

NOTE

PREVENTING “JUDGMENT LAUNDERING” IN
TRANSNATIONAL LITIGATION:
COMPARATIVE ANALYSIS AND RECOMMENDATIONS

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I. INTRODUCTION

While international forum shopping itself is a well-known phenomenon, a troubling practice has recently gained attention: judgment laundering.¹ This process begins by registering a foreign judgment for enforcement in an intermediate jurisdiction that permits recognition. The intermediate judgment is then enforced in a third country that would not have recognized the original judgment directly but where the defendant's assets are located.² Through this technique, litigants essentially launder a foreign judgment's enforceability, bypassing legal safeguards in place in the target jurisdiction.

The potential for judgment laundering presents serious challenges to the principles of comity, finality, and predictability in international dispute resolution. Allowing such practices to proceed unchecked undermines the integrity of national judicial systems and creates inconsistencies in how foreign judgments are enforced. As cross-border commercial disputes continue to grow, developing a coherent framework to address judgment laundering is increasingly essential.

A recent case highlighting the issue of judgment laundering is *Strategic Technologies v. Procurement Bureau*, in which the England and Wales Court of Appeal addressed a previously

1. See *Strategic Techs. Pte. Ltd. v. Procurement Bureau of the Republic of China Ministry of National Defence* [2020] EWCA (Civ) 1604, [55], [2020] 1 W.L.R. 3388 (Eng.); see also Kate Gee, *Court of Appeal Refuses to Allow Cross-Border "Judgment Laundering,"* SIGNATURE LITIG. (Dec. 10, 2020), <https://www.signaturelitigation.com/court-of-appeal-refuses-to-allow-cross-border-judgment-laundering-kate-gee/> [<https://perma.cc/EAV8-K7YP>].

2. See *Strategic Technologies* [55]; see also Gregory H. Shill, *Ending Judgment Arbitrage: Jurisdictional Competition and the Enforcement of Foreign Money Judgments in the United States*, 54 HARV. INT'L L.J. 459, 463 (2013) (labeling this practice "judgment arbitrage" to emphasize how creditors can easily exploit the differences of state recognition standards).

unresolved question in common law: whether it is permissible to register in England a judgment from a Commonwealth court that itself derives from a judgment issued by another Commonwealth court.³ By refusing to permit such registration, the English Court of Appeal effectively curtailed cross-border judgment laundering and reinforced the importance of preserving the integrity of the judgment enforcement process.

This Note analyzes the English court's interpretation of this issue, compares the approaches of the European Union ("EU"), the United States ("US"), and the United Kingdom ("UK") to judgment laundering, and offers recommendations to prevent the exploitation of judgment enforcement mechanisms in transnational litigation. This Note argues that existing recognition frameworks under the EU's Brussels Regulation, US state law, and UK common law are inadequately equipped to address judgment laundering effectively. By comparing these approaches and identifying their respective strengths and weaknesses, this Note proposes practical recommendations for enhancing procedural safeguards, harmonizing recognition standards, and promoting international cooperation to combat judgment laundering.

This Note proceeds as follows. Part II provides an overview of judgment laundering and uses *Strategic Technologies* as a case study to examine the practice and its implications. Part III compares the recognition and enforcement standards of the United Kingdom, the European Union, and the United States, highlighting the strengths and weaknesses of each framework. Part IV offers three recommendations to address the shortcomings identified in the comparative analysis.

II. OVERVIEW OF THE "JUDGMENT LAUNDERING" PROBLEM

"Judgment laundering" refers to a tactic used by plaintiffs to enforce a foreign judgment that would otherwise be unenforceable, by obtaining recognition of the original judgment through an intermediate jurisdiction. The process involves three steps: (1) acquiring a judgment in the original court, (2) obtaining recognition or enforcement of that judgment in a second court (the

3. *Strategic Technologies* [1].

intermediate jurisdiction), and (3) seeking enforcement of the intermediate judgment in a third court based on the principle of reciprocity. The plaintiff's objective is to "launder" the original judgment through the intermediate court to make it enforceable in a jurisdiction that recognizes judgments from the intermediate court but not directly from the original court. This practice effectively asks the third court to recognize a "judgment on a judgment."

The issue of judgment laundering was addressed in *Strategic Technologies v. Procurement Bureau*, a landmark case before the English Court of Appeal.⁴ The central question in this case was whether it is permissible to register in England a judgment of a Commonwealth court that itself is derived from a judgment of another Commonwealth court. This question highlighted a novel issue in English common law that had not been explicitly addressed before.

In this case, the Court of Appeal adopted a purposive approach to interpreting the Administration of Justice Act 1920 ("AJA"), which governs the recognition and enforcement of Commonwealth judgments in the United Kingdom.⁵ The court emphasized that the principle of reciprocity is fundamental to the AJA's framework.⁶ Allowing a "judgment on a judgment" to be registered in England would undermine the reciprocity requirement, as the original judgment may not meet the criteria for recognition under UK law.⁷ This Part will first explain the background of this case and the court's decision and then discuss its practical implications.

A. *Strategic Technologies v. Procurement Bureau*: A Case Study

The history of the underlying dispute between the two parties of the case traces back to a contractual dispute that was first brought in May 1998. Strategic Technologies ("ST"), a company incorporated in Singapore, was contracted to supply equipment to the Ministry of National Defense of the Republic of China,

4. See *Strategic Technologies* [55].

5. See Administration of Justice Act 1920, 10 & 11 Geo. 5 c. 81 (UK).

6. *Strategic Technologies* [27].

7. See *id.* [55].

commonly known as Taiwan (“MND”).⁸ The contract had an arbitration clause that required arbitration in Taipei governed by Taiwanese law.⁹ A dispute arose and ST commenced proceedings in Singapore in May 1998.¹⁰ The MND sought a stay of the proceedings pending arbitration, which the Singapore court granted. Subsequently, however, the MND declined to arbitrate.¹¹ As a result, the stay was lifted, and the action proceeded, albeit in the absence of the MND.¹² The Singapore court entered a default judgment, and ST was awarded damages plus fixed costs in 2002 (“Singapore judgment”).¹³

In 2003, ST sought to register the Singapore judgment in England under the AJA.¹⁴ The AJA permits registration of judgments of courts in many Commonwealth states, including Singapore, based on reciprocity.¹⁵ The judgment was registered, but “for reasons which have not been explained,” ST did not take further steps to enforce the judgment (“first English registered judgment”).¹⁶

In 2008, the MND brought a separate action in the Cayman Islands against third parties seeking the recovery of funds allegedly misappropriated.¹⁷ ST, seizing this opportunity, sought a freezing order over an account held in the Cayman Islands in which the MND claimed an interest.¹⁸ ST subsequently commenced a common law action to register the Singapore judgment in the Cayman Islands.¹⁹ The MND was served with the proceedings, but it refused to acknowledge service.²⁰ In 2009, the Grand Court of the Cayman Islands entered a default judgment (“Cayman judgment”).²¹ However, the MND’s claim against third parties was dismissed in 2014, and the account the MND sought to freeze was

8. *Id.* [1].

9. *Id.* [4].

10. *Id.* [5].

11. *Id.* [6].

12. *Id.*

13. *Id.*

14. *Strategic Technologies* [8].

15. Administration of Justice Act 1920, § 9; see *Strategic Technologies* [25].

16. *Strategic Technologies* [8].

17. *Id.* [9].

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* [10].

released. Given that the MND did not secure any recovery, ST did not enforce the judgment in the Cayman Islands.²²

In 2016, ST applied to the English High Court to register the Cayman judgment under the AJA.²³ The application was granted with permission for the MND to apply to set aside the registration within two calendar months and twenty-three days after service on it of notification of registration (“second English registered judgment”).²⁴ The MND was served the order for registration in Taipei, but the MND did not accept the validity of the service under Taiwanese law and ignored it.²⁵ Meanwhile, ST attempted to enforce the second English registered judgment in Italy and France under the Recast Brussels Regulation,²⁶ but those attempts were unsuccessful.²⁷

In 2019, ST sought to enforce the second English registered judgment against MND assets located in London.²⁸ The action finally prompted the MND to apply to set aside the order for registration. The lower court found that the AJA gives the court discretion to register a judgment on a judgment in England provided that the conditions in section 9(2) of the AJA are satisfied.²⁹ Section 9 of the AJA permits English courts to register (and thereby recognize) judgments obtained in the superior courts of Commonwealth countries, while section 9(2) enumerates the

22. *Id.* [13].

23. *Id.* [14].

24. *Id.*

25. *Id.* [15].

