

**HO CHI MINH NATIONAL ACADEMY OF POLITICS**

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**IMPLEMENTATION COMMERCIAL  
ARBITRATION LAW IN VIETNAM TODAY**

**SUMMARY OF DOCTORAL THESIS**

**MAJOR: THEORY AND HISTORY OF STATE AND LAW**

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## INTRODUCTION

### **1. The necessity and significance of the research topic**

Arbitration is one of the earliest forms of dispute resolution in the world, with historical evidence indicating that it existed even prior to the formation of the state. Over time, commercial arbitration has developed into a recognized mechanism for resolving disputes outside the court system—a non-state, private method of dispute resolution. It has played an essential role in maintaining the stability and predictability of commercial activities, both at the national and international levels. Today, commercial arbitration is widely used, particularly in countries with developed market economies.

In Vietnam, alongside the country's economic reform process initiated in 1986, the Communist Party and the State have prioritized the construction and improvement of a socialist-oriented market economy, with a particular focus on the legal system governing economic relations. Within this framework, the legal regulation of commercial arbitration has been regarded as a key component. The promulgation of the Law on Commercial Arbitration (2010), approved by the National Assembly on June 17, 2010, marked a significant legal milestone. The law enhanced the compatibility of Vietnam's arbitration framework with both domestic legislation and international legal standards, thereby improving the feasibility and applicability of arbitration in the national context.

However, further in-depth research is needed to assess and enhance the implementation of this law. This necessity arises from both theoretical and practical considerations.

*From a theoretical perspective*, the implementation of the law on commercial arbitration is a crucial element of legal practice in a socialist-oriented market economy. Despite this, current academic literature tends to focus on the general theory of commercial arbitration and arbitration law, with limited attention to the theoretical underpinnings of legal implementation in this specific field. As a result, key theoretical issues—such as the definition, characteristics, functions, components, forms, and conditions necessary for implementing arbitration law—remain insufficiently explored and clarified.

*From a practical perspective*, since the law's entry into force on July 1, 2011, Vietnam has made notable progress in institutionalizing and promoting

arbitration. The number of licensed arbitration centers has increased, their organizational structures have improved, and the number and quality of arbitrators have also grown. Arbitration has increasingly been recognized by businesses and other stakeholders as a legitimate and effective dispute resolution mechanism. Moreover, the number of disputes resolved by arbitration centers has continued to rise, with an increasing diversity of cases.

Nonetheless, according to data from the Vietnam International Arbitration Centre (VIAC), only approximately 11% of commercial disputes are currently resolved through arbitration. This indicates that arbitration is still not the preferred method for dispute resolution among the Vietnamese business community. Such limitations highlight shortcomings in the implementation of the commercial arbitration law. In the context of increasing globalization and deeper international economic integration, the number and complexity of commercial disputes in Vietnam are likely to grow. This trend necessitates more effective, timely, and flexible non-judicial dispute resolution mechanisms.

Given these considerations, enhancing the implementation of the Law on Commercial Arbitration is of paramount importance to promote legal certainty and foster economic development in Vietnam in the present and future.

Accordingly, this dissertation focuses on the topic ***“Implementation of the Law on Commercial Arbitration in Vietnam Today”***, situated within the field of legal theory and the history of state and law.

## **2. Research Objectives and Tasks of the Dissertation**

### ***2.1. Research Objectives***

The primary objective of this dissertation is to analyze and clarify theoretical issues and assess the current state of the implementation of the law on commercial arbitration (LCA) in Vietnam. Based on this analysis, the study aims to develop key viewpoints and propose solutions to ensure the effective implementation of LCA in the current context.

### ***2.2. Research Tasks***

To achieve the above objective, the dissertation undertakes the following specific tasks:

*First*, provide an overview of the existing research related to the topic, evaluate the results of prior studies, and identify the issues that remain to be addressed in this dissertation.

*Second*, analyze and clarify the theoretical foundations of the study, including: the concept, characteristics, role, subjects, content, forms, and conditions for ensuring the implementation of LCA in Vietnam; and review international experiences that may be relevant or adaptable to the Vietnamese context.

*Third*, examine and evaluate the actual implementation of LCA in Vietnam; identify key achievements, limitations, and analyze the causes behind those outcomes.

*Fourth*, propose theoretical viewpoints and practical solutions to enhance the effectiveness of LCA implementation in Vietnam in the coming years.

### **3. Research Object and Scope of the Dissertation**

#### ***3.1. Research Object***

The object of this dissertation is the theoretical and practical aspects of the implementation of the law on commercial arbitration in Vietnam today.

#### ***3.2. Scope of the Research***

- *Content-wise*: The dissertation approaches the implementation of LCA from the perspective of legal theory and the history of state and law.

- *Geographically*: The study focuses on the implementation of LCA within Vietnam. References to international experiences serve as comparative insights to inform the Vietnamese context.

- *Temporally*: The dissertation examines the implementation of LCA from 2011 - when the Law on Commercial Arbitration came into effect - up to the present.

