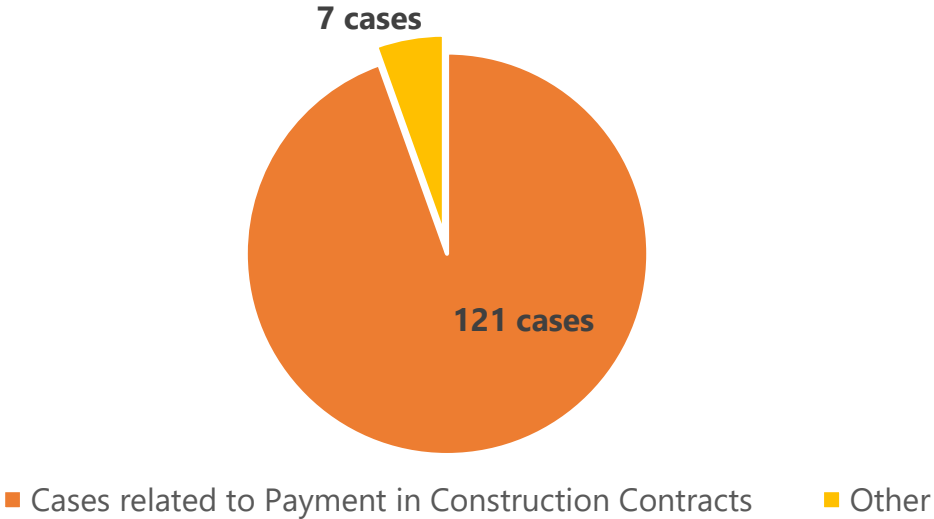


A practical perspective on the settlement of Construction Disputes

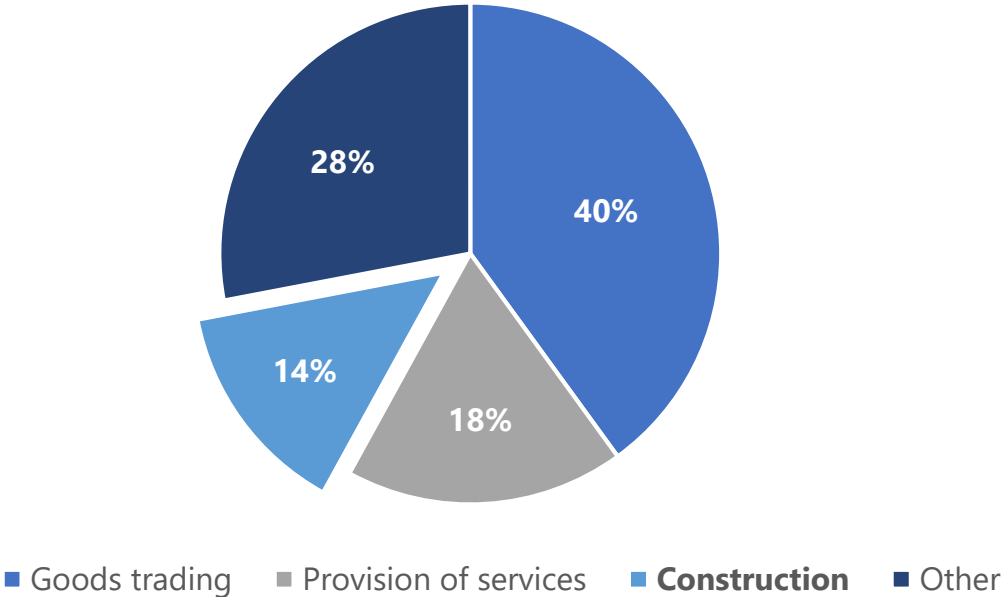
OVERVIEW

- ① OUTLOOK
- ② TYPICAL TYPES OF DISPUTE
- ③ COMMON METHODS OF DISPUTE SETTLEMENT
- ④ PRACTICAL OBSERVATIONS

Number of Construction Disputes Resolved by Courts (from 2018 to July 2019)



Types of Disputes Resolved by VIAC in 2018



Sources: Court's E-Portal for the Publication of Judgments and Decisions, VIAC's 2018 Annual Report

Typical Types of Dispute

**Schedule Changes
(extension of time)**

**Design Changes/Variations
(alterations to the design,
working conditions, etc.)**

Third-party Obligations

Work Quality

Construction Warranty

Common Methods of Dispute Settlement

Disputes involve complex technical, legal, and/or financial issues.

→ *Dispute settlement by arbitration is more common.*

Arbitration



Construction disputes usually involve foreign contractors and complex issues.

→ *Dispute settlement by litigation is uncommon.*

Litigation



- Vietnamese firms are often small and medium in size.
 - Lack of clear mediation/conciliation mechanism in contracts.
- *Rarely used by parties and virtually non-existent*

Mediation/ Conciliation



Practical Observations

Challenges to Alternative Dispute Resolution

- Inequality of bargaining powers: Vietnamese firms are usually medium or small in size → hesitant to choose mediation/conciliation as method of settlement
- The parties are not always fully aware of their, and the counter-party's, rights and obligations.

Recommendations

- Mediator's role: Facilitating settlement by helping the parties understand the other's wants and needs → Arrive at a win-win solution
- Mediation provisions in contracts → Highly recommended to avoid costly and time-consuming dispute resolution process and maintain long-term relationship prospects
- International or domestic arbitration? → Factors to consider: procedural costs, current travel restrictions, deal value, complexity of the case, expertise of arbitrator(s), enforceability.

Who we are

is a major full-service independent Vietnam law firm, which focuses on advisory and transactional work in the areas of **corporate/M&A, banking & finance, real estate & infrastructure** as well as complex and high-profile **litigation** and **arbitration** matters.

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Thank you

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