26. The Recast Brussels Regulation, adopted in 2012, replaced the 2001 Brussels Regulation and now governs the recognition and enforcement of judgments in civil and commercial matters within the European Union. *See* Regulation 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, 2012 O.J. (L 351) 1 [hereinafter Recast Brussels Regulation]; Council Regulation 44/2001 of 22 December 2000 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, 2001 O.J. (L 12) 1 [hereinafter 2001 Brussels Regulation]. “Recasting” refers to a legislative process in the European Union through which existing legislation is repealed and replaced by a new act that incorporates the original instrument together with its amendments. Unlike codification, recasting permits substantive changes to the original act rather than merely consolidating existing provisions. *See Recasting of Legislation*, EUR-LEX, <https://eur-lex.europa.eu/EN/legal-content/glossary/recasting-of-legislation.html> [<https://perma.cc/MJ35-EJ9X>] (last visited Feb. 7, 2026).

27. *Strategic Technologies* [15].

28. *Id.* [16].

29. *Id.* [17].

circumstances in which registration must be refused.³⁰ These include, among other things, a lack of jurisdiction in the original court, default judgments, and judgments obtained by fraud.³¹ The lower court concluded that none of the section 9(2) exceptions applied, and therefore held that the registration of the Cayman judgment was appropriate.³² On appeal, the issue was limited to one particular point: whether the AJA permits registration of a judgment on a judgment.³³

From a literal approach, as the lower court decided, the Cayman judgment appeared to fall within the literal definition of a “judgment” in the AJA.³⁴ It is a judgment given in civil proceedings ordering a sum of money being paid. Theoretically, the Cayman Islands court could be viewed as the “original court” by which the judgment was given, and other requirements of the AJA were satisfied: the Cayman Islands court had jurisdiction to which the MND submitted; the MND was duly served; the Cayman judgment was not obtained by fraud; no appeal was pending; and the cause of action in the Cayman judgment was not contrary to English public policy.³⁵

However, to determine the correct construction of the AJA, the Court of Appeal took a purposive approach and considered the AJA in light of the purpose and scheme of the legislation at the time it was passed. The court relied on two reasons. First, the fundamental principle on which the AJA is based is one of reciprocity.³⁶ Judgments of foreign courts will be recognized in the United Kingdom only if the Commonwealth state in which the judgment was given has enacted reciprocal provisions.³⁷ The court found that the essential principle underlying the AJA was not one of “mutual trust” between different parts of the British Empire, but a principle of reciprocity with safeguards, which were detailed in section 9(2).³⁸ Therefore, to interpret the AJA as permitting registration of a judgment on a judgment would “unbalance this

30. Administration of Justice Act 1920, § 9.

31. *Id.*

32. *Strategic Technologies* [17].

33. *Id.* [19].

34. *Id.* [51].

35. *Id.* [52].

36. *Id.* [54].

37. *Id.*

38. *Id.*

reciprocity.”³⁹ It would mean that a judgment given in a state with which no such reciprocal provisions existed and which was not in the Commonwealth could in effect be registered for enforcement in England by an action to enforce that judgment in an intermediate state to which the AJA applies—namely, through a measure sometimes described as “judgment laundering.”⁴⁰ To permit judgment laundering would be contrary to the purpose of the AJA, given that no evidence supported this kind of legislative intent.⁴¹

Moreover, under the AJA, foreign judgments cannot be registered if any of the conditions set out in section 9(2), namely, “the safeguards,” apply. These safeguards include (a) the original court acted without jurisdiction; (b) the judgment debtor did not submit to the jurisdiction of that court; (c) the judgment debtor was not duly served; (d) the judgment was obtained by fraud; (e) an appeal is pending, or the judgment debtor is entitled and intends to appeal; and (f) the cause of action was against public policy of the registering court.⁴² The Court of Appeal reasoned that section 9(2) would only make sense if it referred to the proceedings in the court which gave judgment on the underlying dispute.⁴³ The court considered that in circumstances where this issue had never arisen at common law, Parliament is unlikely to have had the possibility of enforcing a judgment on a judgment in mind.⁴⁴ In other words, the “original court” Parliament would have contemplated when making the law must be the court that had dealt with the underlying dispute and not an intermediate court, like the Cayman Islands court in this case.⁴⁵ This reading also aligns with the fundamental operation of the AJA—the English court should be able to scrutinize the proceedings in the court which gave judgment on the underlying dispute in order to ensure that the conditions for registration set out in section 9(2) are satisfied.⁴⁶ In particular, paragraph (f) of section 9(2) of the AJA provides that no judgment shall be registered if “the judgment was in respect of

39. *Id.* [55].

40. *Id.*

41. *Id.*

42. Administration of Justice Act 1920, § 9(2).

43. *Strategic Technologies* [58].

44. *Id.*

45. *Id.*

46. *Id.* [59].

a cause of action which for reasons of public policy or for some other similar reason could not have been entertained by the registering court.”⁴⁷ It was clear to the Court of Appeal that the underlying cause of action refers to the cause of action in Singapore, not the nominal cause of action to enforce the obligation created by the Singapore judgment (the cause of action in the Cayman Islands court).⁴⁸

The Court of Appeal concluded that it was not permissible to extend interpretation of the AJA to permit registration of a judgment on a judgment. The court ruled for the MND and set aside the order of registration of the Cayman judgment.⁴⁹

B. Implications of the Decision

In *Strategic Technologies v. Procurement Bureau*, the Court of Appeal clarified the scope and interpretation of the AJA and provided useful guidance for future litigants who consider recovering foreign judgments in England. The court acknowledged that the common law position regarding the enforceability of a judgment on a judgment had never been decided but declined to decide how the common law should answer this question.⁵⁰ Instead, the court noted that neither the AJA nor the Foreign Judgments (Reciprocal Enforcement) Act 1933 purports to codify the common law.⁵¹ The court decided that the correct approach would be to consider the AJA on its own terms and in the light of the legislative intent at the time of its passing.⁵²

In this decision, the Court of Appeal provides a thorough analysis of the legal principles essential to the recognition and enforcement of foreign judgments in England. The court emphasized the principle of reciprocity with safeguards. To permit the registration of “a judgment on a judgment” would unbalance the principle of reciprocity and undermine the safeguard requirements in the statute, which are put in place to preserve the court’s consistency and integrity.

47. Administration of Justice Act 1920, § 9(2).

48. *Strategic Technologies* [59].

49. *Id.* [70].

50. *Id.* [47].

51. *Id.*

52. *Id.*

The implications of this decision extend beyond the United Kingdom, particularly to jurisdictions that incorporate reciprocity as a prerequisite for judgment enforcement. For example, in high-profile cases like *Aguinda v. Texaco* and *Osorio v. Dole Food Co.*, plaintiffs obtained judgments outside the United States and sought to enforce them against the worldwide assets of US entities.⁵³ In *Republic of Argentina v. NML Capital, Ltd.*, the judgment creditor sought to enforce a US district court judgment and attach Argentine assets around the world through lawsuits in foreign courts.⁵⁴ These cases demonstrate the potential for plaintiffs to exploit recognition frameworks by laundering foreign judgments through jurisdictions with more permissive enforcement standards before pursuing enforcement where the defendants have substantial assets.

Under the reasoning of the *Strategic Technologies* decision, plaintiffs in similar situations would be barred from laundering their judgments through an intermediate jurisdiction to achieve enforcement in countries applying the principle of reciprocity. This approach strengthens the integrity of judgment enforcement mechanisms by ensuring that only judgments that meet the legal standards of the enforcing jurisdiction are recognized. Moreover, this decision may influence other common law jurisdictions with reciprocity-based frameworks, encouraging them to adopt similar safeguards against judgment laundering.

53. *Aguinda v. Texaco, Inc.*, 142 F. Supp. 2d 534 (S.D.N.Y. 2001); *Osorio v. Dole Food Co.*, 665 F. Supp. 2d 1307 (S.D. Fla. 2009). In the litigation involving Texaco, after obtaining a multibillion-dollar judgment from Ecuadorian courts, the plaintiffs sought to enforce the judgment in multiple jurisdictions, including Argentina, Brazil, Canada, and Ecuador. Similarly, in the Dole Food litigation, plaintiffs attempted to enforce a US\$97 million Nicaraguan civil judgment in Florida. See Ryan Everette, *Preventing Foreign-Judgment Country Hopping with a New Transnational Recognition and Enforcement Standard*, 54 VAND. L. REV. 737, 757–58 (2021) (discussing the recognition and enforcement issues surrounding *Texaco*); Gary E. Davidson, *Osorio v. Dole Food Co.*, 665 F. Supp. 2d 1307 (S.D. Fla. 2009), 5 FIU L. REV. 193, 193 (2009) (summarizing the background and the holding of *Osorio*).

54. See Recent Case, *Foreign Sovereign Immunities Act of 1976 — Postjudgment Discovery — Republic of Argentina v. NML Capital, Ltd.*, 128 HARV. L. REV. 381, 381–82 (2014) (mentioning the plaintiff's worldwide efforts to attach Argentine state assets, including the temporary seizure of an Argentine naval vessel in Ghana and unsuccessful attempt to seize Argentina's presidential plane); see also H.C., *Argentina and Its Creditors: A Languid Tango*, ECONOMIST (Jan. 16, 2013), <http://www.economist.com/blogs/americasview/2013/01/argentina-and-its-creditors> [<https://perma.cc/Y6JK-52XP>].

