

Attachment under Article 271 DEBA: securing assets located in Switzerland

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Attachment under Article 271 of the Debt Enforcement and Bankruptcy Act allows a creditor to have a debtor's assets in Switzerland blocked before any judgment on the merits. Because assets from all over the world are deposited in Geneva, the procedure is one of the main channels through which judgments and arbitral awards obtained elsewhere reach funds held on the Geneva financial centre.

1 What the attachment is for

In French-speaking Switzerland the measure is known as the *séquestre*. Chapter F3 of the book describes it as a conservatory measure that enables a creditor to have the assets of its debtor blocked before obtaining a judgment, on conditions laid down in the Debt Enforcement and Bankruptcy Act (DEBA) and clarified by the Federal Supreme Court. Geneva, where assets from all over the world are deposited, is presented there as a privileged venue for such applications. According to the same chapter, foreign creditors who hold a judgment or an arbitral award resort to it frequently.

The chapter places the attachment among the emergency measures by which the quality of a centre of law is judged. A financial centre that holds large foreign deposits has to allow legitimate creditors to reach them, since the legal certainty it offers its own clients would otherwise have no counterpart for those who deal with those clients. Chapter F3 states the consequence plainly: the fact that assets deposited in Geneva remain accessible to legitimate creditors is what distinguishes a centre of law from a centre of concealment.

2 The statutory conditions in Article 271

Article 271(1) DEBA allows the creditor of a debt that is due and not secured by a pledge to request the attachment of the debtor's assets located in Switzerland. The statute then lists the cases in which the measure is available. Two of them carry most of the international practice that chapter F3 describes.

The first, in Article 271(1)(4) DEBA, concerns a debtor who does not live in Switzerland where no other ground for attachment applies. The creditor may use it provided that the claim has a sufficient connection with Switzerland or rests on a recognition of debt.

The second, in Article 271(1)(6) DEBA, applies where the creditor already holds against the debtor a title for the definitive setting aside of an objection, the *titre de mainlevée définitive*. Article 271(3) DEBA adds that in this case the judge also rules on the enforceability of a foreign decision falling under the Lugano Convention of 30 October 2007. The attachment court can therefore decide in a single step on the blocking of assets and on whether a judgment from a Lugano state may be enforced in Switzerland.

The provision in its current wording results from two amendments. The first dates from 16 December 1994 and entered into force on 1 January 1997, while the second dates from 11 December 2009 and has been in force since 1 January 2011.

3 From a foreign decision to assets in Geneva

Attachment secures assets, although turning a foreign decision into payment also requires recognition and enforcement. Chapter F3 identifies three regimes for that step. Foreign arbitral awards are governed by the New York Convention of 10 June 1958, which has 172 states parties according to UNCITRAL's status table. Switzerland ratified it on 1 June 1965, with entry into force for Switzerland on 30 August 1965.

Judgments from European states fall under the Lugano Convention. Judgments from other states are recognised and enforced under Articles 25 and following of the Federal Act on Private International Law (PILA). Taken together with the attachment, these instruments make Geneva a place where a decision obtained elsewhere can be given effect against assets deposited locally.

4 When sanctions stand in the way

The sanctions adopted since 2022 have added a further layer to the practice. In judgment 5A_802/2024 of 28 August 2025, discussed by Ludwiczak Glassey for the Centre for Banking and Financial Law on 30 October 2025, the Federal Supreme Court held that a freeze based on the Ukraine Ordinance takes precedence over enforcement measures under the DEBA. The Court relied on Article 44 DEBA and on ATF 131 III 652. It left open whether exception decisions of the State Secretariat for Economic Affairs (SECO) under Article 15(5) of the Ordinance are subject to separate judicial review.

A second judgment points in the same direction for arbitral awards. In 4A_305/2025 of 13 March 2026, noted by Lenz & Staehelin on 23 April 2026, the Court treated the Swiss sanctions against Russia as mandatory rules capable of barring enforcement in Switzerland of an LCIA award. That award had been obtained by an Angolan company which was 41 per cent owned and controlled by a sanctioned Russian entity. Because Article 15(2) of the Ukraine Ordinance prohibits making funds or economic resources available to listed entities, the claim is deemed deferred for as long as the sanctions apply. The creditor may apply to SECO for an exception.

Banks holding frozen assets meet the same question from the opposite side. In 4A_535/2025 of 28 April 2026, commented by Dupuis on 29 June 2026, the Federal Supreme Court accepted that an agent may refuse to carry out instructions concerning frozen assets. Read with judgment 5A_802/2024, this case law means that an attachment of assets belonging to a listed person does not by itself lead to payment while the freeze remains in place.

5 Three kinds of freezing that share one word

The French term *séquestre*, which the book uses in several settings, covers measures of different nature. Keeping them apart matters whenever a Geneva bank receives an order and has to identify the authority behind it.

The civil attachment under Article 271 DEBA serves a private creditor who seeks to secure a claim for payment. Chapter I4 describes a second measure within mutual legal assistance in criminal matters, governed by the Federal Act of 20 March 1981 on International Mutual Assistance in Criminal Matters (IMAC). The requesting state sends a request based on criminal proceedings opened at home, which the Federal Office of Justice examines and passes to the cantonal or federal executing authorities. Those authorities order the seizure of the assets, collect bank records and, once

the foreign proceedings end, may hand over the confiscated assets under Article 74a IMAC. A third form is the administrative freeze ordered by the Federal Council, either under the sanctions ordinances or under the Foreign Illicit Assets Act (FIAA) of 2015 that chapter I4 describes.

Two further uses of the word in the book are unrelated to debt enforcement. Chapter C2 recalls that the property and claims which Huguenot refugees had left in France were placed under sequestration or confiscated by the French kingdom. Chapter I3, on resource-backed loans, speaks of *comptes séquestres* to mean escrow accounts abroad into which sale proceeds are paid before any payment reaches the borrowing state.

6 What to take from it

Two routes for foreign creditors. Article 271(1)(4) DEBA serves claims against debtors abroad that have a sufficient connection with Switzerland or rest on a recognition of debt. Article 271(1)(6) DEBA serves creditors who already hold a definitive enforcement title.

Lugano judgments in one step. Under Article 271(3) DEBA, the attachment judge also rules on the enforceability of a foreign decision covered by the Lugano Convention of 30 October 2007.

Sanctions prevail over enforcement. Federal Supreme Court judgments of 2025 and 2026 give a sanctions freeze precedence over DEBA enforcement and accept sanctions as a possible bar to enforcing an award in Switzerland.

7 Sources

- Debt Enforcement and Bankruptcy Act, Article 271(1)(4), (1)(6) and (3), as amended on 16 December 1994 (in force 1 January 1997) and 11 December 2009 (in force 1 January 2011), droit-bilingue.ch (chapter F3)
- UNCITRAL, status of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), uncitral.un.org, consulted September 2026 (chapter F3)
- Lugano Convention of 30 October 2007; Federal Act on Private International Law, Articles 25 ff., droit-bilingue.ch (chapter F3)
- Federal Supreme Court, judgment 5A_802/2024 of 28 August 2025, commented by Ludwiczak Glassey, Centre for Banking and Financial Law (cdbf.ch), 30 October 2025 (chapter F3)
- Federal Supreme Court, judgment 4A_305/2025 of 13 March 2026, Lenz & Staehelin note of 23 April 2026 (chapter F3)

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