

# Leave to enforce refused for emergency award that ordered cessation of enforcement of earlier state court judgment (Court of Appeal in The Hague)

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In *PDVSA and others v Refineria di Korsou and others* (ECLI:NL:GHDHA:2021:1636), the Court of Appeal in The Hague refused to grant permission to enforce an emergency arbitral award that ordered a party to cease the enforcement of an earlier Curaçao state court judgment.

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The Court of Appeal in the Hague has refused an application for permission to enforce an arbitral emergency award in which a Curaçao state-owned company (Refineria di Korsou) was ordered to cease the enforcement of a Curaçao state court judgment providing urgent relief against PDVSA and others.

First, the court noted that Curaçao is part of the Kingdom of the Netherlands and that judgments from the Curaçao state courts can be enforced throughout the Kingdom (encompassing the Netherlands and the Caribbean part of the Kingdom that includes Curaçao). Therefore, the urgent relief judgment by the Curaçao court ordering PDVSA and others to pay \$52 million to Refineria di Korsou was enforceable in the Netherlands.

Furthermore, state court judgments can only be set aside on the limited grounds provided for in Dutch procedural law, most commonly by way of an appeal. PDVSA had unsuccessfully appealed the judgment with the Curaçao appeal court. Accordingly, the court ruled that, other than filing for cassation with the Dutch Supreme Court, or initiating urgent relief proceedings with the state courts objecting to enforcement of the judgment, enforcement could not be prevented, so that the court had to refuse permission to enforce the emergency arbitral award.

The court also held that the decision by the Dutch Supreme Court to uphold an arbitral order not to enforce a state court judgment in *Republic of Ecuador v Chevron Corporation (USA) and another* (ECLI:NL:HR:2019:565), did not create an inconsistent outcome (see [Legal update, Dutch Supreme Court upholds interim and partial final arbitral awards in Chevron-Ecuador saga](#)). That decision did not concern the Dutch legal system and the limited grounds to set aside a state court judgment rendered in the Kingdom of the Netherlands.

As this decision is based on provisions in Dutch procedural law governing the enforcement of state court judgments rendered within the territory of the Kingdom of the Netherlands, and not on the provisions governing the enforcement and setting aside of arbitral awards, the decision should not impact the enforcement of awards in matters that have not also resulted in state court judgments rendered in the Kingdom of the Netherlands.

Case: *PDVSA and others v Refineria di Korsou and others* (ECLI:NL:GHDHA:2021:1636) (14 September 2021).

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