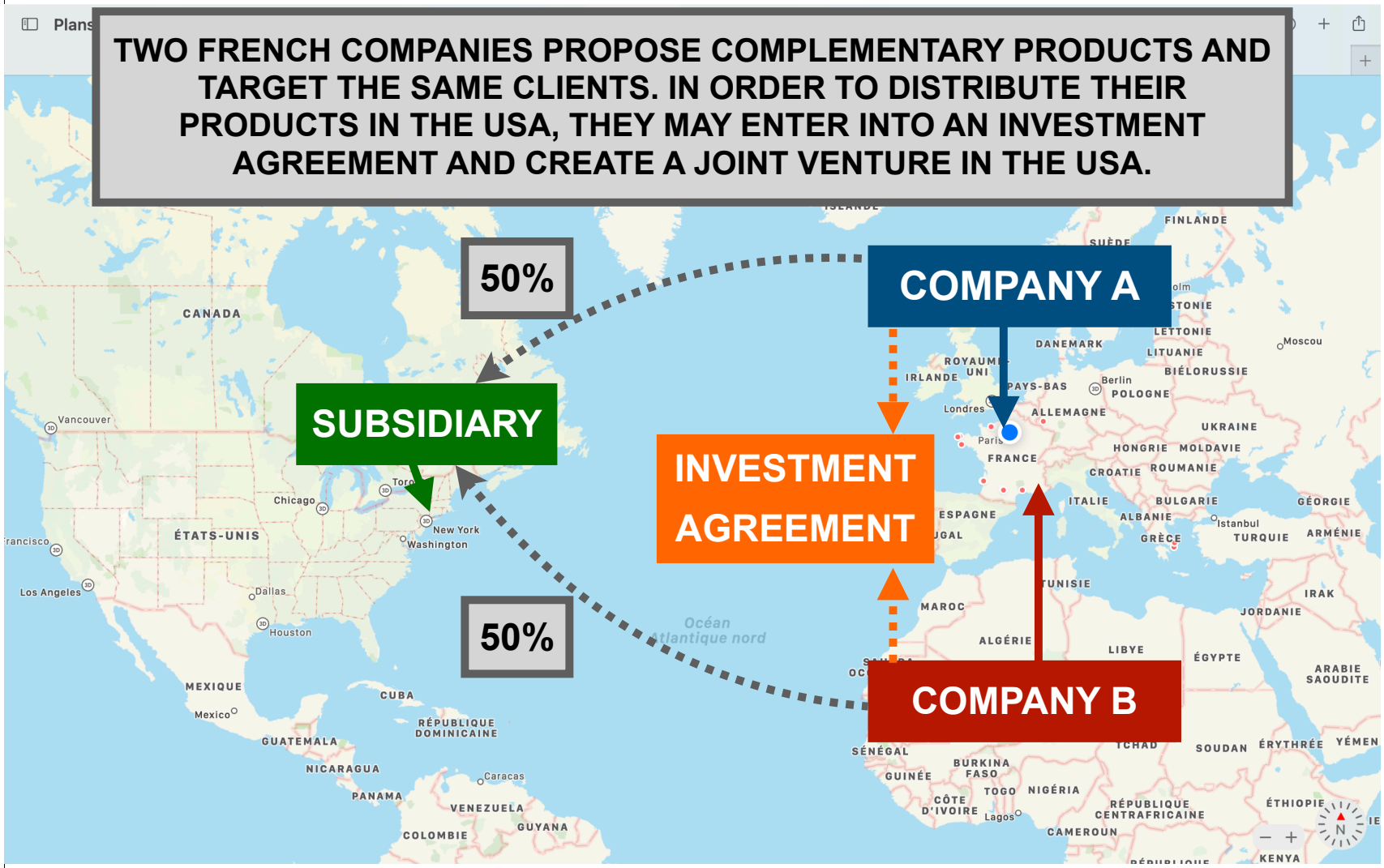
CROSS-BORDER MERGER



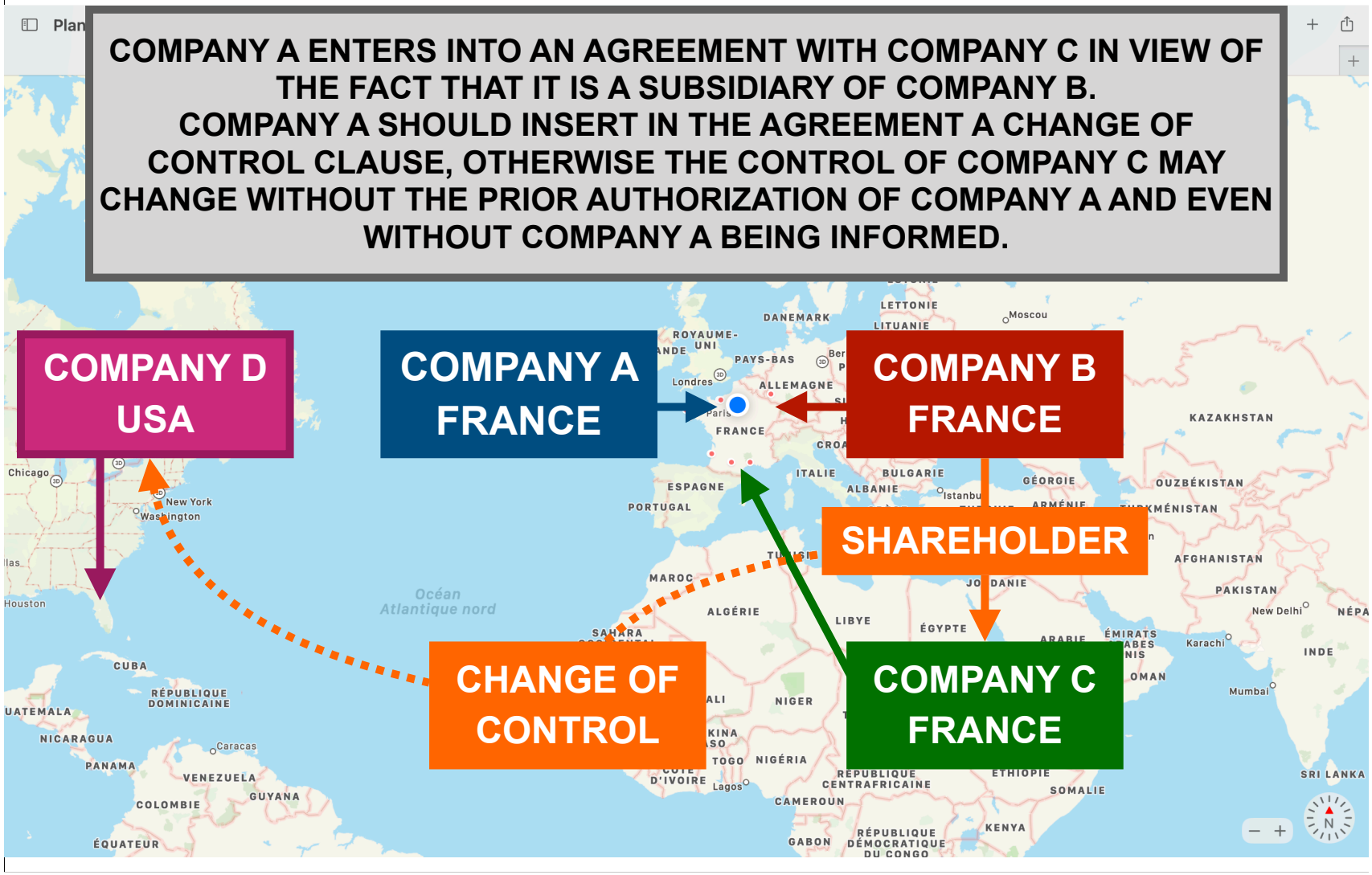
CROSS-BORDER MERGER



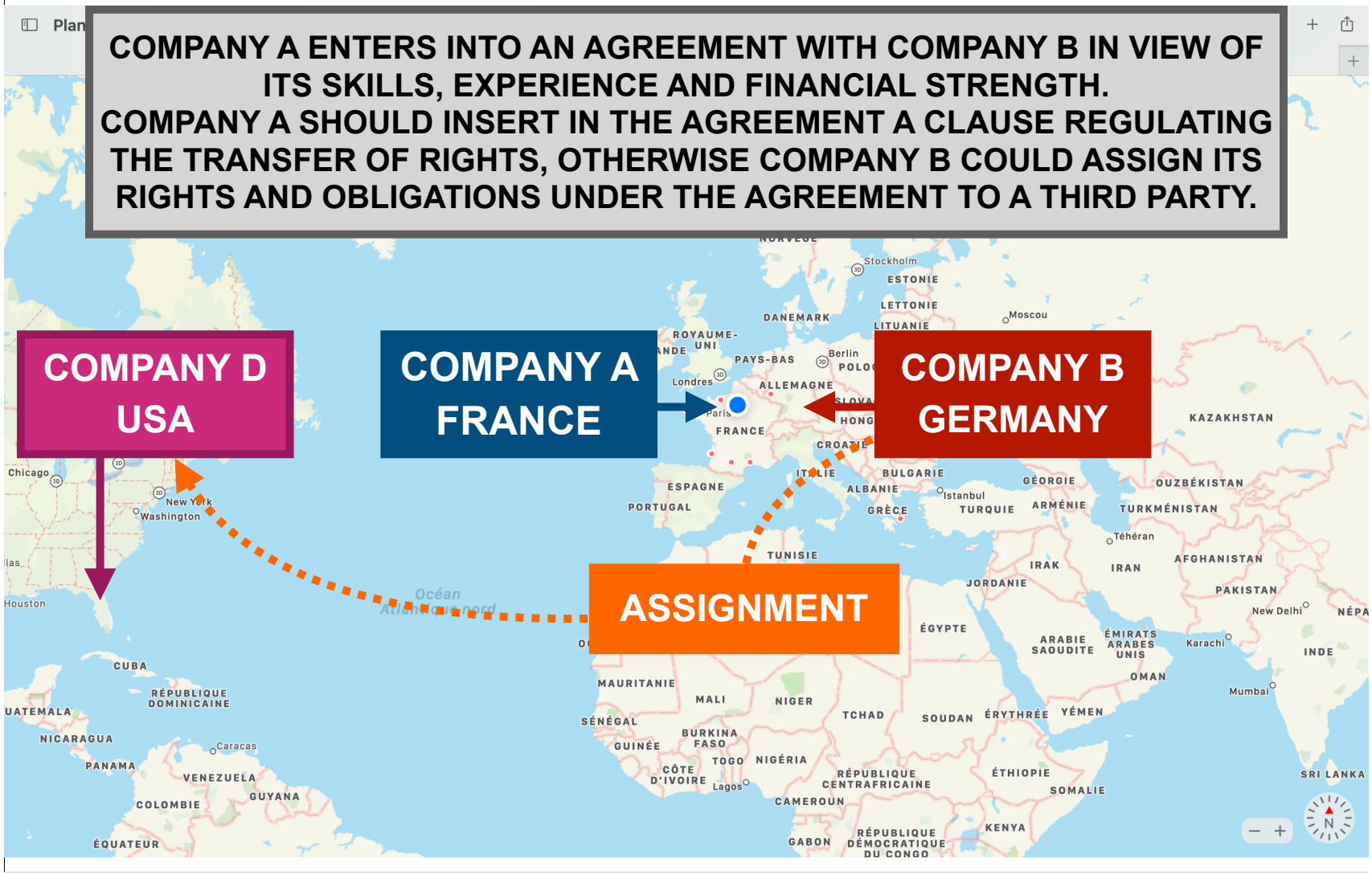
