

EXECUTIVE SUMMARY

ASPIRATION OF ENTERPRISES TOWARDS COURTS' ACTIVITIES IN ENFORCING CONTRACTS

Court activities play an important role in economic and social development by explaining market principles and rules, and the protection of economic rights. In recent years, the proportion of enterprises experiencing disputes has increased, while the proportion of enterprises willing to use court services is showing signs of decline. To ensure that contract enforcement is no longer a concern for investors, the government issues Resolution 19 annually to improve Vietnam's business environment and competitiveness. The target set for each resolution is in line with Vietnam's practical situation and the dynamics of each sector.

This report provides the perspective of enterprises regarding the court's performance on contract enforcement and analyzes in accordance with methodology of the World Bank. This report provides actual court operation in relation to contract enforcement in the following practices: (i) court structure and procedure; (ii) case management; (iii) court automation or another word e-court model; and (iv) and (iv) the court's support for alternative dispute resolutions.

Firstly, with regard to the court structure and procedure, the existence of the Economic Tribunals in the Provincial People's Courts has considerably enhanced the quality of adjudicating business and commercial cases. However, from the survey, there still are many enterprises that express the view that the organization and operation of specialized tribunals in the People's Courts at both provincial level and district level have not met the needs of enterprises in the settlement of business and commercial disputes. In addition, summary procedure/fast track procedure for small claims has not yet been applied in the surveyed courts.

Secondly, regarding the case management in the court, there are various positive changes in the 2015 Civil Procedure Code and other legal documents, yet, survey results show that enterprises are not aware of those changes, such as the "one-stop-shop" mechanism in petition receipt. Most of the surveyed courts are using computers for document drafting and storage, not for case management and communication.

Thirdly, with regard to the court automation or e-court model, the judiciary has not applied fully electronic procedures relating to civil and commercial disputes although the 2015 Civil Procedure Code creates new platform for the electronic procedures in relation to online submission and interaction between the courts and parties. According to the survey, businessmen do not know about the new platform.

Fourthly, regarding the court's support for the alternative dispute resolutions, businessmen recognized legal institutions on alternative dispute resolutions, such as arbitration and mediation. However, the enterprises still face challenges in recognition of enforcement of the arbitral award from the People's Courts and relevant state authorities.

This report recommends to increase the number of judges with specialized training and in-depth knowledge on commercial and business cases, including areas as business organization, finance/credit, and arbitration/mediation. It is necessary to improve the capability of specialized tribunals and specialized judges in handling commercial cases. In addition, to further enhance the quality of judicial activities, this report also recommends that the courts improve the communication platform between the courts and citizens/enterprises to facilitate business in the new industrial revolution 4.0.

Moreover, the courts should advance their case management system in order to shorten the length of the litigation process as well as to improve the transparency of the court system. Improving the abovementioned issues will help the economy of Vietnam to be competitive in the world and in the region and contribute to building the rule of law state of Vietnam.