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China

Enforcement of Judgments in Civil and Commercial Matters

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in China.

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China: Enforcement of Judgments in Civil and Commercial Matters

1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

Judicial assistance in China is divided into 'international judicial assistance' and 'interregional judicial assistance.'

Regarding the enforcement of foreign court judgments outside of China (corresponding to the aforementioned "international judicial assistance"), as of August 12, 2024, while China signed the *Hague Convention on Choice of Court Agreements* ('**Hague Choice of Court Convention**') in 2017, it has not yet ratified the convention. In addition, China has not yet signed or ratified the *Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters* ('**Hague Judgments Convention**').

On a related note, China joined the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* ('**Hague Service Convention**') in 1991 (with reservations on Articles 8, 10, 15, and 16). China also joined the *Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents* ('**Hague Apostille Convention**') on March 8, 2023, which has been in effect in China since November 7, 2023.

Besides these multilateral treaties, as of August 12, 2024, China has also established bilateral civil and/or commercial judicial assistance treaties with 38 countries. However, these bilateral treaties with countries such as Singapore, South Korea, and Thailand do not specifically provide for the mutual recognition and enforcement of court judgments. A complete list of these bilateral treaties and their details can be found on the Chinese Ministry of Foreign Affairs website at treaty.mfa.gov.cn.

Among these 38 bilateral treaties, some cover matters related to marriage, with countries such as Italy, Kuwait, the UAE, Morocco, Greece, Bulgaria, Poland, Lithuania, Vietnam, Uzbekistan, Tajikistan, Kyrgyzstan, Belarus, Kazakhstan, Russia, Ukraine, Romania, and Mongolia. For divorce judgments issued by foreign courts in countries that do not have a judicial assistance agreement with China, Chinese nationals can still apply to PRC courts for recognition of such judgments based on the *Provisions of the Supreme People's Court on the Procedure for Chinese*

Citizens to Apply for Recognition of Divorce Judgments of Foreign Courts (2020 Amendment). However, the enforcement of aspects related to property division, alimony, or child custody in these foreign divorce judgments is excluded. This provision is mainly to protect the legitimate rights and interests of Chinese citizens and to prevent scenarios where a foreign national has legally dissolved the marriage according to a foreign court judgment, while the Chinese national remains bound by the marriage, potentially leading to widespread bigamy.

It is important to note that there is a special category of judgments issued by courts in the Hong Kong Special Administrative Region (HKSAR), the Macao Special Administrative Region (MSAR), or Taiwan Region. These judgments cannot be directly enforced by PRC courts as domestic judgments, though they differ from typical foreign judgments. For the purposes of this report, such judgments will be considered '**foreign judgments**.' The enforcement of these judgments in mainland China (corresponding to the aforementioned '**interregional judicial assistance**') is primarily achieved through provisions unilaterally issued by the Supreme People's Court ('**SPC**') or through bilateral arrangements. These arrangements and provisions mainly include:

- *Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region* (Fa Shi [2024] No. 2) (effective from January 29, 2024, replacing the previous *Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements Between Parties Concerned* (Fa Shi [2008] No. 9)).
- *Arrangement on Reciprocal Recognition and Enforcement of Judgments in Matrimonial and Family Civil Cases by the Courts of the Mainland and of the Hong Kong Special Administrative Region* (Fa Shi [2022] No. 4).
- *Arrangement on Reciprocal Recognition and Enforcement of Civil and Commercial Judgments by the Courts of the Mainland and of the Macao Special Administrative Region* (Fa Shi [2006] No. 2).

- *Provisions of the Supreme People's Court on the Recognition and Enforcement of Civil Judgments of Courts of Taiwan Region* (Fa Shi [2015] No. 13) ('**SPC Taiwan Judgments Provisions**').

2. What, if any, reservations has your jurisdiction made to such treaties?

China has made reservations to Articles 8, 10, 15, and 16 of the Hague Service Convention but has not made any reservations to the Hague Apostille Convention.

3. Can foreign judgments be enforced in your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

In the absence of conventions, treaties, or other arrangements, Article 293 of the revised 2023 *Civil Procedure Law of the People's Republic of China* ('**2023 Civil Procedure Law**') allows PRC courts to recognize and enforce foreign judgments based on the principle of reciprocity. The existence of reciprocity is determined on a case-by-case basis. Depending on the method of proof, the reciprocity principle is divided into factual reciprocity and presumptive reciprocity.

