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Switzerland

Enforcement of Judgments in Civil and Commercial Matters

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in Switzerland.

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Switzerland: Enforcement of Judgments in Civil and Commercial Matters

1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

The Lugano Convention (Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters concluded in Lugano on 30 September 2007, "LugC") regulates the Swiss recognition and enforcement of judgements in civil and commercial matters that have been rendered in a LugC member state. In addition to Switzerland, the member states are the European Union (and thus all EU countries) as well as Norway and Iceland. It is therefore the most important treaty for recognition and enforcement of private law civil and commercial decisions in Switzerland, despite the fact that certain areas such as bankruptcy or arbitration are excluded from its scope of application.

Furthermore, there are numerous international agreements on specific areas of recognition and enforcement, i.e.:

- United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10 June 1958 concluded in New York (New York Convention);
- Hague Convention on the Recognition and Enforcement of Maintenance Decisions of 2 October 1973;
- Hague Convention on the Recognition of Divorces and Legal Separations of 1 June 1970.

2. What, if any, reservations has your jurisdiction made to such treaties?

Regarding the LugC Switzerland has made the following reservations:

- Switzerland reserves the right, as provided for in article I, paragraph 2, of Protocol 1, to require that different forms be used for the service of documents between judicial officers from and to Switzerland; and
- Switzerland declares, in accordance with article 1 of Protocol 1, that it will not apply the following part of the provision in article 34(2): "unless the defendant, having the right to do so, has failed to use all available legal remedies."

3. Can foreign judgments be enforced in your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

Yes. If no treaty applies, the Federal Act on Private International Law (PILA) governs the recognition and enforcement of foreign decisions.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

The enforcement of a foreign decision requires its recognition in Swiss domestic proceedings. The procedure varies depending on whether the decision originates from a LugC state or not.

Under the LugC as under the PILA, a decision must be recognized before it can be enforced. There are two ways to do this:

a) Exequatur proceedings: thereby, the requesting party applies to the foreign court to issue a declaration of enforceability of the pertinent decision (article 38 et seqq LugC, article 28 et seq PILA) and then proceeds with the recognition application in Switzerland; or

b) Directly debt enforcement proceedings in Switzerland for money judgments (without requesting for an exequatur decision): in this case, the enforceability of the foreign judgment is decided as a preliminary question during the debt enforcement proceeding.

In accordance with article 25 PILA, a foreign decision is recognised in Switzerland:

a) if the judicial or administrative authorities of the state where the decision was rendered had jurisdiction;

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b) if the decision is no longer subject to any ordinary appeal or if it is a final decision; and

c) if there is no ground for denial under article 27.

Final decisions (i.e., which according to the deciding foreign court have not been challenged or can no longer be challenged) that are recognised in Switzerland pursuant to the relevant provisions of the LugC or any other applicable treaty or the PILA and that are not monetary claims will be enforced in accordance with the provisions of the Federal Civil Procedure Code ("CPC").

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

Under the LugC, a foreign judgment can be enforced in Switzerland once a competent court has declared it enforceable (article 38 LugC, see Question 4a) above). To this end, an application for declaration of enforceability must be submitted to the competent Swiss court. In general, separate proceedings are not required and the declaration of enforceability is often sought as a preliminary step in the enforcement proceedings. For example, where a debtor objects against a payment order which is based on a foreign judgment, the claimant can apply "incidentally" (i.e. as a preliminary question) for the foreign judgment to be declared enforceable in the subsequent court proceedings to lift the objection.

Alternatively, the applicant can initiate separate proceedings to declare a foreign judgment enforceable in the Swiss canton where enforcement is sought or where the defendant is domiciled (article 39 in conjunction with Annex II LugC). The enforcement court decides on recognition and enforceability in summary proceedings.

The following documents must be provided with the application (see below, Question 7, on the formal requirements):

- A complete and certified copy of the foreign judgment, and
- A certificate of enforceability issued by the foreign court on the standard form Annex V of the LugC.

Unlike applications under the PILA, the declaration of enforceability under the LugC is initially rendered in ex parte proceedings. However, the defendant can appeal the decision to the second instance court (article 43 LugC, see below Questions 11–16).

If the formal requirements under article 53 LugC are fulfilled, the first-instance court will issue the declaration of enforceability without examining the aforementioned grounds for refusal. Any grounds for refusal will only be considered if the opponent appeals the decision of the first instance court.

