Public Policy Review in Foreign Court Judgments and Arbitral Awards: Emerging Trends in 2025 Case Law

One of the most frequently raised objections in proceedings for the recognition and enforcement of foreign court and arbitral awards, as well as in actions for the setting aside of foreign arbitral awards, is the allegation that the decision is contrary to public policy. Owing to its broad and interpretative nature, the concept of public policy has become a standard line of defence invoked in almost every recognition, enforcement, or annulment proceeding.

Until the Court of Cassation General Assembly on the Unification of Judgments set out binding principles on the definition and application of public policy in its 2012 decision, the abstract and interpretative nature of the concept of public policy led to an inconsistent and restrictive line of practice which inevitably resulted in decisions infringing the prohibition of a review on the merits (révision au fond).

In that decision, the Court of Cassation outlined the scope of public policy by reference to violations of the fundamental values of Turkish law, the general notions of morality and public decency prevailing in Turkish society, the basic concept of justice and the general policy objectives underlying Turkish legislation, the fundamental rights and freedoms enshrined in the Constitution, internationally recognised common principles, the principle of good faith in private law, the legal principles reflecting the moral values and sense of justice commonly accepted by civilised societies, the level of societal development, the political and economic system, and the protection of human rights and freedoms. The Court further emphasised that a foreign decision cannot be denied enforcement merely because the law applied on the merits differs from Turkish law or is contrary to mandatory provisions thereof; refusal of enforcement may be justified only where the legal consequences arising from the enforcement of the decision are themselves contrary to public policy. [1]

This decision has significantly narrowed the broad scope of interpretation that the concept of public policy had given rise to over many years and, particularly in relation to public policy objections raised in proceedings for the setting aside or enforcement of foreign arbitral awards, has brought a more predictable practice in line with Türkiye's objective of fostering an "arbitration-friendly" judicial environment. Undoubtedly, this shift has also manifested itself in the enforcement of foreign court judgments, with public policy objections being assessed under a more narrowly construed and outcome-oriented review framework compared to the past.

Decisions rendered in 2025 constitute current and concrete reflections of this trend and provide significant indications as to how the Court of Cassation and the regional appellate courts interpret the concept of public policy. These decisions reveal that the courts have embraced an interpretation of Article 54 of the International Private and Procedural Law Act No. 5718 ("IPPL"), which governs the enforcement of foreign court judgments, whereby the requirement that a violation of public policy be "apparent" operates as a limitation on the enforcement judge's discretion. Accordingly, only foreign court judgments that infringe the fundamental principles regarded as indispensable under Turkish law or that are contrary to internationally accepted common principles are considered to fall within the scope of the public policy exception. This interpretation is likewise fully adopted in the enforcement of foreign arbitral awards, and the decisions further explicitly state that the prevailing approach should be in favour of enforcement.[2]

Another point reflected in the decisions rendered in 2025 is that, although regulated as a separate ground for refusal of enforcement under the law, allegations of violation of the right to be heard, frequently raised and examined within the framework of public policy, should in fact be assessed independently from public policy.[3] In this manner, it is rightly demonstrated that these two grounds for refusal of enforcement should not be conflated and that each must be evaluated

within its own limits. That said, the scope of the violation of the right to be heard, which is separately regulated under Article 54/ç of the IPPL, is limited to situations where the person against whom enforcement is sought was not duly summoned or represented duly before the court rendering the judgment in accordance with the law of that place, or where the judgment was rendered in that person's absence or default in a manner contrary to the applicable law. Accordingly, allegations of violation of the right to be heard falling outside these circumstances will continue to be examined within the concept of public policy.[4]

Decisions holding that differences between the procedure applied by the foreign court and Turkish procedural law[5] or the fact that the matters forming the subject of the foreign court judgment are regulated by mandatory rules of Turkish law do not in themselves justify the intervention of Turkish public policy[6], and that the mere existence of divergent decisions rendered by Turkish courts and foreign courts in respect of the same dispute does not, on its own, preclude recognition or enforcement[7], reflect the inherently narrow and exceptional nature that public policy review in enforcement proceedings is intended to have. Courts have consistently maintained a similar approach in actions for the setting aside of arbitral awards, holding that, so long as the parties' right to a fair trial and other fundamental rights have not been violated, the correctness of the application of substantive law cannot be reviewed within the scope of public policy.[8]

In addition, in cases where allegations of violation of public policy were raised under various grounds, several examples of which are set out below, the courts held that such allegations did not warrant the intervention of public policy. In this context, the courts ruled that:

- the fact that the interest rate awarded in a foreign court judgment allegedly contravenes the Law No. 3095 on Statutory Interest and Default Interest does not, in itself, render the decision contrary to public policy[9],
- the fact that an application had been made to Turkish courts for the determination of a place of deposit prior to the arbitral proceedings, together with a declaration as to the amount of the claim, did not render a subsequent recourse to arbitration contrary to public policy[10],
- the failure to conduct an expert examination did not amount to a violation of public policy, nor could matters relating to the fees determined by arbitrators in the exercise of their discretion, or the allocation of costs of the proceedings, be examined within the scope of public policy.[11]