When handling cases involving the recognition and enforcement of foreign court judgments, PRC courts primarily assess the existence of factual reciprocity by examining whether one of the following conditions stipulated in Article 44 of the *Minutes of the National Courts' Symposium on Foreign-Related Commercial and Maritime Adjudication Work* ('**2021 SPC Meeting Minutes**') is met:

1. Judgments made by PRC courts are recognised and enforced by the courts of the foreign country according to its laws.
2. China and the foreign country have reached a reciprocal understanding or consensus.
3. The foreign country has made a reciprocal commitment to China through diplomatic channels, or China has made a reciprocal commitment to the foreign country, and there is no evidence that the foreign country has refused to recognise and enforce judgments made by PRC courts on the grounds of lack of reciprocity.

For presumptive reciprocity, as long as there is no contrary evidence indicating that the foreign country has

previously refused judicial assistance, reciprocity can be presumed. Historically, China has emphasised factual reciprocity in its judicial practice, but in recent years, PRC courts have advocated for and gradually expanded international judicial cooperation, actively fostering reciprocal relationships. On June 18, 2024, Nanning Intermediate Railway Transport Court in China recognised and enforced a Thai civil judgment for the first time based on the principle of presumptive reciprocity. In the future, presumptive reciprocity may be extended to more countries.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

Both monetary and non-monetary foreign judgments may be recognised and enforced by PRC courts. According to Article 299 of the 2023 Civil Procedure Law, 'judgments and rulings' made by foreign courts that have legal effect can be recognised and enforced. Further clarification is provided in Article 41 of the 2021 SPC Meeting Minutes, which specifies that the types of foreign 'judgments and rulings' that can be recognised and enforced in China include judgments, rulings, decisions, and orders made by foreign courts in civil and commercial cases, as well as legal documents related to civil damages in criminal cases (collectively referred to as '**judgments**' for purposes of this report). However, this does not include preservation rulings and other procedural legal documents issued by foreign courts. When determining whether a 'judgment or ruling' falls under the provisions of Article 299 of the 2023 Civil Procedure Law, PRC courts need to assess the substantive content of the foreign court's 'judgment or ruling' rather than its title.

Additionally, according to Article 250 of the 2023 Civil Procedure Law and Articles 41-43 of the 2021 SPC Meeting Minutes, a judgment to be recognised and enforced in China must be effective, authentic, and final, and the application must be made within two years of the judgment becoming effective. These rules apply to both civil and commercial cases.

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

It's important to note that before enforcing a foreign judgment, it must first undergo a recognition process (for simplicity, the term 'recognition' will be used here to refer

to both recognition and acknowledgement, including for judgments from Hong Kong, Macau, and Taiwan Region). The applicant can choose to apply solely for the recognition of a foreign judgment or for both its recognition and enforcement.

Subject to the applicable treaty or arrangement, the general procedure for enforcing a foreign judgment is as follows:

1. Determine the Competent Court: The applicant may directly apply to the PRC court with jurisdiction for recognition and enforcement. The specific court with jurisdiction is determined by the provisions of the applicable treaty or arrangement. According to Article 34 of the 2021 SPC Meeting Minutes, if the respondent has no domicile or assets in China, the intermediate people's court at the domicile of the applicant has jurisdiction.

2. Submit an Application: The applicant must submit the following materials to the PRC court for the recognition and enforcement of a foreign judgment:

- (1) A statement of application. The application must include basic information about the applicant and respondent (such as their names, addresses, and contact details), the requests and reasons, including the foreign court's case number, issuing court, date of issuance, effective date, and the location and status of the respondent's assets.
- (2) The original or certified copy of the legally effective foreign judgment or ruling, along with a Chinese translation.
- (3) Proof of summons for absent parties, unless the judgment explicitly addresses this issue.

3. Serve the Respondent: According to Article 37 of the 2021 SPC Meeting Minutes, the PRC court must serve a copy of the application to the respondent. The respondent has 15 days (or 30 days if residing outside China) to submit a response after receiving the application. Failure to respond will not halt the court's review, but any jurisdictional objections must be raised within the same time frame. The court will examine these objections and issue a ruling, which can be appealed.

4. Preservation Measures: After the court accepts the application, the applicant may request property preservation, which the court can enforce according to the 2023 Civil Procedure Law and related judicial interpretations.

5. Docketing and Hearing: A hearing is not mandatory but

is often scheduled by the court. The parties may apply for reconsideration to the higher court within ten days of receiving the ruling on the recognition and enforcement application under Article 303 of the 2023 Civil Procedure Law.

