

## **Enforcement of a foreign (China) Judgment in Turkey - Is it possible to enforce Chinese judgments in Turkey?**

There is a mutual international agreement (Legal, Commercial and Judicial Cooperation Agreement between Republic of Turkey and People's Republic of China ratified on date of 27/09/1994 and entered into force in 12/11/1994 by publishment of National Gazette) on legal cooperation between Turkey and China. This agreement is entered into force in Turkey in 1994. According to Article 12 of this agreement both countries are obliged to enforce court decisions pertaining to each other.

Accordingly under this agreement, reciprocity principle between China and Turkey has become explicit. It means that Chinese Judgments obtained from China Courts shall be recognized and enforced without discussion of reciprocity thanking to the mutual agreement mentioned above.

In addition to that, Agreement also enables enforcement of arbitral awards given by the Chinese courts.

## **What are other conditions regarding enforcement of decree (from china) in Turkey?**

Said international treaty also stipulates that other conditions regarding implementation of Chinese court decisions in Turkey. In 3<sup>rd</sup> section of agreement, the provisions regarding the enforcement of decisions are as mentioned below:

Article 21 of treaty specifies the types of decision which can be enforced in both China and Turkey. Accordingly, the decisions must be given by court based on legal, compensation and criminal matters. Arbitral awards and settlement agreements concluded by the courts shall also fall into the content of this agreement.

Article 22 defines the methods of legal cooperation between Chinese and Turkish Courts in the matters of recognition and enforcement of court decisions. The court of mutual side can request information and documents regarding the decisions.

Article 23 of the treaty envisages that the decisions which have not become absolute shall not be enforced in the courts of parties.

**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 a 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.

**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.

According to the agreement, the procedure of enforcement shall be implemented by the means of contracting states' own national procedural law regarding implementation of foreign decrees.