

## Austria

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### 1. What are the basic criteria for the courts of your jurisdiction to allow enforcement of a foreign judgment?

#### General remarks

Depending on the origin of the judgment, different international and domestic regimes regarding the recognition and enforcement of foreign judgments are in place. In general, international treaties and legal acts of the European Union take precedence over Austrian domestic provisions. Where no international treaty or legal act of the European Union provides for direct enforceability of a foreign judgment, applicants seeking enforcement must go through the recognition and enforcement procedure regulated in Sec 403 *et seq* Austrian Enforcement Act ('AEA'). An application must be filed with the Austrian district courts which are competent for enforcement proceedings in the first instance.

#### Standard domestic regime for obtaining a declaration of enforceability

The general regime governing the declaration of enforceability of foreign judgments can be found in Sec 403 *et seq* AEA. Where no international treaties or EU acts are applicable, the following two conditions set forth in Sec 406 AEA must be met in order to obtain a declaration of enforceability:

*i. Enforceability of foreign judgment*

Primarily, foreign judgments must be enforceable under the applicable provisions of the state in which the judgment was rendered. It is, however, not necessary that the decision of the foreign court is final and binding in the state of origin (Austrian Supreme Court October 23, 2002, docket no. 3 Ob 251/02m).

*ii. Reciprocity*

Secondly, formal reciprocity must be guaranteed between Austria and the state of origin by way of international treaties or special regulations of the Austrian government (Austrian Supreme Court, October 27, 1988, docket no. 2 Ob 611/88; February 25, 1976, docket no. 3 Ob 12/76).

Problems may arise if formal reciprocity is guaranteed through an international treaty or a domestic regulation but does not exist in practice (e.g. where the foreign state does not enforce Austrian judgments even if provided for in international treaties). In those cases, Austrian courts generally still assume the existence of formal reciprocity and, thus, enforce judgments of the other state (Austrian Supreme Court, November 26, 1996, docket no. 1 Ob 2095/96m). Conversely, Austrian courts do not allow enforcement of a foreign title in cases where no

applicable treaty is in place but where it can be proven that the issuing state factually allows enforcement of Austrian judgments (Austrian Supreme Court, February 25, 1976, docket no. 3 Ob 12/76).

If conditions (i) and (ii) are met, the court will assess whether the judgment has been issued in proceedings meeting the requirements of Sec 407 AEA. Accordingly, the following criteria must be fulfilled as well:

*iii. International jurisdiction of foreign court*

The other state's courts must have international jurisdiction under the hypothetically applicable Austrian law (so-called 'Austrian jurisdiction formula'). In order for a foreign judgment to be enforced it is necessary that (any of) the courts of the issuing state had international jurisdiction pursuant to Austrian provisions (RIS-Justiz RS0002369).

*iv. Notification of commencement of proceedings*

The defendant must have been notified of the commencement of the proceedings by service of a corresponding summons in the state where the proceedings were conducted. It suffices if, for example, the defendant was served with the relevant documents by means of legal assistance in another state. The purpose of this provision is to safeguard the defendant's right to be heard.

*v. No appeal suspending enforceability*

The foreign court rendering the judgment must have confirmed in writing that the judgment is not subject to an appeal that could suspend its enforceability. It is, however, not necessary that the foreign judgment is final and binding.

Additionally, no grounds for refusal as defined in Sec 408 AEA must exist. These grounds are limited to substantial defects of the proceedings in which the judgment was rendered as well as to violations of public policy (right to be heard, violations of *ordre public*).

Under the AEA, the proceedings regarding the declaration of enforceability are in writing only and conducted *ex parte*. Thus, no hearing or other involvement of the defendant takes place in order to ensure a surprise effect.

The above-mentioned prerequisites for issuing a declaration of enforceability must be reviewed by the court *ex officio* (RIS-Justiz RS0114024 [T3]). If all of the above-mentioned requirements are met, the competent court will declare the foreign judgment enforceable without considering the matter on its merits.

