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BOOK REVIEW

Civil Judgment Recognition and the Integration of Multiple-State Associations

BY ROBERT C. CASAD
THE REGENTS PRESS OF KANSAS, 1981

Robert C. Casad, John H. and John M. Kane Distinguished Professor of Law at the University of Kansas, has written a well-organized and well-documented book on an important topic to the international lawyer: *The Recognition and Enforcement of Foreign Judgments*. Professor Casad's scholarly publication is especially welcome, inasmuch as both practicing lawyers and legal scholars have tended to shy away from this particular subject. Practicing attorneys are infrequently called upon to work on a case in which a client is either attempting to enforce, or defending against the enforcement of, a foreign judgment. Such litigation involves two separate lawsuits: the initial suit in the forum country, and the *exequatur* or recognition proceeding in the country where enforcement is desired. Consequently, in most cases the time and expense factors become prohibitive. In addition, enforcement of foreign judgments usually involves exotic legal devices or proceedings, such as letters rogatory, research on unfamiliar foreign law, and requires the involvement of two or more separate lawyers or law firms. Hence, clients generally opt for recognition and enforcement of foreign judgments only as a remedy of last resort, and practicing lawyers become involved with the intricacies of enforcing foreign judgments only if the damages or emotions are sufficiently great to justify the extra effort, expense, and delay.

Similarly, recognition and enforcement of foreign judgments is usually not treated in depth in law schools in the United States, or elsewhere for that matter, either because students and professors are typically not sufficiently familiar with basic foreign law concepts or because the controlling rules are widely scattered or not readily available for convenient review. For example, judgment-recognition provisions in Brazil are contained in the Civil Code, the Code of Civil Procedure, and the Internal Rules of the Federal

Supreme Court. Consequently, most law schools gloss over this subject in their courses dealing with conflict-of-laws.

Professor Casad has organized his materials well and offers his readers a comprehensive treatment of a complex subject. This publication will be an excellent resource for any lawyer or student wishing to become familiar with the subject matter in general or looking for an insight into the specific laws and procedures governing the recognition and execution of foreign judgments in the Central American countries, the United States, and the European Common Market. The appendices, notes, and bibliography are ample and clear, and constitute excellent aids for further research and analysis.

Professor Casad's explanation of certain common law terms and concepts in the comparative context of their counterparts in the civil law is particularly useful and enlightening. For example, in pages 44-47, he deals with such basic common law concepts as "jurisdiction", "venue", "competency", "res judicata" and "collateral estoppel", and warns his readers about the complex and different nature of such concepts in the civil law and their relevancy to the recognition and enforcement of foreign judgments in civil law jurisdictions.

Chapter 3 ("Execution of Foreign Judgments under the Bustamante Code") is a concise treatment of the history surrounding the Bustamante Code and a cogent analysis of its provisions that apply to the recognition and execution of foreign judgments. This is a necessary chapter, at least in theory, because all of the Central American countries ultimately ratified the Bustamante Code. I also found Professor Casad's review of the law and practice of each of the individual Central American countries to be clear and informative, with abundant references to local court decisions and commentary. The benefits to any lawyer or student who wishes to become familiar with the specific laws and procedures for treatment of foreign judgments in any of the Central American countries are invaluable.

Professor Casad's use of comparative analysis is a positive feature and makes his publication more interesting and entertaining to his readers. The author both explains the various similarities and differences among the applicable laws and practices in the Central American countries, the United States, and the European Common Market, and examines a typical case in each of these systems. By using such comparative analysis, Professor Casad is able

to depict the relative effectiveness of the three systems in a more summary fashion and thus emphasize the more significant similarities and differences among the three systems.

Although Chapter 11 of the publication treats the Inter-American Convention on Extra-Territorial Validity of Foreign Judgments and Arbitral Awards, Professor Casad has not included a separate chapter on the recognition and enforcement of arbitral awards. This is unfortunate, for arbitral awards are increasingly becoming more popular as a means of resolving disputes in a commercial context and are governed by special treaties (e.g., the Inter-American Convention on International Commercial Arbitration of 1975, the United Nations Convention of 1958). The problems and procedures relating to the recognition and enforcement of arbitral awards are similar to those dealt with in this book, and the mechanisms governing commercial arbitration in an international and comparative setting are being constantly reviewed and modified. Since Honduras, Costa Rica, and Panama, as well as the United States, have apparently ratified the Inter-American Convention on International Commercial Arbitration of 1975, some treatment of this Convention and the United Nations Convention of 1958 would have been appropriate.

Professor Casad has made a positive contribution to our legal literature through his *Civil Judgment Recognition and the Integration of Multiple-State Associations*. This book should be a useful research tool for the legal scholar and a valuable reference tool for the practicing lawyer called upon to assist his or her client in a matter involving the recognition and enforcement of a foreign judgment in any of the Central American countries, the United States, or the European Common Market.

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