### **4. Theoretical Framework and Research Methods of the Dissertation**

#### ***4.1. Theoretical Framework***

This dissertation is grounded in the theoretical foundations of Marxism-Leninism, Ho Chi Minh's Thought, and the viewpoints of the Communist Party of Vietnam (CPV) regarding the state and the law. It is also informed by the Party's directives on the improvement of the legal system in general and the implementation of the law on commercial arbitration (LCA) in particular, especially in the context of national renewal (Đổi mới) and international integration.

The dissertation primarily approaches the subject from the disciplinary perspective of legal theory and the history of state and law. Additionally, the

research draws on several theoretical perspectives related to commercial arbitration, which serve as analytical tools in assessing specific issues - particularly the content and methods of implementing the law on commercial arbitration.

#### ***4.2. Research Methods***

The dissertation employs a combination of the following research methods:

*Statistical and document analysis method:* This method is used to analyze both primary and secondary sources. Primary sources include legal documents, Party resolutions, case data, official statistics from competent state agencies, and materials generated by the researcher through expert interviews. Secondary sources include academic journal articles, analytical reports, and prior research by other scholars.

*Synthesis method:* This method is applied to synthesize data and knowledge gathered from document analysis, in order to formulate the author's interpretations, evaluations, and recommendations in relation to the research subject.

*Comparative legal method:* This method is used to study foreign experiences in implementing commercial arbitration laws. Through comparison, the study identifies best practices and extracts relevant elements that are adaptable to the Vietnamese legal and socio-economic context.

*Expert consultation method:* This method involves gathering insights from experts and scholars who have conducted research on the law of commercial arbitration. The researcher engaged directly with domestic experts and scholars and contacted foreign experts indirectly through academic conferences or via email correspondence.

### **5. New Scientific Contributions of the Dissertation**

This dissertation represents a scholarly monograph that systematically and comprehensively examines both theoretical and practical issues related to the implementation of LCA in Vietnam. The research makes the following novel scientific contributions:

- The dissertation contributes to the development of the theoretical foundations concerning the implementation of LCA in Vietnam. This is achieved through the systematic identification and analysis of relevant

theoretical issues, including the inheritance, development, and formulation of original arguments on the concept, characteristics, roles, subjects, contents, forms of implementation, and theoretical justification for the conditions ensuring the enforcement of LCA in Vietnam - grounded in both domestic realities and comparative international experiences.

- The dissertation also contributes to building an empirical basis for improving the implementation of LCA in Vietnam. It does so by clearly identifying and articulating the existing limitations in practice. Based on this analysis, the dissertation proposes scientifically grounded and practically viable viewpoints and sets of solutions. These proposals hold reference value for improving the legal implementation of commercial arbitration in Vietnam in the foreseeable future.

## **6. Theoretical and Practical Significance of the Dissertation**

### ***6.1. Theoretical Significance***

The findings of this dissertation contribute to strengthening and enriching the theoretical framework on the implementation of law in Vietnam, specifically in the relatively new field of LCA. The study deepens the theoretical understanding of LCA implementation in Vietnam, particularly in relation to its characteristics, roles, actors, influencing factors, and the conditions required to ensure the effective enforcement of the law.

### ***6.2. Practical Significance***

The research results serve as a scientific foundation for state agencies and professional organizations in effectively implementing the law on commercial arbitration in Vietnam.

Furthermore, the scientific knowledge and data presented in this dissertation provide a valuable reference for research and teaching on commercial arbitration, especially at academic and training institutions specializing in legal studies in Vietnam.

## **7. Structure of the Dissertation**

In addition to the Introduction, Conclusion, List of the Author's Published Works Related to the Dissertation, References, and Appendices, the main content of the dissertation is organized into four chapters comprising ten sections.

## **Chapter 1**

### **LITERATURE REVIEW AND OUTSTANDING ISSUES FOR FURTHER INVESTIGATION**

#### **1.1. LITERATURE REVIEW**

##### **1.1.1. Domestic Research Works**

###### ***1.1.1.1. Research on Commercial Arbitration and Commercial Arbitration Law***

###### ***1.1.1.2. Research Directly Related to the Implementation of Commercial Arbitration Law***

- a. Studies on the Implementation of Law
- b. Studies Related to the Implementation of Commercial Arbitration Law

##### **1.1.2. Research by Foreign Authors**

The studies and articles mentioned above mainly focus on fundamental aspects of international arbitration, which are also relevant to the subject of this dissertation. Therefore, the findings of these works serve as valuable references for the doctoral candidate in analyzing different approaches to commercial arbitration both globally and within the context of Vietnam.

#### **1.2. GENERAL ASSESSMENT OF EXISTING RESEARCH AND ISSUES REQUIRING FURTHER STUDY**

##### **1.2.1. General Assessment of Existing Research**

The overview also reveals that some studies on commercial arbitration (CA) and commercial arbitration law are directly related to the dissertation topic. However, most of these works primarily focus on concepts, characteristics, roles, and forms of commercial arbitration (including institutional arbitration and ad hoc arbitration). In addition, there are a few initial studies on the implementation of commercial arbitration law both domestically and internationally, which mainly address specific aspects such as: the organization and management of arbitration centers; arbitral procedures; application of arbitration law in dispute resolution; arbitral awards; issues concerning evidence and burden of proof in arbitral proceedings; and the recognition and annulment of arbitral awards in terms of theory, statutory law, and practical enforcement.