Austria has concluded several bilateral treaties providing for reciprocal recognition and enforcement of judgments. Due to Brexit, in relation to the United Kingdom foreign judgments can be enforced under the Convention between the Republic of Austria and the United Kingdom providing for the reciprocal recognition and enforcement of judgments in civil and commercial matters (for more details see *Exenberger/Karl, Anerkennung und Vollstreckung zivilgerichtlicher Entscheidungen Post-Brexit*, ecolx

2021/227) or – where an exclusive jurisdiction clause exists – the Hague Choice of Courts Convention (see below).

### **European Regime according to Brussels I Recast**

Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast; '**Brussels I Recast**') *inter alia* applies with regard to the enforcement of judgments issued by the courts of an EU member state. Brussels I Recast supersedes Austrian domestic law and has abolished the exequatur procedure. To enforce a judgment rendered in a member state, only the more lenient requirements set out in Brussels I Recast must be met.

A judgment given in a member state is recognized and enforceable in Austria without any special procedure being required. However, the party who wishes to enforce an 'EU judgment' has to produce (i) a copy of the judgment which satisfies the conditions necessary to establish its authenticity, (ii) a certificate issued pursuant to Article 53, certifying that the judgment is enforceable and (iii) if requested by the competent court, a translation or transliteration of the contents of the certificate pursuant to Art 53.

Art 45 sets out certain grounds for refusal of recognition. Accordingly, Austrian courts shall refuse the recognition of a foreign judgment (i) if recognition is manifestly contrary to the Austrian *ordre public*, (ii) in relation to default judgments where defendant was not able to arrange for their defence (iii) if the judgment is irreconcilable with a judgment given between the same parties in Austria or (iv) if it is irreconcilable with an earlier judgment given in another member state or in a third state involving the same cause of action and between the same parties or (v) if the judgment conflicts with the jurisdiction provisions set out in Section 3 (insurance issues), Section 4 (consumer contracts), Section 5 (individual employment contracts) or Section 6 (exclusive jurisdiction) of Chapter II Brussels I Recast.

### **Lugano Convention**

The Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters ('**Lugano Convention**') applies in relation to the enforcement of judgments issued in Iceland, Norway and the Swiss Confederation.

In line with Art 33, a judgment given in a state bound by the convention shall be recognized by Austria without any special procedure being required. However, it has to be declared enforceable in Austria upon application. A party applying for the enforcement of a judgment has to produce a copy of the judgment which satisfies the conditions necessary to establish its authenticity, a certificate pursuant to Art 54 and, if requested by the court, a translation of the documents.

Similarly to Art 45 Brussels I Recast, Art 34 *et seq* Lugano Convention state that a judgment shall not be recognized in Austria (i) if such recognition is manifestly contrary to public policy, (ii) in specific cases of default judgments, (iii) if it is irreconcilable with a judgment given in a dispute between the same parties in the Austria, (iv) if it is irreconcilable with an earlier judgment given in another state bound by the Lugano

Convention or in a third state involving the same cause of action and between the same parties, (v) if the judgment conflicts with the jurisdiction provisions set out in Section 3 (insurance issues), Section 4 (consumer contracts) and Section 6 (exclusive jurisdiction) of Title II Lugano Convention or with Art 64 para 3, Art 67 para 4, or Art 68 Lugano Convention. Notably, Austrian courts are not entitled to review a foreign judgment as to its substance.

### **Hague Convention on Choice of Court Agreements**

Pursuant to its Art 1, the Hague Convention on Choice of Court Agreements applies in international cases to exclusive choice of court agreements concluded in civil or commercial matters (Art 2 for exclusions from scope). Accordingly, Austria as a member state must recognize and enforce judgments given by a court of a contracting state designated in an exclusive choice of court agreement in situations where all requirements are met. In addition to the member states of the European Union, Mexico, Ukraine, Singapore, Montenegro and the United Kingdom are contracting parties to the convention.

According to the convention, an ‘exclusive choice of court agreement’ is an agreement concluded by two or more parties that meets the requirements of Art 3 lit c and designates, for the purpose of deciding disputes which have arisen or may arise in connection with a particular legal relationship, the courts of one contracting state to the exclusion of the jurisdiction of any other courts. Asymmetrical choice of court agreements are not covered under the convention (*Etihad Airways PJSC v Lucas Flother* [2020] EWCA Civ 1707 mn 85). In principle, Austrian courts are not entitled to review the merits of the judgment.