6. Enforcement Actions: Once the court grants the recognition of the foreign judgment, the foreign judgment can be enforced like a domestic judgment. Article 251 of the 2023 Civil Procedure Law stipulates that once the enforcement officer receives the application for enforcement or the transfer of the enforcement order, they should issue an enforcement notice to the judgment debtor and may immediately take compulsory enforcement measures. If necessary, the court can implement enforcement actions against the judgment debtor without prior notification. A judgment debtor may also challenge any unlawful enforcement actions taken by the court.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

When PRC courts enforce foreign judgments based on the principle of reciprocity, the enforcement procedures are similar to those outlined in response to Question 5 and also require initiating a recognition process as a prerequisite. However, one notable difference is that in cases of recognition and enforcement of foreign judgments under general law, a special reporting mechanism is involved. Specifically, according to Article 49 of the 2021 SPC Meeting Minutes, before rendering a ruling based on reciprocity, the court must seek approval from the high people's court, which then requires confirmation from the SPC. The ruling can only be made after the SPC's response.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

Subject to the applicable treaty or arrangement, the formal requirements for foreign judgments include the following, as specified in Article 35 of the 2021 SPC Meeting Minutes:

1. **Authenticity of the Judgment:** The original or a certified copy of the foreign judgment must be provided. Additionally, the foreign judgment must be notarised by a notary public in the country where it was issued, followed by

consular legalisation by the foreign ministry or an authorised agency, and finally by the Chinese embassy or consulate in that country. However, starting from November 7, 2023, the Hague Apostille Convention entered into force in China. Therefore, if the foreign judgment is issued by a court in a contracting state to the convention, the convention takes precedence. According to Articles 2-5 of the Hague Apostille Convention, after the notary public in the country where the judgment was issued notarises the judgment, only an 'Apostille Certificate' issued by the competent authority of that country is needed for recognition in China. The competent authorities responsible for issuing Apostille Certificates can be found at:

<https://www.hcch.net/en/instruments/conventions/authorities1/print1/?cid=41>

2. **Proof of Legal Effectiveness:** Documentation proving that the foreign judgment has taken legal effect must be provided. However, if the judgment already states this, no additional documentation is required.
3. **Proof of Service for Default Judgments:** In cases of default judgments, documentation proving that the absent party was legally summoned by the foreign court must be provided. However, if the judgment itself addresses this issue, no additional documentation is required.
4. **Chinese Translation:** A Chinese translation of the judgment, certified by a translation agency, must be provided.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

In China, there is no summary procedure for the recognition of foreign judgments, but the process itself is relatively straightforward. The PRC courts primarily conduct a formal examination of the judgment, without the need for a hearing (although hearings are often held in practice). Regarding the timeframe, except for cases related to Taiwan Region where specific deadlines are set (e.g., the 'SPC Taiwan Judgments Provisions' stipulate that the court must docket the case within seven days and make a ruling on the recognition request within six months, extendable with approval from a higher court in special circumstances), there is no statutory time limit for the recognition of foreign judgments in China. In practice, the timeline for recognition varies depending on the

circumstances, typically taking between 6 to 12 months.

The timeline for enforcing a foreign judgment largely depends on the specifics of the case, particularly the nature, location, and quantity of the judgment debtor's enforceable assets. However, according to Article 237 of the 2023 Civil Procedure Law, if the PRC court does not take any enforcement action within six months of receiving the application for enforcement, the applicant may apply to a higher court for enforcement. The higher court may then either instruct the original court to enforce within a specified period or decide to enforce the judgment itself or delegate it to another court.

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of assets) while the enforcement or registration procedure takes place?

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10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

Based on Article 250 of the 2023 Civil Procedure Law and Article 545 of the *Supreme People's Court's Interpretation of the Civil Procedure Law of the People's Republic of*

China (2022 Amendment) ('**Judicial Interpretation of the Civil Procedure Law**'), the limitation period is two years, beginning from the last day of the performance period outlined in the judgment, or from the date the judgment takes effect if no period is specified. If the applicant only seeks recognition without enforcement, the limitation period starts from the date the court's recognition ruling takes effect.

Moreover, under Article 250 of the 2023 Civil Procedure Law and Articles 194 and 195 of the *Civil Code of the People's Republic of China* ('**Civil Code**'), if within the last six months of the two-year limitation period, an event such as force majeure occurs that hinders the applicant from exercising their rights, the limitation period can be tolled. Additionally, if the applicant demands performance from the judgment debtor or the judgment debtor agrees to fulfill their obligations, the two-year period will reset.

