



天元律师事务所
TIAN YUAN LAW FIRM

Enforcing Foreign/German Judgments in China

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Part I

General Ideas

Two Phases of Enforcing Foreign Judgment in China



New Trends in China

- From the CPL (trial) in 1982 to **the Conference Summary in 2022**
- More detailed guideline available now
- Much more positive attitude adopted now

What Judgments Can be Enforced?

✓ **Civil and commercial judgments
(name is not important)**

✓ **Criminal judgments involving civil
damages**

□ **Bankruptcy, IP, unfair competition
and monopoly cases in doubt**

X **Not including documents related
to interim measures or other
procedural matters**

Part II

Specific Requirements

Key Requirements:

1. Judgment being **final and effective**—
not appealable anymore
2. **Treaty or Reciprocity**

No treaty with Germany
Reciprocity with Germany?

What is Reciprocity?

- **Before : De facto reciprocity**
Precedents of enforcing Chinese judgments are necessary in principle

 - **Now : Several tests**
 - a) Foreign laws (eg. English law)
 - b) Reciprocal understanding or consensus (eg. China-Singapore MOG)
 - c) Reciprocal commitment without exception
- Reviewed case by case**
Internal reporting to the SPC

Key Requirements:

3. 7 Causes of non-recognition:

- a) The court rendering the judgment lacks jurisdiction over the case (according to the treaty or PRC law)
- b) Failure to guarantee the respondent's rights of being notified and heard
- c) Judgment obtained by fraud

Key Requirements:

3. 7 Causes of non-recognition (CONT):

- d) Conflicting judgment rendered or recognized by PRC courts
- e) Violation on basic law principles or public interest of PRC
- f) Having arbitration agreement
- g) Punitive damages exceeding actual losses

Part III

Latest Practice

Latest Practice:

✓ **Ice-breaker from Germany in 2006
and echo from China in 2013**

X **Setback in Germany (Saarbrücken
Regional Court) in 2021**

Latest Practice:

Whether and to what extent the setback would impact the enforcement of German judgments in China?

- **An issue of German law actually**
- **German law adopts de facto standard to some extent?**
- **New trend and cases in China will be helpful to enforcement of German judgments**



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Thank you

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