

How many monetary judgments that Chinese courts decided to enforce are successfully enforced?

It is necessary to distinguish (1) a court's decision to acknowledge the validity of a foreign judgment (judgment recognition and enforcement), and (2) whether a judgment creditor successfully recovers the awarded amount in practice.

For example, *Kolmar Group AG v. Jiangsu Textile Industry (Group) Import & Export Co., Ltd.* is notable because it was the first case where a foreign monetary judgment was recognized based on the principle of *de facto* reciprocity in China. However, the recognition and enforcement of the judgment does not necessarily mean that Kolmar Group actually recovered the money.

Up to 10 September 2023, there had been 63 cases in total concerning the recognition and enforcement of foreign judgments on the grounds of reciprocity or judicial assistance treaties ratified by China in civil or commercial matters. Of these, 26 were successful cases where the Chinese courts decided to recognize and enforce foreign judgments while 3 were partially successful cases (the Chinese courts recognized compensatory damages but rejected punitive damages); the recognition and enforcement of foreign judgments were rejected in the remaining 34 cases.

Have the creditors of the 29 foreign judgments recovered their money in China?

After extensive empirical research, the findings can be divided into three groups.

Firstly, the (partially) successful enforcement group includes both voluntary and compulsory enforcement cases. Among the 9 judgments, 3 were to appoint insolvency administrators and with no or limited enforcement contents. For example, in the case of *In re DAR*, real property owned by the German insolvent company had already been fully paid for and been occupied by the company associated with the creditor before the German insolvency judgment was recognized in China. As this real property was the only property owned by the insolvent company in China, there was no other property to be collected or debt

to be paid by the insolvency administrator. Another 3 judgments in this group were rendered against the same party. The plaintiffs, when applying for US judgments to be recognized and enforced in China, successfully requested the Guangzhou Intermediate People's Court to preserve a significant amount of the defendant's assets in China in order to pay the judgment debts. Importantly, the cases in this group do not necessarily mean that the judgment creditors will have their foreign judgments completely satisfied.

Secondly, 7 cases are in the group of unsuccessful compulsory enforcement, where all of the compulsory enforcement proceedings had been closed due to the debtors having no assets for enforcement. In *Kolmar Group AG v. Jiangsu Textile Industry (Group) Import & Export Co., Ltd*, although the Chinese court decided to recognize and enforce the Singaporean judgment, the debtor did not voluntarily fulfill the obligations under the judgment. Consequently, the creditor applied to the Chinese court for compulsory enforcement, and the court docketed the case on 21 December 2016. On 24 January 2017, the same court made a civil ruling and accepted another Chinese company's application to reorganize the debtor due to the latter's insolvency. On 8 December 2017, the court made a series of civil rulings approving the merger and reorganization plan of the debtor and terminating the insolvency proceedings. On 28 December 2017, the creditor withdrew its application for the compulsory enforcement of the judgment. From the publicly available documents, the relationship between the judgment creditor and the Chinese company that merged with the judgment debtor is unknown. However, if the judgment creditor had received the payment from the insolvency reorganization proceedings, the Chinese Judgment Enforcement Decision would have contained this information.

Thirdly, 13 cases are in the group containing an unknown enforcement status. This group covers three circumstances. (1) The foreign judgments have been voluntarily enforced by judgment debtors so compulsory enforcement decisions are unnecessary. (2) The judgment creditors have not applied for compulsory enforcement and the foreign judgments remain outstanding. (3) The judgment creditors have applied for compulsory enforcement, but the relevant compulsory enforcement decisions are not available to the public, so the enforcement status remains unknown.

As a conclusion, although the empirical study only covered 29 foreign judgments, which is a relatively small number, it exhausts all foreign judgments that the

Chinese courts have decided to recognize and enforce up to September 2023. It reflects that, for a judgment creditor, obtaining a Chinese court's decision to recognize and enforce a foreign judgment is only the first step to recovering funds in China.

All comments are welcome.

For detailed information about this research, please refer to section 5.3.1 of 'Jie (Jeanne) Huang, Developing Chinese Private International Law for Transnational Civil and Commercial Litigation: The 2024 New Chinese Civil Procedure Law, Netherlands International Law Review (2023).'