Nevertheless, these studies have so far been limited to journal articles or conference papers. There is currently no comprehensive, systematic, and in-depth research that thoroughly analyzes the various aspects and dimensions of the implementation of commercial arbitration law in Vietnam.

### **1.2.2. Issues Requiring Further Study**

*- On theoretical Aspect, the dissertation continues to clarify the following issues:*

It aims to develop a comprehensive theoretical framework for the implementation of commercial arbitration law, specifically by elucidating the concepts, characteristics, roles, subjects, contents, and conditions for ensuring the implementation of commercial arbitration law - particularly in the context of globalization, deep international integration, the Fourth Industrial Revolution (Industry 4.0), and the ongoing reform of national governance in Vietnam.

*- On practical Aspect, the dissertation continues to explore:*

The current legal framework and the practice of implementation, identifying emerging factors that influence the enforcement of the law, evaluating achievements and limitations, analyzing their causes, and formulating viewpoints and solutions to address shortcomings, thereby ensuring the effective implementation of commercial arbitration law in Vietnam in the coming period.

### **1.2.3. Scientific Hypothesis and Research Questions**

Based on the overview of the current research landscape, the dissertation proposes scientific hypotheses and research questions.

## **Chapter 1 conclusion**

The overview of research related to the topic indicates that numerous domestic and international studies have been conducted on commercial arbitration, the law on commercial arbitration in general, and Vietnam's legal framework on commercial arbitration in particular. However, the literature review also reveals significant gaps in the existing body of research concerning the subject of this dissertation.

Based on the inheritance of previous domestic and international research - especially regarding the implementation of commercial arbitration law in Vietnam - this dissertation will, in subsequent chapters, reinforce,

supplement, and analyze data to ensure the consistency, comprehensiveness, and persuasiveness of its arguments. Through this, it aims to develop a complete theoretical framework for the implementation of commercial arbitration law in Vietnam. In addition, the dissertation will update, expand, and refine its structure and analytical content in order to provide a clear picture of the current state of implementation of commercial arbitration law in Vietnam. It will also propose a comprehensive system of viewpoints and solutions grounded in sound theoretical and practical foundations to ensure the effective implementation of commercial arbitration law in Vietnam in the coming years.

## **Chapter 2**

### **THEORETICAL FOUNDATION FOR THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW**

#### **2.1. CONCEPT, CHARACTERISTICS, AND ROLE OF THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW**

##### **2.1.1. The Concept of the Implementation of Commercial Arbitration**

###### ***2.1.1.1. The Concept of Commercial Arbitration***

Based on the analysis of the concepts of arbitration and commerce, the dissertation defines commercial arbitration as follows:

*Commercial arbitration is a private (non-state) dispute resolution mechanism agreed upon by the parties to resolve conflicts and disputes arising in commercial activities, which are legally prescribed to be settled by arbitration. Dispute resolution is conducted by an arbitrator or an arbitral tribunal, whose decision - called an arbitral award - is final and binding on the disputing parties. The enforcement of the arbitral award is voluntary and is supported by courts and other state authorities in accordance with national and international legal provisions.*

###### ***2.1.1.2. The concept of law in commercial arbitration***

Based on the above analysis, the author proposes the following definition of commercial arbitration law as adopted in this dissertation: *Commercial arbitration law is a system of conduct rules promulgated and*

*guaranteed by the State, aimed at regulating social relations arising in the establishment, organization, and operation of commercial arbitration. Its purpose is to protect the lawful rights and interests of the disputing parties, contribute to maintaining market order within a market economy, and safeguard the interests of the State, the public interest, as well as the legitimate rights and interests of enterprises and consumers.*

### **2.1.1.3. The Concept of Law Implementation and the Implementation of Commercial Arbitration Law**

The implementation of commercial arbitration law is a specific form of legal implementation in a particular legal field. It is a purposeful activity that brings the provisions of commercial arbitration law into practical social life, transforming legal norms from mere perception into lawful, actual legal behavior by legal subjects. Accordingly, the concept can be defined as follows:

*The implementation of commercial arbitration law is a conscious, deliberate process undertaken by legal subjects to actualize the provisions of commercial arbitration law in practice. It becomes the actual conduct of legal entities in resolving disputes arising between parties in the economy, thereby contributing to the creation of a healthy business environment and the protection of lawful rights and interests of market participants, as well as the general interests of society.*

### **2.1.2. Characteristics of the Implementation of Commercial Arbitration Law**

*First*, the implementation of commercial arbitration law is carried out by various actors with different legal statuses.

*Second*, this implementation clearly reflects the autonomy and self-determination of the involved parties, in correlation with the will of the state.