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

Subject to applicable treaties or arrangements, according to Article 300 of the 2023 Civil Procedure Law, PRC courts will refuse to recognise and enforce a foreign judgment if specific grounds exist. This is the first time that the grounds for reviewing the recognition and enforcement of foreign judgments have been systematically codified in the PRC law. These specific grounds include:

1. The foreign court lacked jurisdiction over the case under PRC law;
2. The respondent was not duly summoned, or even if duly summoned, was not given a reasonable opportunity to present their case, or a party lacking legal capacity was not properly represented;
3. The judgment was obtained through fraud;
4. The PRC courts have already rendered a judgment on the same dispute, or a third country's judgment on the same dispute has been recognised;
5. The judgment violates the fundamental principles of PRC law or harms China's sovereignty, security, or public interest.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

Unless otherwise provided in treaties and arrangements to which China is a party or required by the principle of reciprocity, when reviewing an application for the

recognition and enforcement of a foreign judgment, PRC courts do not typically reconsider the merits of the foreign judgment. In fact, many bilateral agreements that China has entered into explicitly stipulate that the PRC courts "shall not conduct any substantive review of the judgment."

However, if a foreign judgment violates the fundamental principles of PRC law or harms China's sovereignty, security, or public interest, or if the foreign judgment awards compensation that significantly exceeds the actual loss (such as punitive damages), the PRC courts may refuse to recognise and enforce it. In such cases, the review involve considerations related to the merits.

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

Yes, PRC courts will examine whether the foreign court had jurisdiction over the case when recognizing and enforcing a foreign judgment. According to Article 300 of the 2023 Civil Procedure Law, a judgment rendered by a foreign court lacking jurisdiction over the case will not be recognised or enforced by PRC courts. Article 301 of the 2023 Civil Procedure Law outlines the criteria for determining whether the foreign court had jurisdiction, introducing a mode of indirect jurisdictional review. This mode combines elements of both the law of the judgment-rendering country and the law of the requested country (China).

Specifically, PRC courts may determine that the foreign court lacked jurisdiction under the following circumstances:

1. The foreign court lacked jurisdiction under its own laws, or although it had jurisdiction under its laws, there was no appropriate connection between the dispute and the foreign court. In such cases, if the foreign court's jurisdiction was based on a weak or improper basis, such as long-arm jurisdiction, the PRC courts may deem the foreign court to lack jurisdiction.
2. The judgment violates the exclusive jurisdiction provisions under the 2023 Civil Procedure Law. PRC courts have exclusive jurisdiction over specific types of civil cases, which cannot be waived by agreement between the parties, including but not limited to:

- Disputes related to the establishment, dissolution, liquidation, or validity of decisions of a legal entity or other organisation

established within the territory of China;

- Disputes concerning the validity of intellectual property rights granted within the territory of China;
- Disputes arising from the performance of contracts involving Sino-foreign joint ventures, Sino-foreign cooperative enterprises, or Sino-foreign cooperative exploration and development of natural resources within the territory of China;
- Property disputes arising from the confirmation of rights, division, or neighboring relations of real estate within the territory of China;
- Disputes over rural land contracted management agreements, housing lease agreements, construction project contracts, and policy-based housing sales contracts within the territory of China;
- Disputes arising from port operations within the territory of China;
- Disputes concerning the inheritance of estates within the territory of China.

3. The judgment violates an exclusive choice of court agreement between the parties. This applies when the parties have mutually agreed on a specific court for dispute resolution, granting it exclusive jurisdiction. As long as this exclusive jurisdiction aligns with the mandatory rules of the 2023 Civil Procedure Law, PRC courts will respect the parties' autonomy.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

Yes. According to Article 300 of the 2023 Civil Procedure Law and Article 46 of the 2021 SPC Meeting Minutes, if the defendant in the foreign judgment was not duly served, or if they were duly served but were not given a reasonable opportunity to present their case, or if a party lacking legal capacity was not properly represented, the judgment will not be recognised or enforced in China. This consideration of the defendant's procedural rights is crucial to ensuring the fairness of the proceedings.

