

Vietnam

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Q1 Costs and Fees to Initiate Litigation Proceedings:

What are the typical costs and fees required to commence and conduct an ordinary litigation proceeding in your jurisdiction?

In Vietnam, the litigant must pay court fees for commencing and conducting ordinary litigation proceedings. Court fees are calculated based on the value of the dispute using a formula that includes a fixed fee corresponding to specific dispute value ranges and a percentage applied to amounts exceeding certain thresholds. For example, for a dispute valued at EUR 1 million (approximately VND 28 billion), the total court fee would be around VND 136 million (approximately USD 5,525). The plaintiff is required to advance 50% of this fee before the court accepts the case.

Lawyers' fees are typically structured as hourly rates, fixed fees, contingency fees, or a combination of the first two with contingency fees. These fees usually do not include court costs and vary based on agreements between lawyers and clients.

Q2 Timeline for Litigation

What is the average duration for a civil court trial in the first instance, an appeal, and a Supreme Court (Cassation) proceeding in your jurisdiction?

The judicial system in Vietnam comprises the first instance, appellate courts, and cassation review (conducted by the Supreme Court or High Court). The statutory durations for the first instance and appellate stages are six (6) months and four (4) months, respectively. However, in practice, these durations may be extended due to factors such as the nature or complexity of the dispute, evidence collection, or witness assessment. In general, more complex commercial disputes can take up to a year or longer on average, depending on their complexity.

Q3 Disclosure and Document Production

What are the procedures to obtain (documentary) evidence from the other party? This may include mandatory pre-trial proceedings, disclosure proceedings, or other forms of document production before or during a trial.

From the outset of the lawsuit, the parties involved are required to submit their opinions and evidence to the court. Each party is also obligated to notify and provide the other parties with copies of any documents they have submitted during the proceedings. If a party fails to do so, the court may request compliance. In instances where, for legitimate reasons, the documents and evidence cannot be copied and shared with others, a party has the right to seek the court's assistance. Before the trial begins, the court will hold a meeting to disclose all the documents and evidence related to the case.

If any evidence or documents are in the possession of a third party, the parties involved may request the court to obtain such evidence or summon that third party to participate in the proceedings as an involved party.

Q4 Jurisdictional Peculiarities and Evidence Gathering

What are the procedures and requirements for the taking of witness or expert evidence?

Expert or witness evidence is crucial for the court to resolve complicated cases. During proceedings, the court may summon a third party to act as a witness. A party may also request the court to summon witnesses, provided they can prove that the appearance of the witness is necessary to resolve the case. The judge may take the testimony of witnesses or experts and question them (interrogatory style).

At the request of the involved parties, or when contradictions are deemed to exist in the testimonies of the parties involved or witnesses, the judge may conduct confrontations among the involved parties, between the involved parties and the witnesses, or among the witnesses.

At the request of the parties involved or when deemed necessary, judges may decide to conduct referenda for judicial expertise. If the applications for judicial expertise by the involved parties have been rejected by the courts, the parties may request judicial expertise themselves, particularly in cases where evidence is alleged to be forged. Other types of expert involvement vary on a case-by-case basis and depend on the court's discretion.

Q5 Allocation of Legal Costs

What cost compensation rules apply in your jurisdiction? Is the losing party required to pay the legal costs of the winning party or does another cost compensation rule apply? What are the requirements and limits of cost compensation?

The losing party is required to pay all court fees. If the court partially accepts the claims or counterclaims, the court fees will be allocated on a pro-rata basis to both parties, corresponding to the amounts awarded and rejected. Lawyers' fees are typically negotiated between the lawyer and the client and can be structured as hourly rates, fixed fees, contingency fees, or a combination of these. Generally, lawyer fees are not recoverable in litigation.



Q6 Mediation or Similar Procedures

What role play mediation or other alternative dispute resolution procedures in the context of civil court proceedings. Are there any mandatory proceedings to be undertaken before initiating a trial or during the trial in your jurisdiction? How does the enforcement of (mediated) settlements work?

