跨境遺產

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管轄權及適用法律

根據《瑞士聯邦國際私法》（IPRG/PILA）第86及90條，在瑞士有住所的死者，其整個遺產（包括外國資產）均受瑞士繼承法及瑞士管轄權規限，除非死者為外國國民並以遺囑選擇其國籍國法律。[1]新加坡適用普通法規則：動產繼承受死者去世時的住所地法管轄，不動產繼承受物之所在地法（lex situs）管轄，而數碼資產被視為動產。[2]因此，在瑞士有住所而在新加坡保管人處持有代幣的死者，其遺產在兩國均受瑞士法律管轄。新加坡遺囑執行人憑瑞士繼承證明書取得重新蓋印的授予書或新的授予書。在新加坡有住所而在楚格保管人處持有代幣的死者，其遺產受新加坡法律管轄。瑞士保管人憑附有加註（apostille）的新加坡授予書，以及就遺囑執行人權限出具的瑞士法律意見書，便會交出資產。

棘手的情況是與兩地都有聯繫的死者。一名在楚格居住三年、在新加坡居住兩年的創辦人，配偶在其中一地，公司在另一地，其住所可能被兩個司法管轄區同時主張。瑞士問的是生活中心在何處。新加坡問的是死者擬永久居住在何處。兩者的答案可能不同，結果是兩個法律制度都主張管轄整個動產遺

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產，瑞士的特留份規則便與新加坡的遺囑自由互相衝突。計劃應以事實及文件確定住所：在遺囑中作出住所聲明、保持一致的稅務居民身份、在一地設有住宅，並對個人意向作出一致的陳述。

存放於兩地交易所的資產

實務上最困難的情況，是遺產在多個司法管轄區的交易所均有結餘。每家交易所各自適用其服務條款。這些條款通常規定帳戶屬個人性質且不可轉讓，交易所會在遺產代理人出示指定文件後與其交涉，並可結束帳戶，以法定貨幣匯出結餘。與新加坡持牌交易所交涉的瑞士遺囑執行人，通常會被要求出示新加坡授予書，這需要向家事司法法院申請重新蓋印或新的授予書，並以瑞士繼承證明書及遺囑作為權利證據。與瑞士交易所交涉的新加坡遺囑執行人，則會被要求出示由死者最後住所地瑞士當局發出的繼承證明書或遺囑執行人證明書。如死者住所在新加坡，便不存在這樣的瑞士當局，因此遺囑執行人只能依靠附有加註的新加坡授予書及交易所的善意。就我的經驗，延誤可長達六至十八個月。規劃上的答案（在此重複，因為這是本章最有用的一項建議）是在生前把結餘轉出交易所。

例子

一名在楚格有住所的瑞士國民去世，遺下配偶及兩名成年子女。遺產包括存放於蘇黎世一家銀行的300萬瑞士法郎證券，以及以楚格一家服務提供者為共同簽署人的多重簽名錢包中價值400萬瑞士法郎的比特幣。遺產亦包括存放於新加坡持牌交易所價值200萬新加坡元的以太幣，以及在一家協議基金會中20%的代幣分配額；該分配額尚須兩年才完全歸屬，估值為600萬瑞士法郎。遺囑委任一名蘇黎世律師為遺囑執行人，沒有選擇外國法律，並把比特幣作為按去世當日估值的實物遺贈分配予子女，剩餘遺產則歸配偶。遺囑執行人從楚格當局取得證明書，根據遺囑的合作條款向共同簽署人發出指示，把比特幣轉移至以遺產名義開立的保管帳戶，並在子女簽收後分配予他們。就新加坡交易所的結餘，遺囑執行人憑瑞士證明書及遺囑在新加坡申請授予書，程序歷時七個月，其後交易所把以太幣匯至保管錢包。歸屬中的分

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配額最為棘手。基金會的歸屬合約繼續把代幣發放至死者的地址，因此遺囑執行人必須取得該地址的密鑰，或說服基金會把歸屬改發至遺產地址。基金會董事會只會在遺囑執行人出示證明書及就繼承人權利出具的法律意見書後才會這樣做。特留份按去世時的價值計算。由於比特幣在去世至分配期間上升了30%，子女在經濟上所得多於配偶，而遺囑的估值條款已預計到這一點。

註釋

1. PILA，SR 291，第86條（最後住所地瑞士當局的管轄權）、第90條第1款（最後住所在瑞士的人的遺產適用瑞士法律）及第90條第2款（外國國民可選擇其國籍國之一的法律）。參見第D部分第IX章。 ↩
2. Dicey, Morris & Collins, The Conflict of Laws，第16版，有關動產繼承的規則；根據Application of English Law Act 1993在新加坡適用。參見第J部分第VIII章。 ↩

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