The party seeking recognition and enforcement has to produce (i) a certified copy of the judgment, (ii) the exclusive choice of court agreement, a certified copy thereof, or other evidence of its existence; (iii) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party, (iv) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin and (v) in case of a judicial settlement a certificate of a court of the state of origin stating that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin. Moreover, a certified translation is necessary if the necessary documents are not in German.

Art 9 provides various grounds for refusal of recognition or enforcement, *inter alia* if the choice of court agreement was null and void under the law of the state of the chosen court (unless the chosen court has determined that the agreement is valid), if a party lacked the capacity to conclude the agreement under the law of the requested state or if the judgment is inconsistent with an earlier judgment given in another state between the same parties on the same cause of action (provided that the earlier judgment fulfils the conditions necessary for its recognition in Austria).

### **Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters**

	<p>Austria, as member state of the European Union, is also bound by the rules set out in the Hague Convention on Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (<b>‘Hague Judgments Convention’</b>). The Hague Judgments Convention entered into force in September 2023 and simplifies the recognition and enforcement of foreign judgments rendered in its member states (currently only the EU member states and Ukraine). The convention applies to the recognition and enforcement of judgments in civil or commercial matters (exclusions from scope in Art 1 and Art 2).</p> <p>The party seeking recognition and enforcement has to produce (i) a certified copy of the judgment, (ii) if the judgment was given by default, the original or a certified copy of a document establishing that the document which instituted the proceedings or an equivalent document was notified to the defaulting party, (iii) any documents necessary to establish that the judgment has effect or, where applicable, is enforceable in the state of origin and (iv) in the case of a judicial settlement a certificate of a court of the state of origin stating that the judicial settlement or a part of it is enforceable in the same manner as a judgment in the state of origin. Moreover, a certified translation is necessary if the documents are not in German.</p> <p>Furthermore, a judgment is only eligible for recognition and enforcement if one of the numerous requirements set out in Art 5 is met, e.g. that the person against whom recognition or enforcement is sought was habitually resident in the state of origin at the time that person became a party to the proceedings in the court of origin.</p> <p>Art 7 lists several grounds for refusal of recognition and enforcement. These include <i>inter alia</i> that the defendant was not notified of the proceedings in sufficient time or in a manner that is compatible with the fundamental principles of Austria concerning service of documents or if the judgment was obtained by fraud. Austrian courts are not entitled to review the merits of the judgment.</p>
<p><b>2.</b></p>	<p><b>What other considerations may apply to enforcement of a foreign judgment against a state in your jurisdiction, e.g. notice provisions?</b></p>
	<p><b>No consent of political bodies necessary</b></p> <p>Enforcement proceedings (also in relation to judgments against states) are handled by the Austrian courts; consent of political bodies is not required when commencing enforcement against states. Austrian courts are obliged to examine whether all legal requirements are met and must consider questions of state immunity - in case they are obvious from the outset - <i>ex officio</i> (Austrian Supreme Court, November 28, 2019, docket no. 9 ObA 37/19k).</p> <p>If a court has doubts as to the existence of state immunity, it may consult the Austrian Ministry of Justice (Article IX para 3 Article IX of the Introductory Act to the Jurisdiction Act; <i>Einführungsgesetz zur Jurisdiktionsnorm</i>). However, since Austrian constitutional law provides for a separation of powers, the Ministry's statement is not binding for the court's final assessment of the question of immunity (RIS-Justiz RS0114977).</p>

