Universität Zürich[UZH]

Rechtswissenschaftliche Fakultät

Introduction to Swiss Civil Procedure

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Fall Semester 2026



https://www.bger.ch/index/contact/contact-inherit-template/contact-federal-besuch/contact-federal-virtual-tour.htm

Topics

1. Court organisation
2. Legislation on civil procedure
3. Judges and lawyers
4. Jurisdiction
5. Proceedings
6. Judgement
7. Appeals
8. Enforcement

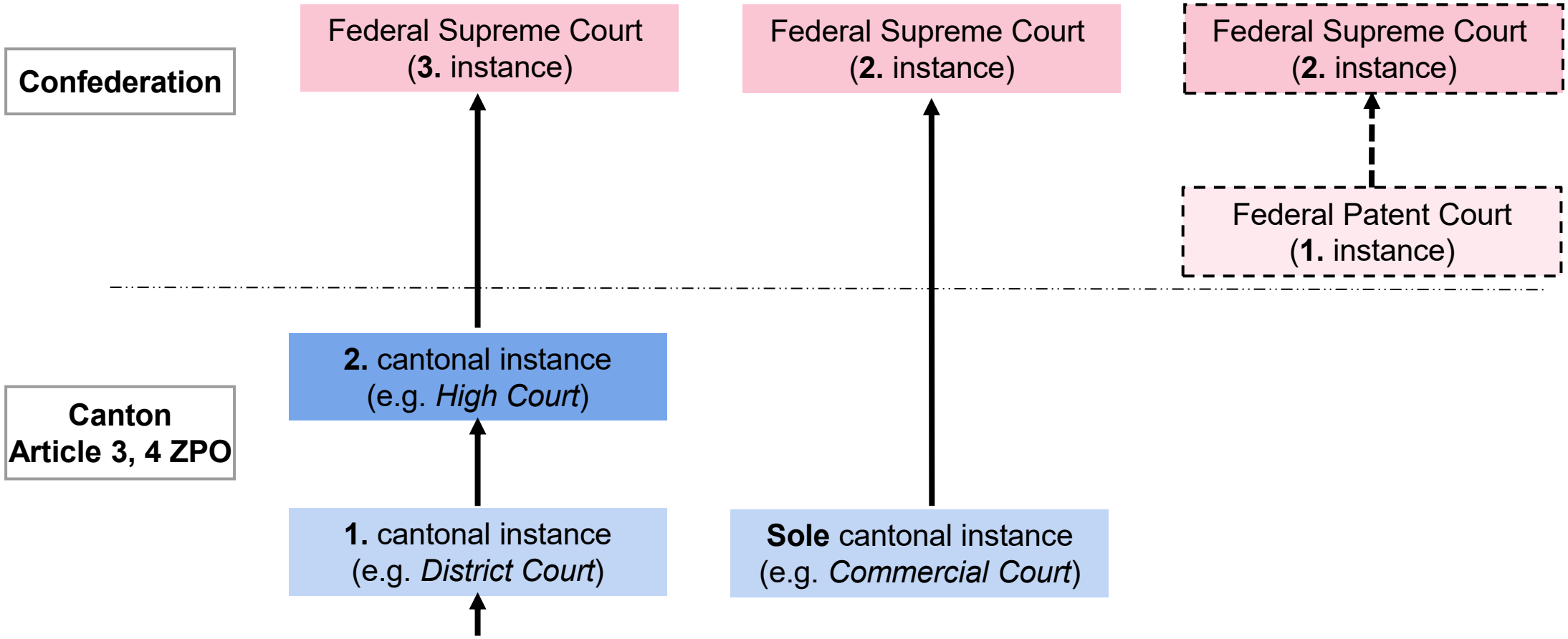
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Court Organisation

Court Organisation: Confederation and Cantons



Court Organisation: Cantonal and federal level



Cantonal courts – diversity…



Kantonsgericht Freiburg

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)



Cantonal courts – diversity…



Tribunal régional du Littoral et du Val-de-Travers, Neuenburg

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)





Cantonal courts – diversity…





Regionalgericht
Imboden, Domat/Ems

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)

Cantonal courts – diversity…





Pretura di Lugano

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)

Cantonal courts – diversity…

Kantonsgericht Zug

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)





Cantonal courts – diversity…

Bezirksgericht Baden

(Source: Bohnet/Ferrara, Tribunaux civils suisse – Schweizer Zivilgerichte, Un voyage dans l'architecture judiciaire civile suisse – Ein architektonischer Streifzug durch die schweizerischen Zivilgerichte, Basel 2023)



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Legislation on civil procedure

Legislation: Past (until 31.12.2010)

Vertical fragmentation of law

EMRK, Cst., Treaties

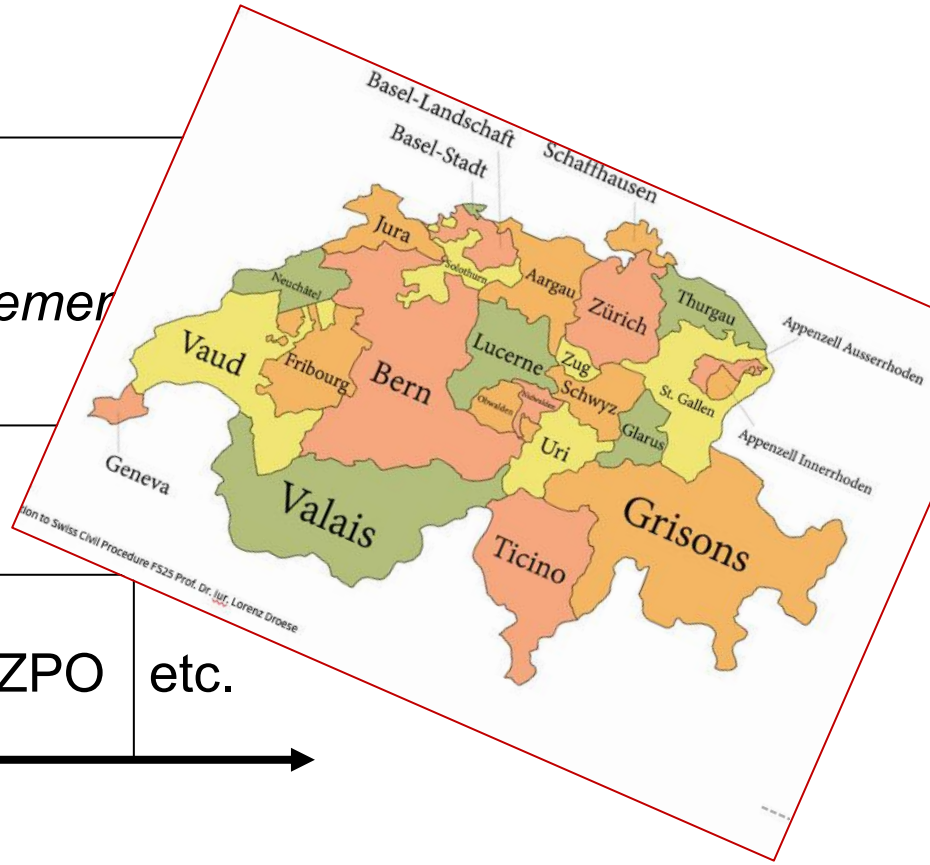
Written federal law with civil procedural content
z.B. GestG, OR 343, (SchKG, IPRG)

Unwritten federal law with civil procedural content
e.g. action by stages, interest in a declaratory judgemer
substantive res judicata

Intercantonal law *e.g. KVZ, KSG*

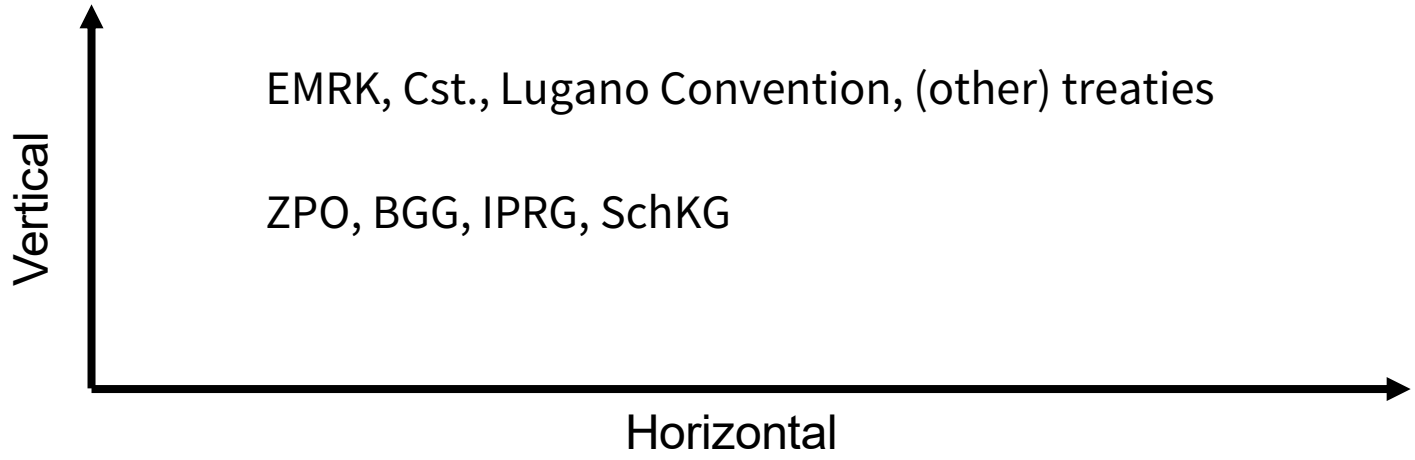
LU ZPO	BS ZPO	ZH ZPO	ZG ZPO	GE ZPO	TI ZPO	etc.