Regarding the actual enforcement process, the applicable method depends on whether the judgment is monetary or non-monetary. The proceedings for the enforcement of monetary claims are governed by the rules of the Federal Debt Enforcement and Bankruptcy Act ("DEBA"). By contrast, non-monetary claims (for example ordering a rectification in a register, or requiring a party to perform or refrain from certain actions) are enforced according to the provisions of the CPC.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

In the absence of international conventions or treaties, the recognition and enforcement of foreign judgments in Switzerland is governed by the PILA. The PILA stipulates that a foreign judgment that is recognized (see above) is declared enforceable upon request by the applicant (article 28 PILA). As is the case under the LugC, the declaration of enforceability can be requested either as a preliminary matter within enforcement proceedings or by filing a separate application for declaration of enforceability to the competent court of the canton in which the foreign judgment is to take effect (typically at the place of the defendant's domicile or seat or at the location of the assets).

The application must include the following documents:

- A complete and certified copy of the judgment;
- Confirmation from the foreign court or authority that no ordinary appeal has been filed against the judgment, or that the judgment is final;
- For default judgments, a document showing the defendant was properly served and given sufficient time to defend him- or herself.

An important difference to the LugC lies in the adversarial nature of exequatur proceedings under the PILA. Accordingly, the opponent has the right to be heard on the merits and to submit evidence already in the first instance proceedings. According to the provisions regarding admissible evidence in summary proceedings, the opponent is generally restricted to documentary evidence.

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7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

Within the scope of the LugC, the formal requirements set out in article 53 must be fulfilled (see Question 5 above). The judgment submitted must meet the criterion of authenticity, i.e., either the original or an official copy issued by the court of origin. In case the authenticity is disputed, the recognition court may request additional authentication. Notably, no apostille or other form of legalisation is required.

For judgments under the PILA, the documents listed in article 29 PILA must be submitted alongside the application for declaration of enforceability. The applicant must submit a complete and certified copy of the foreign judgment. Moreover, as Switzerland is a party to the Hague Apostille Convention (1961), foreign court judgments generally require an apostille to certify authenticity for use in Switzerland if they originate from another member state.

With respect to the translation of the judgment, practices vary between cantons. While judgments in English are often accepted, the court may require judgments in other languages to be translated in the official language of the canton where enforcement is sought (i.e. German, French or Italian). Under the LugC, such translations need to be certified by a person qualified to do so in one of the member states (article 55(2) LugC).

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

Applications for recognition and enforcement are dealt with in summary proceedings. The time required to enforce a judgment can vary considerably depending on the enforcement method selected by the creditor and the conduct of the defendant. In particular, it must be borne in mind that in cases involving foreign parties who are not legally represented in Switzerland and have not provided a Swiss address for service, documents must be served abroad by mutual legal assistance proceedings. This process can take up to several months, depending on the jurisdiction in question. For example, the High Court of the Canton of Zurich typically makes three attempts at service before resorting to service by public notice. Against this background, the timeframe for obtaining a final and binding decision is highly case-specific and may range from a few weeks to several months, or even years in more complex cases.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while the enforcement or registration procedure takes place?

Yes, it is possible for the creditor to apply for interim measures during the enforcement procedure under both the LugC and the PILA. Under the PILA, given the adversarial nature of exequatur proceedings (see above), it may be crucial for the applicant to apply for ex parte protective measures together with the application for recognition and declaration of enforceability.

For monetary claims, the most common interim measure is the attachment of assets ("Arrest"), aimed at preventing the debtor from disposing of assets located in Switzerland before enforcement can proceed. The LugC explicitly provides for an applicant to invoke local instruments to safeguard its claim during enforcement proceedings (article 47 LugC). In Switzerland, these measures take the form of an attachment pursuant to article 271 et seqq. DEBA for monetary claims and pursuant to the CPC for non-monetary claims.

From a practical perspective, it is important to note that for the applicant to be successful with an attachment application, he or she must submit prima facie evidence regarding the existence and location of the debtor's assets in Switzerland (e.g. claims against third parties such as banks). If the respective requirements are met, the court will issue an ex parte order, upon which the debt enforcement office will order the freezing of the debtor's assets.

For non-monetary claims, the creditor can request interim measures under Articles 261 et seqq. CPC. Such measures include preventive, regulatory or performance orders.

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

Under Swiss law, limitation periods are considered a matter of substantive, not procedural law. In relation to foreign judgments, the Swiss Federal Tribunal clarified that the limitation period of foreign judgments is determined by the law of the jurisdiction in which the judgment was rendered, rather than by the lex fori. This applies, provided the foreign rule serves the same purpose (i.e. barring the enforcement of a claim) as the equivalent Swiss limitation period (Federal Tribunal

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Decision 148 III 420 consid. 3.3).

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

Challenging foreign judgments will depend on whether a treaty exists between Switzerland and the originating state and the grounds for challenges provided by such treaty.

As already mentioned (see Question 1 above), the most important treaty in this area of law is the LugC. In addition, the Hague Convention on Choice of Court Agreements (HCCCA) is also important.