*Third*, the implementation of commercial arbitration law requires close coordination between arbitral institutions and competent state authorities.

*Fourth*, it simultaneously possesses both public and confidential characteristics, while emphasizing the autonomy of the disputing parties in utilizing arbitration law.

*Fifth*, the implementation of commercial arbitration law encompasses both domestic and international dimensions.

### **2.1.3. The Role of Implementing Commercial Arbitration Law**

*First*, the implementation of commercial arbitration law contributes to translating the Party's policies and the State's legal provisions on commercial arbitration into real-life practice.

*Second*, it helps raise legal awareness and protects the lawful rights and interests of subjects in a socialist-oriented market economy.

*Third*, it supports the improvement and refinement of commercial arbitration law.

*Fourth*, it promotes deeper and more comprehensive international cooperation and integration.

## **2.2. SUBJECTS, CONTENTS, FORMS, AND CONDITIONS TO ENSURE THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW**

### **2.2.1. Subjects Involved in the Implementation of Commercial Arbitration Law**

The implementation of commercial arbitration law is carried out by multiple subjects, each of which holds a different legal status.

*First*, arbitrators and arbitral institutions

*Second*, the State

*Third*, enterprises

*Fourth*, professional associations and other relevant organizations and individuals

### **2.2.2. Contents of the Implementation of Commercial Arbitration Law**

*First*, implementation of regulations on the establishment and organization of commercial arbitration centers and arbitrators

- *Compliance with regulations on the establishment of arbitration centers*

- *Compliance with regulations on the organizational structure of arbitration centers and the conduct of arbitrators*

*Second*, implementation of state management regulations over arbitration activities

*Third*, implementation of regulations governing dispute resolution by arbitration

- *Observance of regulations on the jurisdiction of arbitration and conditions for dispute resolution through arbitration*

- Compliance with regulations on the principles of arbitral procedures
- Application of relevant laws to resolve disputes
- Implementation of procedural rules in arbitral proceedings

*Fourth*, Implementation of regulations on judicial support for arbitration in dispute resolution procedures, including:

- Court assistance during arbitral proceedings
- Court assistance regarding arbitral awards
- Regulations on the annulment of arbitral awards

*Fifth*, implementation of regulations on the enforcement of arbitral awards

### **2.2.3. Forms of Implementation of Commercial Arbitration Law**

*First*, compliance with commercial arbitration law

*Second*, enforcement of commercial arbitration law

*Third*, utilization of commercial arbitration law

*Fourth*, application of commercial arbitration law

### **2.2.4. Conditions for Ensuring the Implementation of Commercial Arbitration Law**

- Political guarantees
- Human resources guarantees
- Legal guarantees
- Cultural and social guarantees
- Guarantees in terms of infrastructure, equipment, and financial resources

## **2.3. IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN SEVERAL COUNTRIES AND LESSONS FOR VIETNAM**

### **2.3.1. Implementation of Commercial Arbitration Law in Selected Countries**

#### ***2.3.1.1. Implementation of Commercial Arbitration Law in the United Kingdom***

The UK represents the Common Law legal tradition. Currently, the applicable laws governing arbitration in the UK include the Arbitration Act 1996, effective in England, Wales, and Northern Ireland, and the Arbitration (Scotland) Act 2010. The implementation of commercial arbitration law in the UK can be summarized as follows:

*First*, regarding the arbitration agreement

*Second*, regarding the seat of arbitration

*Third*, under the 1996 Arbitration Act, certain types of disputes are excluded from arbitration

*Fourth*, provisions on the annulment of arbitral awards

*Fifth*, the important role of the UK court system in supporting arbitration, reflecting professionalism and reliability

### ***2.3.1.2. Implementation of Commercial Arbitration Law in France***

France represents the Civil Law tradition and has a well-developed civil law system. The country does not have a standalone Arbitration Law; instead, provisions on arbitration are integrated into the Civil Code and the Code of Civil Procedure. Key aspects of implementing commercial arbitration law in France include:

*First*, the jurisdiction of arbitral tribunals

*Second*, the distinction between disputes resolved according to law and those resolved ex aequo et bono

*Third*, issues related to international arbitral awards

*Fourth*, the effectiveness of France's arbitration regime is clearly demonstrated through the practical implementation of relevant laws at each stage of the process

### ***2.3.1.3. Implementation of Commercial Arbitration Law in China***

China, Vietnam's largest neighboring country, shares many political, social, cultural, and economic similarities. The Arbitration Law of China, passed in 1994 and effective since 1995, provides clear regulations on both domestic and foreign-related arbitration. The effective implementation of arbitration law in China is attributed to several factors:

*First*, a relatively comprehensive legal framework aligned with international practice

*Second*, an increasingly pro-arbitration attitude by the courts, especially the Supreme People's Court (SPC) and higher-level courts

*Third*, the development of professional arbitration institutions

*Fourth*, growing awareness and acceptance of arbitration among businesses, lawyers, and state agencies