Horizontal fragmentation of law



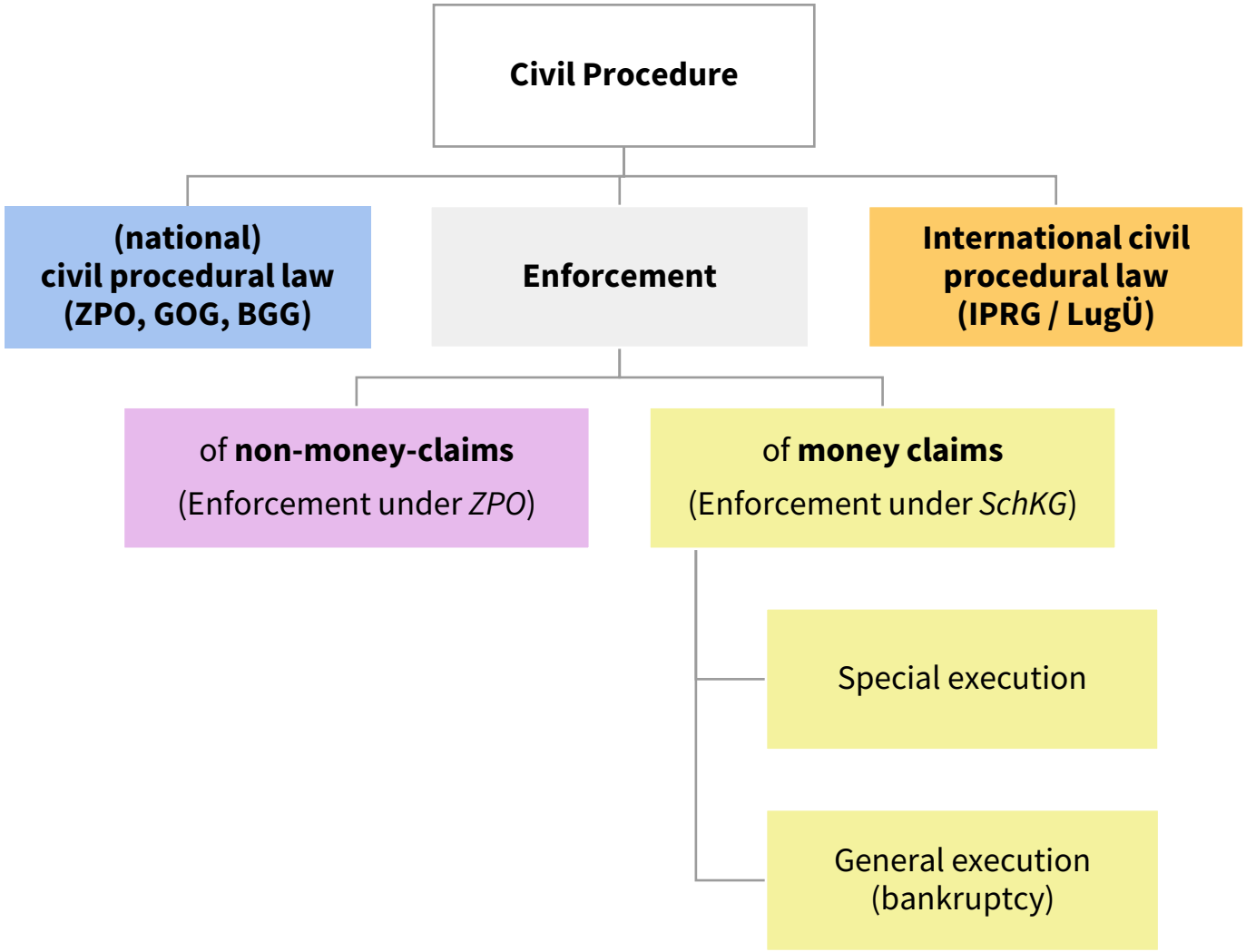
Legislation: Present (since 01.01.2011)

- Treaties, Constitution, Federal Acts

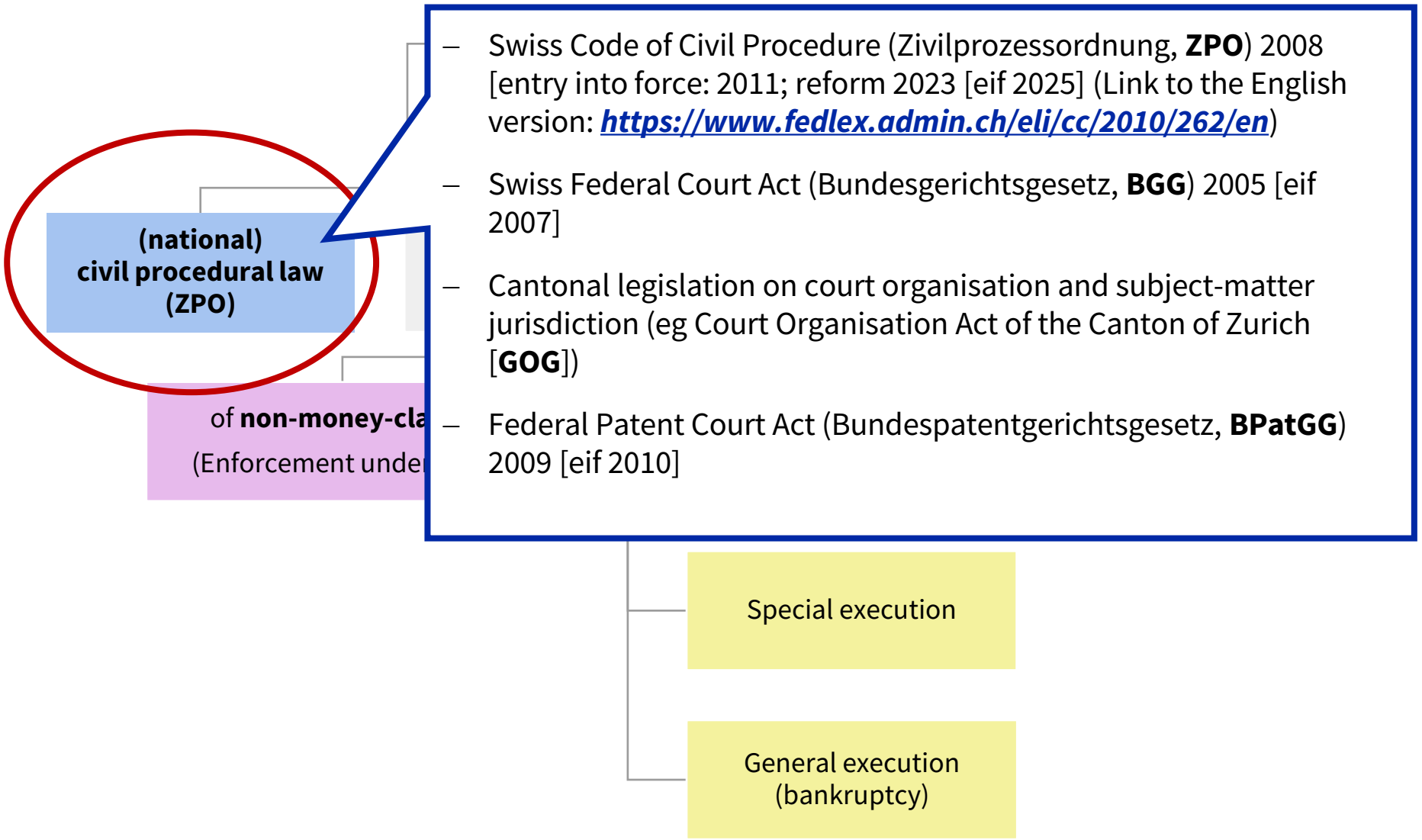


- Cantonal legislation
  - Court organisation / subject-matter jurisdiction→ GOG ZH (211.1)
  - Procedural costs → GebV OG ZH (211.11), AnwGebV ZH (215.3)
    → cf. however, Art. 95 et seq. ZPO!
  - Organisation debt enforcement and bankruptcy authorities→ EG SchKG ZH (281)

Legislation: Overview

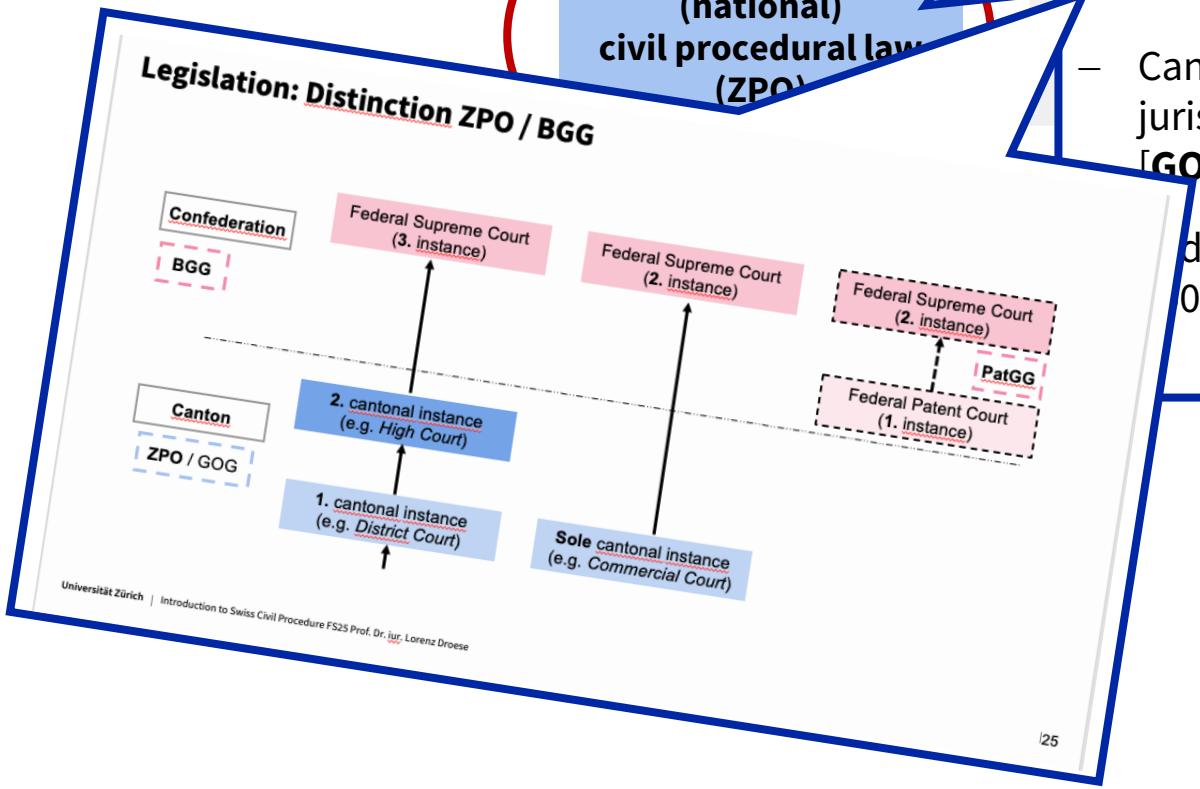


Legislation: Domestic matters



Legislation: Domestic matters

(national) civil procedural law (ZPO)