The LugC provides that a judgment shall not be recognised only if the original court did not have jurisdiction (in limited instances primarily protecting weaker parties) or where such recognition

a) would be manifestly contrary to public policy in the state in which recognition is sought;

b) where the judgment was given in default of appearance, if the defendant was not duly served with the document which instituted the proceedings;

c) if the judgment is irreconcilable with a judgment given in a dispute between the same parties in the state in which recognition is sought; or

d) if it is irreconcilable with a recognisable earlier judgment given in another convention state or in a third state involving the same cause of action and between the same parties.

Similar hurdles may also be found in article 9 of the HCCCA.

In the absence of a bilateral or multilateral treaty, the enforcement of a foreign judgment (issued by a competent authority pursuant to art. 25 PILA) can be refused on the grounds provided for in article 27 PILA, primarily where recognition would be incompatible with Swiss public policy. In addition, recognition may be refused where a party may demonstrate that it

a) was not properly served notice (unless the party proceeded on the merits without reservation);

b) the decision was rendered in violation of fundamental principles of Swiss procedural law, including the right to be heard; or

c) a dispute between the same parties and with respect to the same subject matter has been initiated in Switzerland first or has already been decided there, or that such dispute has previously been decided in a third state, provided the latter decision meets the requirements for recognition in Switzerland.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

In principle, the review of the enforceability is limited to the formal grounds noted above (Question 11, i.e. due process in serving documents). Other than that, only the rare occasion of an incompatibility with material public policy will lead to recognition (and hence enforcement) being refused by Swiss courts.

Judgments from LugC signatory states may not be reviewed as to their substance (article 36 LugC). The same applies for states bound by the HCCCA (article 8 para. 2). Equally, the PILA provides that also absent a treaty, no review on the merits may take place (article 27 para. 3 PILA).

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

Yes. As noted above (Question 11 above), the primary review of Swiss courts will concern issues of jurisdiction. This means that for judgments stemming from a country not bound by a treaty, Swiss courts will assess (article 26 PILA) whether

a) the jurisdiction derives from a provision of the PILA or, in the absence of such a provision, if the defendant was domiciled in the state in which the decision was rendered; or

b) if, in matters involving an economic interest, the parties submitted to the jurisdiction of the authority that rendered the decision by means of an agreement valid under the PILA; or

c) if, in matters involving an economic interest, the defendant proceeded on the merits without reservation; or lastly

d) if, in the case of a counterclaim, the authority that rendered the decision had jurisdiction to hear the main claim and if there is a factual connection between the claim and counterclaim.

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Art. 35 LugC inter alia expressly provides that in instances where a judgment conflicts with the rules of sections 3, 4 or 6 of title II of the LugC dealing with mandatory jurisdictions for insurance and consumer matters and other cases of exclusive jurisdictions (i.e. real estate claims, company matters), such judgments will not be recognised.

The HCCCA also contains a catalogue of grounds dealing with the agreed jurisdiction which may be invoked to ward off recognition

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

Yes. As noted above (Question 11), the correct service of the documents commencing the legal dispute must be proven in order for a foreign judgement to be enforceable in Switzerland. Within the scope of the LugC, an applicant may prove the adequacy of these proceedings by providing the Annex V to the LugC issued by the competent court setting out these requirements.

In the realm of the HCCCA, recognition of a judgment can be refused if the document which instituted the proceedings (or equivalent document), including the essential elements of the claim, was

a) not notified to the defendant in sufficient time and in such a way as to enable him to arrange for his defence (unless an appearance was entered); or

b) was notified to the defendant in the requested state in a manner that is incompatible with fundamental principles of the requested state concerning service of documents.

Against this background, default judgments are enforceable in Switzerland, as long as it can be proven that the defending party was correctly served with proceedings and could have defended the claim.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

Swiss courts review the enforceability requirements pertaining to foreign judgements based on the applicable legal provisions. If these are met, then they have no to very limited grounds to refuse recognition.

In the areas where a judgment might be considered to run afoul of Swiss public policy, the courts do retain a certain degree of discretion, though Swiss jurisprudence has well delineated the limits of acceptable judgements.

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

Yes, there are certain types of judgments which may be unenforceable for either formal reasons or material reasons. As such, judgmentS which are irreconcilable with Swiss public policy, such as in certain overseas family law judgments (religious based divorces or child orders).The enforceability of foreign judgement awarding punitive or multiple damages may depend on whether the amount in question is – in a Swiss legal view – excessively high and may be considered contrary to Swiss public policy, in which case, only a partial recognition may be granted. Equally, decisions that demonstrate discrimantory outcomes (race, gender, religion), which would run contrary to Swiss public order, would not be enforceable.

