

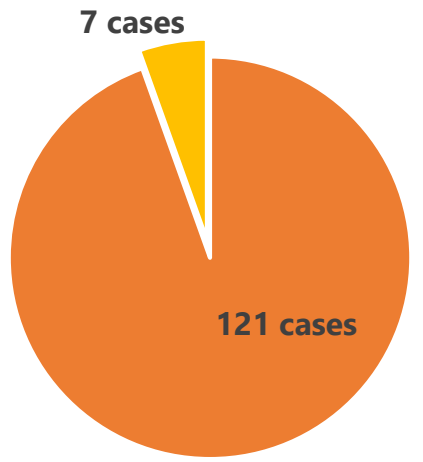
# A practical perspective on the settlement of Construction Disputes

# OVERVIEW

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

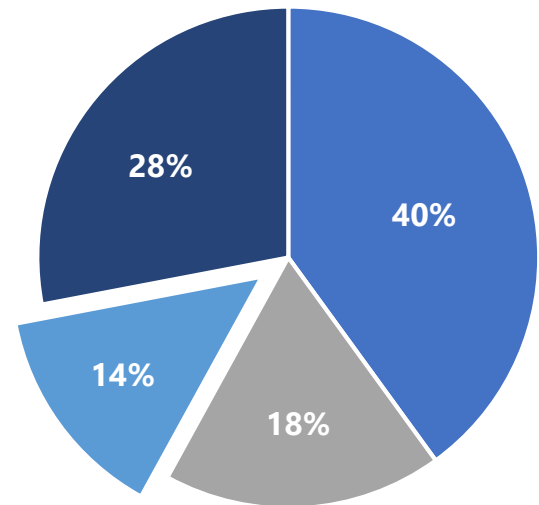
# Outlook

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



■ Cases related to Payment in Construction Contracts    ■ Other

### Types of Disputes Resolved by VIAC in 2018



■ Goods trading    ■ Provision of services    ■ **Construction**    ■ Other

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

# Typical Types of Dispute

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# 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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## Our clients

represents a wide range of **multinational and domestic clients**, including **Fortune Global 500 companies**



# RECOGNITIONS

Has received accolades from leading legal publications,  
including **Legal 500, Financial Times, IFLR1000, Chambers, asialaw Profiles and Asian Legal Business.**



## **ALB Thomson Reuters**

Vietnam Law Firm  
of the Year 2019

Vietnam Deal Firm  
of the Year 2014



## **Financial Times**

Top 25 Most Innovative  
APAC Law Firms 2019, 2016,  
2015



## **Asian-mena Counsels & In-house Community**

Vietnam Firm of the Year 2018



## **Chambers Asia-Pacific**

Consistently recommended 2012  
- 2019



## **asialaw Profiles**

Outstanding Corporate  
M&A in 2019



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**Thank you**



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