

International sanctions

Blocking based on the Ukraine Ordinance takes precedence over enforcement under the LP

Par Maria Ludwiczak Glassey le 30 October 2025

In its judgment [5A_802/2024](#) of 28 August 2025 (intended for publication), the Federal Supreme Court ruled on the question of whether freezing orders issued on the basis of the Ordinance on Measures in Connection with the Situation in Ukraine (Ukraine Ordinance) take precedence over enforcement under the Federal Debt Enforcement and Bankruptcy Act (LP).

In July 2024, the Zurich Debt Enforcement Office issued a decision suspending enforcement proceedings initiated under the DEBA. The proceedings concerned assets that were also frozen pursuant to [Art. 15 para. 1 of the Ukraine Ordinance](#). The suspension of the enforcement proceedings was justified pending a decision by the State Secretariat for Economic Affairs (SECO) on whether the conditions for an exception allowing the release of the funds in question were met (Art. 15 para. 5 Ukraine Ordinance). The decision was upheld in the first and second cantonal instances in September and November 2024, respectively (see [Pahud, cdbf.ch/1394](#)). The appeal lodged against it was dismissed.

To answer the question of priority between the Ukraine Ordinance and the LP that arose before it, the Second Civil Court considered Art. [44 LP](#), which provides that “the realisation of objects confiscated under federal or cantonal criminal or tax laws or under the Law of 18 December 2015 on assets of illicit origin shall be carried out in accordance with those laws ” and considered whether this provision applies to the Ukraine Ordinance, even though it does not expressly mention it.

The basis of the Ukraine Ordinance was decisive : it could be either Art. [2 of the Federal Act on the Application of International Sanctions](#) (LEmb) or, directly, Art. [184 para. 3 of the Constitution](#) , both of which are mentioned in the preamble to the Ordinance. Following the reasoning of the cantonal court, the Federal Supreme Court analysed their respective relationships with Art. 44 LP.

With regard to Art. 184 para. 3 Cst., it recalled that, in [ATF 131 III 652](#), it had already ruled that Art. 44 LP applied to freezing orders issued on the basis of ordinances based on that provision. Although this decision was made under the aegis of Art. 44 LP in its former wording (‘The realisation of objects confiscated under the criminal and tax laws of the Confederation and the cantons shall be carried out in accordance with the provisions of those laws’) and while the LEmb had not yet been adopted, this case law had to be upheld on the basis of teleological and historical interpretations and in accordance with the relevant legal doctrine (considerations 3.5

and 3.6).

With regard to Art. 2 LEmb, the Federal Supreme Court ruled that, in view of ATF 131 III 652 and the objective pursued by the LEmb, freezing orders issued on this basis should be treated in the same way as measures under Art. 184 para. 3 of the Constitution with regard to the relationship with the LP (consideration 3.7).

Since Art. 44 LP must be applied to orders issued on the basis of both Art. 184 para. 3 Cst. and Art. 2 LEmb, the question of whether the Ukraine Ordinance is based on one or the other provision was left open. Regardless of the basis for the Ukraine Ordinance, Art. 44 LP takes precedence. In other words, the freezing orders issued on the basis of the Ukraine Ordinance take precedence over enforcement under the LP, and the proceedings must remain suspended pending the SECO's decision.

The question arises as to whether, given the nature of the freezing orders issued under Art. 184 para. 3 of the Constitution and Art. 2 of the Embargo Act, namely in the context of international sanctions, particularly when these arise from Switzerland's international obligations, it is necessary to invoke the exception provided for in Art. 44 LP to decide on the priority of the freeze ordered by SECO over the enforcement proceedings.

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