

Civil Enforcement System in China and Its Latest Development

Speech by Mr. Wu Shaojun

on the International Conference on Enforcement of Civil Case Judgment
in the Context of Dynamic Regional Economic Integration

In accordance with the need for exchanges of this “International Conference on Enforcement of Civil Case Judgment in the Context of Dynamic Regional Economic Integration”, we hereby give a brief introduction to civil enforcement system in China and its latest development.

1. Laws on Civil Enforcement

In China, the major law regulating civil enforcement is the *Civil Procedure Law of the People’s Republic of China* (Part Three Procedure of Execution, with a total of 35 articles, ranging from Article 224 to Article 258). In addition, judicial interpretations successively promulgated by the Supreme People’s Court also form the main bases for enforcement, which mainly include *Interpretation of the Supreme People’s Court on the Application of the Civil Procedure Law of the People’s Republic of China* (implemented as of February 4, 2015, with a total of 60 articles, ranging from Article 462 to Article 521), *Interpretation of the Supreme People’s Court on Some Issues of the Application of the Procedure of Execution of the Civil Procedure Law of the People’s Republic of China*

(implemented as of January 1, 2009, with a total of 40 articles), and *the Regulations on Some Issues on the Enforcement of the People's Court (For Trial Implementation)* (implemented as of July 8, 1998, with a total of 137 articles).

2. Enforcement System and Procedures

In China, there are four levels of people's courts, ranging from up to down are the Supreme People's Court (SPC), the High People's Court, the Intermediate People's Court, and the Primary People's Court and within People's Courts at all levels, enforcement bureaus are generally established. The duty of the Enforcement Bureau of SPC is to enforce the judgments, rulings and property-related decisions in the mediation agreements that have become legally effective and are made by SPC in the first instance; to enforce other legal documents to be enforced by SPC; undertake affairs relating to law-based supervision and guidance of the enforcement work of local people's courts at all levels; coordinate and settle trans provincial, municipal or autonomous regional enforcement disputes in civil, administrative, maritime and civil suit collateral to criminal proceedings judgments and rulings; participate in and draft relevant judicial interpretations. The main duties of enforcement bureaus of local people's courts at all levels include the enforcement of civil judgments and rulings and the property part of

criminal judgments and rulings that have become legally effective and other legal documents stipulated by the law to be enforced by people's courts.

In terms of the upper-lower courts relationship, any people's court above the intermediate level implements unified administration over the law enforcement of people's courts within its jurisdiction. Any people's court at the upper level shall have the power to order people's courts at the lower levels, through rulings or decisions, to correct wrong or unlawful enforcement of court judgments or enforcement behaviors by themselves.

The enforcement procedure involving civil judgment mainly includes three parts, which are the initiation of the enforcement procedure, enforcement measures and enforcement suspension and termination. The initiation methods shall include two types: One is that the litigant applies to the people's court for enforcement, and the other is that the judge transfers the judgment to enforcement officer to execute. The enforcement measures mainly include the following types: property reports (any person subject to enforcement who fails to perform the obligation determined in the legal documents in accordance with the enforcement notice shall report its property at present and one year prior to the receipt of the enforcement notice); inquire, detain, freeze, transfer, and sell the properties of the person

subject to enforcement, such as bank deposits, bonds, stocks, and fund shares; detain and withdraw the income of the person subject to enforcement to perform the obligation; seal off, detain, freeze, auction and sell off any other property of the person subject to enforcement to perform the obligation; impose a fine, or detain, and restrict the person from going abroad; record in credit information system or release through media the information of failure to perform obligation and other measures stipulated by law. Under particular situation, the people's court shall rule suspension or termination of enforcement.

3. Training of Enforcement Personnel

Courts at all levels in China attach great importance to the training of enforcement personnel. The training mainly includes the understanding of new laws and judicial interpretations, and the handling of difficult and complex problems in the enforcement fields. The training mainly includes three types: the first type is face-to-face training. Each year SPC organizes training courses once or twice for the heads or executive personnel of enforcement bureaus nationwide. The second type is video training, that is, to conduct training of enforcement personnel of people's courts at all levels in China through video network. The third type is written training, with regular training of enforcement personnel through editing, printing

and distributing special journals.

4. Latest Development of Civil Enforcement

In recent years, with the rapid development of the modern information technology, China courts are actively adopting information technology for property enquiry, and the network platform for auction, with information on enforcement open to the public.

