

LEGAL SYSTEM AND STATE APPARATUS IN VIETNAM

PART THREE

DISPUTE SETTLEMENT OUTSIDE THE COURT

I. MEDIATION

Grassroots level mediation is a way of resolving disputes outside the court. It was formed and existed throughout the history of the Vietnamese nation. Traditionally, mediation has been performed by prestigious people such as village elders, village chiefs, heads of family lines, other elders with prestige in the community. In order to promote the role and value of grassroots mediation, in 2013, the law on grassroots level mediation was issued.

Under the grassroots level mediation law of 2013, people's minor disputes can be resolved with the help of mediators at the grassroots level. Mediators are those who have good moral qualities, prestige in the community, capability of convincing and mobilizing people, have knowledge of law and voluntary participation in mediation activities. Mediators are elected by the people in their residential areas.

The mediation team is a self-governing organization of the people established at the grassroots level to reconcile the conflicts, disputes and violations of law. Since the issuance of the Law on mediation at the grassroots level, the number and quality of mediation teams and mediators have increased significantly. So far, Vietnam has had hundreds of thousands of mediation teams at grassroots level with tens of thousands of mediator. Mediators and mediation teams have promoted their roles in the community, effectively carrying out their assigned tasks in accordance with the principles and regulations on mediation at the grassroots level.

II. COMMERCIAL ARBITRATION

In the context of the development of the market economy, international and regional integration, the settlement of disputes by means of commercial arbitration in Vietnam has been increasingly focused, the number of cases settled by the arbitration centers tends to increase. In 2010, the Commercial Arbitration Law was promulgated, providing a more complete, uniform and favorable legal basis for the development of arbitration organizations, arbitrators and the settlement of disputes by arbitration method is increasingly effective.

At present, there are 21 commercial arbitration organizations in Vietnam with nearly 500 arbitrators.

The Commercial Arbitration Act of 2010 specifies the categories of disputes falling within the jurisdiction of the Arbitration and the principles for the settlement of disputes by arbitration, namely:

- Arbitrators must respect for the agreement of the parties if the agreement does not violate the prohibitions in the law and social morals;
- Arbitrators must be independent, impartial, objective and must comply with the provisions of law;
- The parties to the dispute are equal in rights and obligations. The arbitration council shall have the responsibility to create conditions for them to exercise their rights and perform their obligations;

Dispute settlement by arbitration is conducted without publicity, unless otherwise agreed by the parties;

- Arbitration judgment is final.

Criteria for arbitrators

- a) Having full civil act capacity under the provisions of the Civil Code;
- b / Having university degrees and having worked in the field of study for 5 years or more;
- c / In special cases, specialists with high professional qualifications and practical experience, but fail to meet the requirements specified at Point b, may also be selected as arbitrators.

Persons who are not allowed to be arbitrators:

- a / Persons currently serving as judges, procurators, investigators, judgment executors or employees of People's Courts, People's Procuracies, investigating bodies and judgment execution bodies;
- b) Persons who are currently serving as defendants, serving criminal sentences or having served sentences but have not yet been remitted.

Some Arbitration centers may prescribe higher standards for their arbitrators than those specified above.