



LICAC



HICAC 2025 – HO CHI MINH CITY INTERNATIONAL CONSTRUCTION ARBITRATION CONFERENCE

Raising the Bar:

Enhancing Quality in Dispute Resolution for Vietnam's Construction Projects – Bridging International Expertise with Domestic Practice











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- Bridging International Expertise with Domestic Practice

INTRODUCTION

Building on the success of the 2024 event, the Vietnam International Arbitration Centre (VIAC) and the Society of Construction Law – Viet Nam (SCLVN) co-organize the Ho Chi Minh City International Construction Arbitration Conference – HICAC 2025. This year's Conference main theme is "Raising the Bar: Enhancing Quality in Dispute Resolution for Vietnam's Construction Projects – Bridging International Expertise with Domestic Practice".

HICAC 2025 aims to bring together professionals from the construction industry, legal experts, arbitrators, and academics to discuss the latest trends, practices, and developments in construction arbitration. Vietnam is witnessing significant growth in both construction activities and the demand for quality and efficient construction dispute resolution. This conference, featuring diverse domestic and international perspectives, will provide valuable insights into legal regulations and practical applications, helping businesses in navigating dispute resolution. In addition to informative panel discussions, the conference will provide networking opportunities to foster collaboration and promote the best practices among international delegates and enterprises. The conference will also be a timely platform to contribute to legal reform, particularly the Law on Construction and the Law on Commercial Arbitration, facilitating business activities and streamlining the dispute resolution process.











MAIN EVENT

Time

Day 01

8.30 AM - 5.00 PM

10th April 2025 (Thursday) **Day 02**

8.30 AM - 12.00 PM

11th April 2025 (Friday) Venue

REX HOTEL SAIGON, 141 Nguyen Hue, Ben Nghe ward, District 1, HCMC, Vietnam



TENTATIVE AGENDA

SESSION B (held concurrently with Session A)

Disputes arising from Construction Projects in Vietnam – Identifying Key challenges and Proposing solutions to Enhance the Quality of Dispute Resolution

1.30 – 5.00 PM, 10 April 2025 (Thu) Lotus B Meeting Room, Rex Hotel Saigon

DURATION (PM)	CONTENT
1.30 – 1.45	Opening remark
Session	n B1 – Dispute Resolutions in Construction & Infrastructure Projects
1.45 – 2.15	Specific legal issues regarding Construction and Infrastructure Investment Projects & the selection of dispute resolution method
	Mr. Nguyen Bac Thuy – Head of Economics and Construction Contracts – Department of Construction Economics – Ministry of Construction
- 2.15 – 3.15 - -	Legal Risk Management & Dispute Prevention in Construction & Infrastructure Projects
	Mr. Vu Van Vinh – Director of the Project Management Board for Metro Line 2 – Management Authority for Urban Railways Ho Chi Minh City (MAUR)
	Challenges in Resolving Disputes Arising from Construction and Infrastructure Projects
	Mr. Nguyen Thanh Long – Chairman cum Managing Director at VinaQS, FIDIC Certified Trainer / Contract Manager
	Key Considerations in Resolving Disputes in Construction and Infrastructure Projects
	Ms. Thang Nguyen – Managing Partner at VN Counsel
	Moderator: Mr. Nguyen Ngoc Minh – Partner at Dzungsrt & Associates
3.15 – 3.30	Tea-break
Session I	32 – Resolving dispute arising from Commercial Real Estates Projects
3.30 – 5.00	Disputes arising from Commercial Real Estate Projects: Emerging Trends and Key Legal Considerations
	Mr. Nguyen Cong Phu – Former Judge – Deputy Chief Justice of Economic Court, Ho Chi Minh City People's Court, Partner at LNT & Partners
	Real Estate market and the Possible Disputes arising from Real Estate in Vietnam
	Ms. Vu Thi Hang – Senior Counsel cum Deputy Director of the Secretariat, Member of Science Council, Vietnam International Arbitration Centre (VIAC)
	Key Considerations in Resolving Disputes Arising from Commercial Real Estate Projects – A Lawyer's Perspective
	Ms. Vu Thuy Diem – Senior Legal Counsel (Regional), Shift Energy Japan & Shire Oak International (Singapore) Pte Ltd
	Mr. Truong Thai Son – Deputy General Secretary of Vietnam Real Estate Association
	Moderator: Mr. Duong Quoc Thanh – Managing Partner at ALV Lawyers