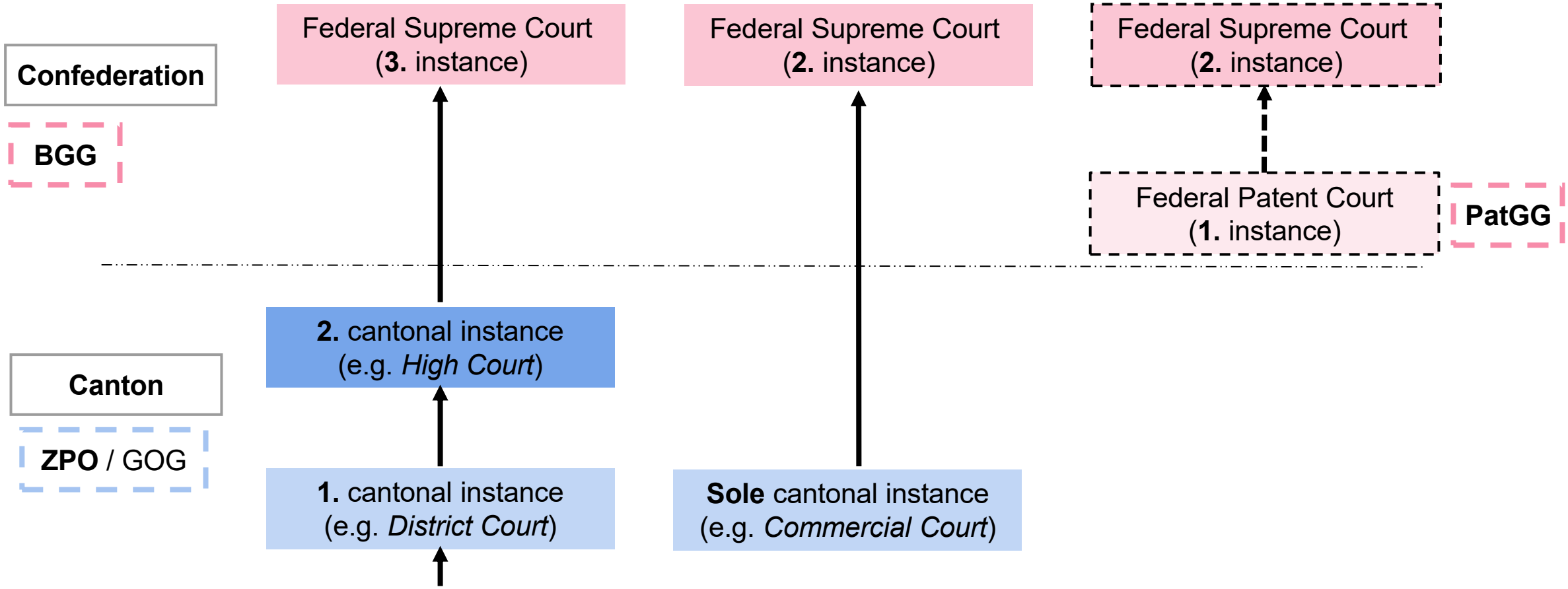


- Swiss Code of Civil Procedure (Zivilprozessordnung, **ZPO**) 2008 [entry into force: 2011; reform 2023 [eif 2025] (Link to the English version: ***https://www.fedlex.admin.ch/eli/cc/2010/262/en***)
- Swiss Federal Court Act (Bundesgerichtsgesetz, **BGG**) 2005 [eif 2007]
- Cantonal legislation on court organisation and subject-matter jurisdiction (eg Court Organisation Act of the Canton of Zurich [**GOG**])
- deral Patent Court Act (Bundespatentgerichtsgesetz, **BPatGG**) 09 [eif 2010]

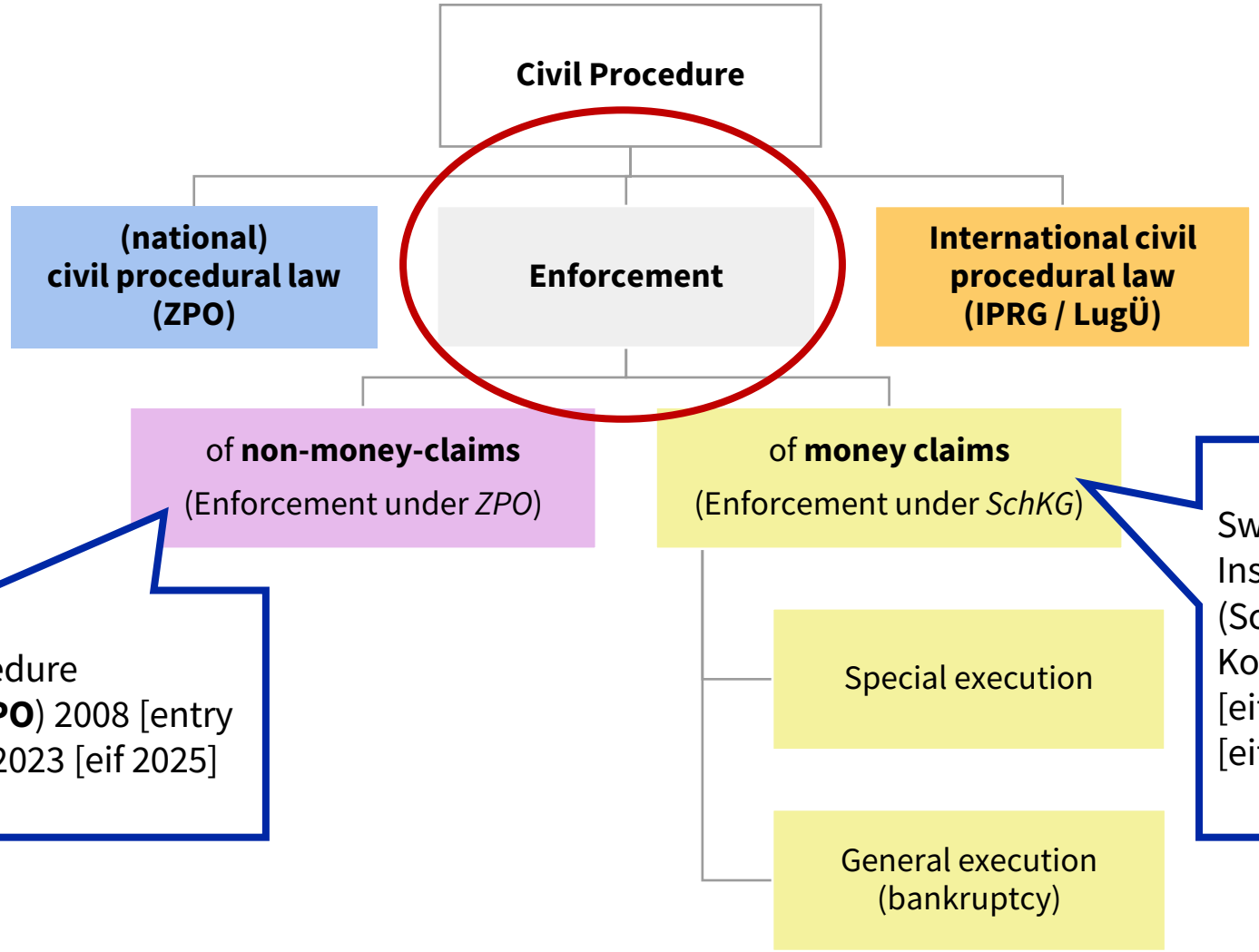
Special execution

General execution (bankruptcy)

