判決的承認及執行

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

瑞士判決在新加坡

新加坡就外國判決設有兩套法定制度。《1959年外國判決相互執行法》（Reciprocal Enforcement of Foreign Judgments Act 1959）經2019年修訂後，涵蓋非金錢判決及非正審命令，適用於根據該法刊憲的國家的判決。瑞士並未刊憲。[1]因此，瑞士判決須在普通法下以基於該判決提起訴訟的方式執行。該判決必須是最終及不可推翻的。瑞士法院必須具有國際意義上的管轄權，即被告當時身在瑞士或已接受瑞士法院的管轄。此外，不得存在欺詐、違反自然公正或公共政策的抗辯。[2]在普通法下，只有判定固定金額的金錢判決才可執行。要求被告轉移代幣的瑞士命令，在新加坡普通法下不能執行。不過，在尋求相同濟助的新加坡新法律程序中，新加坡法院可將瑞士法院的裁斷視為產生爭點不容反悔（issue estoppel）。

新加坡判決在瑞士

新加坡判決在瑞士根據《瑞士聯邦國際私法》（IPRG/PILA）第25至27條獲得承認及執行。新加坡法院必須根據瑞士的衝突規則具有管轄權。就合約申索而言，這指被告的住所、有效的法院選擇或履行地。就侵權申索而言，這

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指行為地或結果發生地。判決必須是最終判決，且不得違反瑞士公共政策，亦不得在違反正當程序的情況下作出。[3]非金錢判決在瑞士可獲承認，因此，宣告就代幣存在推定信託或要求轉移代幣的新加坡命令，原則上可針對身在瑞士的被告執行。臨時命令則另當別論。瑞士法院不承認全球凍結令，因為它並非最終決定，而且根據《瑞士債務執行及破產法》（SchKG/DEBA）第271條作出的瑞士扣押，是瑞士提供臨時保全的專屬機制。[4]已取得Mareva禁制令（Mareva injunction）、並需要保全瑞士境內資產的新加坡申索人，必須申請瑞士扣押。新加坡就實質問題作出的判決一經取得，即構成《瑞士債務執行及破產法》第271條第1款第6項下獲承認的理由。

執行方向	制度	金錢判決	非金錢判決	臨時命令
瑞士判決在新加坡	普通法下基於判決提起的訴訟	可以，如判決屬最終且瑞士法院具有國際管轄權	普通法下不可以（可能產生爭點不容反悔）	不可以
新加坡判決在瑞士	《瑞士聯邦國際私法》第25–27條	可以，如新加坡法院根據第26條具有間接管轄權	可以	不可以；須申請瑞士扣押
任何方向的仲裁裁決	1958年《紐約公約》	可以	可以	緊急仲裁員命令在新加坡可根據《國際仲裁法》（IAA）執行；在瑞士僅具合約效力

註釋

1. Reciprocal Enforcement of Foreign Judgments Act 1959，經Reciprocal Enforcement of Foreign Judgments (Amendment) Act 2019修訂，自2019年

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10月3日起生效。Reciprocal Enforcement of Commonwealth Judgments Act 1921已自2023年3月1日起廢除。 ↩

2. 普通法的要求見於*Hong Pian Tee v Les Placements Germain Gauthier Inc* [2002] SGCA 18，第[12]–[14]段。 ↩

3. Art. 25–27 PILA (SR 291)。間接管轄權的理由見第26條，公共政策及正當程序抗辯見第27條。 ↩

4. 瑞士聯邦最高法院一貫拒絕將英式凍結令承認為Art. 25 PILA所指的決定。第H部分第V章論述作為替代機制的瑞士扣押。 ↩

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com