

Anti-enforcement injunction to prevent enforcement of an English judgment overseas (Federal Government of Nigeria and another v Williams)

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12 Sep 2025

Dispute Resolution analysis: This case concerns a claim by the Federal Government of Nigeria and the Attorney General of the Federal Government of Nigeria for the setting aside of a default judgment granted on 9 November 2018 in proceedings brought against them by the defendant ('Dr Williams') for c. USD 15 million (plus costs) in Dr Williams' favour, on the ground that the default judgment was obtained fraudulently. It is well established that an anti-enforcement injunction is available to the English Court, as an equitable remedy, to restrain a party from seeking to enforce a foreign judgment, even in respect of enforcement in other foreign countries. Relying on those principles, in what is believed to be the first case of its kind, an anti-enforcement injunction was granted by the Commercial Court to restrain Dr Williams from enforcing the judgment of an English court overseas (rather than the more common situation in which an anti-enforcement injunction is used to restrain the enforcement of a foreign judgment). Written by Natalie Todd, partner at Cooke, Young & Keidan and Andrew Woolsey, associate at Cooke, Young & Keidan.

Federal Government of Nigeria and another v Williams [2025] EWHC 2217 (Comm)

What are the practical implications of this case?

As the first case of its kind, the practical implications of Henshaw J's decision are likely to be significant. The following issues in particular stand out from the judgment:

Broader use of anti-enforcement injunctions

The obvious implication of this case is that anti-enforcement injunctions could, depending on the specific circumstances, be used to restrain a party from enforcing an English court's own judgment and are not limited solely to situations in which a party seeks to prevent the enforcement of a foreign judgment.

Comity

Comity is a doctrine under which courts recognise and enforce each other's legal decisions as a matter of courtesy or based on the need for reciprocity, rather than as a matter of law.

The typical case where anti-enforcement injunctions are sought are those where the applicant seeks to prevent enforcement of a judgment that a foreign court has already issued. In these cases, comity considerations are often determinative and will typically prevent anti-enforcement injunctions from being granted on the grounds that it has the effect of indirectly impacting the processes of a foreign court.

As Henshaw J highlighted, issues of comity are likely to be of limited relevance in the context of an anti-

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enforcement injunction to restrain the enforcement of an English Court judgment—particularly in situations like the present case where the anti-enforcement injunction was granted to protect the integrity of the English Court's own process and to prevent its own judgment from being used as an instrument of fraud.

Relevant test

In this case, the court had to consider the applicable test when an anti-enforcement injunction is sought on the basis that enforcement of the judgment in question would be vexatious and oppressive, rather than on contractual grounds.

In this situation, the court held that the relevant test is the 'high probability' test rather than the 'serious issue to be tried' test. For practitioners this is important as the 'serious issue to be tried' test is generally easier to satisfy and focuses on whether there is a genuine issue requiring trial, whereas the 'high probability' test demands a stronger evidential basis and a higher likelihood of success.

What was the background?

In November 2018, Dr Williams obtained a USD\$15m default judgment against the Federal Government of Nigeria and the Attorney General of the Federal Government of Nigeria (together 'the FGN') (the 'Default Judgement'). The FGN's first attempt to have the Default Judgment set aside was dismissed by Bright J in November 2023.

In conjunction, Dr Williams had commenced proceedings, in August 2023, before the Southern District of New York seeking to have the Default Judgment recognised and to enforce it against the FGN, the Central Bank of Nigeria, JP Morgan Chase & Co and other unidentified Nigerian government entities and US banking entities holding Nigerian Government funds ('the Enforcement Proceedings'). The Enforcement Proceedings, which were stayed pending the outcome of the FGN's Anti-Enforcement Injunction application, remain ongoing.

In July 2024, the FGN commenced fresh proceedings in England seeking to have the Default Judgment set aside on the grounds that it had been obtained as a result of fraud on the Court. More particularly, the FGN contended that Dr Williams was consciously and deliberately dishonest when applying for the Default Judgment and had relied on fabricated documents and made knowingly false representations to the Court.

The Default Judgment remains a binding and conclusive judgment of the English Court, unless and until it is set aside. As a result, the FGN applied for an anti-enforcement injunction to pause the Enforcement Proceedings, arguing that it would be vexatious and oppressive for Dr Williams to seek to enforce the Default Judgment, by way of the Enforcement Proceedings, before the determination of the High Court Proceedings initiated by the FGN in July 2024.

The main question for the Commercial Court was whether Dr Williams could be prevented, by way of the anti-enforcement injunction sought, from continuing with the Enforcement Proceedings pending the determination of the FGN's claim to have the Default Judgment set aside.

What did the court decide?

From an overarching principle perspective, Henshaw J held that there was no principled reason why an anti-enforcement injunction could not be granted to prevent Dr Williams from seeking to enforce an English judgment, notwithstanding the fact that previous cases on anti-enforcement injunctions concern the restraint of enforcement of foreign judgments.

The anti-enforcement injunction was sought by the FGN not on contractual grounds but on the basis that enforcement of the Default Judgment, before the outcome of the present claim to set it

aside for fraud had been determined, would be vexatious and oppressive. Henshaw J held the relevant test to determine whether an anti-enforcement injunction should be granted on the 'vexatious and oppressive' ground was that the applicant is required to show at the interim stage that there is a 'high probability' of a final injunction being granted at trial.

Applying the above principle, and test, Henshaw J granted the anti-enforcement injunction on the following bases:

- due to the fact that the FGN's case on the merits was, on the face of it, a strong one, there was a compelling case that enforcement of the Default Judgment in the Enforcement Proceedings, prior to the determination of the FGN's claim to have it set aside for fraud, would be vexatious and oppressive
- the anti-enforcement Injunction sought would not be determinative of forum but would rather simply suspend the Enforcement Proceedings pending the result of the associated High Court proceedings. Henshaw J noted that if the 'high probability' test were to apply, on the current evidence, it would be highly probable that the FGN would succeed at trial in establishing that an anti-enforcement injunction would be granted
- there would be a risk of irreparable prejudice to the FGN if Dr Williams were able to enforce the Default Judgment before the trial of High Court Proceedings commences in July 2024
- there was no issue of comity as this was not a case where the claimant was seeking to prevent enforcement of a judgment that a foreign court had already issued. Rather the anti-enforcement injunction was sought to protect the integrity of the English Court's own process and to prevent its own judgment from being used as an instrument of fraud

Case details

- Court: King's Bench Division (Commercial Court)
- Judge: The Honourable Mr Justice Henshaw
- Date of judgment: 26 August 2025

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Document Information

Published date: 12/09/2025

Source: News Analysis

Jurisdiction: England & Wales

England

Wales