

# ‘Judgments on judgments’ capable of registration under the Administration of Justice Act 1920 (Strategic Technologies v Procurement Bureau of the Republic of China Ministry of National Defence)

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**Dispute Resolution analysis:** This case confirms the importance of the formal steps relating to service outside of the jurisdiction. In particular, where such steps are not undertaken in accordance with the law of the country to which service is to be effected, enforcement steps taken are liable to be set aside as premature. It also confirms that the Administration of Justice Act 1920 (AJA 1920) is broad enough to allow the registration of judgments obtained without a consideration of the merits (ie judgments in default). As such, it is permissible to register a ‘judgment on a judgment’, as AJA 1920, s 12 is very broad and the word ‘any’, in particular, is powerfully inclusive. While there is an argument for deterring the ‘laundering’ of judgments, until parliament makes legislative change, such practices are acceptable. Written by Georgia Whiting, barrister, 4 King’s Bench Walk.

*Strategic Technologies PTE Ltd v Procurement Bureau of the Republic of China Ministry of National Defence* [\[2020\] EWHC 362 \(QB\)](#)

## What are the practical implications of this case?

This case confirms that service of a foreign judgment is an important and formal step which must be adhered to strictly. For the purposes of assessing whether service has been made effective pursuant to [CPR 6.40\(3\)](#), the question is what constitutes good service in the foreign country, not whether what was done was forbidden or illegal. Accordingly, in the absence of any specific applicable provision, service of a registration order needed to be effected with the formality of the originating local process. This will necessarily involve expert evidence where such service is disputed.

Any steps taken to enforce such a judgment where service is successfully contested will invariably be considered by the courts as premature and will be liable to be set-aside.

The case also makes clear that [AJA 1920](#) does allow parties to register what are, in effect, judgments upon judgments. This may well result in the ‘laundering of judgments’ but until parliament introduced legislative change, the definition of ‘judgment’ provided for in [AJA 1920, s 12](#) is very broad and the word ‘any’, in particular, is powerfully inclusive. There is no escaping these clear and express terms save for the intervention of parliament.

Practitioners should therefore be mindful of the law of foreign jurisdictions when seeking to serve a judgment outside of the jurisdiction, and it is also now clear that ‘judgments on judgments’ can indeed be registered pursuant to [AJA 1920](#).

## What was the background?

This action concerned the registration in England and the enforcement (in England and elsewhere) of a judgment in the name of the claimant, Strategic Technologies Pte Ltd (Strategic) as against the defendant, the Ministry of National Defence of the Republic of China (Ministry).

The judgment was registered by Strategic upon an application without notice in February 2016 pursuant to [Part II](#) of AJA 1920. It had been obtained by way of a default judgment

entered in 2009 by Strategic as against the Ministry in the Grand Court of the Cayman Islands. That judgment itself had been entered pursuant to an earlier judgment obtained in Singapore.

The Ministry sought to set aside the English registered judgment alongside further relief, including the setting aside of an order made in 2016 granting a certificate under [Article 53](#) of Regulation (EU) 1215/2012, Brussels I (recast) in relation to the registered judgment and enforcement steps taken by Strategic in respect of the same. Strategic contended that the application was without merit, and simply a belated attempt by a judgment debtor to avoid payment. They also made a cross application to validate service of the English registered judgment if necessary.

The application raised a number of issues, including whether the English registered judgment was served properly on the Ministry and, if so, should the Ministry have permission out of time to set it aside, as well as multiple issues arising thereafter if the application to set aside proceeded substantively including whether the judgment obtained in the Cayman Islands met the criteria for registration pursuant to as [AJA 1920, s 9](#).

### **What did the court decide?**

#### **Was there valid service?**

In terms of whether, or not, there was valid service of the English registered judgment on the Ministry, the court found that there was not. In particular, for the purposes of assessing whether service has been made effective pursuant to [CPR 6.40\(3\)](#), the question is what constitutes good service in the foreign country, not whether what was done was forbidden or illegal. Thus, in the absence of any specific applicable provision, service of a registration order needed to be effected with the formality of the originating local process (in this case Taiwan).

When considering the expert evidence on valid service in Taiwan, under Taiwanese law, the service in question was not good service. Although there was no prohibition on service by registered post, in order for service to be effected validly, the use of official channels was required.

#### **Should service be validated retrospectively?**

When considering the next question of whether or not service should be validly effected retrospectively, the court also found that it should not be. There were no good reasons to retrospectively authorise such service, and the argument that the Ministry became aware of the service in 2016 missed the point that service of international proceedings (here on a foreign government organ) is an important and formal step. Among other things, valid service triggered the steps taken by Strategic to enforce the judgment in circumstances where the Ministry was not yet under an obligation to apply to vary or set it aside. The steps to enforce were accordingly premature and fell to be set aside.

#### **Registration of a judgment on a judgment**

The Ministry also contended that [AJA 1920](#) did not apply at all in the circumstances to allow registration of the judgment in England as it was given not on the merits of a substantive dispute within the jurisdiction, but was based upon an action to enforce a judgment elsewhere, ie a judgment on a judgment. There appeared to be no English authority on that point.

The judge rejected that contention, finding that, while the [AJA 1920](#) falls to be construed on its own terms, the definition of 'judgment' provided for in [AJA 1920, s 12](#) was very broad and the word 'any', in particular, was powerfully inclusive. There was no escaping these clear and express terms and, if parliament wished to exclude the 'laundering of judgment' it would need to do so by legislative change.

### Allowing late registration of a judgment

Finally, the judge considered the question of whether or not there were grounds to allow the English registered judgment to be registered outside of the 12-month period provided for by as [AJA 1920, s 9](#). The judge allowed the later registration on the basis that, in particular, this was a complex international situation involving many jurisdictions, the debt had been acknowledged, and there did not appear to be any tangible prejudice arising out of the delay.

However, both Article 53 Order and the writ of control were set aside on the basis of the judge's findings in respect of service—they were premature.

### Case details

- Court: Queen's Bench Division
- Judge: Carr J
- Date of judgment: 21 February 2020

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