	<p><b>Service of documents</b></p> <p>In case no special treaties or regulations apply in relation to the service of documents (such as Regulation (EC) No 1393/2007), the Austrian Foreign Ministry conducts the service of judicial documents to persons and other legal entities which are entitled to privileges and immunities under international law pursuant to Sec 11 para 2 of the Austrian Service of Documents Act (<i>Zustellgesetz</i>).</p> <p>Notably, the Austrian Supreme Court decided that – in case that there are no applicable bilateral or multilateral treaties and, hence, service of court documents by way of legal assistance is necessary – a foreign state may refuse a request for service of documents addressed to itself by referring to its sovereign immunity. This follows from Austrian case law pursuant to which the process of service of court documents in a foreign state itself constitutes <i>acta iure imperii</i> (in detail next question below; RIS-Justiz RS0115211).</p>
<p><b>3.</b></p>	<p><b>What special considerations apply where the defendant/debtor in enforcement proceedings is a state, e.g. doctrine of sovereign immunity?</b></p>
	<p><b>No special rules for enforcement proceedings against states</b></p> <p>In principle, Austrian law does not provide for special rules governing enforcement proceedings against states. However, Article IX of the Introductory Act to the Jurisdiction Act as well as international treaties and customary international law regulate certain aspects of enforcement against states, in particular with respect to questions and issues of sovereign immunity.</p> <p><b>Sovereign immunity</b></p> <p>In accordance with the theory of limited or relative sovereignty, Austrian case law and doctrine distinguish between acts of states which are subject to private law (<i>acta iure gestionis</i>) and acts of state power (<i>acta iure imperii</i>). Pursuant to this distinction, states are only excluded from the jurisdiction of Austrian courts to the extent that they exercise state power. The relevant criterion for distinguishing between private and state acts is whether the same act could be performed by private persons. If the latter is the case, immunity does not apply and proceedings against a foreign state are in principle permitted (RIS-Justiz RS0045581). The assessment of whether an act is to be qualified as a sovereign act or as a private-law act is not based on the respective domestic law, but on general international law (Austrian Supreme Court, September 24, 2008, docket no. 2 Ob 32/08g). The Austrian Supreme Court has found that also state institutions benefit from sovereign immunity when their acts are considered as <i>acta iure imperii</i>; the same applies to national banks of states.</p> <p><b>Objection of immunity in enforcement proceedings</b></p> <p>Foreign judgments rendered in disregard of an existing immunity can neither be recognized nor enforced in Austria. This ground for refusal must be considered by the competent court <i>ex officio</i> and derives from Sec 407 AEA (which demands for the international jurisdiction of the foreign court in the proceedings in the state of origin) and Sec 408 AEA (which constitutes <i>inter alia</i> the requirement of compliance with the</p>

procedural *ordre public*). Granting enforcement against a defendant state in violation of the provisions on immunity constitutes a ground for nullity; the enforcement proceedings would have to be discontinued *ex officio* by the court. If the enforcement measures have already been carried out, the Austrian Ministry of Justice can file an application for annulment pursuant to Sec 42(2) Austrian Jurisdiction Act with the Austrian Supreme Court.

In relation to enforcement proceedings, assets used for sovereign purposes are exempt from enforcement (for more details, see below question 6).

When filing an application for enforcement, the applicant is not obliged to highlight whether the assets to be seized are subject to immunity. If it is not clear from the application for enforcement that the object of enforcement serves sovereign purposes, the court has to grant enforcement. Notably, this part of the proceedings is conducted without any involvement of the state (*ex parte*).

(Only) once enforcement is granted, the defendant state can object to the enforcement based on the sovereign purpose of the respective assets and request a termination of the proceedings pursuant to Sec 39 AEA. According to Sec 42 AEA, such request can be combined with an application to stay the enforcement proceedings until the court has made its (final) decision on whether the assets are indeed exempt from enforcement.

### **Waiver of immunity**

With regard to *acta iure imperii*, a state can waive its immunity pursuant to Article IX of the Introductory Act to the Jurisdiction Act. This can be done at any time by means of an express agreement or unilateral declaration or by implicitly confirming that such a waiver has been made.

It has to be noted that a waiver of immunity in relation to jurisdiction does not include a waiver of immunity in respect to enforcement proceedings. Hence, an additional waiver of immunity from enforcement is required (Austrian Supreme Court, July 11, 2012, docket no. 3 Ob 18/12m).

### **International treaties regarding sovereign immunity**

Austria (together with the Swiss Confederation, Belgium, Germany, Luxembourg, the Netherlands, Portugal, Cyprus and the United Kingdom) is a contracting state to the European Convention on State Immunity. According to the Austrian Supreme Court, the convention is only to be applied if both the state whose immunity from jurisdiction is at issue and the forum state are parties to the convention (Austrian Supreme court, June 14, 1989, docket no. 9 Ob A 170/89).