#### ***2.3.1.4. Implementation of Commercial Arbitration Law in Singapore***

Singapore, a leading economic and trade hub in Southeast Asia and an ASEAN member, has a legal system - especially arbitration law - highly influenced by the Common Law tradition and considered to be among the most advanced globally. Several aspects of its arbitration law and implementation reflect international standards and the strengths of the Singapore arbitration system:

*First*, the jurisdiction of arbitral tribunals

*Second*, regulations on arbitration agreements

*Third*, provisions on emergency arbitration

*Fourth*, issues related to arbitral awards

*Fifth*, strong legal provisions and practical implementation that reflect a robust pro-arbitration stance

#### **2.3.2. Lessons and Reference Values for Vietnam**

Through the study of how commercial arbitration law is implemented in the United Kingdom, France, China, and Singapore, several valuable lessons and reference points can be drawn to support the improvement and implementation of Vietnam's commercial arbitration legal framework, specifically as follows:

*First*, it is essential to establish a modern legal framework aligned with international standards, incorporating progressive legal provisions to ensure consistency and competitiveness in the global arena.

*Second*, there is a need to build a legal culture and institutional environment that are arbitration-friendly, particularly emphasizing the supportive and cooperative stance of courts toward arbitration mechanisms.

*Third*, Vietnam should consider the incorporation of emergency arbitration provisions into its legal system to enhance flexibility and effectiveness in resolving urgent disputes.

*Fourth*, efforts must be made to strengthen the capacity of arbitration centers and arbitrators through professional training, institutional development, and international cooperation to ensure competence and credibility in arbitration proceedings.

## **Chapter 2 conclusion**

Chapter 2 of the dissertation focuses on constructing the theoretical foundation for the implementation of commercial arbitration law in Vietnam. In addition, this chapter also examines the practical implementation of commercial arbitration law in several countries around the world, namely the United Kingdom, France, China, and Singapore. Based on the experiences of these countries, the doctoral candidate has drawn out valuable lessons that may be applicable and adaptable to Vietnam's current legal and practical context.

The theoretical issues clarified in this chapter are closely interrelated and mutually influential, forming the foundation for assessing the current state of implementation of commercial arbitration law in Vietnam, which will be addressed in Chapter 3. They also serve as the basis for analysis, argumentation, and the identification of viewpoints and proposed solutions to ensure the effective implementation of commercial arbitration law in Vietnam, which will be presented in Chapter 4.

## **Chapter 3**

### **THE CURRENT SITUATION OF THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN VIETNAM**

#### **3.1. THE CURRENT STATUS OF COMMERCIAL ARBITRATION LAW AND NEW FACTORS AFFECTING ITS IMPLEMENTATION IN VIETNAM**

##### **3.1.1. The Current Status of Commercial Arbitration Law in Vietnam**

###### ***3.1.1.1. The Development and Advantages of Commercial Arbitration Law in Vietnam***

###### ***3.1.1.2. Limitations of Commercial Arbitration Law in Vietnam***

##### **3.1.2. New Factors Influencing the Implementation of Commercial Arbitration Law in Vietnam Today**

###### ***3.1.2.1. Deepening International Integration***



### ***3.1.2.2. National Governance Reform Process***

### ***3.1.2.3. The Fourth Industrial Revolution and the Development of Artificial Intelligence (AI)***

## **3.2. ACHIEVEMENTS IN THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN VIETNAM AND UNDERLYING CAUSES**

### **3.2.1. Achievements in the Implementation of Commercial Arbitration Law in Vietnam Today**

#### ***3.2.1.1. Achievements in the Implementation of Laws on the Establishment and Organizational Structure of Arbitration Centers***

- a. Achievements in Implementing Laws on the Establishment of Arbitration Centers
- b. Achievements in Implementing Laws on Arbitrators
- c. Implementation of Laws on the Organization of Commercial Arbitration Centers

*With regard to compliance with the law*, arbitration centers (ACs) have demonstrated a serious commitment to legal compliance. Founding members and arbitrators have not violated the prohibitions stipulated in Clause 2, Article 20 of the 2010 Law on Commercial Arbitration. In fact, over the past years, there have been no arbitration centers found to be in violation of these prohibitions leading to the revocation of their establishment licenses or registration certificates.

*In terms of observance of the law*, relevant stakeholders have actively fulfilled their legal obligations during the establishment registration process, including: providing all required documents and information as specified in the application dossier; publishing establishment information through mass media; and registering for operation with local authorities where the centers are headquartered.

*Regarding the use of the law*, both arbitration centers and arbitrators have demonstrated high legal awareness, making proper use of their legal rights under commercial arbitration law in the process of registration, organizational development, and exercising the authority to admit new arbitrators in accordance with internal regulations.

*With respect to the application of the law*, competent state authorities have correctly applied legal provisions in granting establishment licenses to arbitration centers, ensuring adherence to prescribed timelines and procedures. There have been no delays or procedural obstacles reported that would hinder the formation of arbitration centers.

