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1. No High-Speed-Trains for Persons Subject to Enforcement

As everywhere in the world, people in China must pay their bills. If the bills are not paid, the creditor may initiate a lawsuit or apply for a payment order against the debtor before a court of law. Once a court decision is handed down, the creditor may apply for debt enforcement proceedings if the debtor fails to fulfill its payment obligations under the court decision. If the debtor still refuses to pay its debt, so called extravagant spending restriction measures may be ordered by the enforcement court. These restrictions are designed to keep the debtor from spending the money that should be used to pay the debts. The restrictions are issued by the Supreme Court under the somewhat complicated title *Several Provisions of the Supreme People's Court on Restricting Extravagant Spending of Persons Subject to Enforcement* ("Extravagant Spending Provisions").

Among other things, if a person becomes subject to the Extravagant Spending Provisions, he or she is barred from the following:

- taking a plane, a soft sleeper in a train, or a 2nd class seat or above on a ship;
- spending money at star-rated hotels, restaurants, night clubs, golf courses, etc.;
- purchasing real estate, newly constructed houses, or decorating houses in a luxurious manner;
- renting high-class buildings, hotels, apartments, etc. as working offices;
- purchasing cars that are not necessary for business;
- going on vacation;
- sending children to private schools with expensive tuition;
- purchasing expensive insurance; and
- other extravagant spending acts not necessary in daily life or work.

On 22 July 2015, the Supreme Court amended the Extravagant Spending Provisions. In this respect, we would like to point out a three interesting aspects:

1. The restrictions are stricter. Now, anything that is "*not necessary in either daily life or business operation*" may be regarded as extravagant spending, which obviously includes all the above mentioned points but will allow the courts to go much further than that. The Provision even gives the examples of taking "*any seat in a G-High-Speed Electric Multiple Units (EMU) train, [taking] a seat of the business class or a higher class in any other EMU train*".
2. The restrictions now also apply to persons who are on the so called Dishonest Persons List. This is a List on which persons can be put by courts if they are, among other things, found to have resisted enforcement by fabricating evidence, violence or threats, to have violated the property reporting system or to have refused to fulfill a settlement agreement without proper reason.

The Courts make the List public in newspapers, radio, television, internet, court bulletins, etc. The List is also forwarded to various government departments, financial regulators, financial institutions, institutions and industry associations, having a severe effect on the effected person's social and professional life.

3. The People's Court in Beijing issued its first batch of Consumption Restriction Orders to seven persons subject to enforcement in accordance with the

Extravagant Spending Provisions only days after it came into effect. The Extravagant Spending Provisions were also announced to government departments for Civil Aviation, Tourism, and Insurance to seek their assistance in the implementation.

2. The Supreme Court Clarifies the Jurisdiction of CIETAC

The China International Economic and Trade Arbitration Commission (“CIETAC”) is a Chinese arbitration institution located in Beijing which had two Sub-Commissions: The CIETAC South China Sub-Commission in Shenzhen and the CIETAC Shanghai Sub-Commission in Shanghai. All of them applied the same procedural rules originally.

However, as the result of a dispute between above three entities regarding the new arbitration rules that CIETAC wanted to adopt, on 22 October 2012, the CIETAC South China Sub-Commission announced that its independency and renamed itself South China International Economic and Trade Arbitration Commission or South China CIETAC (“SCIA”). Subsequently, on 17 April 2013, the CIETAC Shanghai Sub-Commission declared its independency and renamed itself Shanghai International Economic and Trade Arbitration Commission or Shanghai CIETAC (“SHIAC”). The two institutions also released their own rules thereafter.

Subsequently, on 31 December 2014, CIETAC decides to rebuild its South China Branch and Shanghai Branch again.

The rename of SCIA and SHIAC and rebuilding of branches inevitably lead to the chaos of jurisdiction between the three institutions and following question: Who has jurisdiction in those cases in which the arbitration agreement referred the arbitral proceedings to one of the Sub-Commissions of CIETAC in Shenzhen or Shanghai?

In order to solve the chaos, in 15 July 2015, the Supreme Court issued a Reply to clarify the jurisdiction of CIETAC, SCIA and SHIAC. In the reply, the Supreme Court declared that the decisive element is the point in time when the arbitration agreement was concluded.

1. If the arbitration agreement was concluded before the splitting-off of the SCIA and SHIAC and the parties agreed to submit the dispute to one of the Sub-Commissions, the respective new institution (SCIA or SHIAC) has jurisdiction over the case;
2. If the arbitration agreement was concluded after the splitting-off of SCIA and SHIAC but before the Reply of the Supreme Court was issued and the parties agreed to submit the dispute to one of the Sub-Commissions, CIETAC has jurisdiction over the case.
3. If the arbitration agreement was concluded after the Supreme Court’s Reply was issued and the parties agreed to submit the dispute to one of the Sub-Commissions, CIETAC has jurisdiction over the case.

In addition to above, the Supreme Court applies the principle of *lex prospicit non respicit*. Thus, awards in cases which have already been tried by any of the institution before the effective date of the Reply and which are in contradiction to its stipulations are enforceable nevertheless.

3. The Recognition and Enforcement of Taiwan Civil Judgments Becomes Easier

Since 1998, the Supreme Court allowed civil judgment rendered in Taiwan to be enforced by Chinese courts upon the request of a party if the domicile or habitual residence of either Party or the property to be enforced was located in China. The handling of such proceedings was outlined in three different Supreme Court Interpretations. In recent years, however, these original Interpretations ceased to meet the needs of judicial practice and were now replaced by two new Supreme Court interpretations: The Provisions of the Supreme People's Court on the Recognition and Enforcement of Civil Judgments Made by Courts of the Taiwan Region and the Provisions of the Supreme People's Court on the Recognition and Enforcement of Arbitral Awards Made in the Taiwan Region. Here is a summary of the most interesting changes the Provisions bring about:

1. The jurisdiction is expanded. Except for the domicile or habitual residence of the applicant and the place where the assets of the respondent are located, the applicant may now address the court located at the domicile or habitual residence of the respondent too.
2. To date, the Parties located in the Mainland had to obtain a notified and certified POA in Taiwan to apply for enforcement in China, which was inconvenient since they had to return to Taiwan in order to do this. The Provisions now recognize the validity of the POAs that are signed by the Parties in person right before the court judges or Chinese notary offices and the parties will no longer have to return back to Taiwan to get a POA.
3. The People's Court that is concerned with the recognition of and enforcement of a civil judgment handed down by a Taiwan court has to again serve the documents to the Parties when initiating the recognition and enforcement proceedings.
4. There now is a reconsideration procedure. If the Taiwan judgment is not recognized and enforced by a Chinese court, the rejected applicant may apply for reconsideration to the next instance court.
5. The Parties may apply for the recognition and enforcement within two years after a civil judgment took effect. It used to be that such an application must be made within one year, this rule has been omitted.
6. Lastly, it is now be possible to apply for the recognition of judgments, rulings and reconciliation records regarding civil damages in criminal cases. The scope of the recognition and enforcement used to be limited to civil judgments only.

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