Austria is obliged to fulfill judgments rendered against it in accordance with the provisions of the convention (Art 20). To ensure that this obligation is effectively complied with, judicial safeguards are provided in Art 21. These judicial safeguards have been inserted because Art 23 in general prohibits enforcement being levied in one contracting state against the assets of another contracting state. This derives from the idea that it is to be assumed that contracting states fulfil their obligations which they have

	<p>undertaken by virtue of the convention anyway. Enforcement is permissible in case of an explicit written consent.</p> <p>In addition, Austria is also a contracting party to the United Nations Convention on Jurisdictional Immunities of States and Their Property. This convention has not entered into force yet.</p>
<b>4.</b>	<b>What exceptions may apply where the claim results from improper actions of the defendant state, e.g. wars of aggression?</b>
	<p>Austrian law does not provide exceptions for claims arising from wrongful acts of a state, such as wars of aggression.</p>
<b>5.</b>	<b>What due process standards and exceptions may apply in proceedings for enforcement of judgment against a state?</b>
	<p>There are no special rules for the enforcement of judgments against states. Therefore, Austrian courts must observe the same standards as in regular enforcement proceedings.</p> <p>In principle, Austrian courts have to assess <i>ex officio</i> whether the relevant standards of due process have been adhered to, e.g. if the service of the document commencing the proceedings has been done correctly. In doing so, the court is neither bound by the factual findings of the foreign proceedings nor the legal opinion of the foreign judge (Austrian Supreme Court, August 29, 2019, docket no. 3 Ob 91/19g).</p> <p>In general, there is no (legal) presumption that foreign judgments and proceedings comply with the relevant procedural standards. Hence, if it is doubtful whether all relevant standards have been met or if this is disputed by defendant, and if the court has not assessed these questions <i>ex officio</i>, the party applying for enforcement must prove that these prerequisites have been fulfilled.</p>
<b>a.</b>	<b><i>What standard will the court apply in the enforcement proceedings when assessing whether the service requirements have been met in the original proceedings against a state?</i></b>
	<p>As stated above, if no bi- or multilateral treaties or legal acts from the European Union (which may contain specific service requirements) are applicable, the conditions set out in the Austrian Enforcement Act regarding the enforcement of foreign judgments must be met (Sec 403 <i>et seq</i> AEA). As also stated above, there are no special domestic rules regarding the enforcement of foreign judgments against states.</p> <p>Therefore, the Austrian courts assess whether the defendant state has been properly notified of the commencement of the original proceedings. In addition, the Austrian courts will examine whether there were irregularities in the foreign proceedings which prevented the defendant state from participating. The purpose of this assessment is to protect the defendant state's right to be heard.</p>

	<p>When assessing whether the defendant state has been effectively notified, the Austrian courts are not bound by the factual findings and the legal opinion of the court in the original proceedings (Austrian Supreme Court, August 29, 2019, docket no. 3 Ob 91/19g; ECJ July 15, 1982, Case 228/81, <i>Pendy Plastic v Pluspunkt</i>). To enable the Austrian courts to assess these issues, the party applying for a declaration of enforceability must present a corresponding proof of service (Austrian Supreme Court, January 28, 2004, docket no. 3 Ob 104/03w).</p>
<p><b>b.</b></p>	<p><b><i>What exceptions may apply where conventional forms of service against a state are impossible, e.g. due to absence of diplomatic relations?</i></b></p>
	<p>There are no exceptions in Austrian enforcement law with regard to the requirement of service to a defendant state in the original proceedings (however, exceptions may arise from international treaties).</p>
<p><b>c.</b></p>	<p><b><i>What standard will the court apply in the enforcement proceedings when assessing whether the right to representation requirements have been met in the original proceedings against a state?</i></b></p>
	<p>Pursuant to Sec 408 para 1 AEA, the declaration of enforceability is refused if irregularities occurred in the foreign proceedings which prevented the defendant from properly participating in the proceedings, including lack of required representation. The purpose of this provision is to safeguard the fundamental principles of Austrian procedural law guaranteeing due process, in particular the right of a party to be heard. Whether such fundamental principles have been violated in the proceedings is to be assessed not only on the basis of the procedural rules applicable in the state of origin but also on the basis of the particularities of the proceedings in each individual case (i.e. whether defendant factually had sufficient time to be able to prepare a proper defence).</p> <p>The fact that the original proceedings did not comply with domestic procedural rules in all respects does not in itself constitute a violation of the procedural <i>ordre public</i>; such violation occurs only if elementary (domestic) procedural principles were violated in the original proceedings to such an extent that, in the overall assessment of the proceedings, the procedural rights of a party were curtailed in an unacceptable manner (Austrian Supreme Court, February 20, 2019, docket no. 3 Ob 251/18k).</p>
<p><b>d.</b></p>	<p><b><i>What exceptions may apply where the defendant state cannot find legal representation, or chooses not to be represented?</i></b></p>
	<p>Notably, in Austrian enforcement proceedings the parties and other participants of the proceedings may appear in person or by proxy. It is, in general, not necessary to be represented by counsel (Sec 52 AEA).</p> <p>Only in cases of enforcement actions pursuant to Sec 35 to 37 AEA (which are aimed at opposing ongoing enforcement proceedings) with an amount in dispute of more than EUR 5,000 as well as in appellate proceedings, parties must be represented by counsel.</p>

