

Opposition and prosecution

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The debtor and any third party whose rights are affected may file an objection to the attachment order with the court within ten days of becoming aware of it (Article 278(1) DEBA). The court decides after hearing the parties, and its decision can be appealed under the CPC. During the objection proceedings the time limits for prosecuting the attachment are suspended (Article 279(5) DEBA, which also covers *exequatur* proceedings under the Convention).¹ The creditor must prosecute the attachment within ten days by initiating debt enforcement or bringing an action on the merits. If he does not, the attachment lapses.

Prosecution raises the problem of jurisdiction for debtors domiciled in Italy. Article 4 PILA gives Swiss courts jurisdiction to hear the action validating the attachment, but Annex I of the Convention excludes this ground against persons domiciled in another contracting state. A creditor who attaches the Lugano account of a Milan debtor must therefore bring the action on the merits before a court with jurisdiction under the Convention. This can be an Italian court, or a Swiss court if there is a choice of court clause, a place of performance in Switzerland or another ground under the Convention. Swiss law accepts that the action on the merits may be pending abroad, so that the attachment remains in place while the Italian proceedings run. The creditor then initiates Swiss debt enforcement, and the enforcement proceedings are suspended until the foreign judgment is available.² Because Italian proceedings can take years, the attachment can freeze a Lugano account for a long time.

1 The Italian counterparts

On the Italian side, the corresponding protective measure is the *sequestro conservativo* under Article 671 c.p.c., which the court grants if the creditor has a well-founded fear of losing the guarantee for his claim. The measure is converted into an attachment in enforcement (*pignoramento*) once the

creditor obtains an enforceable title. Enforcement against claims held by third parties, including bank accounts, takes place through the *pignoramento presso terzi* under Articles 543 ff. c.p.c.³

Italian law also allows a creditor with an enforceable title and a *precetto* (formal demand for payment) to have the bailiff search public databases for assets of the debtor, including the tax register with its archive of financial relationships and the databases of the social security institutions (Article 492-bis c.p.c.). Since the Cartabia reform the creditor applies directly to the bailiff of the court for the debtor's residence or seat, and the authorization of the court president is needed only where delay would be dangerous.⁴ Swiss law has no comparable instrument, so that a Swiss creditor seeking assets in Italy has better means of locating them than an Italian creditor seeking assets in Ticino. The European Account Preservation Order of Regulation (EU) No 655/2014 does not apply to Switzerland, since it is a Union instrument outside the Lugano framework.⁵

For the practitioner. Before applying for an attachment in Ticino against an Italian debtor: - check whether a ground under Article 271(1) DEBA is available, in particular the foreigner's ground (no. 4) with a sufficient connection to Switzerland, or a definitive title (no. 6) such as an enforceable Italian judgment; - name specific banks and give credible reasons for the existence of assets there, since a search attachment is inadmissible; - assess the risk of liability under Article 273 DEBA and be prepared to provide security; - plan the prosecution within ten days and identify the court with jurisdiction under the Lugano Convention, because Article 4 PILA is not available against a debtor domiciled in Italy; - expect the bank's disclosure only after the objection period has expired or the objection has been decided.

2 Notes

1. Federal Decree implementing the Lugano Convention (above), Art. 278 and 279(5) DEBA; Meier (above). ↩
2. DEBA, Art. 279(1) to (5), at [droit-bilingue.ch](https://www.droit-bilingue.ch/de-it/2/28/281.1-279-314.html), <https://www.droit-bilingue.ch/de-it/2/28/281.1-279-314.html>. ↩
3. Codice di procedura civile, Art. 543 and 671, at Brocardi.it, <https://www.brocardi.it/codice-di-procedura-civile/libro-terzo/titolo-ii/capo-iii/sezione-i/art543.html> and <https://www.brocardi.it/codice-di-procedura-civile/libro-quarto/titolo-i/capo-iii/sezione-ii/art671.html>. ↩

4. Codice di procedura civile, Art. 492-bis, introduced by Decreto-legge 12 settembre 2014, n. 132, converted by Legge 10 novembre 2014, n. 162, and amended by Legislative Decree No. 149 of 10 October 2022, at Brocardi.it,
<https://www.brocardi.it/codice-di-procedura-civile/libro-terzo/titol-o-ii/capo-i/sezione-ii/art492bis.html>. ↩
5. Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure, OJ L 189, 27 June 2014, p. 59, EUR-Lex, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014R0655>. ↩

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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