Legislation: Domestic matters



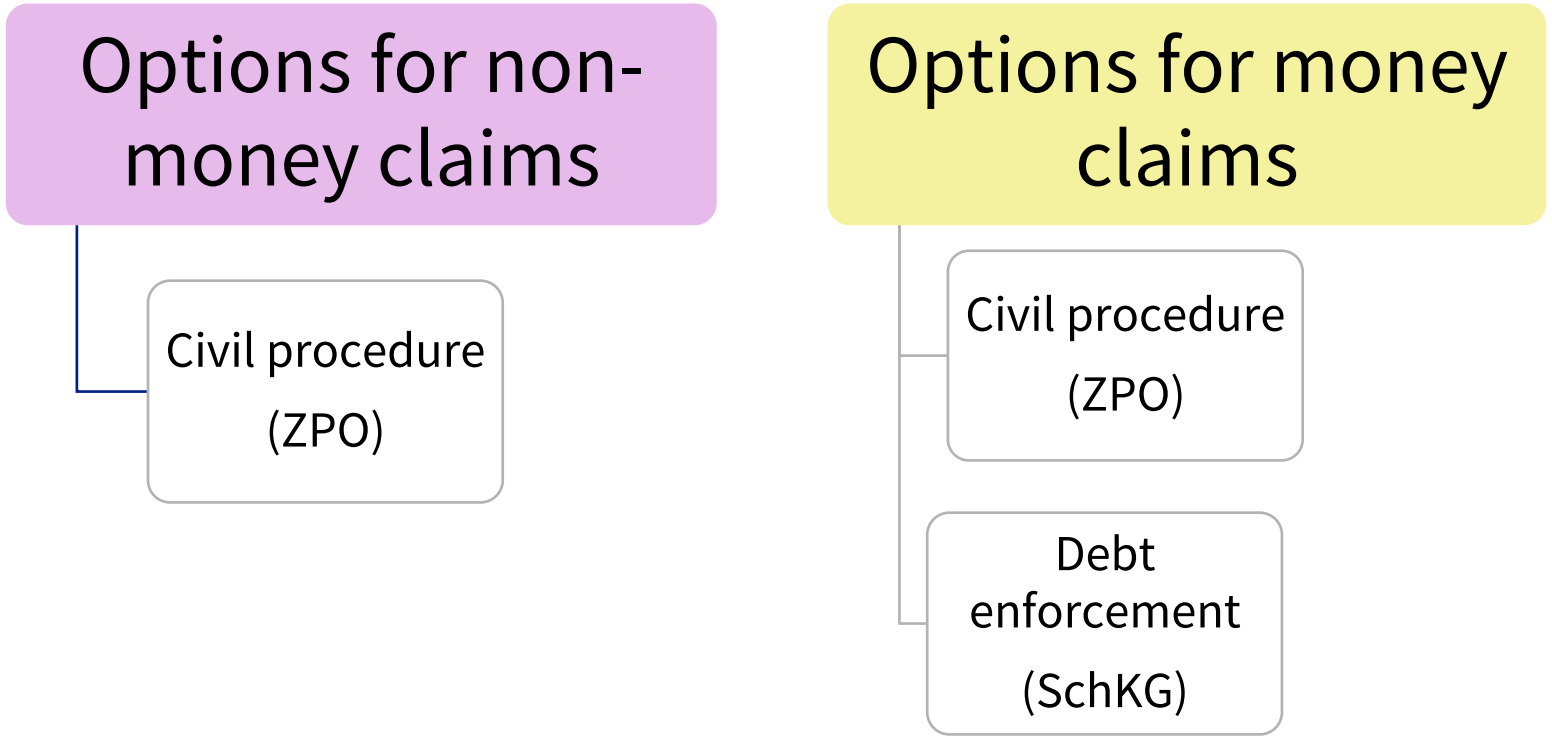
Legislation: Enforcement



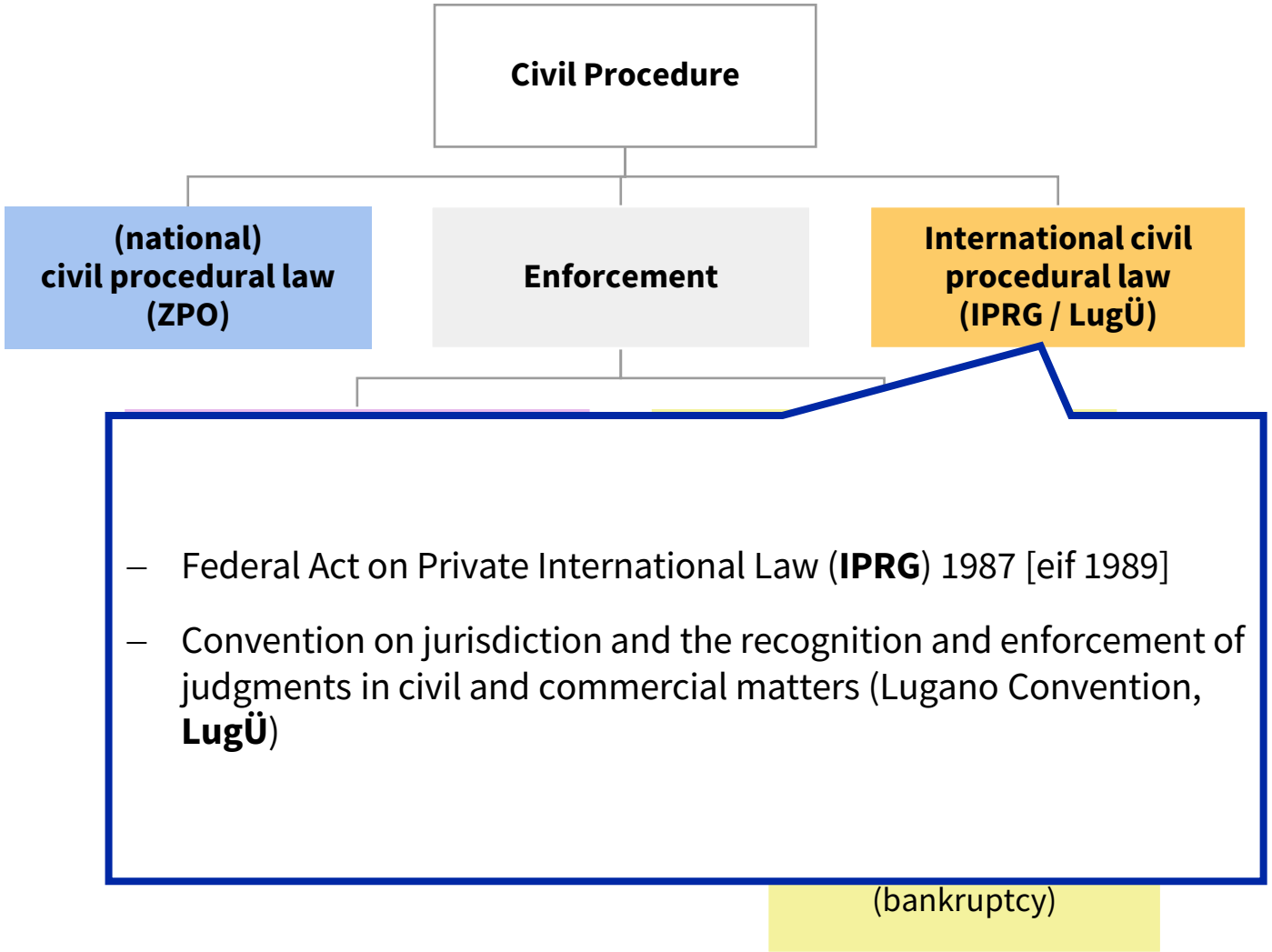
Swiss Code of Civil Procedure (Zivilprozessordnung, **ZPO**) 2008 [entry into force: 2011; reform 2023 [eif 2025]

Swiss Debt Enforcement and Insolvency Act (Schuldbetreibungs- und Konkursgesetz, **SchKG**) 1889 [eif 1892] / major reform 1994 [eif 1997]

Legislation: Enforcement

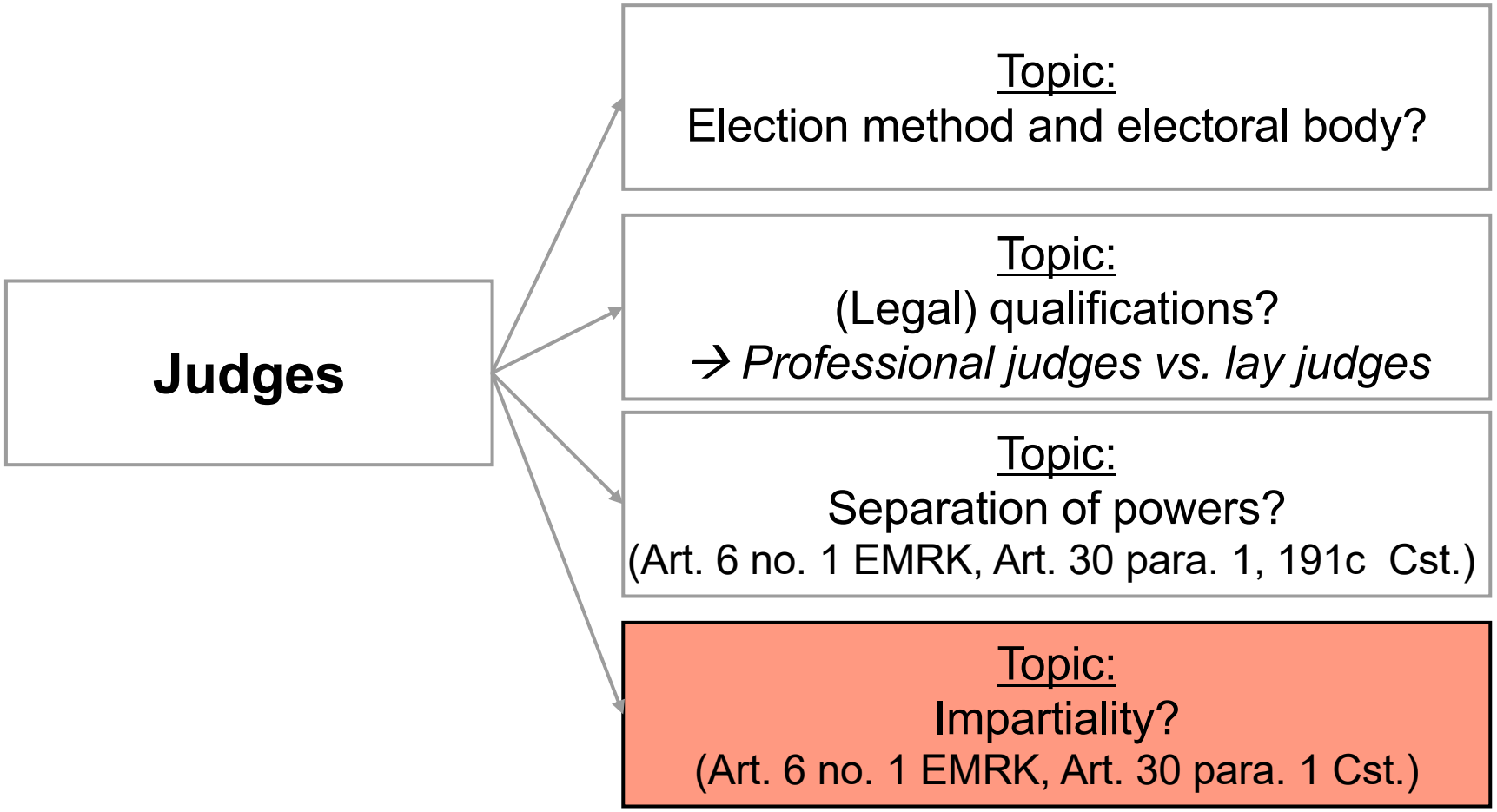


Legislation: International matters



Judges and Lawyers

Swiss *judges*



Swiss *lawyers*

- **Federal Act on the Free Movement of Lawyers (Bundesgesetz über die Freizügigkeit der Anwältinnen und Anwälte, BGFA)**
- **Cantonal rules on bar admission (within a federal framework)**
- **No requirement to be represented by a lawyer in civil proceedings**
- **Professional representation before courts: lawyers' monopoly**
- **Federal Court: representation only by lawyers (but litigants in person also admitted)**

Jurisdiction

Jurisdiction

Jurisdiction(s)

international

„Where?“

Which country‘s courts have jurisdiction?

e.g.
Switzerland or Germany?

→ ***LugÜ, IPRG***

territorial

„Where?“

The courts in which location are competent?

e.g.
Lucerne, Zurich or New York?

→ ***LugÜ, IPRG, ZPO, SchKG***

subject-matter

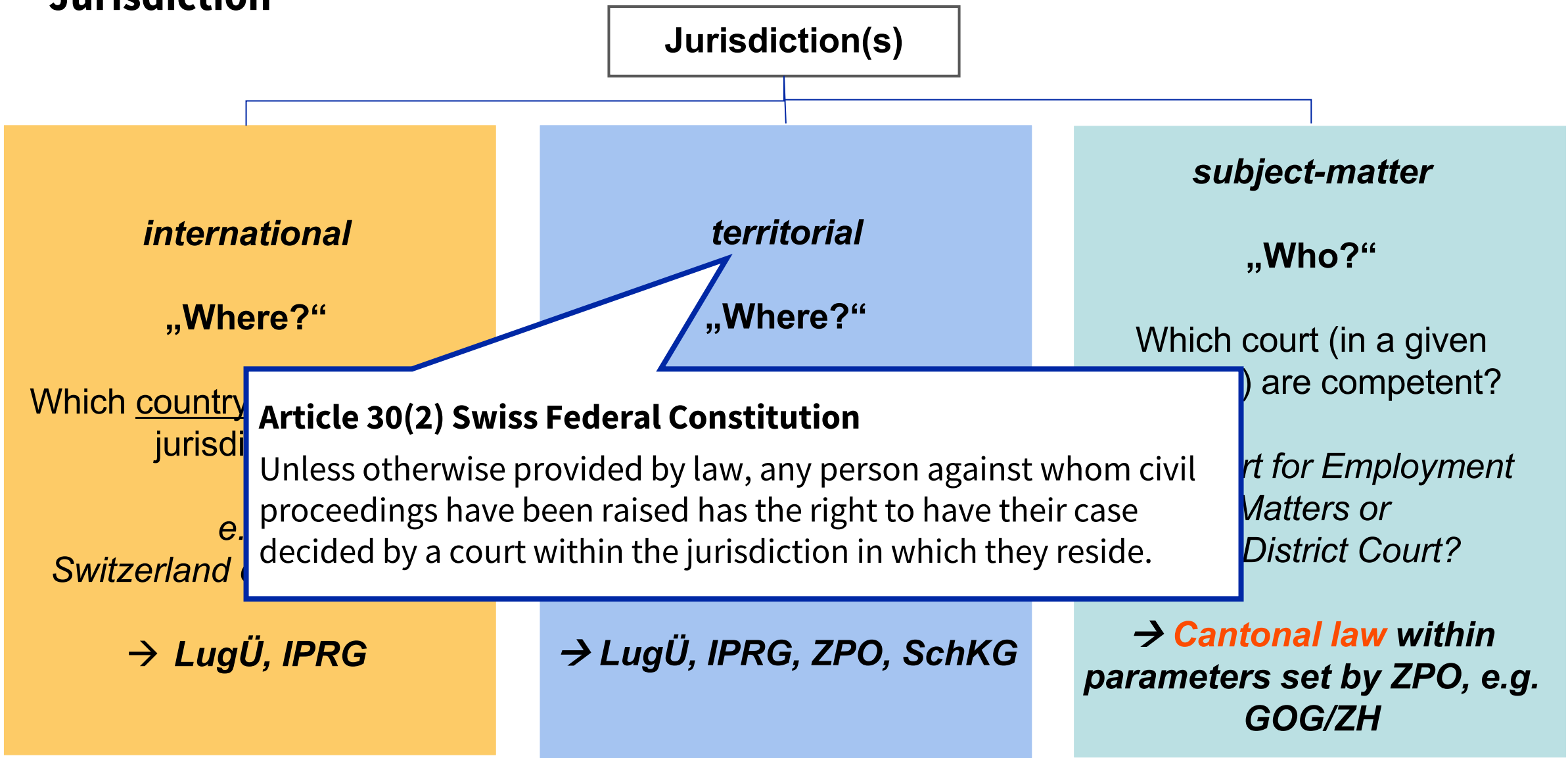
„Who?“

Which court (in a given location) are competent?

e.g. Court for Employment Matters or
oder District Court?