**6. What assets may be subject of enforcement if the claim is against a state and what are the requirements, e.g. enforcement against assets of state owned entities?**

**Theory of limited sovereignty**

In accordance with the theory of limited or relative sovereignty, the specific purpose of the respective assets owned by states is decisive for the question of whether they are exempt from enforcement or not. If the assets in question are used exclusively for private purposes, an attachment/seizure and realization is permitted. If, on the other hand, the assets are used or intended to enable the foreign state to exercise its sovereign powers, enforcement measures are not allowed. The assessment of whether an asset is used for private or sovereign purposes is not based on domestic law but on general international law.

Based on these considerations, the Austrian courts found that the following assets are not subject to enforcement:

The premises of a diplomatic mission, its furnishings and other objects therein, the assets used for its operation (e.g. money in bank accounts used to pay the embassy's bills), the means of transport as well as the residence of the head of mission. The same applies to a diplomat's private residence, their papers and correspondence, their property as well as to consular premises. By contrast, it was held that a consul's private residence including furnishings and means of transportation - unlike a diplomat's - do not enjoy immunity from enforcement.

In contrast, assets not serving sovereign purposes, such as bank accounts established in Austria for the purpose of conducting commercial transactions or operating a public relations company can be attached/seized and, hence, are subject to enforcement. In another case, the Austrian Supreme Court has ruled that also foreign state's art works can be the subject of enforcement proceedings if they are not used for state purposes (Austrian Supreme Court, July 11, 2012, docket no. 3 Ob18/12m; RIS-Justiz RS0128009).

In principle, assets can also be attached if they are indirectly owned by a state through third parties in case they are exclusively used for private purposes.

As mentioned above, receivables in bank accounts may also be protected from enforcement due to their use for *acta iure imperii*. A bank account of the defendant state or of one of its representative authorities is only subject to enforcement if it serves exclusively for private-law purposes (RIS-Justiz RS0045489; Austrian Supreme Court, April 30, 1986, docket no. 3 Ob 38/86). However, it is often difficult to differentiate whether a bank account only serves private-law purposes (e.g. for commercial transactions) or (also) sovereign purposes (such as the operation of a diplomatic mission). According to German case law, international law prohibits the defendant state from being required to provide detailed information on the purpose of its bank accounts. The defendant state is only required to show that the bank account serves to maintain the functions of its diplomatic missions or other sovereign purposes. Accordingly, because of the difficulties of separating the receivables in a bank account to the purpose of its use, it is sufficient for the assumption of immunity that the receivables in the bank account also serve to cover the expenses for sovereign purposes.

**Burden of proof**

As noted above, once enforcement proceedings have been commenced, it is for the defendant state to object to the enforcement based on the sovereign purpose of the respective assets.

Pursuant to Austrian law, the burden of proof lies on the party relying on an alleged immunity from enforcement and, thus, on the defendant state (Austrian Supreme Court, docket no. 3 Ob 18/12m).

Only if it is obvious for the court from the content of the enforcement application that the assets to be attached/seized are at least partly used for sovereign purposes, an application for enforcement brought against a state must be rejected by the court from the outset (RIS-Justiz RS0128009).