Note though that a foreign judgment that is enforceable in the country where it has been rendered can be enforced in Switzerland despite pending appeal or where the time for appeal has not expired.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

As a preliminary matter, it must be determined whether, and which international treaty applies. Within the intra-European legal framework, such questions are regularly governed by the LugC. Pursuant to article 38 LugC, a foreign judgment may be enforced in Switzerland if it has been declared enforceable in the origin state. As long as the judgment remains enforceable in the state of origin, the pendency of appellate proceedings in that state does not preclude enforcement in Switzerland. Actual enforceability in the state of origin is not required; legal or abstract enforceability suffices.

A similar approach applies under the HCCCA, where the requested state may refuse or stay enforcement if the judgment is subject to appeal in the state of origin (articles 8 (3) and (4) HCCCA).

By contrast, under the PILA, specifically article 25, enforcement is only permitted if no ordinary appeal is

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available in the state of origin — enforcement is therefore not possible while such an appeal remains pending. The provisions of other special treaties remain reserved.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

Within the framework of the LugC, article 43 in conjunction with article 327a CPC allows each party to lodge an appeal. This appeal is aimed solely at setting aside the declaration of enforceability, not at obtaining a positive finding that grounds for refusal of recognition exist. The appeal procedure is the first opportunity for the debtor to respond to the declaration of enforceability. Recognition is refused only on the grounds specified in article 34 and 35 LugC. A review of the substance of the decision in the context of "révision au fond" is expressly excluded (article 36 LugC). In the case of recognition decisions under article 25 et seqq. PILA, the appeal is governed directly by the CPC (article 319 et seq.).

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

The entitlement to interest on a judgment debt is determined by the terms of the foreign judgment itself or, alternatively, by the applicable substantive law governing the underlying claim. While Swiss substantive law provides for statutory default interest of 5% but generally prohibits compound interest, a foreign judgment awarding such interest may nevertheless be recognized and enforced in Switzerland, provided that the total amount awarded does not contravene Swiss public policy (ordre public).

20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

Yes, any monetary judgment expressed in a foreign currency must be converted into Swiss Francs for enforcement purposes (art. 67 para. 1 no. 3 DEBA). During the course of the debt enforcement proceedings, the creditor has an opportunity to recalculate the value of his claim before requesting the continuation of debt enforcement, if the claim is originally in a denomination other than Swiss Francs (art. 88 para. 4 DEBA).

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

Yes. Procedural costs are borne by the unsuccessful party pursuant to the court's assessment. In addition, the court will also order the losing party to pay party costs to the successful party. However, depending on the complexity and scope of the case, this compensation—calculated according to a fixed tariff and based on the amount in dispute—may not fully cover the actual legal expenses incurred.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

There is no statutory prohibition against the third party funding of enforcement measures. As third party litigation funders are not parties to the proceedings, they cannot be held liable for any costs incurred by the opposing party. However, lawyers in Switzerland are prohibited by law and professional regulations from working on a purely contingency fee basis (pactum de quota litis). This includes waiving fees in the event of an unfavorable outcome (art. 12 lit. e Lawyers Act (FMLA); art. 15 para. 1 Swiss Code of Professional Conduct for Attorneys (SCPC)).

On the other hand, agreements on additional fees in the event of a defined success (pactum de palmario) are permitted. According to the case law of the Federal Tribunal, such agreements may only be made at the start of the mandate or after the conclusion of the proceedings. The Swiss Code of Professional Conduct for Attorneys, however, dispenses with this limitation and merely provides that such an agreement may not be concluded at an inopportune moment.

When working with third party funders, the Federal Tribunal has found that Swiss lawyers must exercise particular caution in view of their statutory duty of independence and their obligation to protect the client's interests (art. 12 FMLA).

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The Swiss parliament has amended the CPC enabling

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cantons to set up international commercial courts which could hear cases in English. Given Switzerland's strong tradition as a centre for legal excellence and arbitration, it may be expected that international parties may well opt to bring their disputes before such specialized state courts with their perceived advantages (comparatively moderate court fees, access to interim measures, no appointment process for judges).

The Canton of Zurich will add a Zurich International Commercial Court as a specialized branch for international commercial disputes of the Zurich High Court as from 2027. With its strong reputation and good network of treaties, decisions from this new court will surely enjoy good enforceability around the globe.

24. Has your country ratified the Hague Choice of Courts Convention 2005, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

Yes, the HCCCA was ratified by the Swiss Federal Council in September 2024 and entered into force for Switzerland on January 1, 2025.

25. Has your country ratified the Hague Judgments Convention 2019, and if so when did it (or will it) come into force? If not, do you expect it to in the foreseeable future?

No, Switzerland has not ratified the 2019 Hague Judgments Convention. However, the United Kingdom's accession by July 2025 could create new incentives for Switzerland, as the LugC does not apply in relation to the United Kingdom.

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