### ***3.2.1.2. Achievements in the Implementation of Laws on State Management of Commercial Arbitration***

- Regarding the development of implementing regulations under the Law on Commercial Arbitration: The legal framework has gradually been improved through the issuance of guiding documents, decrees, and circulars to ensure consistency and effectiveness in the implementation of the Law on Commercial Arbitration.

- Regarding dissemination and implementation of the Law on Commercial Arbitration: The government and relevant agencies have organized various training sessions, conferences, and awareness-raising campaigns to promote understanding of arbitration law among stakeholders, including businesses, arbitrators, and judicial authorities.

- Regarding the implementation of state management activities in arbitration: Competent authorities have fulfilled their duties in monitoring and supervising arbitration activities, licensing arbitration centers, managing arbitrator lists, and ensuring legal compliance among arbitration institutions.

### ***3.2.1.3. Achievements in the Implementation of Laws on Dispute Resolution by Commercial Arbitration***

From the achievements in implementing laws on dispute resolution through arbitration proceedings, an analysis of resolved arbitration cases reveals the following:

- *In terms of legal compliance*, parties involved in arbitration have not violated prohibitions under the law. Research indicates no cases in which arbitral awards were annulled due to arbitrators or arbitration councils breaching legal prohibitions. Arbitral tribunals and arbitrators have fully complied with their obligations to maintain neutrality, impartiality, objectivity, and confidentiality. In most cases, the parties voluntarily complied with arbitral awards.

- *In terms of observance of the law*, most parties have fulfilled their obligations throughout the procedural stages, including providing required information and evidence to the arbitral tribunal or courts when requested.

- *In terms of the use of the law*, most disputing parties have properly exercised their rights to file claims, challenge jurisdiction, request evidence collection or expert examination, and seek interim relief. Arbitral tribunals have exercised their powers effectively, including requesting information and evidence, ordering expert opinions, and seeking court assistance in accordance with the law.

- *In terms of the application of the law*, most arbitral tribunals have applied legal provisions correctly, ensuring jurisdiction, timelines, and procedures were properly followed in accordance with statutory regulations.

#### ***3.2.1.4. Achievements in the Implementation of Laws on Court Assistance to Commercial Arbitration***

*a. Achievements in implementing provisions on court assistance during arbitration proceedings*

*b. Achievements in implementing provisions on court assistance regarding the recognition and enforcement of foreign arbitral awards in Vietnam*

##### *c. General assessment*

From the achievements in the implementation of laws on court assistance to arbitration, it can be concluded that:

- *In terms of legal compliance*, stakeholders requesting court assistance and the courts themselves have generally not violated legal prohibitions when fulfilling their respective roles.

- *In terms of observance of the law*, most parties have fulfilled their obligations when carrying out procedural steps to seek court assistance. Disputing parties often complied with requests to provide information and evidence to the courts.

- *In terms of the use of the law*, most disputing parties and arbitral tribunals properly exercised their right to seek court assistance for evidence collection, interim measures, witness summoning, and for the recognition and enforcement of foreign arbitral awards in Vietnam.

- *In terms of the application of the law*, courts have handled assistance requests in accordance with the law, adhering to jurisdiction, timelines, and prescribed procedures without procedural irregularities.

### ***3.2.1.5. Achievements in the Implementation of Laws on Arbitral Awards***

- a. Achievements in the enforcement of arbitral awards
- b. Achievements in the annulment of arbitral awards

#### ***\* General Assessment***

The achievements in the implementation of laws on arbitral awards indicate:

- *In terms of legal compliance*, the majority of relevant parties did not violate any legal prohibitions in the execution of arbitral awards.

- *In terms of observance of the law*, most parties fulfilled their obligations regarding arbitral awards, including the payment of arbitration fees and the enforcement of awards. This is reflected in the high rate of voluntary compliance with arbitral awards, with only a relatively small number of cases requiring enforcement by civil judgment enforcement agencies.

- *In terms of the use of the law*, most disputing parties and arbitral tribunals have fully exercised their legal rights in the execution of arbitral awards.

- *In terms of the application of the law*, enforcement agencies have correctly applied legal provisions in executing arbitral awards, and the courts have properly applied the law in reviewing and annulling arbitral awards.

### **3.2.2. Reasons for the Achievements in the Implementation of Commercial Arbitration Law**

#### ***3.2.2.1. Objective Reasons***

*First*, the global trend of choosing commercial arbitration as a method of dispute resolution has significantly contributed to the development of commercial arbitration and the effective implementation of commercial arbitration law in Vietnam.

*Second*, the implementation of commercial arbitration law in Vietnam has increasingly supported the fulfillment of the country's international commitments.

*Third*, the legal framework on commercial arbitration has been continuously improved in terms of coherence, clarity, and alignment with international standards.

#### ***3.2.2.2. Subjective Reasons***

*Firstly*, the leadership of the Communist Party and the direction, support, and facilitation by the State have played a pivotal role in promoting the implementation of commercial arbitration law.

*Secondly*, the awareness and legal consciousness of parties involved in implementing commercial arbitration law have been gradually enhanced.

