

Litigation In China: Recognition and Enforcement of Foreign Judgments

In today's global economy, international trade and foreign direct investment (FDI) have led to a significant rise in transnational disputes. **While arbitral awards benefit from straightforward enforceability in China**, owing to the country's accession to the New York Convention, the situation is far more complicated for foreign court judgments, **which must go through a recognition process by Chinese courts.**

Legal Framework

Article 299 of the Chinese Civil Procedure Code (CPC) establishes that courts assess requests for recognition and enforcement of foreign judgments primarily based on two criteria: **(i) Bilateral treaties (signed or ratified by China)**, and **(ii) the Principle of Reciprocity.**

- (i) When a bilateral agreement is in place, China applies the specific terms of that treaty.
- (ii) In cases where no such agreement exists, enforcement relies on the principle of reciprocity. This means that, once a foreign judgment is submitted to an intermediate people's court in China, the court assesses whether reciprocity exists between China and the foreign state that is, whether the foreign country would similarly recognize Chinese judgments.

Additionally, the foreign judgment must be final, binding, and must not violate Chinese laws, public order, or sovereignty.

Only final, binding, and non-appealable civil and commercial judgments issued by competent foreign authorities, such as courts, notaries, or recognized administrative bodies, are eligible for recognition and enforcement.

Procedure and Required Documentation

To initiate the procedure, the applicant must submit the request to the Intermediate People's Court with jurisdiction over the debtor's residence or assets in China. The application must be accompanied by the following documentation:

- The original judgment or an authenticated copy;
- Proof of the judgment's finality;
- Evidence of proper service if the judgment was rendered in default;
- A certified Chinese translation;
- Apostille or legalization of foreign documents;
- Detailed information on the parties involved, the grounds of the claim, any appeals filed, and the debtor's assets in China.

Channels for Recognition and Enforcement

a) Bilateral treaties.

As of 2025, China has signed bilateral treaties on mutual judicial assistance in civil and commercial matters with more than 30 countries, including France, Italy, Spain, Poland, Greece, Russia, the Republic of Korea, and the UAE. The majority of these treaties provides for recognition and enforcement of foreign judgments. Currently, China has signed **over 40 bilateral treaties on judicial assistance (38 currently in force)**, of which 35 include provisions on the recognition and enforcement of civil and commercial judgments.

b) The principle of reciprocity

In the absence of international conventions or bilateral treaties to serve as a basis, or when such conventions or treaties exists but have limited coverage of judgments, parties may apply to Chinese courts for recognition and enforcement of foreign judgments on the basis of reciprocity.

Reciprocity can be established through several mechanisms, including:

1) De jure reciprocity

This form of reciprocity is established through legal provisions; a country agrees to recognize and enforce foreign judgments if its own courts are recognized and enforced under the laws of the foreign country.

Example: On 29 July 2021, the Shanghai No. 1 Intermediate People's Court (Shanghai Court), in judgment (2019) Hu 01 Xie Wai Ren No. 22, recognized a monetary judgment by the Singapore High Court (OS number S59/2014). Significantly, **this is possibly the first time that any Chinese court has explicitly mentioned that de jure reciprocity exists between China and Singapore** in terms of recognition and enforcement of each other's judgments.

2) De facto reciprocity

This form of reciprocity is established based on past practice; if a foreign country has historically recognized and enforced Chinese judgments, then a country may consider this to be a basis for recognizing and enforcing their own judgments in that foreign country.

Example: a recent example is **the case of Sanlian/Wuhan Case (2017)**. On 30 June 2017, the Wuhan Intermediate People's Court (Wuhan Court) recognized a civil judgment issued by the Los Angeles Superior Court in California, USA (the "Wuhan Decision"), citing the earlier enforcement in the U.S. of a Chinese judgment (Hubei Gezhouba Group No. 1 Engineering Co. v. Robinson Helicopter Company, Inc.) as evidence of de facto reciprocity. **That was the first time that a Chinese court has recognized and enforced a US commercial judgment.**

3) Diplomatic commitment

Reciprocity can be established through formal agreements between governments, where both countries agree to recognize and enforce each other's judgments.

Example: On 31 August 2018, the Supreme Court of Singapore and the Supreme People's Court of the People's Republic of China signed a **"Memorandum of Guidance Between the Supreme People's Court of the People's Republic of China and the Supreme Court of Singapore on Recognition and Enforcement of Money Judgments in Commercial Cases"** ("Memorandum") aiming at facilitating money judgments issued by the Singapore courts to be recognized and enforced in the Chinese courts (and vice-versa).

4) Presumed reciprocity

This is a more recent concept, inferred from ongoing bilateral cooperation and consistent legal practice. A country presumes that reciprocity exists with another country unless there is clear evidence to the contrary. This can be a more efficient approach to recognizing and enforcing foreign judgments.

Grounds for rejecting recognition and enforcement

Article 300 of the new CPL outlines five specific examination criteria as a basis for non-recognition and non-enforcement.

- 1) Lack of Jurisdiction:** the foreign court has no jurisdiction over the case.
- 2) Due process:** the respondent has not been legitimately summoned, or the respondent has been legitimately summoned but has not been given a reasonable opportunity to present its case, or the party without litigation capacity has not been appropriately represented.
- 3) Fraud:** the judgment or ruling was obtained by fraud.
- 4) Res judicata:** a Chinese court has made a judgment or ruling on the same dispute, or has recognized the judgment made by a court of a third country for the same dispute.
- 5) Violation:** the judgement violates the basic principles of Chinese law or harms the national sovereignty, security and public interests.

Procedural Aspects

When the respondent resides in China, they have 15 days to submit their observations following the recognition request; this period extends to 30 days if the respondent is abroad. The courts allow jurisdictional objections, which may be appealed if initially rejected. Additionally, applicants may request asset preservation measures (preliminary injunctions) at the time of filing, to safeguard the enforcement of a potential judgment.

Time Limits

Article 239 of the Chinese Civil Procedure Code, as interpreted by the Supreme People’s Court in 2015, sets a **two-year limitation period to file for recognition and enforcement of foreign judgments**. This timeframe starts from when the foreign judgment becomes enforceable according to the laws of the issuing jurisdiction. This limitation period applies equally to domestic and foreign judgments and is strictly enforced.

Conclusion

The recognition and enforcement of foreign judgments in China have become a fundamental pillar of transnational law. Through the continuous development of bilateral agreements, evolving judicial interpretations, and an expanded understanding of reciprocity, the Chinese judicial system is demonstrating greater operational openness and predictability for international businesses. Even judgments from jurisdictions like the United States or Singapore are increasingly accepted, provided they meet essential standards of jurisdiction, fairness, timeliness, and proportionality.

For Italian companies seeking to protect their claims or rights in China, a clear grasp of procedural pathways, timelines, and potential obstacles is crucial. This knowledge ensures legal certainty and maximizes the chances of success in cross-border recovery efforts.