CONTENTS

Overview of the Current Context of Infrastructure Construction in Vietnam 2
Legal features of
Infrastructure
Construction
Investment Projects &
Challenges

Selection of Dispute Resolution Methods

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1. CURRENT CONTEXT OF INFRASTRUCTURE CONSTRUCTION

ii.

Vietnam is witnessing the era of national aspiration. Strategic breakthroughs are therefore crucial, as the Resolution of the 13th National Congress of the Communist Party of Vietnam has pointed out:

i.

Comprehensively and synchronously improve institutional framework for development. Innovate national governance towards modernity and effective competitiveness. Prioritize the synchronous and highquality completion and effective implementation of the legal system, mechanisms, and policies to create a favorable and fair investment and business environment for all economic sectors, promoting environment for all economic sectors, promoting innovation and creativity; mobilize, manage, and effectively utilize all resources for development, especially land, finance, and public-private partnerships; promote reasonable and effective decentralization and delegation of authority, while strengthening inspection, supervision, and power control through the legal system.

Develop human resources, especially high-quality human resources; prioritize the development of human resources for leadership, management, and key sectors based on enhancing and achieving a strong, comprehensive, and fundamental transformation in the quality of education and training, linked with mechanisms for recruitment, utilization, and talent incentives, promoting research, transfer, application, and robust development of science and technology, as well as innovation and creativity; encourage the aspiration for a prosperous and happy nation, promote cultural values, the strength of Vietnamese people, the spirit of solidarity, and national pride in the cause of building and defending the Fatherland.

synchronous Build infrastructure system for socio-economic purposes; prioritize key national projects in transportation and climate adaptation; focus on developing information and telecommunications infrastructure to establish a foundation for national digital transformation, gradually advancing digital economy and digital society.

iii.



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1. CURRENT CONTEXT OF INFRASTRUCTURE CONSTRUCTION

Infrastructure construction is one of the three strategic breakthroughs with the following characteristics:

projects, including some being implemented in Vietnam for the first time

Consists of large-scale Requires significant resources in terms of finance, human capital, science and technology, etc., which must be mobilized from various domestic and international sources via different methods

The reduction of implementation time, technology transfer and mastery are of particular concern

High demands for the integration of infrastructure system investment and development of other projects

Is prone to corruption, wastefulness, and negative phenomena



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1. CURRENT CONTEXT OF INFRASTRUCTURE CONSTRUCTION

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This, therefore, demands new approaches, primarily through specific and special mechanisms approved by the National Assembly, such as:



i. Resolution No. 106/2023/QH15;

ii. Resolution No. 172/2024/QH15;

iii. Resolution No. 187/2025/QH15;

iv. Resolution No. 188/2025/QH15.



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2. LEGAL FEATURES OF INFRASTRUCTURE CONSTRUCTION

Specific and special mechanism for private investment capital

Characteristics regarding planning management

V

Characteristics regarding the mining of minerals in type IV, VL for common construction materials, waste disposal and certain mechanisms regarding land

Characteristics regarding the development of science, technology, and training of human resources

V

Industrial development and technology transfer

Specific and special mechanism for project management and implementation

Specific and special mechanism for preventing corruption, wastefulness and negative phenomena



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3. SPECIFIC AND SPECIAL MECHANISMS FOR THE MANAGEMENT AND IMPLEMENTATION OF INFRASTRUCTURE INVESTMENT PROJECTS

Specific mechanisms regarding project management procedures Contractor selection

Mechanisms for the mining of Type IV and VL minerals for common construction materials

Specific and special mechanisms related to FEED design

Management of investment costs

Mechanisms for development, training, and technology transfer

Detailed design management after Front-End Engineering Design

Mechanisms related to planning, architecture, and land Mechanisms for managing TOD (Transit-Oriented Development) projects



