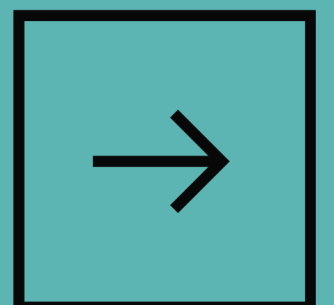
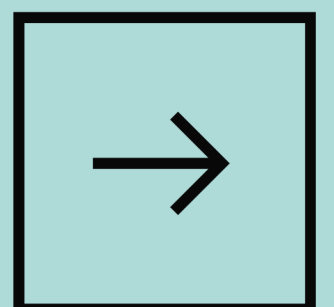


LIS PENDENS IN SWITZERLAND: BGER 5A_114/2025 & SWISS TORPEDO



INITIAL SITUATION

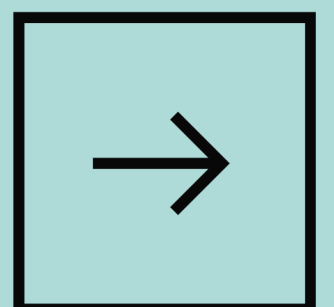
An international inheritance case leads to a dispute over matrimonial property rights and estate division between the wife/daughter and sons in several countries. The wife initiates a voluntary conciliation procedure in Switzerland, while a son simultaneously files a lawsuit in France.



THE CENTRAL QUESTION

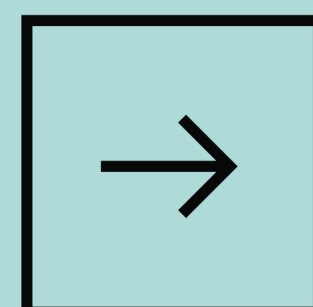
When is a proceeding in Switzerland considered pending, thereby blocking a subsequent foreign lawsuit?

The decisive factor is whether the voluntary conciliation request already counts as the "first necessary procedural step".



GUIDING PRINCIPLE: LITISPENDENCE FROM CONCILIATION REQUEST

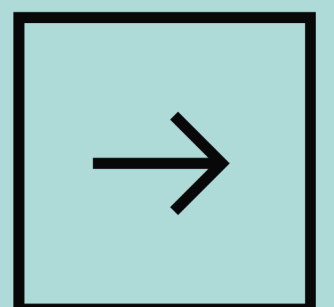
The Swiss Federal Supreme Court clarifies: The filing of a voluntary conciliation request also establishes lis pendens pursuant to Art. 9 para. 2 PILA.



ALSO APPLIES IN CASES OF VOLUNTARY ARBITRATION

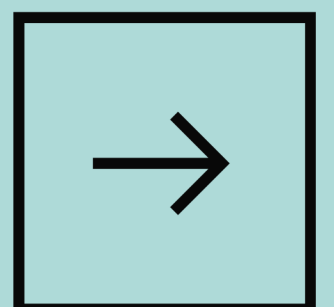
What is new is that this also applies if the conciliation is not mandatory, but voluntary pursuant to Art. 199 para. 2 CPC.

Litispence thus arises regardless of whether conciliation is mandatory.



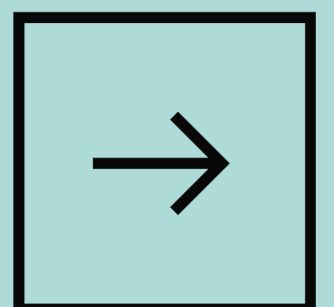
INCORRECT AUTHORISATION TO PROCEED

Procedural errors can in principle invalidate the authorization to proceed, but in the case of voluntary conciliation, it is not a procedural prerequisite. A defect in service therefore does not automatically prevent *lis pendens*.



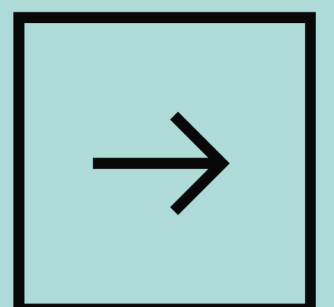
TAKE-AWAY: TAKE-AWAY: FORUM RUNNING

In international constellations, a swift request for conciliation can tactically secure the jurisdiction of Swiss courts. The low-threshold access makes this strategy particularly effective.



TAKE-AWAY: SWISS TORPEDO

By establishing early lis pendens, foreign proceedings can be blocked or at least delayed. This makes the "Swiss Torpedo" procedurally easier to trigger.

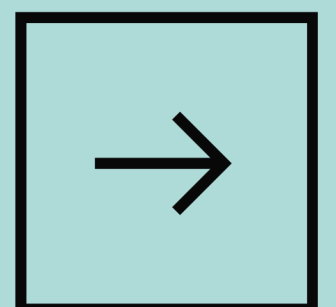


TAKE-AWAY: THE DATE COUNTS

The decisive date is the date of submission of the conciliation request, not the later date of the lawsuit.

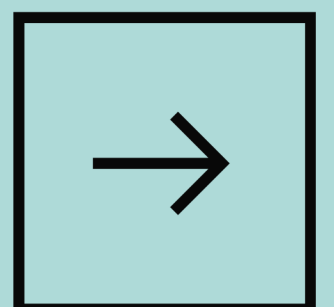
Anyone who receives the notification as a defendant should know:

A subsequent foreign lawsuit is usually pointless.



LIMITS & DEADLINES

Obvious, serious defects in the authorisation to proceed can also lead to nullity in the case of voluntary conciliation. And the three-month deadline for filing a claim following the authorisation to proceed remains strict – otherwise the retroactive effect of *lis pendens* is lost.



VISCHER

DISCOVER MORE IN THE FULL ARTICLE.



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