III. COMPARATIVE ANALYSIS OF EXISTING RECOGNITION AND ENFORCEMENT STANDARDS

This Part compares recognition and enforcement standards in the United Kingdom, the European Union, and the United States. In the United Kingdom, aside from statutory mechanisms, foreign judgments may also be recognized under common law. While *Strategic Technologies v. Procurement Bureau* clarified that judgment laundering is impermissible under the statutory framework, the common law position on this issue remains unsettled. In the European Union, the Recast Brussels Regulation significantly streamlines the recognition and enforcement of judgments issued by EU Member States, offering several procedural safeguards and specific grounds for refusal. Historically, the enforcement of a “judgment on a judgment” was deemed impermissible under the Brussels I Regulation.⁵⁵ However, a recent ruling by the Court of Justice of the European Union (“CJEU”) has called this assumption into question, signaling a potential shift in legal interpretation. In the United States, the Uniform Foreign-Country Money Judgments Recognition Act (“UFCMJRA”) serves as a valuable tool for harmonizing the recognition and enforcement of foreign judgments. Nonetheless, inconsistencies among states—some of which have adopted the UFCMJRA while others rely on distinct state laws—create opportunities for judgment laundering. Finally, this Part considers the relevant provisions of the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, to which both the European Union and the United Kingdom are contracting parties.⁵⁶

55. This Note uses “Brussels I Regulation” to refer to the regime consisting of the 2001 Brussels Regulation and the Recast Brussels Regulation. *See* 2001 Brussels Regulation; Recast Brussels Regulation.

56. On August 29, 2022, the EU became a contracting party to the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, which entered into force on September 1, 2023. *See* Convention on the Recognition and Enforcement of Judgments in Civil or Commercial Matters, HAGUE CONF. ON PRIV. INT’L L., (July 2, 2019) <https://www.hcch.net/en/instruments/conventions/status-table/?cid=137> [<https://perma.cc/36S3-YAQC>] [hereinafter Hague Judgments Convention].

A. The United Kingdom: English Common Law

Under English law, the recognition and enforcement of foreign judgments depend on the origin of the issuing court, with different legal frameworks applying accordingly. These include the AJA, the Foreign Judgments (Reciprocal Enforcement) Act 1933 (“FJA”), and the common law rules. The AJA governs the enforcement of judgments from designated Commonwealth jurisdictions, as illustrated in *Strategic Technologies*. The FJA applies to judgments from countries with which the United Kingdom has concluded bilateral enforcement agreements.⁵⁷ For judgments rendered by courts in jurisdictions not covered by either statute, the common law provides the applicable rules. This Section focuses on the rules under the English common law, as the statutory frameworks have been discussed in *Strategic Technologies*.

Prior to the United Kingdom’s withdrawal from the European Union (“Brexit”), the Brussels I Regulation governed the recognition and enforcement of foreign judgments issued by EU Member States. However, following Brexit, the Regulation no longer applies.⁵⁸ Post-Brexit, EU judgments seeking recognition in the United Kingdom may rely on alternative international instruments, such as the 2005 Hague Convention on Choice of Court Agreements and the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (“Hague Judgments Convention”).⁵⁹

57. Foreign Judgments (Reciprocal Enforcement) Act 1933, 23 & 24 Geo. 5 c. 13 (UK).

58. The Recast Brussels Regulation stopped applying to the United Kingdom on January 1, 2021, though it continues to govern proceedings that commenced on or before December 31, 2020 (the end of the Brexit transition period). See Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019, SI 2019/479, art. 84 (UK), <https://www.legislation.gov.uk/ukxi/2019/479/contents> [https://perma.cc/XAX6-YZT8] (revoking the Recast Brussels Regulation and its predecessors as they applied in the United Kingdom).

59. The 2005 Hague Convention on Choice of Court Agreements still applies to the United Kingdom without interruption. See *Cross-border Civil and Commercial Legal Cases: Guidance for Legal Professionals*, GOV.UK (Dec. 31, 2020), <https://www.gov.uk/government/publications/cross-border-civil-and-commercial-legal-cases-guidance-for-legal-professionals/cross-border-civil-and-commercial-legal-cases-guidance-for-legal-professionals> [https://perma.cc/5KB4-7T3E]. The United Kingdom ratified the Hague Judgments Convention on June 27, 2024, and the Convention entered into force on July 1, 2025. See Recognition and Enforcement of Judgments (2019 Hague Convention etc.) Regulations 2024, SI 2024/713 (UK), <https://www.legislation.gov.uk/ukxi/2024/713/contents/made> [https://perma.cc/H4YG-CNTP]; Ministry of Just. & Lord Ponsonby of Shulbrede, *Statement on the Entry into Force of the 2019 Hague Convention*, GOV.UK (July 2,

The relevant common law principles governing the recognition and enforcement of foreign judgments trace back to the 1870 cases of *Godard v. Gray*⁶⁰ and *Schibsby v. Westenholz*.⁶¹ Under these precedents, English courts will recognize and enforce a foreign judgment that is final and conclusive, excluding those for tax or penalty, provided it was issued by a foreign court possessing “international jurisdictional competence” under the English conflict-of-laws rules.⁶² This requirement is narrowly construed. A foreign court is deemed to have such competence only if the defendant was present within the foreign court’s territorial reach or if the defendant voluntarily submitted to that court’s jurisdiction.⁶³ Submission may be found where the defendant appeared before the foreign court or contested the case on its merit.⁶⁴ In contract disputes, a party is typically considered to have submitted to the foreign court’s jurisdiction if the contract contains a valid choice-of-court clause designating that court.⁶⁵

The concept of jurisdictional competence plays a central role in English common law recognition, but it has drawn criticism for its narrow scope and rigid territorial assumptions.⁶⁶ The restrictive approach may afford judgment debtors significant protection and result in the non-recognition of judgments from foreign courts that exercised jurisdiction validly under their own laws but not under English principles.⁶⁷ Such inflexibility can lead to unjust outcomes, especially in the context of increasingly complex and globalized commercial litigation.

Even when a foreign judgment meets the jurisdictional requirements, English courts retain discretion to refuse enforcement. Under common law, recognition may be denied if the judgment is contrary to public policy, was obtained by fraud, or if

2025), <https://www.gov.uk/government/speeches/statement-on-the-entry-into-force-of-the-2019-hague-convention> [<https://perma.cc/GP5L-NZRJ>].

60. *Godard v. Gray* (1870) LR 6 QB 139 (Eng.).

61. *Schibsby v. Westenholz* (1870) LR 6 QB 155 (Eng.).

62. See Ardavan Arzandeh, *Reformulating the Common Law Rules on the Recognition and Enforcement of Foreign Judgments*, 39 LEGAL STUD. 56, 58 (2019).

63. DICEY, MORRIS & COLLINS ON THE CONFLICT OF LAWS ¶ 14R-058 (Lord Collins of Mapesbury et al. eds., 16th ed. 2022).

64. See *Guiard v. De Clermont & Donner* [1914] 3 K.B. 145 (Eng.); *Emanuel v. Symon* [1908] 1 K.B. 302 (Eng.).

65. *Emanuel* [1908] 1 K.B. at 302.

66. Arzandeh, *supra* note 62, at 60.

67. *Id.* at 61.

the original proceedings violated principles of natural justice.⁶⁸ The public policy and natural justice exceptions encompass both substantive and procedural protections. Substantively, a judgment will not be enforced in England if the underlying claim conflicts with fundamental principles of English law.⁶⁹ Notably, it is a well-established rule that English courts will not enforce foreign judgments relating to the collection of taxes or penalties imposed by other sovereign states.⁷⁰ Procedurally, courts may decline enforcement if the defendant was denied the right to be heard. In practice, it may arise from insufficient notice or insufficient opportunity for the defendant to defend himself.⁷¹

In *Strategic Technologies v. Procurement Bureau*, the English Court of Appeal acknowledged that the question of whether a “judgment on a judgment” is enforceable under common law remains unresolved.⁷² However, the court declined to answer this question, with its reasoning being that the case fell under the AJA, not the common law framework.⁷³ The court emphasized that the theoretical basis for common law recognition of foreign judgments does not apply to cases governed by statute.⁷⁴ As a result, while *Strategic Technologies* clearly bars judgment laundering in statutory recognition regimes, the common law position on this issue remains uncertain. It is difficult to predict how future courts might approach this question, but it is reasonable to expect that principles of consistency and legal predictability may encourage alignment with the statutory approach.