AGREEMENT / JOINT VENTURE



CHANGE OF CONTROL



ASSIGNMENT / TRANSFER OF RIGHTS



RISK MANAGEMENT

RISKS

CORRUPTION
MONEY LAUNDERING
TAX EVASION
TERRORIST FINANCING
ORGANISED CRIME
BOYCOTT

THEFT
FRAUD
CRIMES, OFFENCES
BLACKMAIL
COMPUTER ATTACK
LEAK OF CONFIDENTIAL INFORMATION
DATA LEAKAGE
REPUTATIONAL DAMAGE

CHILD LABOUR AND FORCED LABOUR
ILLEGAL WORK



STRIKES
DEMONSTRATIONS
RIOTS

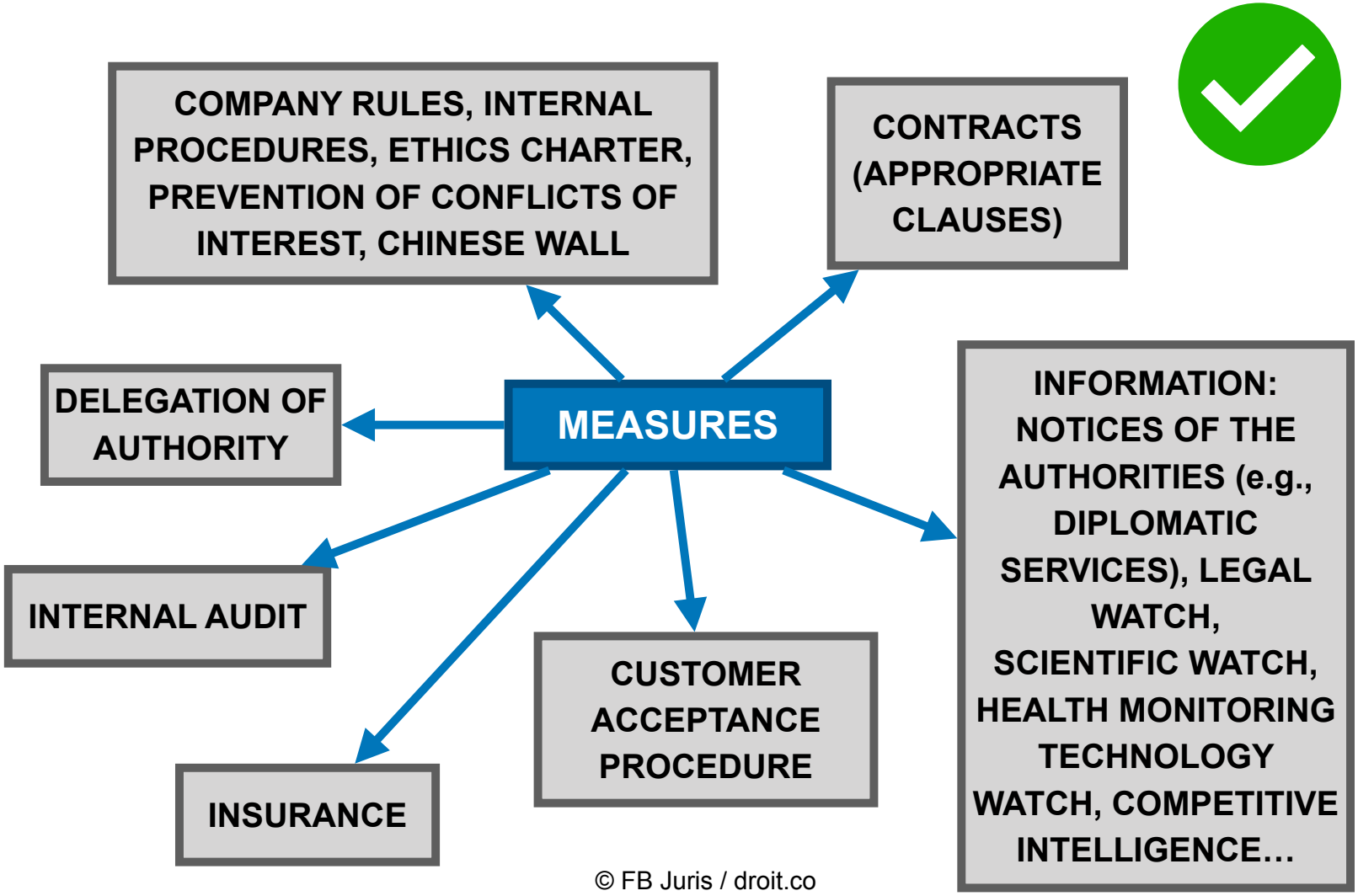
TERRORISM
CIVIL WAR
WAR

NATURAL DISASTERS / VIRUSES

PROHIBITED ACTIVITIES
REGULATED ACTIVITIES
HAZARDOUS PRODUCT