Foreign judgments in default can be enforced, but according to Article 541 of the Judicial Interpretation of the Civil Procedure Law and Article 35 of the 2021 SPC Meeting Minutes, the applicant must provide proof that the foreign court duly summoned the defendant. However, if the judgment itself includes a statement

verifying proper service, no additional proof is required.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

Yes. While PRC courts generally conduct a formal examination based on the requirements set out in the 2023 Civil Procedure Law when reviewing applications for recognition and enforcement of foreign judgments, they do have a certain degree of discretion. This discretion can be exercised in matters such as determining whether the amount of damages awarded is significantly excessive compared to the actual loss, whether the foreign judgment violates fundamental principles of PRC law or threatens China's sovereignty, security, or public interest, and whether to review the application based on the principle of reciprocity.

However, for these discretionary and potentially impactful matters, PRC courts typically need to report to higher courts and obtain guidance. Overall, PRC courts exercise this discretion with caution.

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

Firstly, foreign judgments for punitive or multiple damages are not necessarily unenforceable in China. However, according to Article 45 of the 2021 SPC Meeting Minutes, if the foreign judgment awards damages that are significantly excessive compared to the actual loss, PRC courts may refuse to recognise and enforce the excessive portion.

Secondly, under Article 41 of the 2021 SPC Meeting Minutes, foreign courts' orders for interim relief and other procedural documents cannot be recognised or enforced.

Additionally, certain arrangements between China and other countries may impose restrictions on the recognition and enforcement of specific types of judgments. For instance, Article 8(2) of the *Memorandum of Guidance between the Supreme People's Court of the People's Republic of China and the Supreme Court of Singapore on the Recognition and Enforcement of Money Judgments in Commercial Cases* states that PRC courts will not recognise and enforce certain types of Singapore court judgments, including but not limited to those related to intellectual property, unfair competition, and antitrust cases.

Conversely, unless there is a specific agreement between China and a region (Hong Kong, Macau, and Taiwan) or a foreign country, foreign court judgments involving the division of marital property, alimony, and child custody in divorce cases cannot be recognised and enforced in China.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

No, they cannot. According to Article 299 of the 2023 Civil Procedure Law and Article 42 of the 2021 SPC Meeting Minutes, foreign court judgments that are pending appeal or under appeal are not considered to have legal effect under PRC law. Therefore, enforcement procedures in China cannot be initiated for such judgments.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

There are two types of rulings by PRC courts related to the recognition and enforcement of foreign judgments that a party might disagree with. One is when the court dismisses the application for recognition and enforcement due to the absence of a treaty, convention, or reciprocal relationship between the country where the judgment was issued and China, and the judgment is not a divorce judgment. According to Article 542 of the Judicial Interpretation of the Civil Procedure Law, the party cannot appeal this decision but can file a new lawsuit in China.

The second, more common scenario is when the court makes a ruling on whether to recognize or enforce the foreign judgment. The remedy in this case is not an appeal but a reconsideration. This remedy has long been available for judgments from Hong Kong, Macau, and Taiwan Region, but it was only introduced for foreign judgments outside these regions after the 2023 Civil Procedure Law was promulgated. According to Article 303 of the 2023 Civil Procedure Law, if a party is dissatisfied with a ruling on the recognition and enforcement or non-recognition and non-enforcement of a foreign judgment, they can apply for reconsideration to the higher court (i.e., the high people's court) within ten days of the ruling's service.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

The 2023 Civil Procedure Law and related judicial interpretations do not explicitly address whether the judgment debtor under foreign judgments must pay interest on the judgment sum for delayed performance. However, in principle, the general rules of the 2023 Civil Procedure Law would apply to a recognised and enforced foreign judgment. According to Article 264 of the 2023 Civil Procedure Law, if the judgment debtor fails to fulfill their monetary obligations within the period specified in the judgment, they must additionally pay interest on the judgment sum for the period of delayed performance. According to the *Supreme People's Court's Interpretation on Calculating Interest for Delayed Performance in Enforcement Procedures* ('**SPC Interpretation on Delayed Performance Interest**'), the default judgment interest is calculated at a daily rate of 0.0175% of the unpaid debt.

20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

Although the official currency in China is the Renminbi (RMB), there is currently no requirement that foreign judgments must be converted into RMB for enforcement. According to Article 5 of the SPC Interpretation on Delayed Performance Interest, if a judgment specifies payment in a foreign currency, the judgment interest for the delayed portion of the debt is calculated in that currency at a daily rate of 0.0175%; however, if the applicant requests that the amount be calculated in RMB, the foreign currency specified in the judgment must be converted to RMB first. This suggests that when enforcing foreign judgments, PRC courts may determine whether to use foreign currency or RMB based on the applicant's request.