68. Marussia Borm-Reid, *Recognition and Enforcement of Foreign Judgments*, 3 INT’L & COMPAR. L.Q. 49, 77 (1954).

69. *Id.* at 79.

70. *Id.* at 80.

71. *Id.* at 80–82.

72. *Strategic Technologies* [45]–[46].

73. *Id.* [43]. As noted at the outset of this Part, the AJA governs the recognition and enforcement of foreign judgments originating from Commonwealth jurisdictions. In *Strategic Technologies*, the court considered the recognition of a judgment rendered by the Cayman Islands, a Commonwealth jurisdiction, and the plaintiff sought recognition under the AJA. *See id.* By contrast, common law remains the only means of enforcing a judgment given by a court in a state that is not a Commonwealth state and does not have a bilateral enforcement agreement with the United Kingdom. *See id.* [44].

74. *Id.* [47].

B. The European Union: The Recast Brussels Regulation

1. The Recast Brussels Regulation

This Section summarizes the key provisions of the Recast Brussels Regulation with a focus on permitted grounds for non-recognition. It then discusses *J v. H Limited*, a recent ruling by the CJEU, in which the court took a new approach to deal with the issue of “a judgment on a judgment.”⁷⁵

A critical issue in the recognition and enforcement of judgments within the EU is the origin of the judgment—specifically, whether it arises from an EU Member State or a non-Member State. For judgments rendered by Member States, the framework is relatively straightforward: Chapter III of the Recast Brussels Regulation sets out uniform rules governing their recognition and enforcement across the EU.⁷⁶ In contrast, the recognition and enforcement of judgments from non-Member States remain largely subject to the domestic laws of individual Member States or applicable bilateral and multilateral treaties.⁷⁷ A complex question arises in cases resembling *Strategic Technologies v. Procurement Bureau*: should a domestic judgment issued by a Member State court that recognizes a non-Member State judgment be recognized by other Member States? Put differently, should EU courts treat such a judgment as a valid “judgment on a judgment,” or consider it merely an *exequatur* decision with effect limited to the Member State that issued it?⁷⁸ *Exequatur* is an intermediate judicial procedure through which a court declares a foreign judgment enforceable before actual enforcement may proceed.⁷⁹ Traditionally, the prevailing view favored the latter

75. See Case C-568/20, *J v. H Ltd.*, ECLI:EU:C:2022:264 (Apr. 7, 2022).

76. Recast Brussels Regulation, ch. III.

77. Lena Werderitsch, *Enforcing Foreign Judgments in the European Union: A New Approach by the European Court of Justice*, 56 N.Y.U. J. INT’L L. & POL. 793, 794 (2024).

78. Under the 2001 Brussels Regulation, the enforcement of a judgment requires the granting of *exequatur* by the competent judicial authority in the Member State of enforcement. See 2001 Brussels Regulation, arts. 38–45. The regulation provides for a two-step procedure: first, the claimant applies for a declaration of enforceability (*exequatur*) to the competent judicial authority in the Member State of enforcement, which the court of enforcement grants *ex parte*; second, the judgment debtor may appeal the court of enforcement’s decision, triggering adversarial review of the *ex parte* declaration. See *id.* arts. 38–45.

79. Dorothee Schramm, *Enforcement and the Abolition of Exequatur under the 2012 Brussels I Regulation*, 15 Y.B. PRIV. INT’L L. 143, 144 (2013–2014).

interpretation—an *exequatur* decision does not circulate inside EU Member States.⁸⁰ However, a recent decision by the CJEU, *J v. H Limited*, appears to signal a departure from this long-standing position.⁸¹

The effort to establish an international framework for cooperation in civil and commercial matters within Europe began in 1968, when the Member States of the European Communities adopted the Brussels Convention, which laid the groundwork for the 2001 Brussels I Regulation.⁸² In 2012, the Recast Brussels Regulation replaced the original regulation, providing an updated legal framework for jurisdiction and the recognition and enforcement of judgments in civil and commercial matters within the European Union.⁸³ One of its key innovations is the streamlined system for automatic recognition and enforcement of judgments among Member States. Under Article 36, a judgment issued in one EU Member State is automatically recognized in all other Member States, without the need for any special procedure.⁸⁴

The Recast Brussels Regulation eliminates the requirement of *exequatur* proceedings while preserving essential protections for judgment debtors.⁸⁵ Under the 2001 Brussels Regulation, a creditor seeking to enforce a judgment was first required to obtain a declaration of enforceability (*exequatur*) before initiating enforcement actions.⁸⁶ *Exequatur* traditionally served three main purposes: (1) authorizing enforcement authorities to act; (2) instructing those authorities on how enforcement should proceed; and (3) providing an opportunity to review the foreign judgment.⁸⁷ However, *exequatur* proceedings are not the only means of achieving these objectives. For example, the second function—guiding enforcement authorities—can instead be fulfilled by requiring the court of origin to provide more detailed information

80. See, e.g., *An Exequatur Judgment Does Not Circulate Inside EU Member States – “Exequatur sur Exequatur ne vaut,”* LEXGO (Apr. 30, 2021), <https://www.lexgo.be/en/news-and-articles/10831-an-exequatur-judgment-does-not-circulate-inside-eu-member-states-exequatur-sur-exequatur-ne-vaut> [<https://perma.cc/J39C-Q32G>].

81. Werderitsch, *supra* note 77, at 797.

82. Recast Brussels Regulation, pmbi.

83. *Id.* tit.

84. *Id.* art. 36.

85. See *id.* recital 29.

86. 2001 Brussels Regulation, art. 38(1).

87. Schramm, *supra* note 79, at 147.

in the certificate issued under the Recast Brussels Regulation.⁸⁸ Similarly, with respect to the third function, *exequatur* did not necessarily operate as a meaningful mechanism for reviewing foreign judgments or protecting judgment debtors.⁸⁹ In practice, substantive review occurred only if the debtor appealed the *exequatur* decision.⁹⁰ That protective function can therefore be achieved through alternative procedural safeguards, such as Articles 45 and 46 of the Recast Brussels Regulation, which allow judgment debtors to seek refusal of recognition or enforcement.⁹¹ Beyond doctrinal considerations, *exequatur* proceedings also rendered cross-border litigation more cumbersome, time-consuming, and costly.⁹² Parties were required to incur additional court fees, attorney fees, translation costs, and service of document expenses solely for this intermediate step.⁹³ A European Commission study confirms the limited practical value of *exequatur*: on average, in ninety-three percent of cases, *exequatur* functioned as a mere formality, as there were no grounds to refuse recognition or enforcement, and only between one and five percent of *exequatur* decisions were appealed.⁹⁴ Against this background, the abolition of *exequatur* became the European Commission's main objective in revising the 2001 Brussels Regulation.⁹⁵

During the revision process, all Member States and the majority of stakeholders supported abolishing this requirement, citing the importance of mutual trust among Member States and the need to facilitate the free movement of judgments within the EU.⁹⁶ Recital 26 of the Recast Brussels Regulation emphasizes that this mutual trust in the administration of justice justifies the removal of additional procedural hurdles and aims to make cross-border litigation more efficient and cost-effective.⁹⁷ As a result, the

88. *Id.* at 147–48; see Recast Brussels Regulation, art. 53, annex I.

89. Schramm, *supra* note 79, at 149.

90. *Id.*

91. Recast Brussels Regulation, arts. 45–46.

92. Commission Staff Working Paper on Impact Assessment Accompanying the Proposal for a Regulation of the European Parliament and of the Council on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, at 13, SEC (2010) 1547 final (Dec. 14, 2010).

93. *Id.*

94. *Id.*

95. Schramm, *supra* note 79, at 145.

96. *Id.* at 149.

97. Recast Brussels Regulation, recital 26.

Recast Brussels Regulation significantly simplifies the recognition and enforcement process by eliminating the need for a separate declaration of enforceability.⁹⁸

At the same time, the Recast Brussels Regulation permits only limited grounds for non-recognition of judgments. Article 45 outlines the circumstances under which a judgment may be reviewed and recognition refused. These include: a violation of public policy of the Member State reviewing the application for judgment recognition, insufficient service of the initiating documents in cases of default judgments, conflict with another judgment, and infringement of specific jurisdictional rules.⁹⁹ In practice, inadequate service of documents in default judgment cases and public policy considerations are the most frequently invoked grounds for non-recognition.¹⁰⁰

In cases of default judgment, defects in the service of the document instituting the proceedings are often cited for resisting enforcement. The Recast Brussels Regulation, following its predecessor, permits Member State courts to refuse recognition if the defendant was not served “in sufficient time and in such a way as to enable him to arrange for his defence.”¹⁰¹ This provision makes it clear that the question is not whether service complied with formal procedural rules, but whether the service was effective in affording the defendant a real opportunity to respond to the claim.¹⁰² Furthermore, the Recast Brussels Regulation precludes the defendant from relying on this ground if he “failed to commence proceedings to challenge the judgment when it was possible for him to do so.”¹⁰³ In this way, the Recast Brussels Regulation avoids harmonizing procedural requirements for

98. *See id.* art. 36 (“A judgment given in a Member State shall be recognised in the other Member States without any special procedure being required.”); *see also id.* art. 39 (“A judgment given in a Member State which is enforceable in that Member State shall be enforceable in the other Member States without any declaration of enforceability being required.”).

