

Exclusive Jurisdiction of Vietnamese Courts over International Disputes

The Economic Innovation Program in 1986 of the Vietnamese Government has enabled Vietnamese private entities and citizens to enter into transactions with foreigners. As a result, it has paved the way for more opportunities yet also challenges such as multinational disputes. It is undeniable that potential international disputes arising from transactions with certain objectives might have negative impacts on the economy and society of Viet Nam. In that case, the courts of Viet Nam must be delegated to settle such disputes. Therefore, the exclusive jurisdiction of Vietnamese Courts (the “**Exclusive Jurisdiction**”) towards such disputes has been officially written in Article 470 of the Civil Procedure Code 2015 to clarify specific cases under this Exclusive Jurisdiction. In this newsletter, we limit our topic to the most common case: ***disputes involving rights to properties that are immovables in the Vietnamese territory.***

Under the aforementioned regulation, if the objectives of a civil lawsuit are rights to properties that are immovables in the Vietnamese territory, such lawsuit has to be brought to a Vietnamese competent court to be resolved¹. In other words, any disputes result in involving immovable asset settlement located in Vietnam, such dispute has to be resolved by a Vietnamese court. Moreover, if a foreign elements-involved claim requests the recognition of the derelict status of immovables or the recognition of the ownership right of the current manager towards derelict immovables in Vietnamese territory, such claims also fall under the Exclusive Jurisdiction of Vietnamese courts².

In practice, Vietnamese courts have applied the regulation of the Exclusive Jurisdiction in many enforcement requests of a foreign tribunal or arbitral award in Vietnam. Take case No. 09/2023/HS-PT on January 17, 2023, of the High Court in Ha Noi as an example. The claimants (GPS and UTC, Korean companies) brought the case to Singapore International Arbitration Centre (SIAC) to settle a dispute with the defendant VMG (a Vietnamese entity). The SIAC arbitrators granted an award to VMG requesting VMG to compensate the claimants a huge amount of money. However, when the award is requested to be enforced in Vietnam, the Vietnamese judges recognized that the enforcement of the award leads to handling movables and immovables of the defendant in Viet Nam. On the ground that immovables in Viet Nam are under the Exclusive Jurisdiction of the

¹ Civil Procedure Code 2015, Article 470, paragraph 1.

² Civil Procedure Code 2015, Article 470, paragraph 2.

Vietnamese courts, the High Court of Viet Nam has rejected the enforcement of the award³.

Furthermore, the general jurisdiction of a Vietnamese competent court over a foreign-involved case remains unchanged once the court has accepted it regardless of any change in the nationality, residency, and addresses of the disputing parties that lead to the change in jurisdiction to other domestic or international courts⁴. Nevertheless, the Vietnamese courts shall need to reject or suspend the settlement of such case when: *(i) Disputing parties have agreed upon another choice of dispute settlement; (ii) Such dispute is not under the Exclusive Jurisdiction of the Vietnamese court, but under other exclusive jurisdiction of foreign courts or has been accepted to resolve by a foreign arbitration center/court; (iii) the case is verdicted by a foreign court or an arbitration center; (iv) a disputing party has sovereign immunities.*⁵

From the perspective of the Vietnamese competent authorities, the regulations provide Vietnamese judges with a regime to handle civil cases where at least one foreign entity is the disputing party. The Vietnamese courts are not allowed to deny the submission of cases with the reason of the absence of jurisdiction over the cases. Furthermore, it also raises an obligation for the courts to revise thoroughly requests on the enforcement of foreign tribunal awards, judgments, and verdicts.

The aforesaid regulations have explained the jurisdiction of Vietnamese courts, especially the Exclusive Jurisdiction, over civil cases involving international elements. The application of these regulations is likely varied in practice. Therefore, it may pose some challenges for recognizing and enforcing foreign judgments or awards in Viet Nam, especially when they conclude including immovable properties settlement in Vietnamese territory. It is also crucial that enterprises should be aware of these mandatory jurisdictional requirements of Vietnam to choose an appropriate dispute resolution mechanism for their transactions with foreign partners so as to avoid wasting time, effort, and costs.

³ The High Court in Ha Noi, the case No. 09/2023/HS-PT on January 17, 2023 on the recognition and enforcement in Viet Nam of an Arbitral Award by a foreign arbitration centre.

⁴ Civil Procedure Code 2015, Article 471.

⁵ Civil Procedure Code 2015, Article 472.