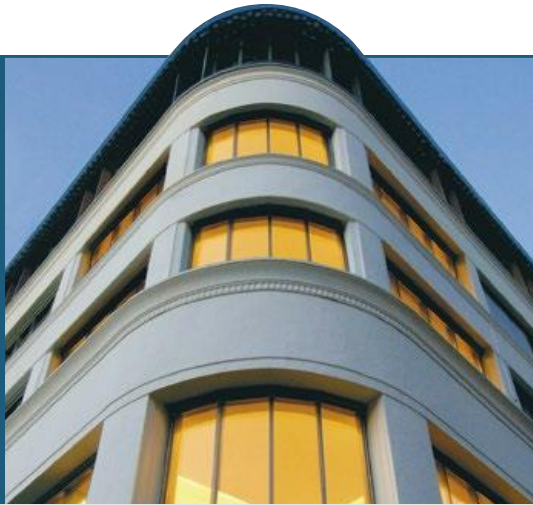


LALIVE



Lifting the Lid on Interim Measures: A Comparative Analysis Switzerland

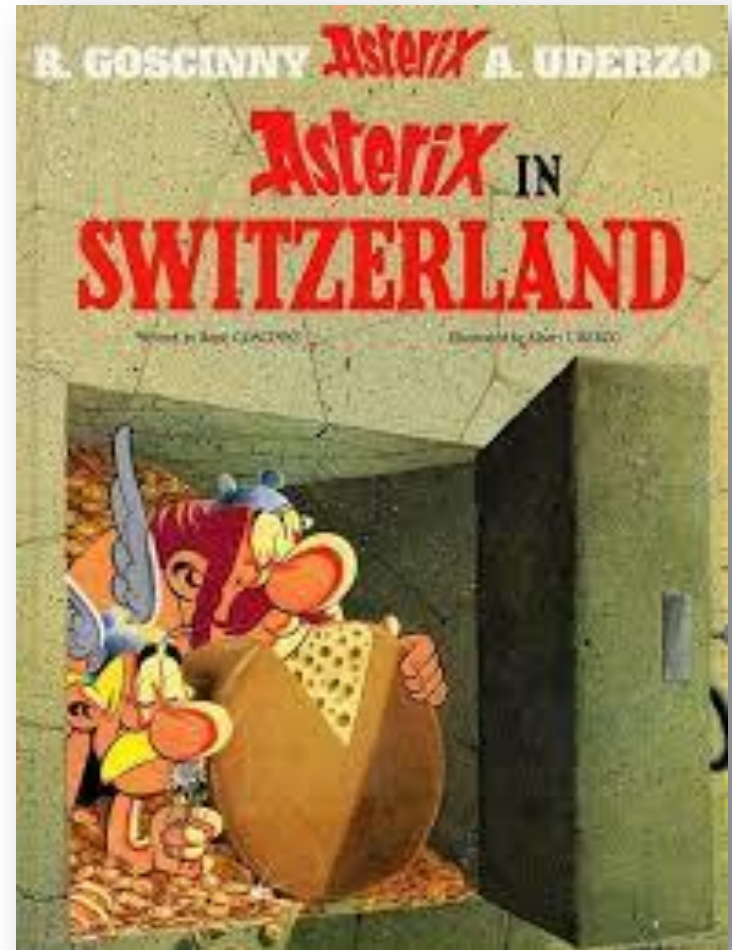
C5 Transatlantic Litigation Conference

Sandrine Giroud

Amsterdam, 17-18 June 2014

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**

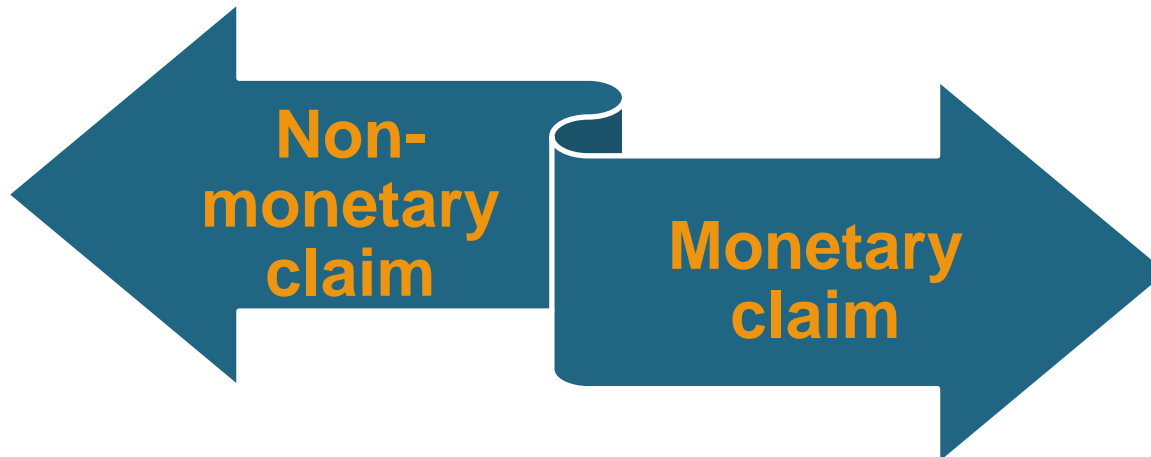
Are competent to issue interim measures:

- 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



Debt Collection and
Bankruptcy Act

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**

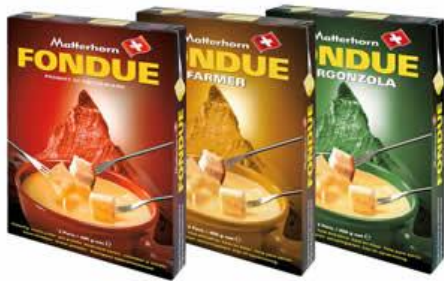
- Show credibly
- Creditor's claim v. debtor
- Ground for attachment
- Identification of assets belonging to the debtor

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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