99. *Id.* art. 45.

100. BURKHARD HESS, EUR. PARL. COMM. ON LEGAL AFFS., THE PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS (RECAST), IPOL-JURI NT(2011)453201, at 7 (2011), [https://www.europarl.europa.eu/RegData/etudes/IDAN/2011/453201/IPOL-JURI_NT\(2011\)453201_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2011/453201/IPOL-JURI_NT(2011)453201_EN.pdf) [<https://perma.cc/NVM2-9ASN>].

101. Schramm, *supra* note 79, at 164.

102. *Id.*

103. Recast Brussels Regulation, art. 45(1)(b).

service across Member States and instead centers on ensuring that the defendants are given sufficient opportunity to defend themselves.

Regarding the public policy exception, Article 45(1)(a) of the Recast Brussels Regulation provides that the recognition of a judgment must be refused if such recognition is “manifestly contrary to public policy (*ordre public*) in the Member State addressed.”¹⁰⁴ Public policy is generally understood to encompass both procedural and substantive dimensions.¹⁰⁵ Procedural public policy includes fundamental guarantees such as the defendant’s right to be heard and is frequently invoked in cases of corruption, procedural fraud, or other serious violations of procedural fairness during the original proceedings.¹⁰⁶ While enforcement courts are permitted to interpret the content of public policy in their own legal systems,¹⁰⁷ the CJEU retains the authority to define the outer limits of national discretion.¹⁰⁸ The CJEU clarified that recourse to

104. *Id.* art. 45(1)(a).

105. Schramm, *supra* note 79, at 161.

106. *Id.*

107. The question of whether the public policy exception refers to the fundamental principles of the domestic laws of EU Member States or to broader European principles was debated in the European Parliament and the Council of the European Union during the enactment of Regulation 864/2007 (Rome II Regulation). *See* Regulation 864/2007 of the European Parliament and of the Council of 11 July 2007 on the Law Applicable to Non-Contractual Obligations (Rome II), 2007 O.J. (L 199) 40 [hereinafter Rome II Regulation]. One proposal suggested that the public policy exception should expressly encompass the European Convention on Human Rights (“ECHR”), national constitutional provisions, and international humanitarian law, but the European Commission rejected this proposal, noting the significant variation among Member States’ conceptions of public policy and favoring a more flexible formulation. *See* BURKHARD HESS & THOMAS PFEIFFER, EUR. PARL. COMM. ON LEGAL AFFS., INTERPRETATION OF THE PUBLIC POLICY EXCEPTION AS REFERRED TO IN EU INSTRUMENTS OF PRIVATE INTERNATIONAL AND PROCEDURAL LAW, IPOL-JURI ET(2011)453189, at 28–29 (2011), [https://www.europarl.europa.eu/RegData/etudes/STUD/2011/453189/IPOL-JURI_ET\(2011\)453189_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2011/453189/IPOL-JURI_ET(2011)453189_EN.pdf) [<https://perma.cc/TU82-CGNG>]. This approach was ultimately reflected in Article 26 of the Rome II Regulation. *See* Rome II Regulation, art. 26. However, relevant literature often takes a middle ground and views public policy as referring both to fundamental principles of the national law of the forum and to principles of EU law, including those reflected in the ECHR. *See* Hess & Pfeiffer, *supra*, at 28–29.

108. The CJEU in *Krombach v. Bamberski* held that:

While the Contracting States in principle remain free, by virtue of the proviso in Article 27, point 1, of the Convention, to determine, according to their own conceptions, what public policy requires, the limits of that concept are a matter for interpretation of the Convention. Consequently, while it is not for the Court to define the content of the public policy of a Contracting State, it is none the less required to review the limits within

the public policy exception is justified only where recognition or enforcement of a foreign judgment would conflict with the legal order of the Member State to “an unacceptable degree,” in which it infringes a fundamental principle.¹⁰⁹ This standard indicates that mere differences in procedural law do not, by themselves, justify the invocation of the public policy exception; it must constitute a “manifest breach” of the fundamental rights to invoke the exception.¹¹⁰ Therefore, the procedural public policy exception mostly occurs in exceptional cases,¹¹¹ such as in *Krombach* and *Gambazzi*.¹¹²

Similarly, the substantive public policy exception is rarely successful in practice.¹¹³ According to the Heidelberg Report, this limited application stems from two main factors: first, the legal systems of EU Member States generally do not diverge significantly in civil and commercial matters that could trigger the application of substantive public policy; second, courts are prohibited from reviewing the substance of the original judgment.¹¹⁴ Article 52 of the Recast Brussels Regulation provides that “[u]nder no circumstances may a judgment given in a Member State be reviewed as to its substance in the Member State addressed.”¹¹⁵ This provision bars courts in the enforcing Member State from refusing recognition merely because the legal rule applied by the court of origin differs from the rule that would have been applied domestically. Similarly, it prohibits the reviewing court from

which the courts of a Contracting State may have recourse to that concept for the purpose of refusing recognition to a judgment emanating from a court in another Contracting State.

Case C-7/98, *Krombach v. Bamberski*, 2000 E.C.R. I-1935, ¶¶ 22–23.

109. Case C-394/07, *Marco Gambazzi v. DaimlerChrysler Can. Inc. & CIBC Mellon Trust Co.*, 2009 E.C.R. I-2563, ¶¶ 26–27.

110. *Id.*

111. Commission Report on the Application of Council Regulation (EC) No 44/2001 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, at 4, COM (2009) 174 final (Apr. 21, 2009), [https://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2009\)0174_/com_com\(2009\)0174_en.pdf](https://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2009)0174_/com_com(2009)0174_en.pdf) [<https://perma.cc/FPJ5-2KAD>] [hereinafter Commission Report No. 44/2001].

112. Both *Krombach* and *Gambazzi* centered on the infringement of the defendant’s right to be heard, which the court considered one of the fundamental rights. *See Krombach*, 2000 E.C.R. I-1935, ¶ 26; *Gambazzi*, 2009 E.C.R. I-2563, ¶ 28.

113. Commission Report No. 44/2001, *supra* note 111, at 4.

114. BURKHARD HESS, THOMAS PFEIFFER & PETER SCHLOSSER, HEIDELBERG REPORT ON THE REGULATION BRUSSELS I 144, 249–50 (2008); *see* Recast Brussels Regulation, art. 52.

115. Recast Brussels Regulation, art. 52.

reassessing the accuracy of the legal or factual findings made by the court of the Member State of origin.¹¹⁶ To ensure compliance with Article 52, the CJEU has clarified that the public policy exception may be invoked only in exceptional cases.¹¹⁷ As a result, substantive conflicts in public policy seldom form a valid basis for refusing recognition or enforcement.

2. CJEU's New Approach

While the Recast Brussels Regulation streamlines the recognition and enforcement process and facilitates the movement of judgments within the EU, a key question remains: how should EU courts treat judgments that merely recognize judgments originating from non-EU states? In theory, a foreign judgment that is declared enforceable by the court of an EU Member State could then be enforced across the entire EU. However, the concept of “double *exequatur*”—that is, the recognition of a declaration of enforceability issued by another state—is generally considered impermissible under EU law.¹¹⁸ As encapsulated by the French maxim “*exequatur sur exequatur ne vaut*” (exequatur over exequatur is not valid), the recognition procedure does not extend to decisions that merely confirm the enforceability of a foreign judgment.¹¹⁹

In this context, only the original foreign judgment on the merits is eligible for recognition. This restriction is grounded in the principle that the court of the Member State where recognition is sought must be able to examine the judgment itself, not another court's evaluation of it.¹²⁰ Allowing otherwise would enable litigants to bypass the specific recognition and enforcement standards of a Member State by first obtaining recognition in a more permissive jurisdiction.¹²¹ As a result, the prevailing legal view is that judgments which merely incorporate a third-country judgment without reviewing it on the merits are excluded from

116. *J v. H Ltd.*, ECLI:EU:C:2022:264, ¶ 43.

117. *See id.* ¶ 44.

118. Werderitsch, *supra* note 77, at 796.

119. *The CJEU on Double Exequatur*, EUR. ASS'N PRIV. INT'L L. (Apr. 8, 2022), <https://eapil.org/2022/04/08/the-cjeu-on-double-exequatur/> [<https://perma.cc/BB9Q-ME9H>].

