Lifting the Lid on Interim Measures: A Comparative Analysis
Switzerland

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Legal Framework

- Lugano Convention
- Swiss Private International Law Act (PILA)
- Code of Civil Procedure (SCCP)
- Debt Collection and Bankruptcy Act (DCBA)
International Interim Measures

- **Art. 10 PILA**
  Are competent to issue interim measures:
  a. either the Swiss tribunals or authorities having jurisdiction on the merits;
  b. either the Swiss tribunals or authorities at the place of execution of the measure.

- **2007 Lugano Convention** on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters
Domestic Interim Measures

Swiss Code of Civil Procedure

- Non-monetary claim
- Monetary claim

Debt Collection and Bankruptcy Act
Forms of Interim Measures

- **Non-monetary claim**
  - Injunction
  - Order to remedy an unlawful situation
  - Order to a register authority or to a third party
  - Performance in kind
  - Precautionary taking of evidence

- **Monetary claim**
  - Attachment
Conditions

- **Non-monetary claim**
  - Show credibly
  - Violation/risk of violation of a right to which the applicant is entitled
  - Risk of not easily reparable harm

- **Monetary claim**
  - Show credibly
  - Creditor’s claim v. debtor
  - Ground for attachment
  - Identification of assets belonging to the debtor
Protective Brief

- Defensive tool in anticipation of ex parte interim measures
- Valid 6 months
- No Swiss register
Swiss Surprises

- Language
- Domestic forum shopping

Precision
- No discovery
- Identification of assets
- Ground for attachment

Swiss banking secrecy

Protective brief
Thank you

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