By contrast, in a dispute where recognition of a foreign bankruptcy judgment rendered against a natural person who is not subject to bankruptcy under Turkish law was sought, the consequences that would arise from the recognition of the bankruptcy decision were examined in detail. Ultimately, it was concluded that such recognition would be contrary to public policy, as it would retroactively give rise to enforcement and bankruptcy effects in Türkiye in favour of a natural person who is not subject to bankruptcy under Turkish law. The court of first instance assessed that recognition could directly affect pending enforcement proceedings and lawsuits against the natural person concerned and would likely render creditors' claims unenforceable, thereby infringing creditors' property rights and effectively eliminating their right of access to justice. The court further characterised the conduct of the claimant in obtaining abroad a judgment that could not be obtained under the Turkish legal system and seeking to benefit from its effects through recognition in Türkiye, as a circumvention of the law, and held that recognition of the bankruptcy decision would be manifestly contrary to public policy. Upon review, the regional appellate court confirmed that, for a foreign bankruptcy judgment to be recognised, the individual concerned must qualify as a merchant under the Turkish Commercial Code or be subject to bankruptcy pursuant to special legislation, and that this requirement directly concerns Turkish public policy.[12]

Another instance in which a finding of public policy violation was reached arose from arbitral proceedings initiated for the annulment of objections in debt collection proceedings, where the arbitral tribunal ruled not only on the annulment of the objections and the continuation of debt collection proceedings, but also on the collection of the underlying debt. In the relevant decision, the Court of Cassation held that, while the tribunal should have confined itself to rendering a collection order solely in respect of unjust objection compensation, arbitrators' fees, procedural costs, and attorneys' fees, its additional ruling on the collection of the principal debt created uncertainty at the enforcement stage and rendered the decision unenforceable. On this basis, the arbitral award was found to be contrary to public policy.[13]

The decisions reviewed demonstrate that public policy objections are increasingly subjected to a narrow and exceptional standard of review. The judicial approach has evolved towards confining the public policy assessment to the consequences that would arise from the enforcement of the decision in Türkiye, and in line with the prohibition of review on the merits, intervention is deemed justified only in cases where the fundamental and indispensable principles of the Turkish legal order are clearly violated. This trend appears to contribute, particularly in the context of arbitration, to positioning public policy not as a broad and unpredictable barrier but rather as a last resort control mechanism. By enhancing the predictability of judicial scrutiny in arbitral matters, it also supports Türkiye's objective of establishing a reliable and internationally aligned judicial environment for arbitration.

[1] Court of Cassation Grand General Assembly for the Unification of Judgments, Decision No. 2010/1, Judgment No. 2012/1, 10 February 2012.

[2] Court of Cassation, 6th Civil Chamber, E. 2023/4087, K. 2025/586, 18 February 2025; Antalya Regional Appellate Court, 16th Civil Chamber, E. 2025/447, K. 2025/929, 22 September 2025.

[3] Court of Cassation, 6th Civil Chamber, E. 2023/4087, K. 2025/586, 18 February 2025.

[4] Denizli Regional Appellate Court, 4th Civil Chamber, E. 2025/1274, K. 2025/1550, 2 October 2025.

[5] Court of Cassation, 9th Civil Chamber, E. 2024/12327, K. 2025/346, 13 January 2025.

[6] Denizli Regional Appellate Court, 4th Civil Chamber, E. 2025/1274, K. 2025/1550 K., 2 October 2025

[7] Court of Cassation, 11th Civil Chamber, E. 2024/4679, K. 2025/791, 11 February 2025, Court of Cassation, 11th Civil Chamber, E. 2024/4669, K. 2025/363, 23 January 2025.

[8] Court of Cassation, 11th Civil Chamber, E. 2024/6541, K. 2025/2304, 10 April 2025, Court of Cassation, 6th Civil Chamber, E. 2025/324, K. 2025/2024, 14 May 2025.

[9] Antalya Regional Appellate Court, 16th Civil Chamber, E. 2025/447, K. 2025/949 K., 22 September 2025.

[10] Court of Cassation, 11th Civil Chamber, E. 2024/6022, K. 2025/3961, 3 June 2025.

[11] Istanbul Regional Appellate Court, 13th Civil Chamber, E. 2022/1523, K. 2025/583 K., 10 April 2025.

[12] Istanbul Regional Appellate Court, 45th Civil Chamber, E. 2025/15, K. 2025/103 K., 5 February 2025.

[13] Court of Cassation, 6th Civil Chamber, E. 2024/1700, K. 2025/1758, 29 April 2025.

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