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4. CHALLENGES OF INFRASTRUCTURE CONSTRUCTION INVESTMENT PROJECTS

causing during implementation

knowledge & especially with first projects

Large-scale requiring thorough attention

Diverse range of involved in the process

Wide range of etc., may lead to different interpretations

caused by poor coordination

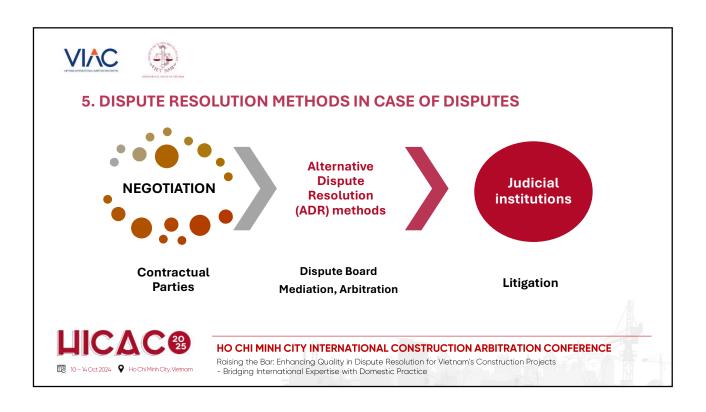
Potential disputes between parties

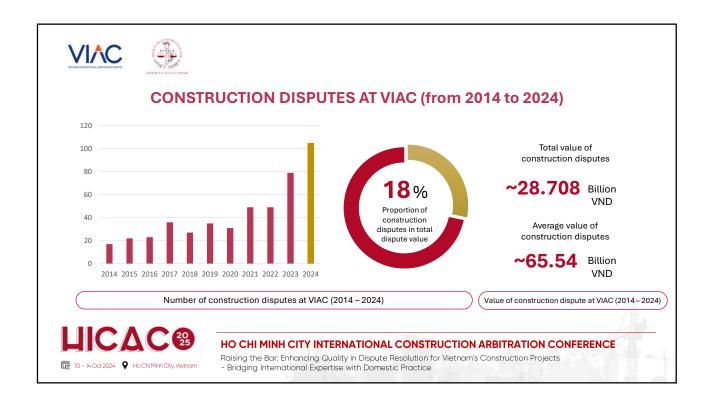


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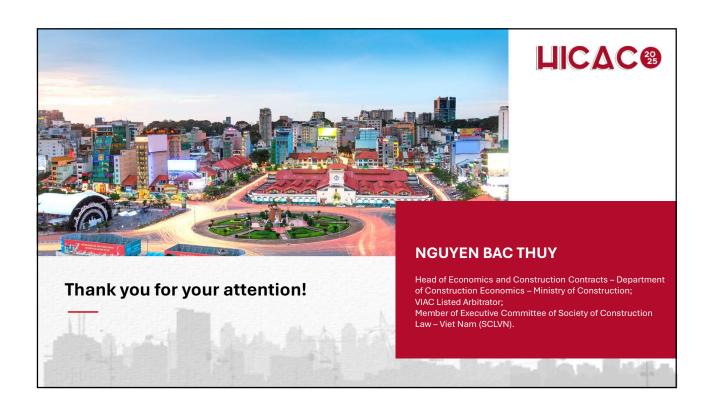
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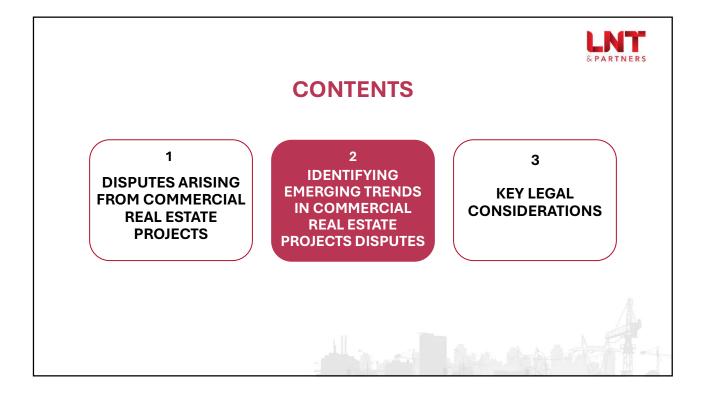




