ACCIDENTS / INJURY / DAMAGES
ENVIRONMENTAL DAMAGES

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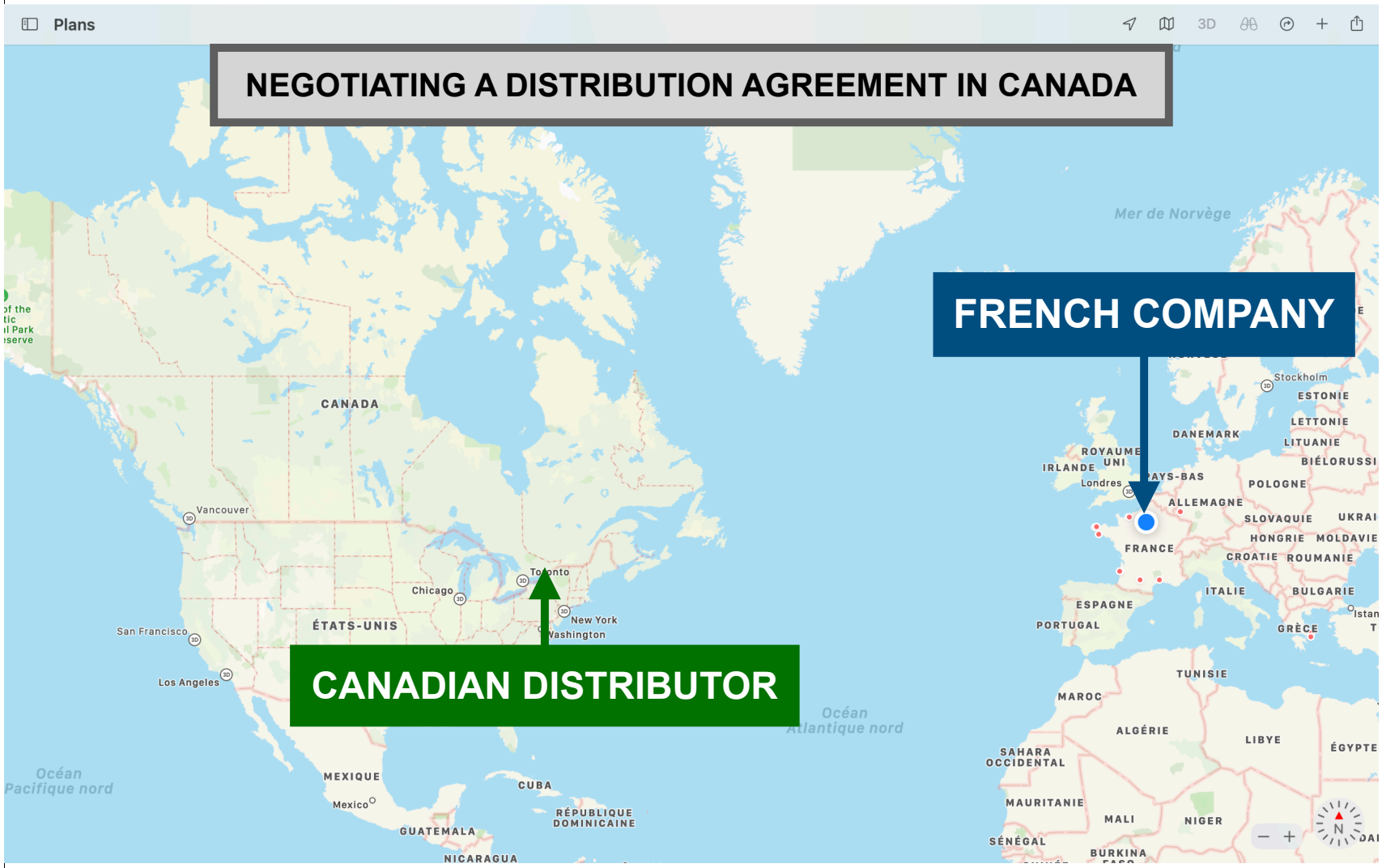
CONTROLLING THE RISKS



