

Interim measures, attachments and enforcement

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A legal centre is also judged by the effectiveness of its emergency measures. Geneva, where assets from all over the world are deposited, is a favoured venue for attachment (*séquestre*), a protective measure that allows a creditor to have its debtor's assets blocked before obtaining a judgment, on conditions laid down by the Federal Act on Debt Enforcement and Bankruptcy and clarified by the Federal Supreme Court.¹ Foreign creditors armed with a judgment or an award make frequent use of it. Geneva banks accordingly receive hundreds of attachment orders every year, which they must execute without delay while preserving secrecy over the assets not concerned.

The enforcement of foreign arbitral awards, governed by the New York Convention, and that of foreign judgments, governed by the Lugano Convention for the European states and by Swiss private international law for the others, make Geneva a place where a decision obtained elsewhere can be made effective against assets deposited in the financial centre.² This effectiveness is a component of the legal certainty that the financial centre offers, and it has a counterpart: assets deposited in Geneva are accessible to legitimate creditors, which is what distinguishes a legal centre from a centre of concealment.

1 Notes

1. Art. 271 para. 1 DEBA (droit-bilingue.ch): the creditor of a debt that has fallen due and is not secured by a pledge may apply for the attachment of the debtor's assets located in Switzerland, in particular (no. 4) "where the debtor is not domiciled in Switzerland and there is no other ground for attachment, provided that the claim has a sufficient connection with Switzerland or is based on an acknowledgement of debt", and (no. 6) "where the creditor holds a definitive title for the lifting of the objection against the debtor"; para. 3: in the case of no. 6,

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the court rules on the enforceability of a foreign decision falling under the Lugano Convention of 30 October 2007; wording as amended on 16 December 1994 (in force on 1 January 1997) and on 11 December 2009 (in force on 1 January 2011). ↩

2. New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards: 172 states parties; ratified by Switzerland on 1 June 1965, in force for Switzerland on 30 August 1965 (uncitral.un.org). Lugano Convention of 30 October 2007, referred to in Art. 271 para. 3 DEBA. Art. 25 et seq. PILA: recognition and enforcement of foreign decisions (droit-bilingue.ch). ↩

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