

Turkey's Supreme Court Clarifies Procedural Steps for Initiating Enforcement Proceedings

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There are two main types of enforcement actions available in Turkey, intended respectively for circumstances where a judgment exists ("**Judgment-Based**") and where a judgment does not exist ("**Non Judgment-Based**"). The highest body within Turkey's Supreme Court recently clarified that parties who have a court judgment cannot initiate Non Judgment-Based enforcement proceedings. Inconsistent practices on this topic had arisen among execution offices. These circumstances meant Turkey's judicial system had become congested with unnecessary and repetitive actions seeking to object to and annul procedurally incorrect enforcement proceedings.

Judgment-Based enforcement proceedings do not allow the counterparty any procedural opportunity to object to owing the debt.

If a party wishes to initiate enforcement proceedings without first receiving a court judgment, usually they can only launch a Non Judgment-Based proceeding. These proceedings allow the alleged debtor the opportunity to put forward any objection to owing the debt. If the alleged debtor raises an objection, the creditor party usually initiates an annulment of objection action, requesting annulment of the enforcement action.

In its recent majority decision, the Supreme Court Assembly of Civil Chambers noted that:

- Initiating Non Judgment-Based enforcement proceedings despite having obtained a judgment for the debts contradicts enforcement law and litigation techniques.
- Creditors have no legitimate legal interest in using Non Judgment-Based enforcement proceeding despite having obtained a court order, which also damages debtors' legal conditions. Therefore, the balance between the parties is disrupted.

Please see this [link](#) for full text of the Decision of Joint Chambers which was published in Official Gazette numbered 30130 on 21 July 2017 (only available in Turkish).

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