

Enforcement of Foreign Judgments in Turkey

This article aims to explain Enforcement Procedure and Conditions in Turkey. International private and civil procedure law of Turkey and Turkish Procedure Law are the main laws governing the procedure of enforcement of Foreign Judgments in Turkey. In this article, we'll guide our readers based on the provisions of these laws. It is also important to note that Turkey ratified Convention on the Recognition and Enforcement of Foreign Arbitral Awards which apply to the cross-border enforcement.

How can a party enforce a decree in Turkey?

Turkish Law does not permit a party to enforce the decision directly without examination of formal requirements of decree. In some exceptional situations such as alimony and some decrees concerning family law, foreign judgments can be enforced in Turkey without any court stage by just directly applying Turkish Enforcement Offices established under Turkish Law. As mentioned, this can be done only in exceptional situations based on a certain International Agreements. On other hand, this direct applicability is not possible for judgments related to litigation cases or divorces.

Is that guaranteed that foreign judgment shall be enforced in Turkey?

As mentioned, if foreign judgment submitted to the court fulfills formal criteria of Turkish Law envisaged, it can be enforced. In addition, if a foreign judgment is relating to immovable assets in Turkey, it shall not be accepted.

Then what is the procedure?

The procedure is governed with petty sessional (simple procedure) procedural principles. It means that after couple of petitions among parties (applicant and defendant), the case must be concluded. Therefore, as compared to other case procedures, enforcement of foreign judgment procedure is quicker.

What are Turkish Courts are examining during the procedure?

It is worth to mention that Turkish Law and Turkish Courts are very strict to the formal requirements.

Reciprocity : It is a precondition for enforcement in Turkey. The principle of **reciprocity** states that favors, benefits, or penalties that are granted by one state to the citizens or legal entities of another, should be returned in kind. Therefore, Turkish Citizens or Turkish Legal Entities must be also capable for enforcement in the country where the judgment is given.

Presence of a Judgment: There must be a judgment which clearly states the decision, amount of dispute, the right given to favor party.

Presence of Absoluteness decision: In this criteria, Turkish Courts are very strict as compared to other countries, despite of New York conventions spirit. Because 6th Article of the conventions' definition is the word "binding" instead absoluteness". Turkish Courts must take into account of this provision due to the superiority of International Agreements compared to ordinary Turkish Law.

This criteria generally makes applicant to obtain a new document related to judgment from foreign court, clearly stating that the decision is not appealed. In practice, courts refuse to enforce a decision without

that clarification, despite of the fact that defendant can explain to the court that the judgment is not absolute.

Therefore, upon judgment's delivery it is better to have a separate document from the court that the judgment is not appealed by the other party and explanation that judgment is a final decision.

Turkish Public Order: We confront with that problem generally with judgments violating individual's rights protected under Human Rights Charters. Western State's courts are mainly considered as Law State by Turkish Courts. Turkish Courts shall question unsecular decisions given by Islamic countries, if foreign court gave the judgment based on western law principles, it is generally acceptable by Turkish Courts.

Right to Defend: If the defendant was not given a full right to defend themselves, and/or was not informed about the judgment, and was not represented at the court, then application to the court for the enforcement of a foreign judgment will be declined

What is the procedure upon Turkish Court's approval for foreign judgment?

Favor judgment which is given by Turkish Court can be executed in Turkish Territory by application to Turkish Enforcement Offices under the framework of Turkish Courts. The decision shall be binding in Turkey and applicable as another ordinary Turkish Court Degree.