



# Enforcement of Investment Arbitral Awards

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# I. Obligation to Enforce Awards

- ICSID Convention
- New York Convention

# II. Obligation Not to Enforce Awards

- Sovereign Immunity  
(Foreign State Immunity)

# ICSID Convention, Art 54(1)

“Each Contracting State shall ... enforce the pecuniary obligations imposed by [an] award within its territories as if it were a final judgment of a court in that State.”



## ICSID Convention, Art 55

“Nothing in Article 54 shall be construed as derogating from the law ... relating to immunity ... of any foreign State from execution.”

# New York Convention

“Each Contracting State shall ... enforce [arbitral awards] in accordance with the rules of procedure of the territory where the award is relied upon.” (Art 3)

Exception: if “enforcement of the award would be contrary to the public policy of that country” (Art 5, para 2(b))

# Sovereign Immunity

- Obligation Not to Enforce  
Sovereign property → Immune
- Exceptions → Enforcement  
Non-sovereign property  
Waiver  
→ Not immune

# Expansion of Sovereign Immunity

- Expansive interpretation of “sovereign property”  
eg. *Germany v. Italy* (ICJ, 2012)
- Restrictive interpretation of “waiver”  
eg. *NML Capital v. Argentina*  
(France, Cour de cassation, 2013)

# Germany v. Italy (ICJ, 2012)

Villa Vigoni: German property in Italy

Seat of a cultural centre intended  
to promote cultural exchanges  
between German and Italy



Sovereign property → immune



VIA GIULIO VIGONI



VILLA VIGONI ▶





VILLA VICINI  
MUSEO DI STORIA LOCALE





















































VIA GIULIO VIGONI



VILLA VIGONI ▶



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# Restrictive interpretation of waiver

*NML Capital v. Argentina*

(France, Cour de cassation, 2013)

Requirement of Specific Waiver



Property not specified

= Not waived → immune



# Conclusion

Asymmetrical character of sovereign immunity

- Broader immunity cannot be intl law violation.
- Denial of immunity may be intl law violation.

Interests/expectations of investors (private persons)