

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Tidewater Investment SRL et al.,
:
Petitioners, : 15 Civ. 1960
:
-against- : ORDER
:
Bolivarian Republic of Venezuela, :
:
Respondent. :
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ANDREW L. CARTER, JR., District Judge:

[1] Respondent Bolivarian Republic of Venezuela (“Republic”) renews its motion to vacate the *ex parte* Order and Judgment entered on March 16, 2015 (the “*Ex Parte* Judgment”) recognizing the World Bank’s International Centre for Settlement of Investment Disputes (“ICSID”) arbitration award pursuant to Fed. R. Civ. P. 60(b) and to dismiss this proceeding for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2) and for improper venue pursuant to Fed. R. Civ. P. 12(b)(3). Petitioners Tidewater Investment SRL and Tidewater Caribe, C.A. (“Tidewater”) do not seek to enforce the Court’s *ex parte* judgment in light of the Second Circuit’s holding in *Mobil Cerro Negro, Ltd. v. Bolivarian Republic of Venezuela* (“*Mobil*”), 863 F.3d 96 (2d Cir. 2017) that ICSID award creditors, such as Petitioners, can only enforce their awards against foreign states in the U.S. by commencing a plenary action that complies with all of the jurisdictional and procedural the requirements of the Foreign Sovereign Immunities Act (the “FSIA”). *See* ECF No. 45. As a result, Petitioners do not oppose the motion.

[2] However, Petitioners request that the Court postpone a vacatur of its judgment. Petitioners have commenced a plenary action, under the FSIA, in the District of Columbia.

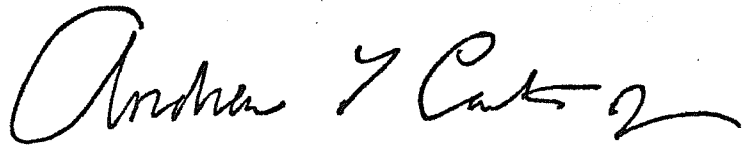
Since the filing of that action, Petitioners have diligently attempted to serve the Republic with process pursuant to applicable rules under the FSIA and the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. Petitioners ask that the Court enter a vacatur of *Ex Parte* Judgment only after service on Respondent has been completed.

[3]

As Respondent correctly points out, this Court lacks subject matter and personal jurisdiction under the FSIA and therefore cannot grant the relief the Petitioners seek. *See Micula v. Government of Romania*, No. 15-3109-cv, 2017 WL 4772435, at *3 (2d Cir. Oct. 23, 2017). Accordingly, Respondent's motion is GRANTED and this proceeding is DISMISSED without prejudice for lack of subject matter jurisdiction.

SO ORDERED.

Dated: New York, New York
January 22, 2017

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge