

# EM STRASBOURG: IMPORT – EXPORT

## PRACTICAL CASES

### ROME I REGULATION: art. 1 - 4

1. A German Seller and an Austrian Purchaser concluded an international contract of sales of goods in 2015. The contract did not contain a clause of jurisdiction. In 2022 a dispute arose between the parties and the Austrian company signed a contractual document according exclusive jurisdiction to the German Courts at the Seller's seat. In January 2023 the Austrian party is sued before German Courts but challenges the material validity of the choice of jurisdiction since the Austrian party asserts having been forced by the German Seller to accept this choice given that the German Seller threatened to stop any further orders without this document being signed. How to appreciate the material validity of the choice of jurisdiction?
2. A Swedish company and a Danish company intend to conclude an international contract of sales of goods and would like to submit any questions related to the formation of the contract to Swedish law and all the remaining questions to Danish law. Is such a clause valid under art. 3 Rome I Regulation?
3. Two German companies intend to choose Swiss law for their domestic contract of sales of goods in order to avoid German overriding provisions that cannot be derogated contractually. Is such a clause valid?
4. A German company (manufacturer) and a French company (distributor) conclude an international contract of distribution specifying that the French distributor shall promote and sale the products to French B2B customers.

a) The distribution contract does not contain any clause of choice of the applicable law. Which national law is applicable to the distribution contract?

b) In order to execute the distribution contract several individual contracts of sale goods are concluded between the German company (Seller) and the French company (Purchaser). These contracts of sales of goods do not contain a clause of choice of law but exclude CISG. Which national law is applicable to these contracts?

5. A German Seller makes an offer to a French Purchaser and refers in the offer to its own General Terms and Conditions (GTC) of sale which contain a contractual clause choosing German law with the exclusion of CISG. The French Purchaser accepts the offer without making reference to its own GTC. Which national law applies to the contract of sales of goods?
6. A German Seller makes an offer to a French Purchaser and refers in the offer to its own General Terms and Conditions (GTC) of sale which contain a contractual clause choosing German law with the exclusion of CISG. The French Purchaser accepts the offer but with the reference made to its own GTC of purchase which foresee the choice of French law with the exclusion of CISG. Which national law applies to the contract of sales of goods?
7. A Portuguese Seller and a German Purchaser conclude an international contract of sales of goods. The contract does not contain a clause of choice of law but gives exclusive jurisdiction to German Courts. According to the contract, the products that are destined for the German market shall meet with the technical and security standards of Germany. The whole correspondence of the parties has been made in German language and the contract also has solely been drafted in German. Which national law shall reasonably apply to this contract?

8. A German company sells a roller coaster to a Spanish company that owns a leisure park near to Tarragona (Spain). The Spanish company resells the roller coaster to a Portuguese company where a severe accident happens. The Portuguese company sues the German Manufacturer on the legal ground of product liability. The roller coaster has solely been admitted by German and Spanish technical supervisory authority and the Spanish company was not entitled to resell it to a company established outside of Spain without the prior written approval of the German Seller. Which national law applies to the product liability claim?