→ ***Cantonal law within parameters set by ZPO, e.g. GOG/ZH***

Jurisdiction

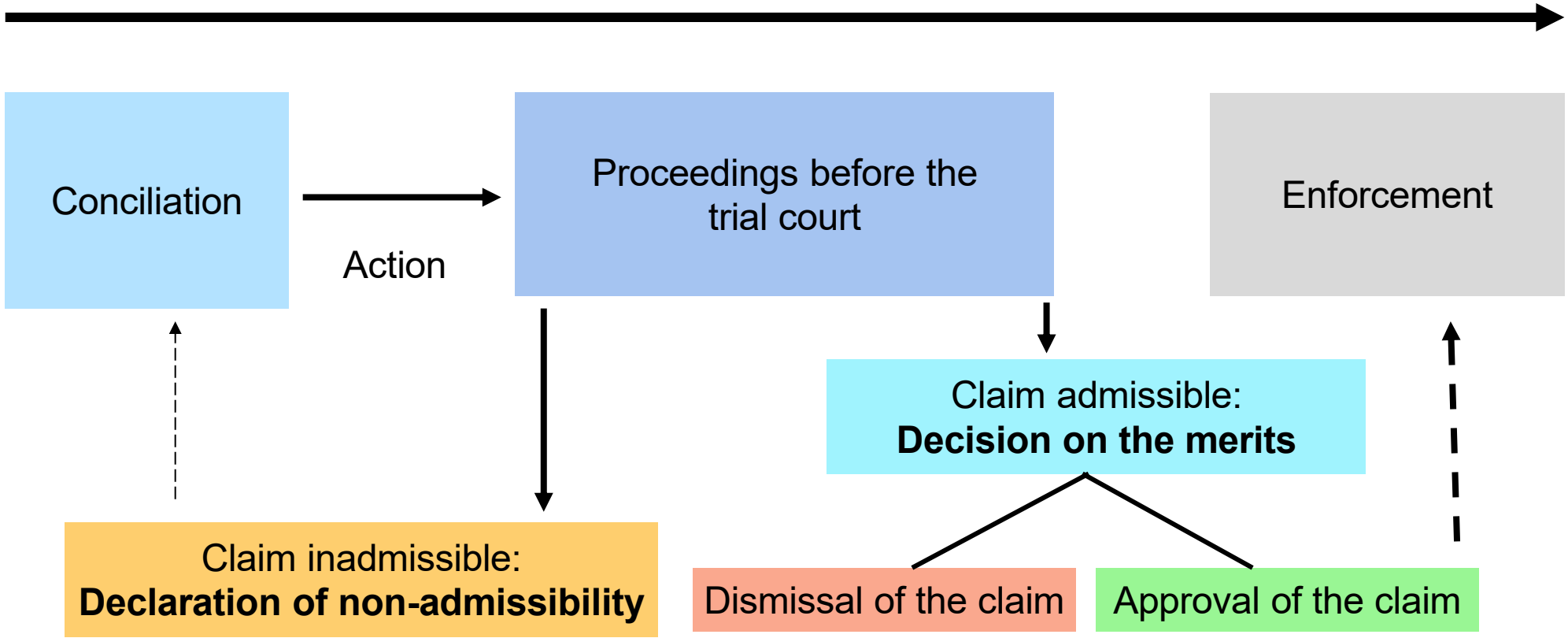




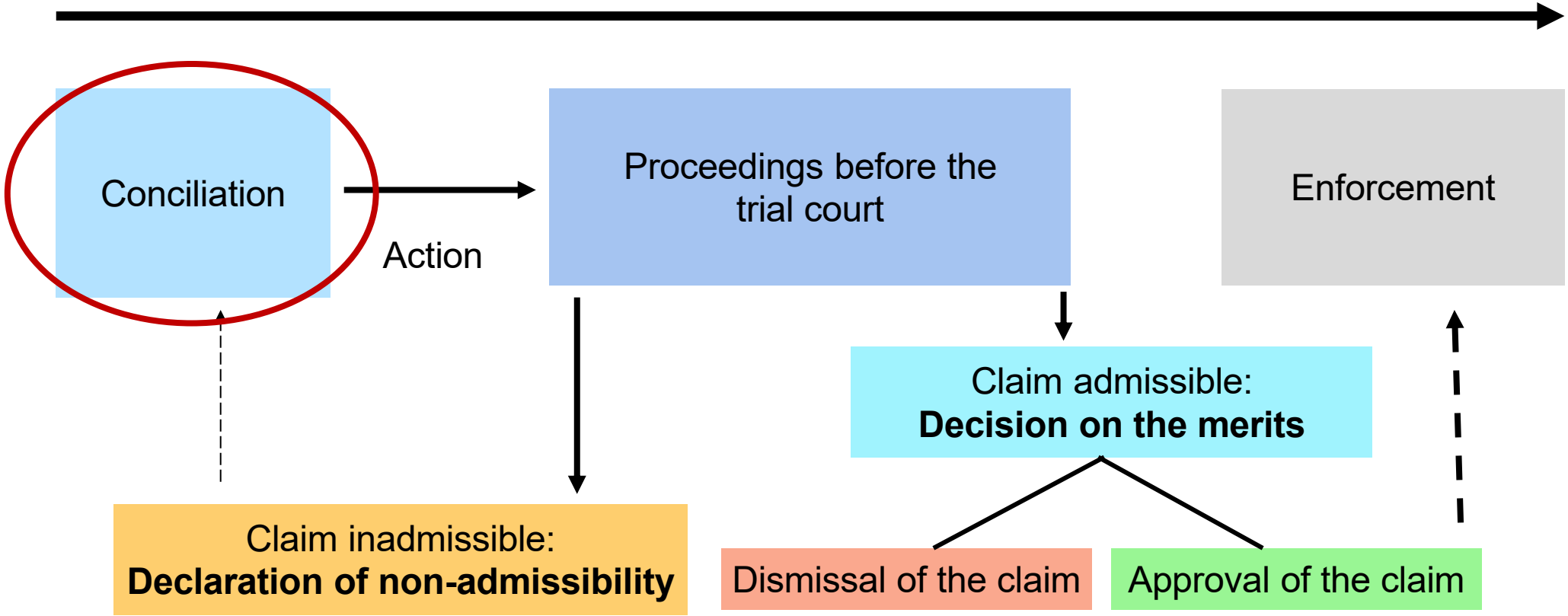
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Proceedings

Proceedings: Stages



Proceedings: Mandatory conciliation



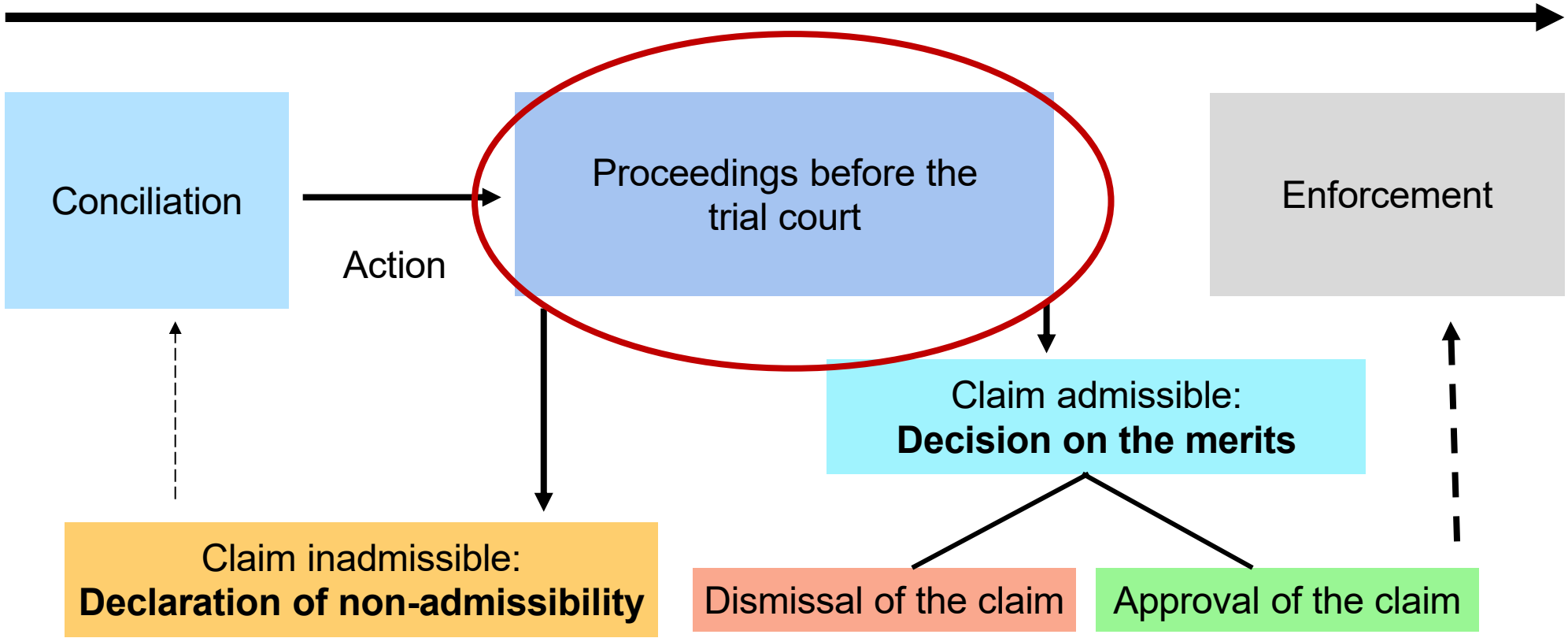
Proceedings: Mandatory conciliation

- Principle: mandatory pre-trial conciliation (with exceptions)
- More than 50% of cases settled at conciliation stage
  - ➢ & large percentage of money claims filtered out through enforcement proceedings without prior judgement
- Cantonal rules on organisation of conciliation authority
  (court, justice of the peace, specialised administrative authority)
- Alternative (to conciliation hearing): mediation (rarely used)