DISPUTES ARISING FROM COMMERICAL REAL ESTATE PROJECTS

- Disputes arising from project transfer contracts;
- Disputes arising from share transfer contracts, capital contribution;
- Disputes arising from capital mobilization contracts;
- Disputes arising from construction contracts;
- Disputes arising from consulting and project management contracts;

- Disputes arising from real estate product distribution contracts
- Disputes arising from real estate sale contracts from the investor
- Disputes arising from real estate lease contracts from the investor
- Disputes arising from real estate consulting and brokerage contracts
- Disputes arising from real estate business cooperation contracts



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DISPUTES ARISING FROM COMMERICAL REAL ESTATE PROJECTS

Increasing number of disputes related to real estate projects

Increasing diversity in types of dispute and disputing parties

Increasing popularity of arbitration as a method of dispute resolution

More diverse and complex matters in dispute

More frequent requests for invalidation of contract and arbitration agreement

Issues of arbitrability and jurisdiction of Arbitral Tribunals being raised more often

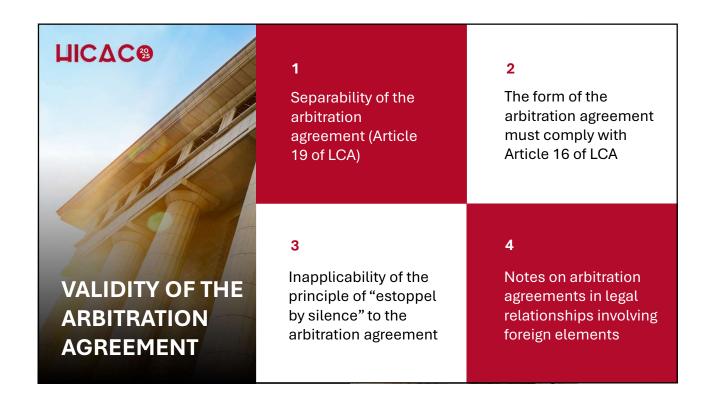


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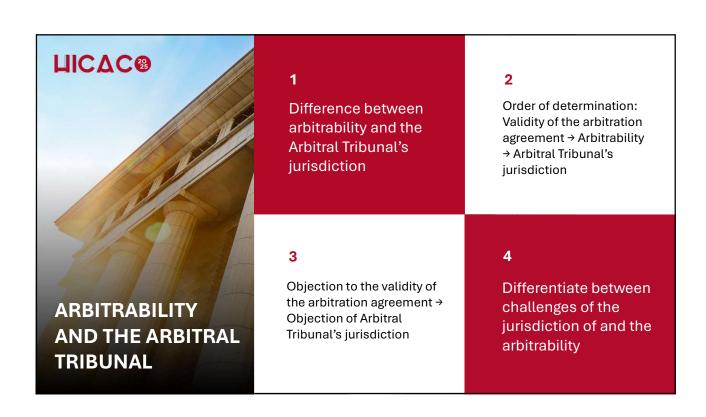
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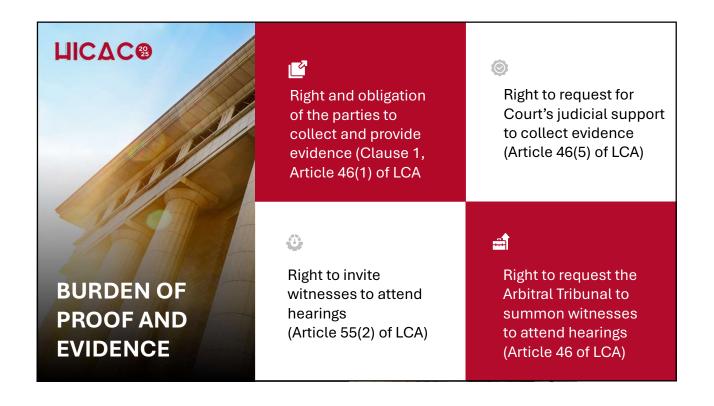