*Thirdly*, the intrinsic advantages of arbitration, combined with the professionalism and high expertise of arbitrators, have significantly contributed to the effectiveness of arbitration activities in practice.

### **3.3. LIMITATIONS IN THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW AND THEIR CAUSES**

#### **3.3.1. Limitations in the Implementation of Commercial Arbitration Law**

***3.3.1.1. Limitations in the implementation of laws on the organizational structure of arbitration centers and arbitrators***

***3.3.1.2. Limitations in the implementation of laws on state management of commercial arbitration***

***3.3.1.3. Limitations in the implementation of laws on dispute resolution by arbitration centers***

*An assessment of the application of law in dispute resolution by arbitration centers reveals certain limitations.* These include incorrect application of jurisdictional rules, instances where arbitral tribunals have lacked objectivity and fairness, and violations of the principles of arbitral procedure and Vietnamese law. These shortcomings have led to some arbitral awards being annulled by the courts, as analyzed in previous examples (see also Appendix 4).

***3.3.1.4. Limitations in the implementation of laws on court support for arbitration***

*First*, limitations in applying legal provisions related to court assistance in determining the jurisdiction of arbitral tribunals.

*Second*, shortcomings in applying the law concerning the annulment of arbitral awards.

*Third*, limitations in applying the legal mechanism for reviewing court decisions related to the annulment of arbitral awards.

### ***3.3.1.5. Limitations in the implementation of laws on the enforcement of arbitral awards***

*First*, difficulties in applying the law to determine the competent enforcement authority for arbitral awards.

*Second*, inconsistencies between the Law on Commercial Arbitration 2010 and the Law on Enforcement of Civil Judgments 2008 (as amended in 2022) have caused confusion in practical enforcement procedures.

## **3.3.2. Causes of the Limitations**

### ***3.3.2.1. Objective Causes***

*First*, the current legal framework on commercial arbitration still contains gaps and inconsistencies, limiting its effectiveness in practice.

*Second*, social attitudes and legal awareness among disputing parties are still limited, affecting their willingness to choose arbitration and comply with its procedures.

*Third*, inherent limitations of arbitration include the generally higher costs compared to court litigation, which discourages some parties from using this method.

### ***3.3.2.2. Subjective Causes***

*First*, business managers often lack sufficient understanding of arbitration and relevant legal frameworks.

*Second*, the operational capacity of many arbitration centers remains modest and does not fully meet the demands of practice.

*Third*, the quality of arbitrators, including legal expertise, professional skills, and ethical standards, varies and in some cases does not meet expectations.

## **Chapter 3 conclusion**

Chapter 3 of the dissertation focuses on analyzing and clarifying the current legal framework governing commercial arbitration (CA) and the emerging factors influencing the implementation of CA law in Vietnam. It also examines the actual implementation of CA law through several key dimensions: the establishment and organizational structure of arbitration

centers; the operation of arbitral tribunals in resolving disputes; court support for arbitration proceedings; and the enforcement of arbitral awards.

The research reveals that the current legal framework on commercial arbitration in Vietnam has achieved notable breakthroughs. It features progressive regulations that are aligned with and compatible with international arbitration law. However, the implementation of CA law is currently subject to the influence of several new and dynamic factors, including deepening international integration, the Fourth Industrial Revolution, and the ongoing transformation in national governance.

In practice, the implementation of LCA in Vietnam has recorded significant achievements and produced many positive outcomes. Nonetheless, alongside these achievements, there remain notable limitations and challenges in its practical enforcement. These successes and shortcomings stem from both objective and subjective causes. The analysis and clarification of these underlying causes are of critical theoretical and practical significance, as they form the basis for establishing sound viewpoints and proposing feasible solutions to ensure the effective implementation of commercial arbitration law in Vietnam.

## **Chapter 4**

### **PERSPECTIVES ON AND SOLUTIONS FOR ENSURING THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN VIETNAM**

#### **4.1. PERSPECTIVES ON ENSURING THE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN VIETNAM**

**4.1.1. The implementation of commercial arbitration law must adhere to the guidelines and policies of the Communist Party of Vietnam**

**4.1.2. The implementation of commercial arbitration law must ensure strict compliance with legal provisions**

**4.1.3. The implementation of commercial arbitration law must be prompt and timely in protecting the legitimate rights and interests of the parties, and in ensuring the stability of business operations**

**4.1.4. The implementation of commercial arbitration law must be consistent with international laws and practices, and aligned with Vietnam's current process of international integration**

## **4.2. SOLUTIONS TO ENSURE THE EFFECTIVE IMPLEMENTATION OF COMMERCIAL ARBITRATION LAW IN VIETNAM**

### **4.2.1. Improving the legal framework on commercial arbitration**

- Refine provisions on the jurisdiction of arbitral
- Improve regulations regarding the seat (venue) of arbitration
- Enhance provisions on the application of interim (emergency)
- Amend and clarify legal provisions concerning the annulment of arbitral awards
- Develop comprehensive rules on confidentiality in arbitration