Mediation plays an important role in court proceedings. Specifically, when a plaintiff submits their statement of claim to the court, the case is first handled by a mediation (conciliation) and dialogue center of the court before proceeding to trial. Even during court proceedings, the court will hold meetings for the parties to conduct conciliation prior to the trial. However, mediation is not mandatory, and a party may refuse to participate. That said, there are certain types of disputes where mediation is mandatory, such as labor disputes, divorce disputes, and disputes related to land use rights.

If the parties reach a settlement agreement, such an agreement will be recognized by the court as valid and will have immediate effect. If a party fails to comply with the settlement agreement, the other party may apply for enforcement of the settlement agreement without the need to bring the case to court again.

Q7 Recognition and Enforcement of Foreign Judgments and Interim Awards

What are the requirements, limits, timelines, and costs for the recognition of a foreign court judgment or a foreign interim court decision in your jurisdiction?

The local courts in Vietnam may refuse to recognize a foreign judgment if:

- 1) The civil judgment does not meet the conditions specified by international conventions to which Vietnam is a member.
- 2) The civil judgment is not legally enforceable under the laws of the country in which it was granted.
- 3) The person against whom enforcement is sought, or their legal representative, was absent at the foreign trial due to insufficient service of process.
- 4) The case resolved by the foreign judgment/ decision falls under the exclusive jurisdiction of the courts of Vietnam, such as cases involving land, divorce, family law, or other civil matters where the parties have the right to select a local court for dispute resolution under Vietnamese law or an applicable international treaty to which Vietnam is a member.
- 5) The case has already been resolved by a legally enforceable civil judgment or decision of a Vietnamese court or a foreign court that has been recognized by a Vietnamese court, or if the Vietnamese court had accepted the case before the foreign court.
- 6) The time limit for enforcement has expired either in the country where the judgment was issued or under Vietnamese laws on civil judgment enforcement.
- 7) The civil judgment has been revoked or its enforcement has been suspended in the country where it was made.
- 8) The recognition and enforcement of the foreign civil judgment/decision would be contrary to the basic principles of Vietnamese law.

The time limit for applying for recognition of a foreign court judgment is three (3) years from the date on which the judgment/decision takes legal effect.

The court fee for the application for recognition of foreign judgments, as of 2024, is approximately USD 120.

Q8 Interim Measures and Injunctions

What interim measures or injunctions are available in your jurisdiction to prevent the dissipation of assets or to maintain the status quo during litigation?

Interim measures or injunctions to prevent the dissipation of assets or to maintain the status quo during litigation include:

- (i) Distraining the disputed properties
- (ii) Prohibiting the transfer of property rights over the disputed properties
- (iii) Prohibiting any changes to the current conditions of disputed properties
- (iv) Freezing accounts at banks, other credit institutions, or the State Treasury; freezing properties at their places of deposit
- (v) Freezing the assets of the obligor (freezing order)
- (vi) Prohibiting involved parties from performing, or forcing them to perform certain acts.

Q9 Class Actions and Collective Redress

Are class actions or mechanisms for collective redress available in your jurisdiction? If so, what are the key features and requirements?

Vietnamese law is silent on class actions or collective redress. However, the court may consolidate two or more cases into a single proceeding if such joinder and resolution ensure compliance with the law.

Q10 International Commercial Courts

Do commercial courts or chambers exist in your country, which are specialised to handle cross-border or international disputes? Is it possible to fully or partially conduct the proceedings in English or another international language? How can a case be submitted to such a specialised court?

The court system in Vietnam is organized according to administrative geographical areas. Each administrative province consists of district courts and one provincial court. International or cross-border disputes are typically handled by the provincial courts.

Unlike some other jurisdictions, the Vietnamese judicial system does not have separate functional courts dedicated to commercial disputes; therefore, there are no specialized commercial courts or chambers, such as the Commercial Court of London or the International Chamber at the Commercial Court of Paris.

All proceedings are conducted in Vietnamese. Any documents in foreign languages must be translated into Vietnamese. Plaintiffs can submit their cases either directly to the court or by post.