Proceedings: Mandatory conciliation

- dismissal for groundlessness (plaintiff's default)
- settlement, acceptance, withdrawal
  - ➢ same effect as binding judgement
- authorisation to proceed (*Klagebewilligung*)
  - ➢ case may be brought before court within 3 months (no automatic initiation of court proceedings!)
- judgement (*Entscheid*)
  - up to 2000 CHF
  - claimant's request; discretion of conciliation authority
- proposed judgement (*Entscheidvorschlag*)
  - up to 10'000 CHF (gender equality/tenancy: no upper limit)

Proceedings: Proceedings before the trial court



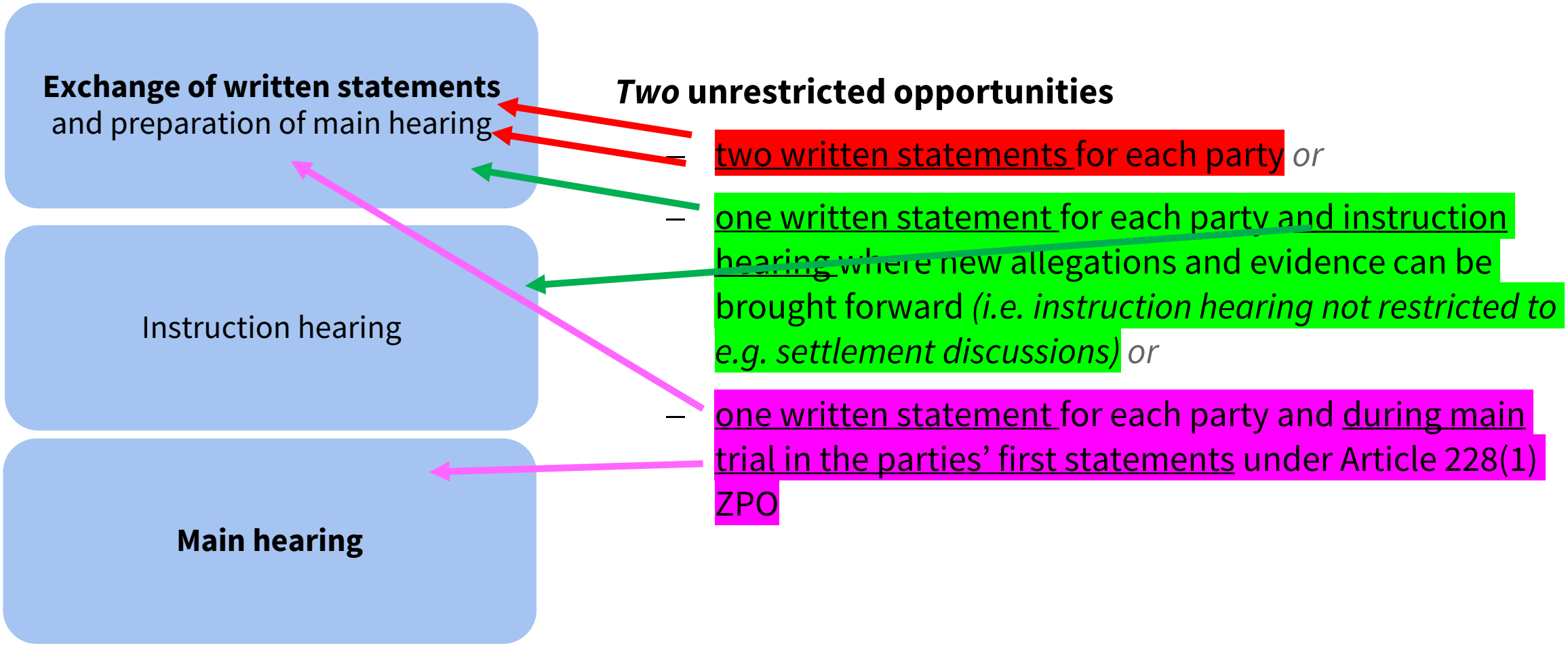
Proceedings before the trial court – Overview

- Ordinary procedure (*ordentliches Verfahren*)
  - claims over CHF 30'000 / claims without monetary value
  - often dominated by written elements
  - emphasis on formalities, strict party responsibility, *de facto* (but not *de iure*) necessity of representation by lawyer
- Simplified procedure (*vereinfachtes Verfahren*)
  - claims up to CHF 30'000 (some types of claims regardless of value)
  - less formal, more orality, more judicial involvement
- Summary procedure (*summarisches Verfahren*)
- Special procedures in family law matters

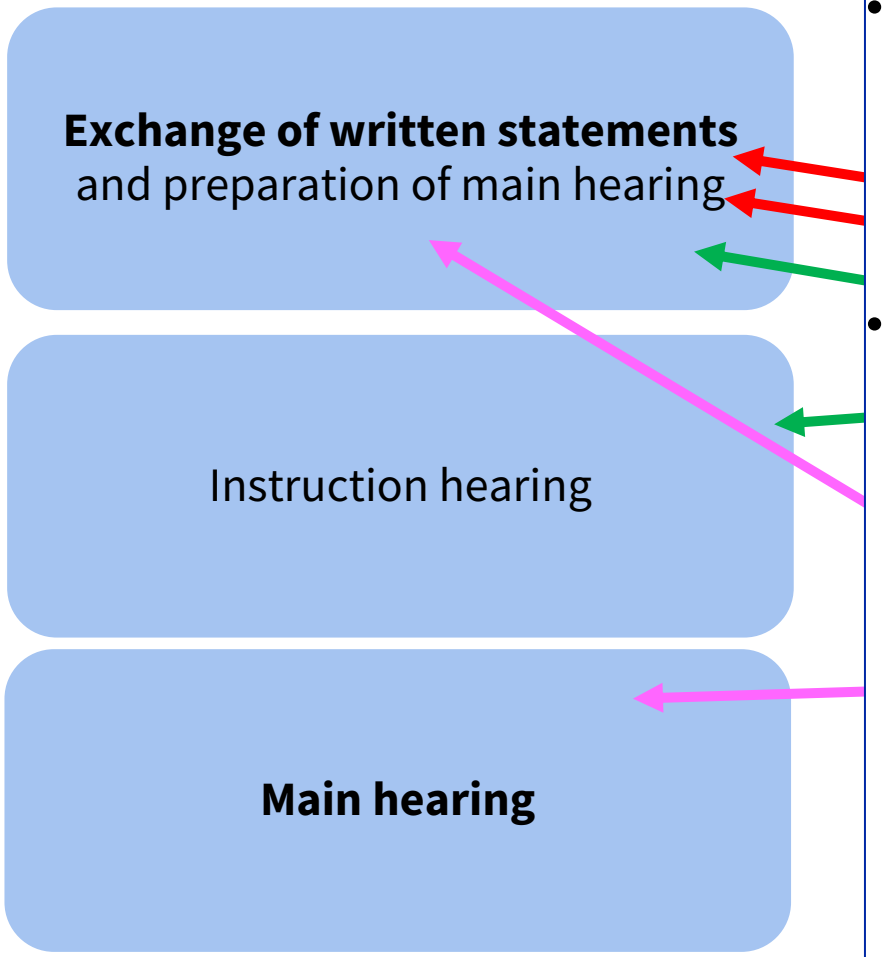
Proceedings before the trial court – Structure of ordinary proceedings

Exchange of written statements and preparation of main hearing	• **Statement of claim (ZPO 220 et seq.)** • **Statement of defence [if applicable with counterclaim] (ZPO 222-224)** • **if ordered by court: replication [*Replik*], rejoinder [*Duplik*]**
Instruction hearing	• **At court‘s discretion** • **ZPO 226**
Main hearing	• **New factual allegations and evidence (ZPO 229)** • **Opening party submissions (ZPO 228)** • **Taking of evidence (ZPO 150 et seq.; ZPO 231)** • **Closing submissions (ZPO 232)** • **Waiver by parties possible**

Proceedings before the trial court – New factual allegations / evidence



Proceedings before the trial court – New factual allegations / evidence



Admissibility of late allegations (Article 229 para. 2, 2bis ZPO)

- What?
  - Newly-arising facts and evidence
  - pre-existing facts and evidence that could not have been introduced earlier despite reasonable diligence
- When?
  - new facts or evidence must be introduced within a deadline set by the court; in the absence of such a deadline, they must be introduced at the latest by the opening party submission in the main hearing in accordance with Article 228 para. 1 ZPO
  - Latest possibility for all new facts and evidence:
    - beginning of the deliberation of the judgement
    - where facts are established *ex officio:* until the beginning of the deliberation

Proceedings before the trial court – Relationship between the judge and the parties

- **Formal aspects** of proceedings (service of documents, scheduling hearings etc.): **responsibility of court** (Article 124 para. 1 ZPO)
- **Substantive case management?**
  - principle of party presentation (pleading of facts by the parties)
  - Court's duty to ask questions and give instructions (Article 56 ZPO) (scope disputed; courts often reluctant, in particular towards parties represented by lawyers)
  - taking evidence *ex officio* (powers broad in theory, but rarely used in practice)

Proceedings before the trial court – Evidence

- **Numerus clausus of types of evidence** (Art. 168 para. 1 ZPO: witness testimony, documents, inspection, court-appointed experts, written statements, party interrogation
- **Free evaluation of evidence** (Article 157 ZPO)
- **Duty to cooperate** and right to refuse (Article 160 et. seq. ZPO)
  – unjustified refusal *by party* taken into account when appraising evidence
  – unjustified refusal *by third party*: compulsion
- **Evidence obtained illegally** : Balancing of interests (Art. 152 para. 2 ZPO)