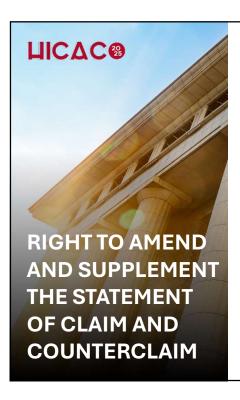




- Applicable laws in dispute relations: Civil Code, Commercial Law, Law on Real Estate Business, etc.
- Notes on filing complaints regarding contractual breaches before making requests for reliefs
- Special attention to requets in Construction contract and Real estate sale contract disputes:
 - Termination/cancellation of construction contracts
 - Penalty for breaches in construction contracts and its relation to compensation request
 - Liquidated damages clauses in construction contracts (LD Clause)
 - Interest rates for late payments due to breach of payment obligations in construction contracts
 - 。 Penalty levels for breaches in Real estate sale contracts
 - The relationship between penalties and compensation for losses in Real estate sale contract disputes







Time limit for amending and supplementing the Statement of Claim and Counterclaim Scope of amendments and supplements to the Statement of Claim and Counterclaim

Practices of assessment of signs of abuse of the right to amend or supplement the Statement of Claim and Counterclaim



- Waiver of right to object under Article 13 of the Law on Commercial Arbitration 2010
- Waiver of right to object under Article 38(4) of the VIAC Rules of Arbitration
- Comparison of the "waiver of right to object" provisions in the Law on Commercial Arbitration and VIAC Rules:
 - 。 VIAC Rules add cases involving violations of VIAC Rules
 - VIAC Rules remove the condition of "the party continues to participate in arbitral proceedings"
 - VIAC Rules add provisions on objection time limit when no specific timeline is provided













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Ohservation of the Vietnam real estate market from 2023 to 2025

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03.Statistics regarding the real estate disputes

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05.Introduction of VIAC's E-case system



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1. OBSERVATIONS OF THE VIETNAM REAL ESTATE MARKET FROM 2023 TO 2025

Market overview

- Vietnam entered the "new normal" post-pandemic;
- Real estate market began recovering but faced numerous challenges;
- Major downturn in 2023: widespread investor losses and price cuts up to 40%. (according to data from the Vietnam Association of Realtors – VARS)

Ho Chi Minh City

- Supply: Reached 7,600 units, stable quarter-on-quarter but down 5% year-on-year;
- Prices: Return to 2020 levels, down 36% quarter-on-quarter and 45% year-on-year.

Hanoi

- Supply: Reached 11,911 units, reducing 40% quarter-on-quarter and 41% year-on-year;
- Prices: Reached 58 million
 VND/m2, increasing 7% quarteron-quarter and 12% year-on-year.

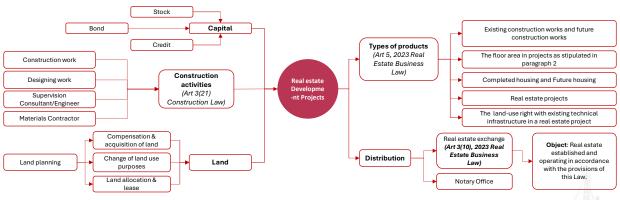
Average primary price: increased for 20 consecutive quarters (Savill's Report)



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1. OBSERVATIONS OF THE VIETNAM REAL ESTATE MARKET FROM 2023 TO 2025

Legal & Policy Response

Article 1 – Decree No. 08/2023/ND-CP: "For bonds offered in the domestic market, in case the issuing enterprise cannot fully and timely pay the principal and interest of the bonds in Vietnamese Dong according to the issuance plan announced to investors as prescribed in Article 17 of this Decree, the enterprise may negotiate with the bond owner to pay the principal and interest of the due bonds with other assets according to the following principles".

- allowing that:
 - Corporate bond debt to be paid with other assets, including real estate.
 - Debt deferral for up to 2 years upon mutual agreement between issuers and bondholders.

Raises legal questions whether future-formed real estate (off-plan properties) can be used for debt settlement?