120. *Id.*

121. Werderitsch, *supra* note 77, at 796.

automatic recognition and enforcement under Chapter III of the Recast Brussels Regulation.¹²²

The CJEU affirmed the prevailing view against double *exequatur* in the *Owens Bank* decision, holding that the Brussels Convention “does not apply to proceedings for the enforcement of judgments given in civil and commercial matters in non-contracting States.”¹²³ The case arose from parallel enforcement proceedings in Italy and England concerning the same St. Vincent judgment.¹²⁴ In Italy, the judgment creditor sought recognition and enforcement of the original St. Vincent judgment, while the judgment debtor contested recognition on the ground that the judgment had been obtained by fraud.¹²⁵ While the Italian proceedings were still pending, the creditor initiated separate recognition and enforcement proceedings in England.¹²⁶ The English court referred to the CJEU the question whether the 1968 Brussels Convention applied to proceedings in Contracting States concerning the recognition and enforcement of judgments originating in non-contracting States.¹²⁷ In *Owens Bank*, the CJEU made it clear that the Brussels Convention—now reflected in the Brussels I Regulation and its recast—applies exclusively to judgments originating from EU Member States.¹²⁸ Therefore, it has been understood that the Brussels I framework does not permit a third-country judgment to be “laundered” through the court of an EU Member State in order to obtain enforceability throughout the EU.¹²⁹

However, the long-standing interpretation was recently challenged by the CJEU’s decision in *J v. H Limited*. That case involved the enforcement in Austria of a confirmation judgment issued by the English High Court, which ordered the defendant, J, to pay a debt based on two earlier judgments rendered by

122. *Id.*

123. Case C-129/92, *Owens Bank Ltd. v. Fulvio Bracco & Bracco Industria Chimica SpA*, 1994 E.C.R. I-117, ¶ 25.

124. *Id.* ¶¶ 5–7.

125. *Id.* ¶ 5.

126. *Id.* ¶ 6.

127. *Id.* ¶ 8.

128. The Brussels Convention was replaced by the Brussels I Regulation, but it is commonly accepted in doctrine and in case law that the CJEU’s interpretation can be transposed to the corresponding provisions in the Brussels I Regulation. See Werderitsch, *supra* note 77, at 797 n.13.

129. *Id.* at 797.

Jordanian courts.¹³⁰ H Limited, the creditor, then sought to enforce the English order of payment in Austria under the Recast Brussels Regulation.¹³¹ Both the Austrian trial court and appellate courts permitted enforcement, noting that the English proceeding respected the adversarial principle.¹³²

On appeal, the Austrian Supreme Court took a more cautious stance, expressing concern that the principle prohibiting double *exequatur* should apply to Member State judgments based on foreign judgments.¹³³ It reasoned that the legal relationship underlying the English court's payment order—derived from Jordanian judgments—could not be reviewed on its merits.¹³⁴ Accordingly, the Austrian Supreme Court questioned whether the English payment order qualified as a “judgment” under Article 2(a) of the Recast Brussels Regulation.¹³⁵

The CJEU adopted a different approach in *J v. H Limited*, clarifying two key issues.¹³⁶ First, the court addressed whether an order of payment issued by a court of an EU Member State—based on final judgments rendered in a third country—constitutes a judgment under Article 2(a) and Article 39 of the Recast Brussels Regulation, and is therefore enforceable in other Member States. Second, it examined whether the court of a Member State in which recognition or enforcement is sought may refuse enforcement of such an order on the basis of the public policy exception.

With respect to the first issue, the CJEU held that the concept of a “judgment” covers:

any judgment given by a court of a Member State, without any distinction being drawn according to the content of the judgment in question. It follows that the concept also includes

130. *J v. H Ltd.*, ECLI:EU:C:2022:264, ¶¶ 13–15. Because the proceeding was instituted before the end of the Brexit transition period, the Recast Brussels Regulation was applicable for the court. See Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019, SI 2019/479, art. 84 (UK).

131. *Id.* ¶ 13.

132. *Id.* ¶¶ 14–15.

133. *Id.* ¶ 17.

134. *Id.*

135. *Id.*

136. The Austrian Supreme Court decided to refer this case to the CJEU. See Case C-568/20, Request for a Preliminary Ruling from the Oberster Gerichtshof (Austria) Lodged on 2 November 2020 — *J v. H Ltd.*, 2021 O.J. (C 28) 37.

an order of payment made by a court of a Member State on the basis of final judgments delivered in a third State.¹³⁷

In other words, the term “judgment” must be interpreted broadly to cover all decisions issued by Member State courts, including an *exequatur* decision.

With respect to the public policy exception, the CJEU reaffirmed that, in accordance with Article 52 of the Recast Brussels Regulation—which prohibits review of the substance of a judgment given by another Member State—the public policy clause may be invoked only in exceptional cases. Specifically, recognition may be refused “only if recognition of the judgment given in that Member State were to constitute a manifest infringement of a rule of law regarded as essential in the legal order of the State in which recognition is sought or of a right recognized as being fundamental within that legal order.”¹³⁸ Such an infringement may include situations in which the defendant was unable to effectively defend themselves “before the court of origin and to challenge the decision sought to be enforced in the Member State of origin.”¹³⁹

In *J v. H Limited*, the CJEU held that the Austrian court could refuse enforcement of the payment order if the defendant, J, were to succeed in establishing that it is impossible for him “to contest, in the Member State of origin, the substance of the claims which gave rise to the Jordanian judgments forming the subject matter of the order at issue in the main proceedings.”¹⁴⁰ In other words, if J could establish that the English High Court deprived him of the opportunity to defend the claims underlying the Jordanian judgments, the enforcement of the English judgment could be denied on public policy grounds.

This decision signals a shift in the CJEU’s interpretation of the public policy exception. While Article 52 bars the review of the substance of a Member State judgment, the CJEU now permits national courts to refuse recognition when the judgment debtor lacked the opportunity to contest the underlying foreign claims in the Member State court that issued the judgment. Thus, the ruling effectively expands the scope of the public policy exception to

137. *J v. H Ltd.*, ECLI:EU:C:2022:264, ¶¶ 24–25.

138. *Id.* ¶ 44.

139. *Id.* ¶ 45.

140. *Id.* ¶ 46.

address concerns associated with “judgment on a judgment.” At the same time, the CJEU endorsed a broad interpretation of “judgment” under Article 2(a) of the Recast Brussels Regulation, encompassing *exequatur* decisions.

The CJEU’s recent decision in *J v. H Limited* introduces new avenues for potential judgment laundering. A creditor may now obtain a declaration of enforceability in a Member State with relatively permissive recognition standards for foreign judgments. Once recognized in that jurisdiction, the third-country judgment is effectively converted into an EU judgment, enforceable across all Member States—provided there is no manifest violation of public policy. As discussed in the previous Section, challenges on public policy grounds, either substantive or procedural, are very rare.¹⁴¹ This outcome exposes a significant vulnerability in the EU legal framework: the combination of non-harmonized recognition standards among Member States and the expansive interpretation adopted by the CJEU increases the risk of forum shopping and judgment laundering, particularly when third-country judgments are channeled through more lenient jurisdictions within the EU.

*C. The United States: Uniform Foreign-Country Money
Judgments Recognition Act (UFCMJRA)*

In the United States, any judgment issued by a court in a foreign country or by a court in another US state is considered a “foreign judgment” that cannot be directly enforced without first being recognized as a domestic judgment.¹⁴² Under the Full Faith and Credit Clause of the US Constitution, judgments rendered by state or federal courts are entitled to recognition and enforcement in all other US courts.¹⁴³ However, this constitutional provision does not extend to judgments issued by foreign courts.¹⁴⁴ Prior to the development of statutory frameworks, US courts relied on

141. See Hess, *supra* note 100, at 9 (indicating the CJEU developed detailed guidelines for national courts when determining the content of the public policy clause, leaving limited additional discretion for national courts); Hess & Pfeiffer, *supra* note 107, at 57–59 (finding the substantive public policy exception is rarely invoked in EU Member States, leading to a scarcity of case law).

142. Andreas F. Lowenfeld & Linda J. Silberman, *United States of America, in* ENFORCEMENT OF FOREIGN JUDGMENTS WORLDWIDE 123, 123 (Charles Platto & William Horton eds., 1993).