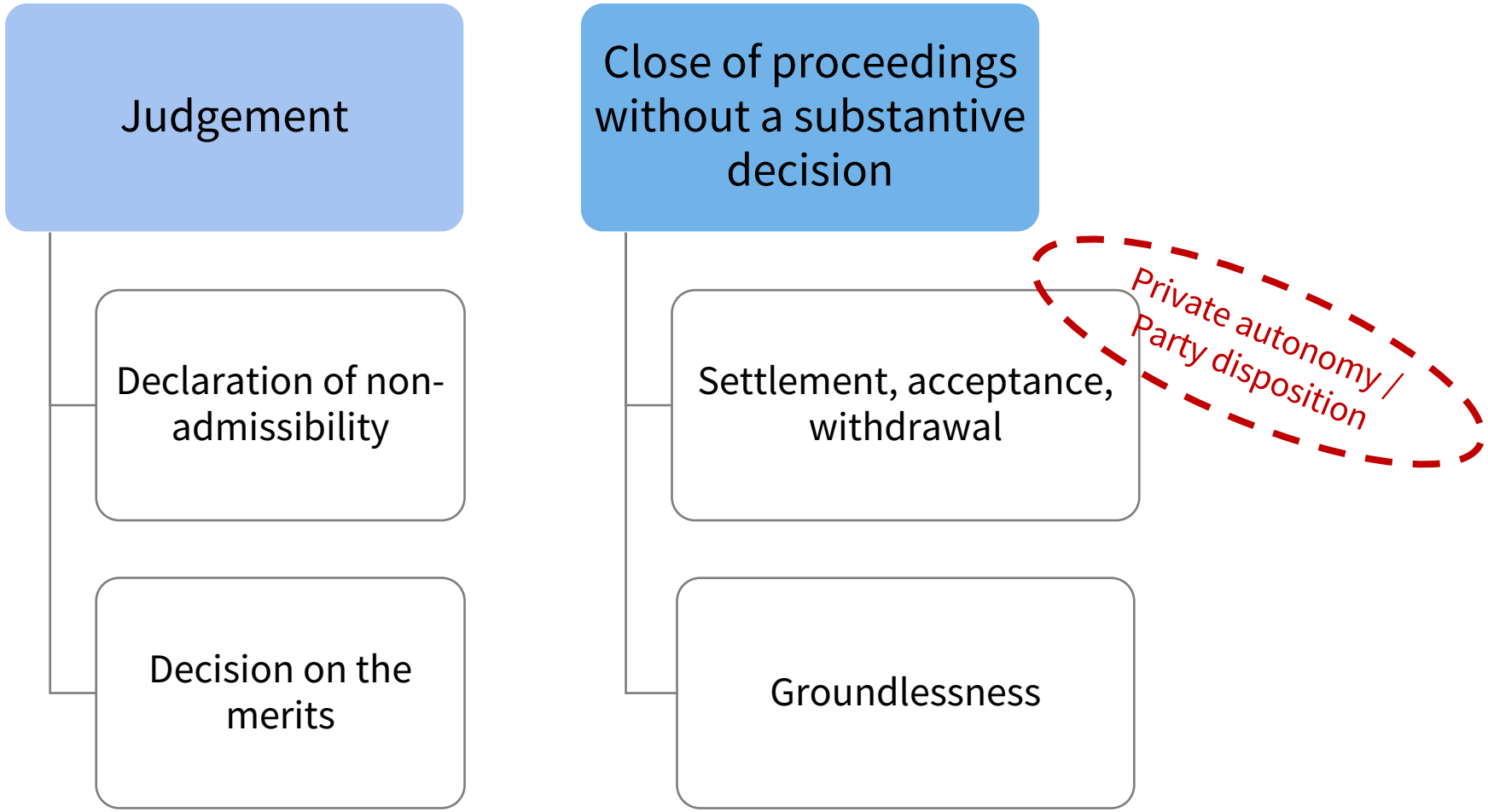
Main hearing

- **New factual allegati… …ence (ZPO 229)**
- **Opening party su… …sions (ZPO 228)**
- **Taking of evidence (ZPO 150 et seq.; ZPO 231)**
- **Closing submissions (ZPO 232)**
- **Waiver by parties possible**

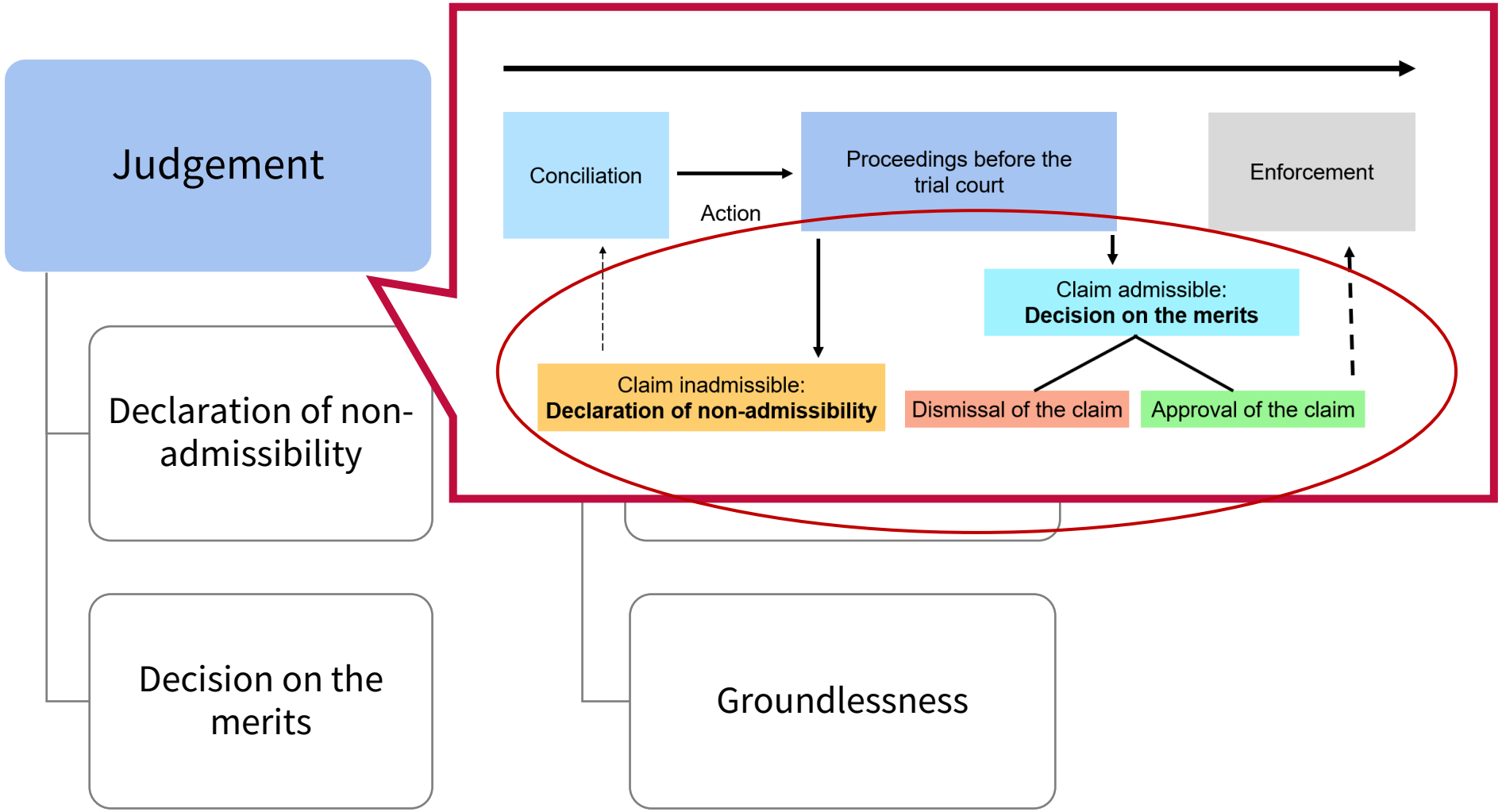
Judgement

and settlement, acceptance, withdrawal

Judgement: Close of proceedings



Judgement: Close of proceedings



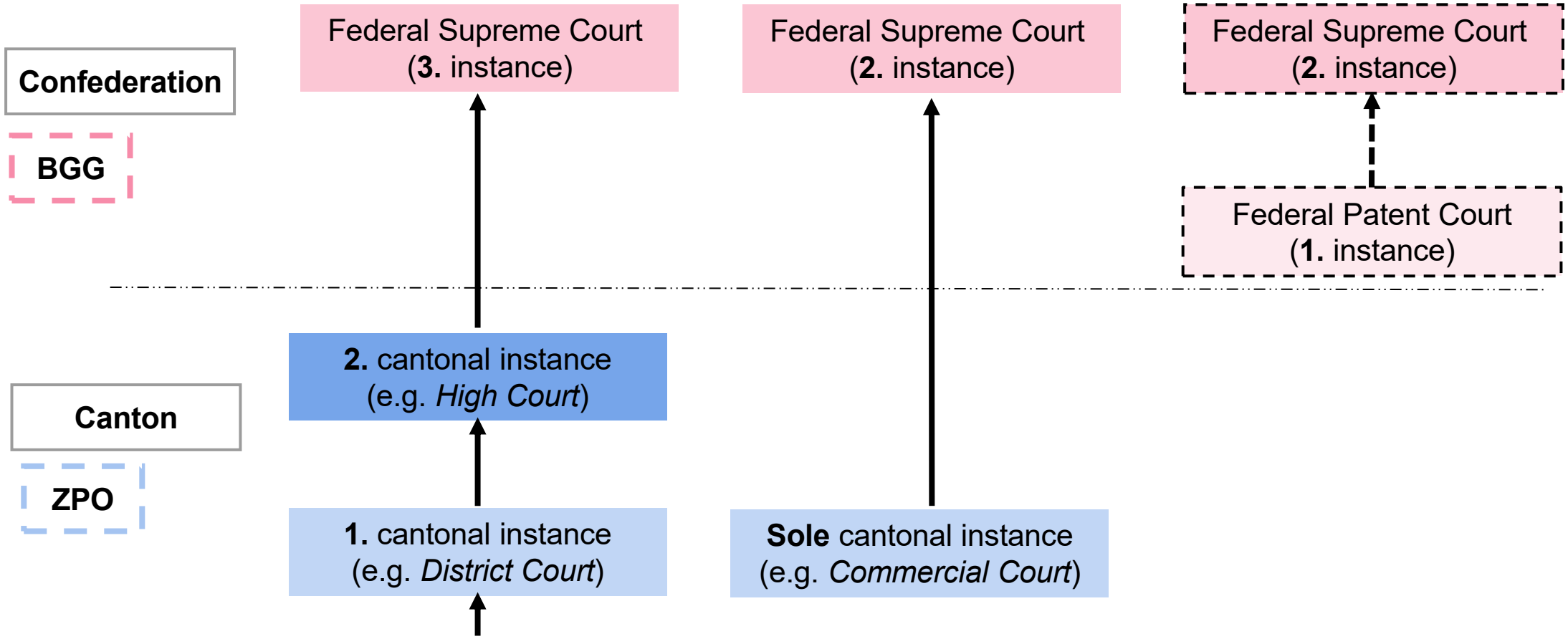
Judgement: Effects of judgements and settlements

- both **judgements and settlements become *res judicata***
  (exact meaning for settlements unclear)
- settlement leads to **termination of the proceedings *ipso iure*** (i.e. without a judgement)
- ***res judicata***
  - between the parties (*inter partes*)
  - limited to the object of the dispute (*Streitgegenstand*), no collateral estoppel/issue preclusion
- **third-party intervention** (*Nebenintervention*) and **third-party notice** (*Streitverkündung*): binding effect of reasons (Articles 77 and 80 ZPO)

