

Reciprocity in the Recognition and Enforcement of Foreign Judgments: Two Recent Contributions

Reciprocity in the field of recognition and enforcement of foreign judgments has long been a subject of passionate debate. While some scholars question its desirability, others firmly defend it as a legitimate legal requirement. What remains undeniable is that the topic continues to spark intense discussion and scholarly interest.

A clear illustration of this ongoing debate is provided by two recent publications addressing the issue from different perspectives and jurisdictions.

The first is an enlightening **open-access** article by **Eszter PAPP** and **Nobumichi TERAMURA**, titled “*Enforcing Singapore Judgments in Cambodia: Reciprocity Under the Loupe*”. The paper explores the practical and legal challenges related to the enforcement of Singaporean money judgments in Cambodia, with a specific focus on the requirement of reciprocity.

The abstract reads as follows:

Abstract:

This article examines the feasibility of enforcing Singapore money judgments in Cambodia, focusing on the “guarantee of reciprocity” – an ambiguous yet critical condition. It is ambiguous because Cambodian courts have not yet interpreted it. It is critical because it is perceived as the main obstacle to enforcing foreign judgments. Without a treaty-based mutual enforcement mechanism between Cambodia and Singapore, it is unclear whether a Singapore money judgment could be enforced in Cambodia or if a judgment creditor’s application would be dismissed in any event citing lack of reciprocity. Following an analysis of the laws of Cambodia, Singapore, and Japan, the article concludes that there is no legal obstacle before the Cambodian courts to enforce a Singapore money judgment. The flexible interpretation of the guarantee of reciprocity outlined in this article would enhance access to justice,

eliminate a trade barrier, and make the investment environment more attractive in Cambodia.

The second is a **case comment written by myself (in French)** on a decision of the Tunisian Cour de cassation that addresses the reciprocity requirement in the context of the enforcement of foreign judgments, under the title “*La réciprocité en matière d’exequatur?: Quoi de nouveau?? Observations sous l’arrêt de la Cour de cassation n° 6608 du 13 mars 2014*” (Reciprocity in the Recognition of Foreign Judgments: What’s New? Commentary on Court of Cassation Ruling No. 6608 of 13 March 2014)

The (English) abstract reads as follows:

Abstract:

The enforcement of foreign judgments in Tunisia is governed by Article 11 of the 1998 Code of Private International Law, which states that enforcement cannot be allowed if, inter alia, the reciprocity principle is not observed. This case note analyzes and reviews this issue in light of the Tunisian Cour de cassation’s decision No. 6608 of 13 March 2014. In this decision, the Court ruled that, in the absence of an international cooperation agreement, reciprocity is a factual matter, and its respect must be presumed. It is therefore up to the party contesting this presumption to provide evidence of its non-existence. This decision provides a valuable clarification of the nature and legal framework of reciprocity under Tunisian law, particularly regarding the burden of proof.

Together, these two contributions offer a concise yet comprehensive look at how the principle of reciprocity is interpreted and applied in different legal systems.