

STATE'S JURISDICTION



Marta Statkiewicz

Department of International and European Law

Faculty of Law, Administration and Economics

University of Wrocław



STATE'S JURISDICTION



STATE'S JURISDICTION - DEFINITION

- I. capacity of a State under International Law to prescribe and enforce the rules of law
- II. it is derived from the State sovereignty and constitutes its vital and central feature.
- III. it is the authority of a State over persons, property and events which are primarily within its territories (its land, its national airspace, and its internal and territorial water) - it involves the powers to prescribe the rules of law, to enforce the prescribed rules of law and to adjudicate



STATE'S JURISDICTION

LEGISLATIVE

EXECUTIVE

JUDICIAL

TERRITORIAL

PERSONAL

PROTECTIVE

UNIVERSAL



STATE'S JURISDICTION - LEGISLATIVE



STATE'S JURISDICTION - LEGISLATIVE

is the capacity of a State to prescribe rules of law



STATE'S JURISDICTION - LEGISLATIVE

TERRITORIAL



STATE'S JURISDICTION - LEGISLATIVE

TERRITORIAL

LAND

INTERIOR OF
THE EARTH

WATERS

internal waters
territorial sea

contiguous zone
continental shelf
exclusive economic
zone

AIR SPACE



STATE'S JURISDICTION - LEGISLATIVE

TERRITORIAL

IS FULL

exceptions: diplomatic immunity and human rights

IS EXCLUSIVE

exceptions: if the Treaty provides so



STATE'S JURISDICTION - LEGISLATIVE

TERRITORIAL – COLLISION OF TERRITORIAL JURISDICTIONS

**PRINCIPLE OF
SUBJECTIVE TERRITORIAL
JURISDICTION**

**PRINCIPLE OF OBJECTIVE
TERRITORIAL
JURISDICTION**
Lockerbie Case

THE EFFECTS DOCTRINE
Andrew Meldrum Case



STATE'S JURISDICTION - LEGISLATIVE

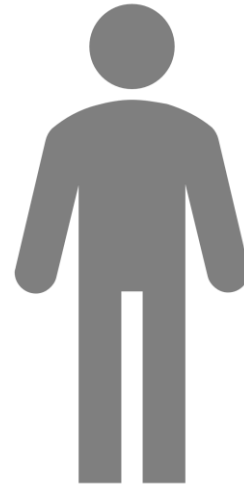
PERSONAL



STATE'S JURISDICTION - LEGISLATIVE

PERSONAL

respect and follow the
rules of conduct of
his/her State of
citizenship



respect and follow the
rules of conduct of
receiving State (e.g.
tax law, criminal law)



STATE'S JURISDICTION - LEGISLATIVE

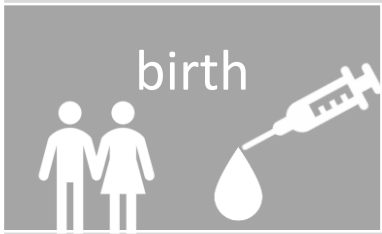
PERSONAL - CITIZENSHIP



STATE'S JURISDICTION - LEGISLATIVE

PERSONAL – WAY OF ACQUISITION AND LOSS OF CITIZENSHIP

ACQUISITION



birth

adoption

marriage

reintegration

option

naturalization

repatriation

LOSS

decision

the end of
the State

fusion of
States

deprivation



STATE'S JURISDICTION - LEGISLATIVE

PERSONAL –CITIZENSHIP

EFFECTIVE
CITIZENSHIP

Nottebohm Case

CITIZENSHIP OF
THE EUROPEAN
UNION



STATE'S JURISDICTION - LEGISLATIVE

PROTECTIVE



STATE'S JURISDICTION - LEGISLATIVE

PROTECTIVE

allows a sovereign State to assert jurisdiction over a person whose conduct outside its boundaries threatens the States security or significant interest of this State, or interferes with the operation of its government functions



STATE'S JURISDICTION - LEGISLATIVE

PROTECTIVE

espionage

counterfeitig
money

falsification of
official documents

submitting false
testimony to a
consular officer.



STATE'S JURISDICTION - LEGISLATIVE

UNIVERSAL



STATE'S JURISDICTION - LEGISLATIVE

UNIVERSAL

in exceptional cases, the state may apply its criminal law to persons prosecuted for offenses irrespective of the offender's and victim's nationality, and irrespective of the place where the offense was committed



STATE'S JURISDICTION - LEGISLATIVE

UNIVERSAL

based on
(alleged)
international law

based on
international
agreement



STATE'S JURISDICTION - LEGISLATIVE

UNIVERSAL

**based on (alleged)
international law**

**based on international
agreement**

hostes humani generis:
piracy genocide, war
crimes, crimes against
humanity

prevention of child
trafficking, terrorism,
drug trafficking



STATE'S JURISDICTION - EXECUTIVE



STATE'S JURISDICTION - EXECUTIVE

is the capacity of a State to act and to enforce its laws within its territory



STATE'S JURISDICTION - EXECUTIVE

IN THE TREATY

(e.g. Ship Rider Agreements)

AD HOC
CONSENT



STATE'S JURISDICTION - JUDICIAL



STATE'S JURISDICTION - JUDICIAL

is the capacity of the courts of a State to try legal cases



STATE'S JURISDICTION - JUDICIAL

CRIMINAL
MATTERS

CIVIL
MATTERS

USEX

ANIMATE