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Appeals

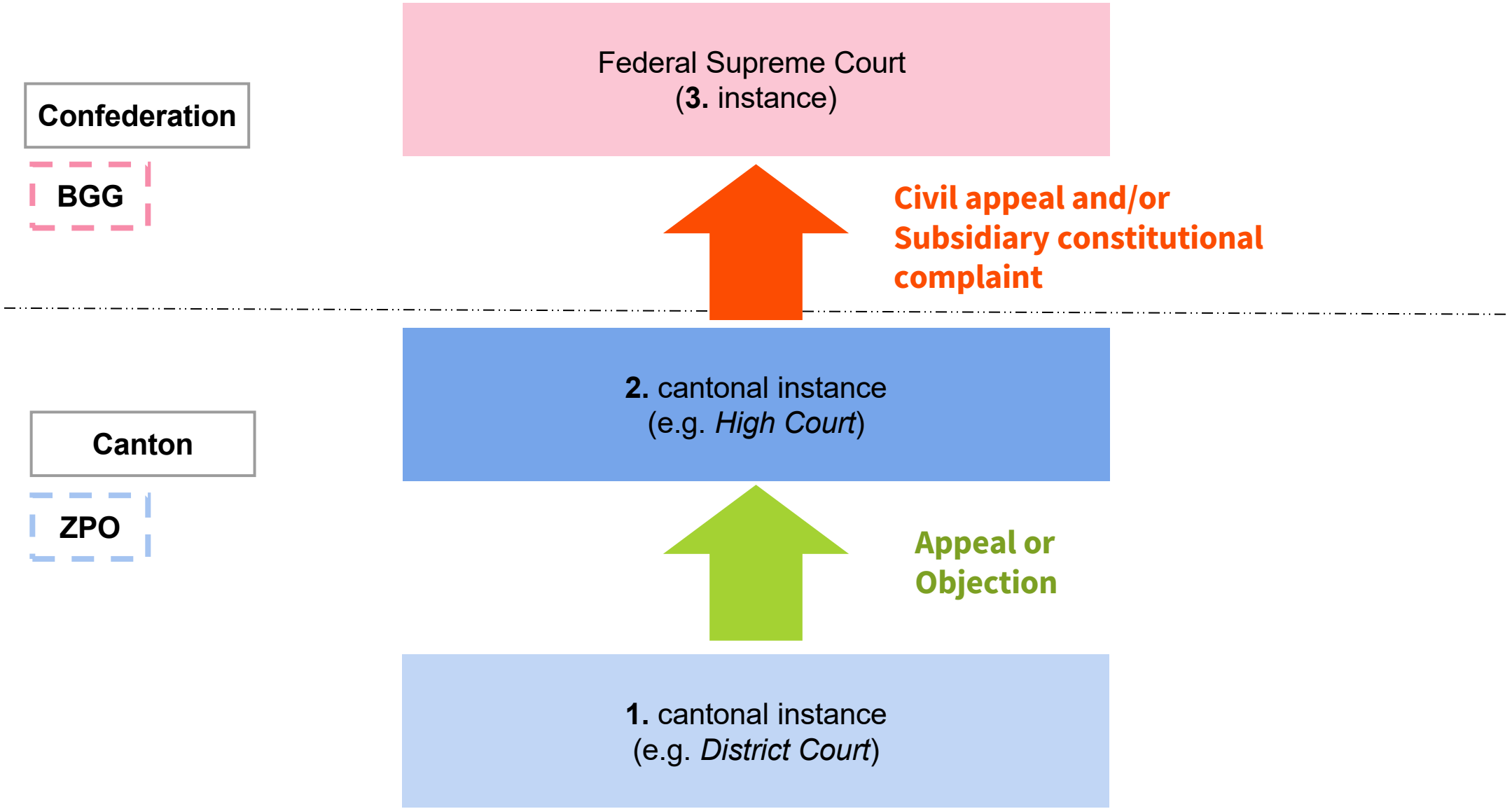
Appeal: Court hierarchy (repetition)



Appeals against judgements

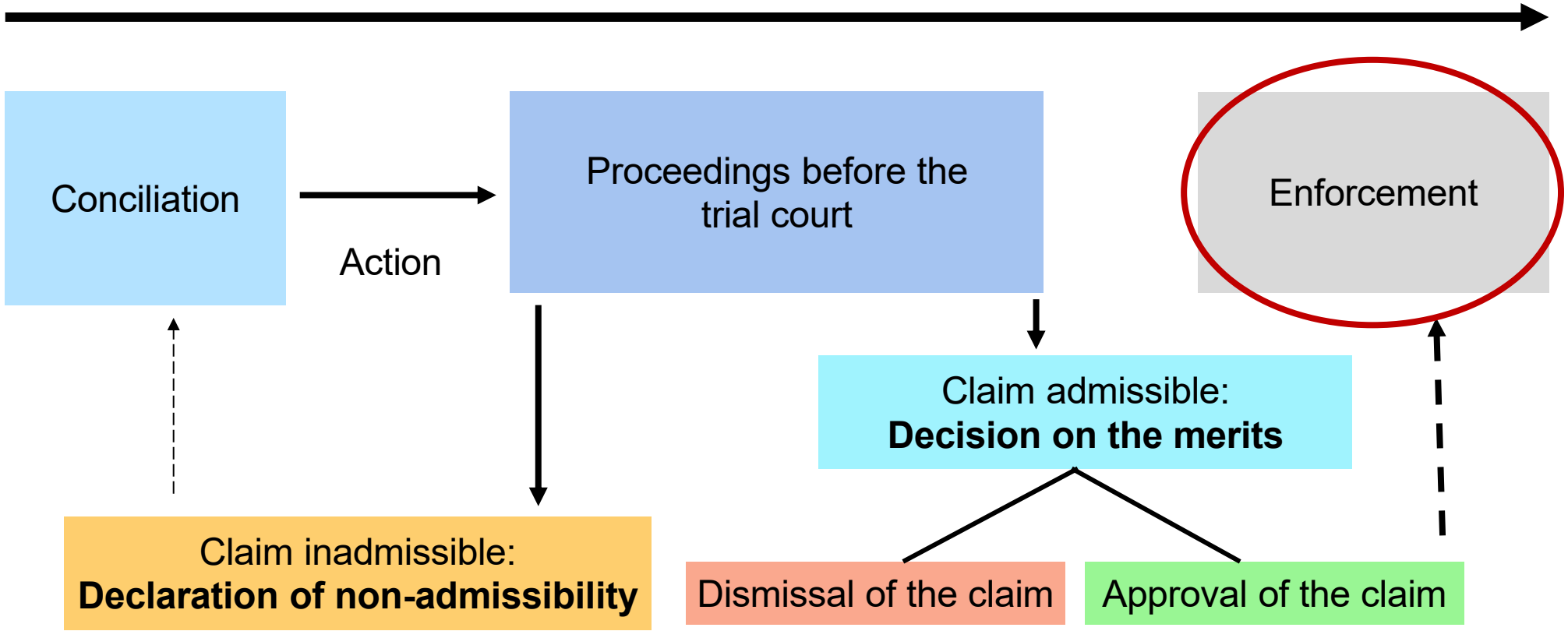
- **Appeal** (*Berufung; Article 308 et seq. ZPO*) and **objection** (*Beschwerde; Article 319 et seq. ZPO*) to higher cantonal court
  - depending on type of judgement and value of the dispute
  - appeal: full review
  - objection: full review on points of law; facts: only cases were “obviously incorrectly” established
- **Civil appeal** (*Beschwerde in Zivilsachen*) and **subsidiary constitutional complaint** (*subsidiäre Verfassungsbeschwerde*) to the Federal Court

Appeals against judgements

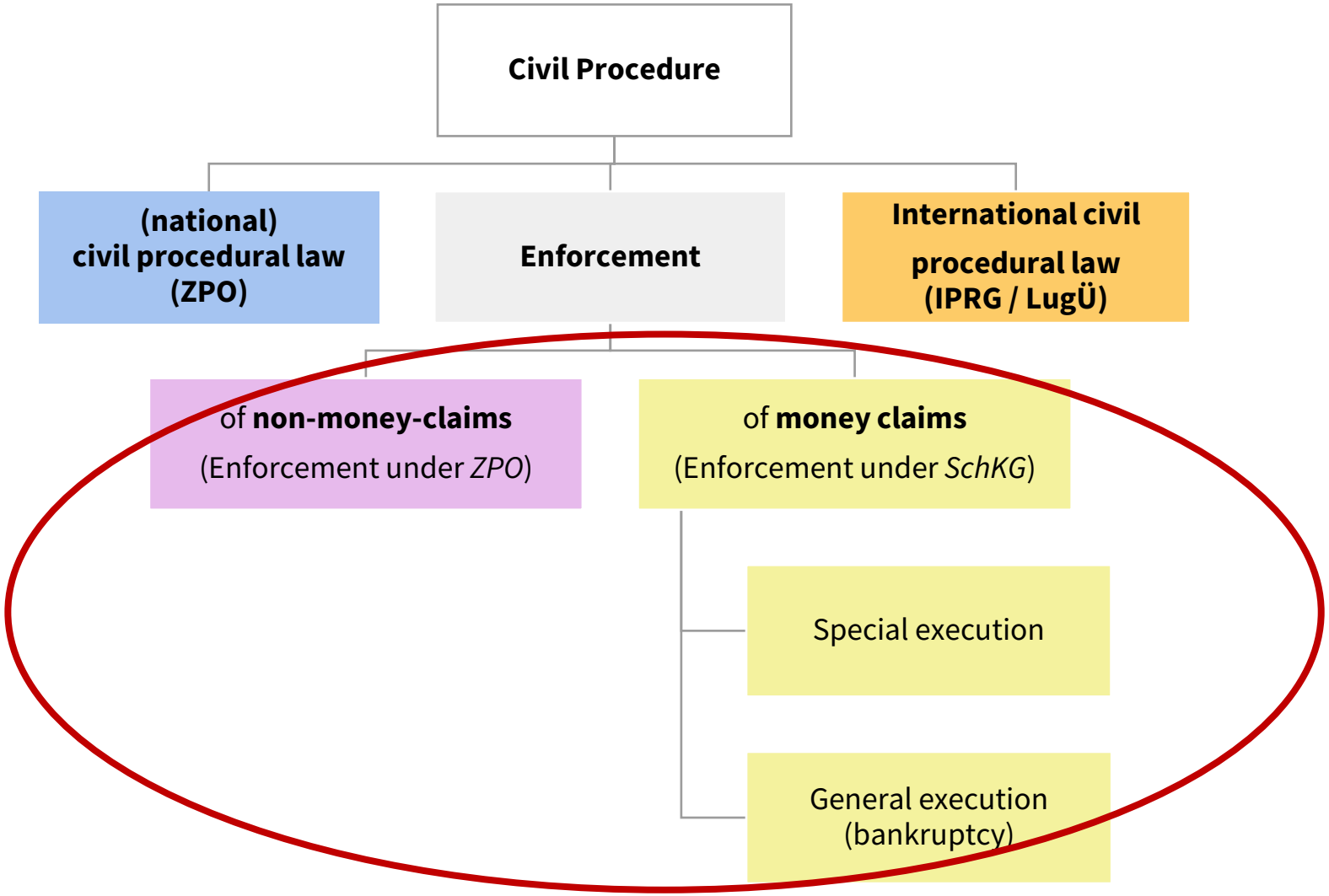


Enforcement

Enforcement



Enforcement (Repetition)



Enforcement: Money claims