143. U.S. CONST. art. IV, § 1.

144. RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 98 cmt. b (AM. L. INST. 1971).

common law principles in the doctrine of comity to determine whether to recognize and enforce foreign judgments.¹⁴⁵ A foundational case in this area is *Hilton v. Guyot*,¹⁴⁶ in which the Supreme Court articulated the rule of reciprocity as a condition for recognition, laying the groundwork for modern judicial standards governing foreign judgment enforcement.¹⁴⁷

In addition to the case law approach, efforts have been made to establish a uniform statutory framework for recognizing foreign judgments across US states. The UFCMJRA, promulgated by the Uniform Law Commission in 2005 as an update of the 1962 Uniform Foreign Money-Judgments Recognition Act, serves this purpose.¹⁴⁸ The UFCMJRA aims to provide a consistent legal standard that the individual states of the United States can adopt to satisfy foreign countries' reciprocity requirements—thereby increasing the likelihood that US judgments will be recognized abroad.¹⁴⁹ As of 2026, twenty-nine states and Washington, DC, have adopted the UFCMJRA.¹⁵⁰

The UFCMJRA offers a robust mechanism for the recognition and enforcement of foreign judgments, notable for its breadth and depth.¹⁵¹ It serves as an effective framework for guiding courts in evaluating a wide range of foreign judgments, while also empowering individual state courts to recognize and enforce foreign judgments and hold foreign defendants accountable within

145. The US Supreme Court has defined “comity” as:

[T]he recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws.

Hilton v. Guyot, 159 U.S. 113, 164 (1895). In other words, the concept is that one country gives effect within its borders to the law of another country. *See id.*

146. In *Hilton*, appellants challenged a federal court decision holding that a French court judgment against them, for amounts allegedly owed to a French firm, was enforceable without retrial on the merits. *Id.* at 113.

147. Everette, *supra* note 53, at 765.

148. UNIF. FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT prefatory note (UNIF. L. COMM’N 2005), <https://tlblog.org/wp-content/uploads/2024/04/2005-Uniform-Act.pdf> [<https://perma.cc/3UH7-F24S>] (last visited Feb. 25, 2026) [hereinafter UFCMJRA].

149. *Id.*

150. *See Bill List, UFCMJRA*, UNIF. L. COMM’N, <https://www.uniformlaws.org/committees/communityhome?communitykey=ae280c30-094a-4d8f-b722-8dcd614a8f3e> [<https://perma.cc/B4ES-QFFQ>] (last visited Feb. 25, 2026).

151. Everette, *supra* note 53, at 767.

the US civil justice system.¹⁵² A key strength of the UFCMJRA is its detailed articulation of both mandatory and discretionary grounds for denying recognition.

Section 4 of the Act outlines these standards.¹⁵³ Subsection 4(b) establishes three mandatory grounds for denial: if the foreign judgment was not rendered by an impartial tribunal or in accordance with due process; if the issuing court lacked personal jurisdiction; or if it lacked subject-matter jurisdiction.¹⁵⁴ Subsection 4(c) provides eight discretionary grounds for denial, including where the foreign judgment or the underlying cause of action is deemed repugnant to the public policy of the state or the United States.¹⁵⁵ Overall, the UFCMJRA emphasizes principles of due process, public policy, and protection against fraud.¹⁵⁶ By codifying safeguards, the Act promotes greater uniformity and predictability in the enforcement of foreign judgments across US jurisdictions.¹⁵⁷

Despite its strengths, the UFCMJRA has several notable shortcomings. First, some of the discretionary grounds for denying recognition arguably warrant mandatory status¹⁵⁸—particularly

152. *Id.*

153. *See* UFCMJRA § 4.

154. *Id.* § 4(b).

155. *Id.* § 4(c). The UFCMJRA's "repugnant to public policy" standard reflects longstanding US legal tradition of narrowly construing the public policy exception to the recognition of foreign judgments. Both Restatement (Second) of Conflict of Laws § 117 and Restatement (Third) of Foreign Relations Law § 482 provide that a court may refuse to recognize only where the underlying cause of action or the judgment itself is "repugnant to fundamental notions of what is decent and just" in the enforcing state. *See* RESTATEMENT (SECOND) OF CONFLICT OF LAWS § 117 cmt. c (AM. L. INST. 1971); *see also* RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 482(2)(d) (AM. L. INST. 1987). The exception is discretionary rather than mandatory: even where public policy concerns are present, courts retain the authority to deny recognition but are not required to do so. *See id.* The New York Court of Appeals articulated this stringent standard in *Sung Hwan Co. v. Rite Aid Corp.*, emphasizing that the public policy inquiry "rarely results in refusal to enforce a judgment unless it is inherently vicious, wicked or immoral, and shocking to the prevailing moral sense." *Sung Hwan Co. v. Rite Aid Corp.*, 7 N.Y.3d 78, 82 (2006).

156. *See* UFCMJRA § 4.

157. Everette, *supra* note 53, at 767.

158. *Id.* (suggesting that some discretionary grounds for rejecting recognition would function better as mandatory bases, including those based on fraud, concerns about the integrity of the issuing court, or the prior proceeding being incompatible with due process of law). Other commentators have raised similar concerns. For example, New York Civil Practice Law and Rules section 5304 incorporates the non-recognition provisions of the UFCMJRA. *See* N.Y. C.P.L.R. § 5304 (McKinney 2014). Section 5304(b) lists eight discretionary grounds on which a court may decline recognition of a foreign judgment. *See*

those related to fraud, the integrity of the issuing court, and whether the original proceedings complied with due process.¹⁵⁹ These types of defects raise serious concerns about the fairness and reliability of the underlying judgment, in contrast to other, less consequential issues enumerated in Section 4.¹⁶⁰ Additionally, unlike the Recast Brussels Regulation—which under Articles 45(1)(c) and 45(1)(d) allows for mandatory refusal of recognition if a judgment conflicts with another judgment between the same parties either in the Member State addressed or another Member State—the UFCMJRA leaves such conflicts to the discretion of the court.¹⁶¹

Second, the Act has been criticized for its narrow treatment of fraud.¹⁶² Section 4(c)(2) permits a court to deny recognition if the judgment was “obtained by fraud that deprived the losing party of an adequate opportunity to present its case.”¹⁶³ The accompanying comment clarifies that “only extrinsic fraud—conduct of the prevailing party that deprived the losing party of an adequate opportunity to present its case” is sufficient to justify non-recognition under the 1962 Act and is followed by the 2005 update.¹⁶⁴ In contrast, intrinsic fraud, such as admission of a forged document or false testimony of a witness, is presumed to fall within the competence of the rendering court and is therefore not addressed by the recognizing court.¹⁶⁵ While this distinction may be reasonable in jurisdictions where courts are considered fair and impartial, it is insufficient where the integrity of the foreign court is in question. In such cases, limiting review to extrinsic fraud alone fails to safeguard due process adequately. Courts should be

id. § 5304(b). Yet commentators have observed that, in certain circumstances, these discretionary grounds may operate in practice as mandatory bases for non-recognition. See Richard C. Reilly, *Practice Commentaries*, MCKINNEY'S CONS. LAWS OF N.Y., Book 7B, N.Y. C.P.L.R. § 5304 (2014). For instance, a failure to provide fair notice or adequate time to defend in the foreign forum may amount to a violation of the fundamental right to due process, thereby requiring a court to refuse recognition. See *id.*

159. See UFCMJRA §§ 4(c)(2), 4(c)(7), 4(c)(8).

160. Everette, *supra* note 53, at 767–77.

161. Recast Brussels Regulation, art. 45(1)(c), (d); see UFCMJRA § 4(c)(4).

162. Everette, *supra* note 53, at 768.

163. UFCMJRA § 4(c)(2).

164. See *id.* § 4 cmt. 7.

165. *Id.*

permitted to consider claims of intrinsic fraud when assessing whether recognition is appropriate.¹⁶⁶

Although the UFCMJRA outlines a broad set of mandatory and discretionary grounds for denying recognition, it is not immune to potential loopholes that could facilitate judgment laundering. One such vulnerability arises from the lack of nationwide adoption.¹⁶⁷ Because not all US states have implemented the UFCMJRA—or its predecessor, the 1962 Act—judgment creditors may engage in forum shopping by seeking recognition in a state with more lenient standards. Once recognized, the “domesticated” judgment can be enforced in other states under the Full Faith and Credit Clause. This creates a structural vulnerability similar to that observed in the EU—both systems rely on a foundational principle of mutual recognition (the Full Faith and Credit Clause in the United States and the Recast Brussels Regulation in the EU), yet permit inconsistencies in how foreign judgments are initially recognized. This disjunction opens the door to legal arbitrage and judgment laundering.

Further illustrating this issue, the English Court of Appeal in *Strategic Technologies* referenced *Owen v. Rocketinfo*, a case that highlights another form of judgment laundering.¹⁶⁸ In *Owen*, the claimant obtained a default judgment in Nevada, which was subsequently recognized and converted into a “sister state” judgment in California.¹⁶⁹ The claimant then sought to register the California judgment in Canada’s British Columbia under a statute similar to the United Kingdom’s Administration of Justice Act 1920.¹⁷⁰ Although British Columbia and California had reciprocal enforcement arrangements, British Columbia had no such agreement with Nevada.¹⁷¹

166. See, e.g., *Chevron Corp. v. Donziger*, 974 F. Supp. 2d 362, 606–10 (S.D.N.Y. 2014) (finding that the Ecuadorian judgment was procured through fraud and that the proceedings were not fair or impartial).