Article 24 of the 2023 Law on Real Estate Business and further clarified in Government guidance



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1. OBSERVATIONS OF THE VIETNAM REAL ESTATE MARKET FROM 2023 TO 2025

Legal challenges & Emerging Legal Disputes

RESOLVING UNPAID DEBTS



- The context of the construction industry faces increasing difficulties.
- Contractors will lose the source to pay contractors or construction enterprises.



- There are investment projects that are not synchronised.
- The businesses have to spend its own money to protect and guarantee.



 Disputes arising related to construction contract settlement, contract cancellation or force majeure cases have become more and more common.



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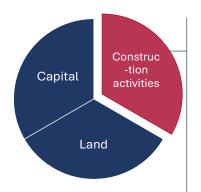
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2. CONSTRUCTION DISPUTES IN THE FIELD OF REAL ESTATE



- Except for large-scale state projects with the participation of foreign contractors, most real estate projects in Vietnam only have the participation of Vietnamese and FDI contractors.
- The applicable law will mostly be Vietnamese law.
- Arbitration mostly initiated by Contractors (payment & handover, cancellation, force majeur)
- Most disputes involved individuals (investors/buyers)
- Mass-arbitration.
- Cancellation, void



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Disputes often arise from conflicts during the execution of work, including construction, supervision and handover of works. These disputes may stem from disagreements about quality, progress, or cost of work.

Common types of dispute:

Unsatisfactory construction quality

The completed construction does not meet the agreed technical or aesthetic standards.

Slow progress

The contractor does not complete the work on time, causing financial and time losses for the investor.

Unapproved additional costs

The contractor requests additional payment for additional work that has not been approved by the investor.





Disputes between owner and contractors are one of the most complex types of disputes in the construction industry. This is the result of disagreements on many aspects during the project implementation process, from the contract signing to the construction and acceptance stages.

Common types of dispute:

- Unclarity in the contract
- Construction quality does not meet requirements
- Late handover and payment

The contract lacks details or does not clearly define the responsibilities and rights of both parties, leading to misunderstandings and disputes during the implementation process.

The investor is not satisfied with the quality of the project performed by the contractor, requests corrections but the contractor does not accept.

The contractor completes the project but is not paid in full or on time by the investor, or vice versa, the investor refuses to hand over the project due to errors discovered during construction.



*Often arise from ambiguity in contract terms or from failure of parties to comply with commitments

Common types of dispute:

- Adjustments
- o Extension of time for completion
- Differences between contract and statutory provisions
- Provisions on nominated contractors/subcontractors
- o Acceptance and handover
- o Role of engineers/consultants
- Provisions on form of subcontract

Characteristics:

- Unpredictable complexity, depending on the investor's intentions and actual developments;
- Although diverse, it mainly focuses on progress, quality, price, and warranty;
- Lack of understanding of the settlement process to ensure rights.

Dispute Resolution Procedures:

Decree No. 37 on Construction Contracts, however, it's quite complicated for the parties to apply.

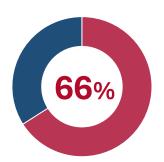






2. CONSTRUCTION DISPUTES IN THE FIELD OF REAL ESTATE

Dispute related to the settlement of construction contracts:



At VIAC, violations related to settlement work currently account for 66% of disputes in the field of construction contracts.

Source: VIAC Statistics

The reasons for this kind of dispute include:

- Agreements and payment terms are unclear, not anticipating difficulties and arising problems during contract implementation (market value fluctuates)
- Subcontractors are dependent on payment progress according to the contract between the Main Contractor and the Investor
- Payment documents are not complete and complete (Minutes of acceptance of volume, minutes of acceptance of payment, value-added invoices, etc.)
- The Investor causes difficulties, delays payment or is no longer able to pay



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2. CONSTRUCTION DISPUTES IN THE FIELD OF REAL ESTATE

Output-side disputes arising in real estate projects



- Disputes in this area commonly involve an individual party, often in the form of a chain (mass arbitration).
- Regarding these disputes, the law applicable to resolve the disputes will be Vietnamese law because disputes related to real estate will fall under the exclusive jurisdiction of the Vietnamese Court and the Vietnamese Arbitration Bodies, which means Vietnamese law and Vietnamese agencies resolve the dispute (Article 470, Clause 1(a) of the 2015 Civil Procedure Code; Article 236.5 of the 2024 Land Law).