In practice, however, it is generally easier if the applicant requests RMB for the calculation. Typically, for assets located in China, PRC courts' enforcement proceeds are usually in RMB, unless the judgment debtor has foreign currency deposits in China. Even if the debtor has foreign currency deposits in China, due to China's foreign exchange controls, some courts in China may not have foreign currency bank accounts. Since a PRC court's enforcement procedures usually involve transferring the funds to the court's account before disbursing them to the applicant, the court may not be able to directly transfer the debtor's foreign currency deposits to the court's account.

21. Can the costs of enforcement (e.g. court

costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

The costs incurred in the recognition and enforcement procedures can be broadly divided into two categories: (1) fees charged by PRC courts for the recognition and enforcement process, such as application fees; and (2) expenses incurred by the applicant in applying for the recognition and enforcement of the foreign judgment, such as legal fees, translation fees, notarisation fees, etc.

For the first category, according to Articles 10, 20, and 38 of the *Measures on the Payment of Litigation Fees*, the application fee for the recognition and enforcement of a foreign court judgment should be borne by the judgment debtor if the application is eventually supported by the court. However, the applicant must pay this fee in advance.

For the second category, if the legal fees and other costs are clearly specified in an effective foreign judgment (which is unlikely to be the case), they should be borne by the judgment debtor once the foreign judgment is recognised and enforced. If the foreign judgment does not specify these costs, it would be difficult to recover them, as the PRC court's recognition and enforcement ruling is generally confined to the scope of the foreign judgment.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

Third-party funding is a relatively new concept for PRC courts. Currently, there are no specific regulations governing third-party funding in China, and different courts may have varying views on the matter. Generally, PRC courts tend to take a cautious approach towards third-party funding in litigation or enforcement proceedings, as they are concerned about potential conflicts of interest and the possible adverse impact on the fairness of the proceedings. However, PRC law does not explicitly prohibit or restrict third-party funding. Courts do not require parties to disclose third-party funding arrangements, and third-party funders are not liable for the costs incurred by the opposing party.

23. What do you think will be the most significant

developments in the enforcement process in your jurisdiction in the next 5 years?

In 2020, the SPC issued the 'Guiding Opinions on the People's Courts' Service and Protection for Further Expanding Opening-Up' (Fa Fa [2020] No. 37), which emphasized the need to vigorously cultivate a high-quality workforce for foreign-related adjudication. Following this, the SPC convened a symposium on the training of foreign-related legal professionals and held specialized lectures on the subject. In recent years, local PRC courts have also intensified their efforts to develop foreign-related legal talent, with many courts signing cooperation agreements with universities, establishing training bases, and conducting exchange and training programs for foreign-related legal professionals.

On June 23, 2023, an Italian court recognised and enforced a PRC commercial judgment for the first time. From March 25 to 29, 2024, China and Serbia held negotiations in Belgrade on a civil and commercial judicial assistance treaty, reaching a consensus on all terms and agreeing to expedite the formal signing of the treaties. On June 18, 2024, China, based on the presumptive reciprocity principle outlined in the Nanning Statement from the Second China-ASEAN Forum of Chief Justices, recognised and enforced a Thai civil judgment for the first time. These events demonstrate China's proactive efforts to recognise and enforce foreign civil and commercial judgments based on bilateral treaties, conventions, and reciprocity arrangements.

Following this trend, in the next five years, China is expected to engage in more bilateral cooperation to promote mutual recognition and enforcement of civil and commercial judgments with other countries.

24. Has your country ratified the Hague Choice of Courts Convention 2005? If not, do you expect it to in the foreseeable future?

China signed the Hague Choice of Court Convention in 2017 but has not yet ratified it.

With global attention shifting to the more recent Hague Judgments Convention, the focus on the Hague Choice of Court Convention has been diminishing. Without clearer indications, it is difficult to predict that China will ratify the Hague Choice of Court Convention in the near future.

25. Has your country ratified the Hague Judgments Convention 2019? If not, do you

expect it to in the foreseeable future?

No, China has not signed or ratified the Hague Judgments Convention. Currently, 30 countries and regions (including 27 EU member states) have acceded to the convention. On June 27, 2024, the United Kingdom

ratified the Hague Judgments Convention, and on October 1, 2024, the Hague Judgments Convention will enter into force in Hungary. However, Given the evolving international landscape, the timing of China's ratification of the Hague Judgments Convention remains uncertain in the foreseeable future.

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