### **4.2.2. Enhancing legal awareness among stakeholders in commercial arbitration**

### **4.2.3. Improving the organizational structure and institutional framework for enforcing commercial arbitration law**

### **4.2.4. Enhancing the quality of human resources and the performance of arbitration centers**

### **4.2.5. Strengthening the role of courts, enforcement agencies, and state management bodies in the arbitration process**

### **4.2.6. Strictly sanctioning violations of commercial arbitration law**

### **4.2.7. Promoting international cooperation in the implementation of commercial arbitration law**

## **Chapter 4 conclusion**

In Chapter 4, the dissertation analyzes and clarifies the key perspectives and proposes groups of solutions to ensure the effective implementation of commercial arbitration law in Vietnam today. Specifically:

Based on both theoretical and practical foundations, the implementation of commercial arbitration law in Vietnam must be guided by four core perspectives: i) The implementation must thoroughly adhere to the Party's orientations and policies on law in general, including those related to commercial arbitration law; ii) The implementation must strictly comply with legal provisions; iii) The implementation must ensure the prompt and



timely protection of the legitimate rights and interests of the parties, while also maintaining the stability of production and business activities; iv) The implementation must be aligned with international laws and practices, and correspond with Vietnam's current process of international integration. These guiding perspectives are interconnected and play a crucial directive role, requiring all relevant stakeholders to fully internalize and adhere to them during the implementation process.

To promote the achievements already gained and address the existing limitations in the implementation of commercial arbitration law in Vietnam, the dissertation proposes seven key solutions. These are fundamental, feasible, and timely solutions that also possess long-term significance. They require serious, systematic implementation, integrated within the broader framework of legal enforcement to fulfill the set objectives and requirements.

## **CONCLUSION**

The implementation of commercial arbitration law refers to the process of bringing the legal provisions on commercial arbitration into real life, transforming them into actual legal actions by the involved parties to ensure the effective enforcement of such provisions. This process helps to enhance legal awareness among relevant actors, resolve disputes promptly and effectively within the economy, and contributes to the socio-economic development of the country. Despite notable achievements, the implementation of commercial arbitration law in recent years has revealed several shortcomings. Therefore, conducting a comprehensive and synchronized study - both theoretically and practically - on this issue is essential to propose feasible and appropriate solutions that maximize the achievements while overcoming the limitations.

The dissertation titled “Implementation of Commercial Arbitration Law in Vietnam Today” focuses on clarifying the following theoretical and practical issues: It provides an overview of previously published research relevant to the topic, re-evaluates their contributions, and identifies aspects that can be referenced, inherited, or further developed. Based on this review,

the dissertation determines the remaining gaps and unresolved issues requiring in-depth theoretical and practical exploration. On the foundation of general legal theory, the dissertation constructs the theoretical framework for the implementation of commercial arbitration law in Vietnam. It includes the development and analysis of core concepts such as commercial arbitration, commercial arbitration law, and the implementation of commercial arbitration law. It also highlights the distinctive features and significant role of this implementation process, and identifies its forms, content, and the necessary conditions for effective enforcement. The study examines the implementation of commercial arbitration law in several countries to draw lessons and recommendations that could be applied in Vietnam. The dissertation also thoroughly analyzes and assesses the current legal framework on commercial arbitration in Vietnam and identifies new influencing factors. It evaluates the real-world implementation of commercial arbitration law across five focal areas: the establishment and organization of arbitration centers and arbitrators; state management of commercial arbitration; dispute resolution via arbitral proceedings; judicial support for arbitration; and enforcement of arbitral awards.

Through detailed analysis, the dissertation highlights both achievements and limitations, as well as their underlying causes. Based on this analysis - particularly regarding the shortcomings and their causes - the dissertation proposes four guiding perspectives and seven fundamental solutions to ensure the implementation of commercial arbitration law in the future. These perspectives serve as overarching directions that must be internalized and consistently followed by all legal actors involved. The proposed solutions are rooted in practical needs within the current context of deep international integration, and they require serious, comprehensive, and proactive implementation to ensure the quality and effectiveness of commercial arbitration law enforcement in Vietnam today.

## **LIST OF AUTHOR'S PUBLISHED WORKS RELATED TO THE DISSERTATION**

1. Dao Loc Binh (2021), “Vietnamese Commercial Arbitration Law Facing the Requirements of Renewal and International Integration”, *Journal of Science, Hanoi Open University*, (No. 80).
2. Dao Loc Binh (2024), “Perfecting Arbitration Law in the Context of National Governance Innovation in Vietnam Today”, *Journal of Procuratorial Science, Hanoi Procuratorate University*, No. 09 (81).
3. Dao Loc Binh (2024), “Law on Commercial Arbitration in China and Singapore - Some Recommendations for Vietnam”, *Law Profession Journal, Judicial Academy*, October 2024 issue.
4. Dao Loc Binh (2024), “Referential Values for Vietnam from the Experience of Implementing Arbitration Law in France and the UK”, *Journal of State Management, National Academy of Public Administration, Hanoi*, No. 346 (11/2024).