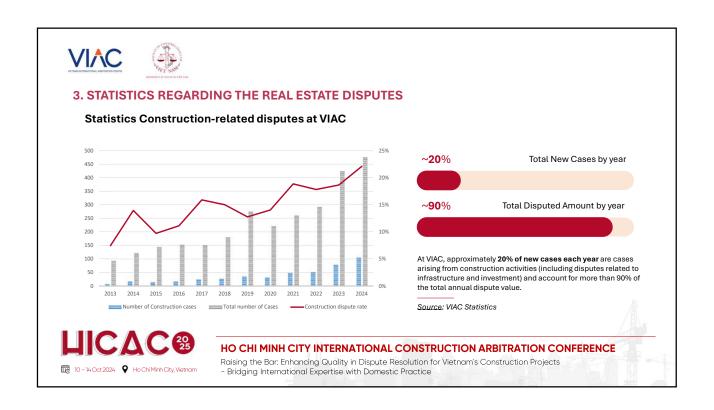


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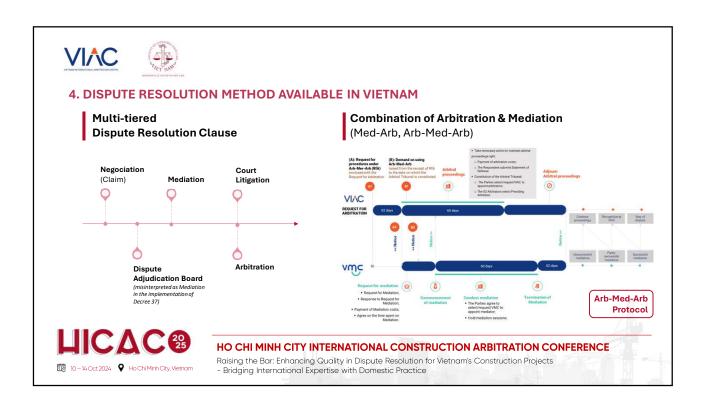
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5. INTRODUCTION OF VIAC'S ECASE PLATFORM

Key features

- E-filing and Secure Document Management: Upload and schedule your submissions; securely store, organize and download all arbitral documents with ease.
- Case Monitoring: Monitor your arbitration cases in real-time by tracking key events (meetings, hearings or deadlines), being notified instantly of new procedural steps throughout the arbitration process, which are all integrated into your working calendar.
- Notifications and Alerts: Receive notifications within the platform and via email to stay informed of important updates and developments in your arbitration cases. These include reminders for upcoming deadlines, meetings or hearings, and new document uploaded or changes to meeting/hearing dates.
- Bilingual Support: Platform interface can be switched between English and Vietnamese to accommodate parties and arbitrators in both domestic and international arbitration proceedings.

Why VIAC eCase?

- Accessibility: Easily access the Platform across different time zones with basic internet services and smart devices.
- Security and Data Protection: Securely log in to your account using two-factor authentication; provide standardized security for documents and information, adhering to domestic and international standards, including EU General Data Protection Regulation.
- Transparency: Uphold transparency by maintaining clear and comprehensive records of all activities.
- Cost and Time efficiency: Optimize administrative process and overheads through e-filing and online case management; and minimize expenses for travel, accommodation, other expenses associated with inperson meetings and hearings.



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HÔI THẢO

TRỌNG TÀI XÂY DỰNG QUỐC TẾ THÀNH PHỐ HỒ CHÍ MINH 2025 Nâng cao Chuẩn mực:

Nâng tầm Chất lượng Giải quyết Tranh chấp trong các Dự án Xây dựng tại Việt Nam – Kết nối Kinh nghiệm quốc tế với Thực tiễn trong nước

THÔNG TIN LIÊN HỆ HỖ TRỢ

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