

Enforcement under the New York Convention

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Switzerland is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958 (New York Convention). It applies the Convention to awards made in any state, without the reciprocity reservation (Art. 194 PILA).¹ A GAFTA or FOSFA award made in London against a Lugano trader can therefore be enforced in Ticino on the conditions of the Convention. The grounds for refusal in Article V are limited. They comprise the invalidity of the arbitration agreement, a violation of the right to be heard, an award beyond the scope of the submission and irregularity in the composition of the tribunal or the procedure. An award not yet binding or set aside at the seat, non-arbitrability and public policy complete the list. Enforcement of a money award is carried out through the debt enforcement procedure under the Federal Act on Debt Enforcement and Bankruptcy. The award serves as a definitive title for setting aside the debtor's objection. The creditor may also seek a freezing order (*sequestro*) on the debtor's assets in Switzerland, which Chapter H.IV describes.²

Swiss awards are enforceable in the same way in the 172 Contracting States of the Convention, including Italy, the United Kingdom, Turkey, the United Arab Emirates, China and Russia.³ Enforcement in Russia and Belarus has become practically difficult since 2022, both because of sanctions and because Russian courts have asserted exclusive jurisdiction over disputes involving sanctioned Russian parties. The Swiss Rules and Chapter 12 PILA cannot remedy these difficulties. They do allow the tribunal to deal with sanctions questions as questions of the applicable law and of public policy, which Chapter G.II discusses. State court litigation remains an option for disputes with counterparties in states bound by the Lugano Convention of 30 October 2007. Italian judgments, for instance, are recognized and enforced in Switzerland under that Convention (Chapter H.IV).

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For the practitioner. Drafting the dispute clause of a Lugano trading contract: - Use the model clause of the Swiss Arbitration Centre and specify the seat (Lugano, Zurich or Geneva), the number of arbitrators and the language. - Exclude the CISG expressly if Swiss domestic sales law is intended. - For GAFTA or FOSFA trades, accept London arbitration under the association's rules and align time bars in back-to-back contracts. - Consider an exclusion of the action for setting aside under Art. 192 PILA where neither party has its seat in Switzerland and finality is preferred. - Before contracting with parties in Russia, Belarus or other sanctioned jurisdictions, assess enforceability and sanctions exposure (Chapter G.II).

1 Notes

1. Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958, SR 0.277.12; UNCITRAL, Status: Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958), https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards/status2 (Switzerland: ratification 1 June 1965, entry into force 30 August 1965); PILA, Art. 194, <https://www.droit-bilingue.ch/en-de/2/29/291-194-235.html>. ↩
2. Federal Act of 11 April 1889 on Debt Enforcement and Bankruptcy (DEBA), SR 281.1, Art. 80 para. 1 (definitive setting aside of the objection), <https://www.droit-bilingue.ch/fr-de/2/28/281.1-80-98.html>, and Art. 271 para. 1 no. 6 (attachment on the basis of a definitive title), <https://www.droit-bilingue.ch/fr-de/2/28/281.1-271-306.html>. ↩
3. UNCITRAL, Status (above) ("Parties: 172"; Italy, the United Kingdom, Türkiye, the United Arab Emirates, China and the Russian Federation are parties). ↩

For general information only. This article does not constitute legal or tax advice, does not replace advice on an individual case and creates no lawyer-client relationship. It reflects the legal position as of September 2026.

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