167. Wyoming, South Dakota, Kansas, Arkansas, Louisiana, Mississippi, Kentucky, West Virginia, South Carolina, Wisconsin, Vermont, and New Hampshire have not adopted the UFCMJRA or the 1962 Act. Instead, these states have their own laws on recognition or domestication of foreign judgments. See *Bill List, UFCMJRA*, *supra* note 150 (Enactment History tab).

168. *Strategic Technologies* [56]; *Owen v. Rocketinfo* (2008), 305 D.L.R. (4th) 370 (Can. B.C. C.A.).

169. *Strategic Technologies* [56].

170. *Id.*

171. *Id.*

The British Columbia Court of Appeal rejected the registration for three reasons. First, it held that the California judgment was merely a decision making the Nevada judgment enforceable in California and thus did not qualify as a “judgment” under the relevant statute.¹⁷² Second, there were specific indications in the British Columbian legislation that this legislation did not apply to the registration in an intermediate state of a judgment originally given in a third state.¹⁷³ Third, permitting the registration of the Nevada judgment via California would undermine the principle of reciprocity by allowing a judgment from a non-reciprocating jurisdiction to gain enforcement indirectly.¹⁷⁴ This case ultimately informed the decision in *Strategic Technologies* and serves as a cautionary example of how cross-jurisdictional inconsistencies can be exploited to launder judgments.

Owen v. Rocketinfo illustrates yet another avenue for exploiting inconsistencies in judgment-recognition frameworks—specifically, the arbitrage enabled by variations in domestic enforcement rules and the Full Faith and Credit Clause. While British Columbia rejected this method of judgment laundering, similar scenarios could arise if certain US states maintain reciprocal enforcement arrangements with foreign jurisdictions. In such cases, the outcome would likely hinge on the statutory definition of a “judgment” in the enforcing state, as well as the presence and application of safeguards related to due process and public policy. These elements are critical in determining whether the indirect enforcement of a foreign judgment via an intermediary jurisdiction should be permitted.

D. The Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (the Hague Judgments Convention)

The Hague Judgments Convention aims to promote judicial cooperation by establishing a uniform set of rules for the recognition and enforcement of civil and commercial judgments among contracting parties.¹⁷⁵ The European Union ratified the

172. *Id.*

173. *Id.*

174. *Id.*

175. See Hague Judgments Convention, *supra* note 56.

Convention on August 29, 2022, and it entered into force on September 1, 2023.¹⁷⁶ The United Kingdom signed the Convention in 2024, and it came into effect on July 1, 2025.¹⁷⁷ Although the Hague Judgments Convention currently has limited geographical reach, it is expected to fill the void left by the Recast Brussels Regulation for the United Kingdom following Brexit.¹⁷⁸

A key provision relevant to the issue of judgment laundering is Article 3. Specifically, Article 3(1)(b) defines “judgment” as:

any decision *on the merits* given by a court, whatever that decision may be called, including a decree or order, and a determination of costs or expenses of the proceedings by the court (including an officer of the court), provided that the determination relates to a decision on the merits which may be recognised or enforced under this Convention.¹⁷⁹

Based on this definition, a “judgment on a judgment” would not qualify, as it does not constitute a decision on the underlying merits of the dispute. Accordingly, such judgments fall outside the scope of recognition and enforcement under the Convention. This definitional limit serves as a safeguard against judgment laundering, making it unlikely to occur within the Convention’s framework.

IV. RECOMMENDATIONS

The preceding analysis demonstrates that judgment laundering exploits inconsistencies and procedural gaps in transnational recognition frameworks, undermining legal predictability and judicial comity. While individual jurisdictions have adopted safeguards aimed at protecting due process and public policy, these measures remain insufficient to fully prevent the laundering of unenforceable judgments through more permissive intermediary courts. To address this concern, a coordinated and multifaceted response is required. The following

176. *Id.*

177. *Id.*

178. *Id.* Beyond the European Union, the Hague Judgments Convention has entered into force in Ukraine, the United Kingdom, and Uruguay. *Id.* It is scheduled to enter into force in 2026 in Albania (Mar. 1), Montenegro (Mar. 1), and Andorra (June 1, subject to certain declarations). *Id.* Costa Rica, Israel, Kosovo, North Macedonia, Russian Federation, and the United States signed but have not ratified the Convention. *Id.*

179. Hague Judgments Convention, *supra* note 56, art. 3(1)(b) (emphasis added).

recommendations aim to strengthen procedural oversight, harmonize recognition standards, and enhance legal mechanisms designed to preserve the legitimacy of cross-border judgment enforcement.

A. Strengthening Procedural Safeguards

Courts should adopt a framework that enables a thorough examination of the entire enforcement chain of a foreign judgment. When a judgment is presented for recognition, the recognizing court should assess not only the direct judgment being presented but also scrutinize any previous recognitions or intermediate judgments upon which the final judgment is based. This includes requiring full disclosure of the judgment's origin and prior recognition history. Judicial discretion should include an explicit requirement to assess whether any prior recognitions were used strategically to bypass domestic standards. One way to address this concern is to require judgment creditors seeking recognition to disclose any prior enforcement or recognition proceedings in other jurisdictions, including where recognition was sought, whether it succeeded or failed, and on what grounds. Such disclosure would allow the recognizing court to better assess the broader procedural context of the dispute and evaluate whether the present action is part of a strategic enforcement campaign. It would also help prevent situations in which parallel proceedings in other jurisdictions may generate collateral estoppel effects that influence the present recognition proceeding.

B. Harmonizing Recognition Standards

The Hague Judgments Convention holds significant potential for harmonizing recognition and enforcement standards across jurisdictions—particularly if broader international participation is achieved. As previously discussed, the Convention defines a “judgment” as a decision rendered “on the merits,” thereby excluding judgments that merely recognize prior foreign decisions. This definitional constraint acts as a safeguard against judgment laundering, making such practices unlikely under the Convention's regime. Moreover, international legal organizations such as the Hague Conference on Private International Law can play a pivotal role in promoting transparency in cross-border enforcement.

These organizations could encourage greater transnational judicial cooperation by facilitating the sharing of decisions, published opinions, or other publicly available court documents.

At present, no uniform platform allows national courts to easily locate and review foreign judgments. Accessing such materials often requires familiarity with a particular jurisdiction's court filing systems, official reporters, or even a registered account to search court records. Establishing a centralized mechanism for information sharing could therefore improve transparency and assist courts in assessing foreign judgments. At the same time, significant institutional and procedural differences, such as divergent evidentiary rules across jurisdictions, may limit deeper forms of judicial cooperation. A more feasible starting point would be the systematic sharing of public documents, such as court opinions or holdings, which could enhance transparency without requiring harmonization of domestic procedural rules. By facilitating frameworks for courts to exchange information about prior recognition proceedings, these measures can strengthen procedural accountability and reduce opportunities for abuse.

C. Enhancing Public Policy and Fraud Exceptions

National laws and international recognition frameworks should explicitly broaden the scope of public policy and fraud exceptions to address judgment laundering. Courts should be empowered to refuse recognition where there is credible evidence that a party has employed intermediary jurisdictions to evade legal safeguards in the enforcing state. Depending on the circumstances, such evidence may include the intermediary court's docket documents, records of parallel enforcement attempts in other jurisdictions, and the statutory framework governing recognition and enforcement in the intermediary forum. Additionally, both extrinsic fraud (e.g., procedural manipulation) and intrinsic fraud (e.g., forged documents or perjured testimony) should be considered valid grounds for non-recognition when the integrity of the originating proceedings is in doubt. However, this approach must be balanced carefully with the principle of finality to avoid encouraging routine re-litigation of underlying facts. Refining this balance will be essential to ensure that anti-fraud mechanisms do not erode legal certainty.

V. CONCLUSION

Through a comparative analysis of the EU, US, and UK systems, this Note has shown that while each jurisdiction includes safeguards intended to preserve judicial legitimacy—such as public policy exceptions, due process protections, and jurisdictional requirements—structural gaps and inconsistencies remain exploitable. The Recast Brussels Regulation, particularly following the CJEU's decision in *J v. H Limited*, introduces new vulnerabilities by expanding the definition of “judgment.” In the United States, the state-level adoption of the UFCMJRA promotes uniformity, but divergent laws and the Full Faith and Credit Clause allow for procedural arbitrage. The United Kingdom, though recently reinforced by *Strategic Technologies v. Procurement Bureau*, still leaves open questions under its common law.

The Hague Judgments Convention offers a promising step forward by clearly excluding “judgment on a judgment” from its scope, but its effectiveness will depend on broader international adoption and consistent implementation. Ultimately, preventing judgment laundering will require stronger procedural safeguards, clearer limitations on indirect recognition, and greater international coordination to ensure that recognition frameworks cannot be manipulated to circumvent substantive legal review.