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PRACTICAL CASES

PRACTICAL CASE



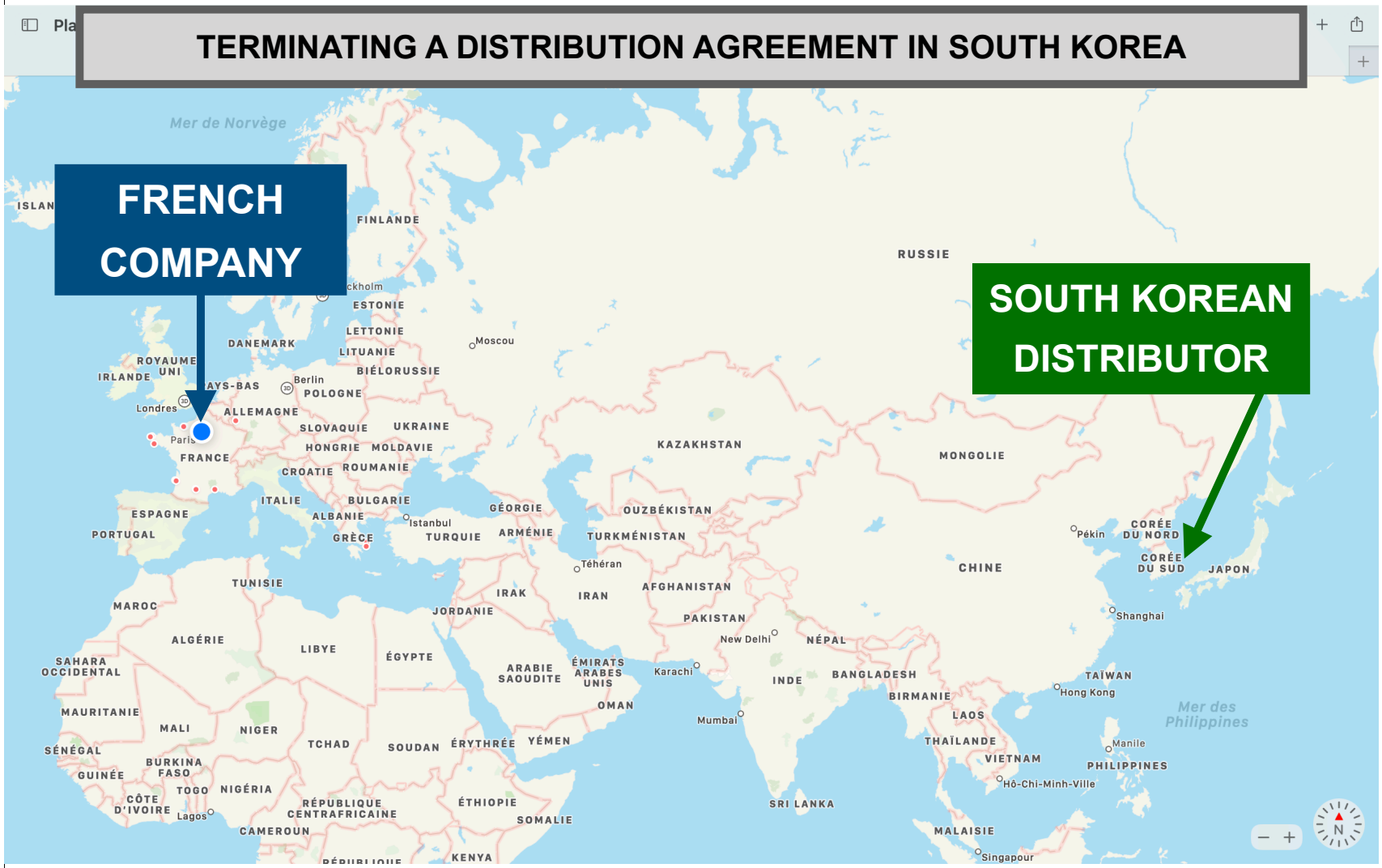
PRACTICAL CASE



PRACTICAL CASE



PRACTICAL CASE



PRACTICAL CASE



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