



Enforcement of a Foreign Court Judgment in Turkey

Foreign court judgments are not enforceable in Turkey unless a decision of enforcement [*exequatur decision*] is rendered by a Turkish court. The main legislation regulating the enforcement of foreign judgments is the Private International Law and Procedure Act No.5718 [“PIL”]. Turkey is also party to several bilateral and multilateral treaties which contains specific provisions for the enforcement of foreign court judgment. These treaties usually set easier conditions/procedures for the enforcement as opposed to those set under the PIL. However, if the treaty provisions contain more severe conditions than those in the PIL, PIL procedure shall prevail.

Who Can Initiate Enforcement Proceedings?

As per Article 52 of PIL, anyone who has a legal interest in the enforcement of the decision can initiate an enforcement proceeding, including *a fortiori* the parties of the foreign decision.

Which Court[s] Are Competent to Give an Award of Execution?

The competent courts are either the civil court of first instance or the commercial court of first instance, depending on the subject of the case. As per Article 51 paragraph 2 of the PIL, the case should be filed [“i.”] before the court where the party against which the enforcement is sought is domiciled; [“ii.”] if this party does not have a domicile address in Turkey, then before the court of this party’s place of residence, and [“iii.”] if this party does not have a residence address, and then before either one of the courts in Ankara, Istanbul or Izmir.

What Are the Requirements That Must Be Satisfied in Order for A Foreign Court Judgment to Be Enforceable in Turkey? Does the Court Have the Discretion/Authority to Reject the Request of Enforcement Despite the Satisfaction of All Conditions?

Article 50 of the PIL prescribes certain preconditions for a foreign court judgment to be brought before Turkish courts. At first, the judgment must be rendered by a foreign court, and not by an arbitral tribunal. [i] Furthermore, the judgment must be related to a civil law matter. [ii] Finally, the judgment must be final according to the law of the state where it was rendered.

If these preconditions are fulfilled, Turkish court shall conduct an examination under Article 54 of the PIL for an *exequatur* decision. The requirements set forth under Article 54 are as follows:

- ✓ There must be contractual or *de facto* reciprocity between Turkey and the state where the judgment was given.
- ✓ The foreign judgment must not be related to the exclusive jurisdiction of the Turkish courts and foreign court who rendered the judgment, must not have exorbitant jurisdiction.
- ✓ The foreign judgment should not explicitly violate public order.

- ✓ The right to be heard of the party against which enforcement is sought must have been respected by the foreign court.

If the foreign judgment satisfies all the above-listed requirements, the Turkish court gives a decision of enforcement. The court could not reject the enforcement case at its own discretion, in case the requirements are met.

What Are the Costs That May Incur During the Enforcement Proceedings?

According to the Turkish Act on Fees, if the subject matter of the foreign judgment is monetary, a proportional fee [68,31 per thousand of the amount awarded] shall be charged. If the subject matter of the foreign judgment is not monetary, then a fixed fee is charged.

Furthermore, a certain amount of security to be determined by the Turkish court must also be deposited to cover the potential loss or damages of the other party. However, Turkey is party to many bilateral and multilateral agreements which excludes the necessity to deposit a security for the nationals of contracting states.

Is There A Specific Statute of Limitations Applicable for The Enforcement of a Foreign Court Judgment?

There is no specific statute of limitation for the enforcement of foreign judgments under Turkish Law. According to Article 8 of the PIL, legal transactions and relationships are subject to the law applicable to them in terms of statute of limitation. On the other hand, once a foreign decision became enforceable, it must be executed within 10 [ten] years from the finalization of the exequatur decision.

[i] Arbitral awards are also enforceable in Turkey but subject to a different regime. They may be enforced as per Articles 60-63 of the PIL or the provision of the New York Convention to which Turkey is a party.

[ii] Exceptionally, an exequatur decision may also be requested for the penal judgments' provisions regarding personal rights.

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