

Scherer on Effects of Award Judgments

Maxi Scherer (Queen Mary, University of London) has posted *Effects of Foreign Judgments Relating to International Arbitral Awards: Is the 'Judgment Route' the Wrong Road?* on SSRN.

This article examines and critically assesses the 'judgment route' in international arbitration. The 'judgment' route refers to a growing trend in many jurisdictions to grant effects to foreign judgments relating to international arbitral awards, such as judgments setting aside, confirming, recognizing or enforcing an arbitral award (called 'award judgments' for the purposes of the article). Although there is abundant commentary on the effects of set aside judgments, very little attention has been paid to the other equally important situations where courts confirm, refuse to set aside or simply recognize or enforce an award. This article aims to fill this gap. It is submitted that national courts often err when they grant effects to foreign award judgments. On a theoretical level, the judgment route ignores the distinctive, ancillary nature of award judgments: award judgments differ from other judgments insofar as they relate to a prior adjudication — the award — and thus need to be treated differently. Moreover, on a practical level, the judgment route risks encouraging forum shopping and the multiplication of parallel proceedings, and it increases the likelihood of conflicting decisions. On the basis of these findings, the article concludes that the judgment route taken by courts in many jurisdictions is often the wrong road.

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