(1) Vigorously Push for the Building of Network-Based Search and Control Mechanism of Courts in China

In order to tackle difficulties in searching personal information, SPC has made a great effort to push forward the building of network-based search and control mechanism in the courts nationwide. The network-based enforcement search and control refers to the search and control of persons subject to enforcement and their properties through the network. Currently in China, a total of 23 high people's courts have established their search and control networks in cooperation with over 20 units such as banks, departments of public security and national land resources, realizing network-based search and control of persons subject to enforcement and their properties with the help of information technology and high-tech means. On this basis, SPC has established a nationwide network enforcement search and control system with SPC at the core, supplemented by high people's courts. Currently, SPC has

established links with 20 nationwide banks, which can search and control the property of judgment debtors in banks throughout China.

This is a simple structure chart (see ppt) of the network-based search and control system of SPC: on the left side are the courts at four levels in China, which are interconnected through the intranet. On the right side are 20 banks. Dedicated connection between SPC and head offices of the banks is established. Any court in China including any people's tribunals can send search and control request through the network-based search and control system to SPC, and receives feedback results. Without stepping out of the office, any enforcement judge can inquire, freeze, deduct and transfer properties of judgment debtors in the 20 banks by tapping the keyboard. Currently, cooperation on the network-based enforcement search and control already realized by our court also includes connections to some other departments or organizations.

(2) Vigorously Push for Enforcement Information Transparency

In order to push for transparent judicial practice, SPC consolidates four categories of information relating to enforcement work into "China Enforcement Information Disclosure Net", setting up its link at prominent position on the official website of SPC, so as to facilitate parties involved in the cases and the public to inquire

information. The Enforcement Information Disclosure Net consists of four parts, information on persons subject to enforcement, information on discredited persons subject to enforcement, information on enforcement case proceedings, and enforcement legal documents. Litigants can also view node information of specific enforcement case, including case filing information, collegiate panel members, and the progress of the case.

(3) Vigorously Push for Online Judicial Auction

Internet has the inherent features of being open, transparent, and unlimited in time and space. Via online judicial auction, we can further regulate enforcement work, and improve enforcement efficiency. Currently there are mainly three modes for online judicial auction nationwide:

Type 1 is Taobao.com judicial auction mode. The enforcing court does not have to entrust auction companies, but can directly exhibit articles, accept on-line registration and conduct online bidding through Taobao.com. Currently courts conducting judicial auction through the Taobao.com include those in Zhejiang, Jiangsu, Henan, Beijing, Guangdong, Shandong, Fujian, Yunnan, Jiangxi, Anhui and Xinjiang. Online survey results indicate that most netizens and media support this practice.

Type 2 is the auction mode based on the Chongqing United

Assets and Equity Exchange (hereafter referred to as the Exchange), which involves three parties: the enforcing court, the auction institution and the Exchange. The enforcing court shall entrust an auction institution to conduct auction through the platform of the Exchange. The exchange and auction institution shall jointly organize specific work such as auction announcement release, bidding registration, article exhibition, online auction, closing and so on.

Type 3 is mixed judicial auction mode. Shanghai Courts entrust auction companies to conduct auction in Shanghai Public Resources Auction Center. The auction bidding adopts on-the-spot and network video bidding simultaneously, integrating on-the-spot bidding and local network bidding.

In 2012, SPC started “Litigation Assets Net of the People’s Court” to release information and offer trading service on litigation assets for courts, intermediary institutions and investors.

5. External relations and cooperation

Based on Chinese laws, when a legally effective judgment or ruling made by a foreign court requires recognition and enforcement by Chinese courts, the litigant can directly apply to any Chinese court with jurisdiction thereof for recognition and enforcement, or the foreign court may also request recognition and enforcement in

accordance with any international treaty concluded or acceded to by that foreign country and China, or with the principle of reciprocity. In accordance with this stipulation Chinese courts have recognized and enforced judgments and rulings of relevant countries in accordance with law. Of course, for judgments and rulings made by Chinese courts that have become legally effective, if the person subject to enforcement or the property is not within the territory of China, and the litigant applies for enforcement, we also hope relevant countries recognize and enforce the judgments and rulings.

From September 16 to 17, 2014, the China-ASEAN Justice Forum held in Nanning, China discussed and passed the Nanning Declaration of China-ASEAN Justice Forum (hereinafter referred to as Nanning Declaration), creating a new starting point for China and ASEAN to cooperate in the judicial field. Guided by the principles of equal consultation, mutual trust and benefit, and being practical and highly efficient, we shall adhere to the consensus reached in Nanning Declaration, maintain close relations with judicial organs of all countries of the ASEAN, strengthen regional judicial exchange and cooperation in judicial field, and step up cooperation with countries such as Japan and ROK, so as to build a mutually beneficial and win-win environment of rule of law.