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On 25 September 2020 the Ministry of Justice introduced a database containing basic information on the recognition and enforcement of foreign court judgements and decisions and arbitral awards in Vietnam that were rendered from 1 January 2012 to 30 September 2019 (the “**Database**”).¹ Although the Database is not comprehensive and has not been updated regularly since its launch, its promulgation marks a breakthrough in access to data about the recognition and enforcement of foreign court judgements and decisions and arbitral awards in Vietnam.

1. Foreign Court Judgements and Decisions

Pursuant to the Civil Procedure Code,² foreign court judgements and decisions³ shall be recognised and enforced in Vietnam (i) if such recognition and enforcement is specified in an international treaty to which both the country in which the judgement or decision is rendered and Vietnam are contracting states; (ii) if Vietnam and the country in which the judgement or decision is rendered have not acceded to any such international treaty, on the basis of the reciprocity principle; or (iii) if the recognition and enforcement is allowed under Vietnamese law. In respect of international treaties, to date Vietnam has entered into 19 bilateral agreements on mutual judicial assistance with different countries that specify the recognition and enforcement of foreign court judgements and decisions.⁴ Under these judicial assistance agreements, foreign court judgements and decisions on civil matters and decisions on compensation for civil damage in criminal judgements that are rendered in the territory of a contracting state may be recognised and enforced in Vietnam. Please note that a judgement or decision rendered in Japan does not meet the requirements of item (i), but the recognition and enforcement of such judgement and decision in Japan will be subject to the laws of Vietnam and decision of the competent state authorities of Vietnam pursuant to items (ii) and (iii).

According to the Database, 26 petitions for recognition and enforcement of foreign court judgements and decisions were lodged with various Vietnamese courts during the period from 1 January 2012 to 30 September 2019, but only 12 court judgements and decisions were recognised and enforced by Vietnamese courts, accounting for around 46% of the total lodged petitions. Of those lodged petitions, there were seven commerce-

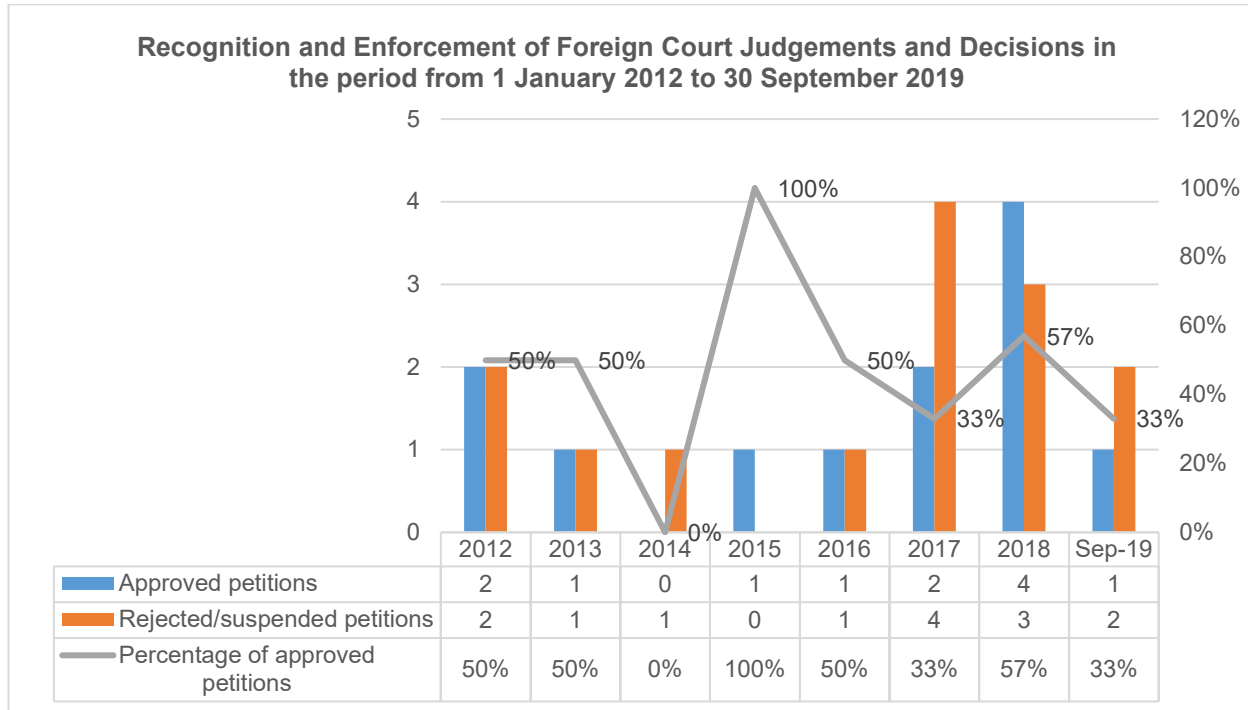
¹ https://moj.gov.vn/ttp/Pages/dlcn-va-th-tai-Viet-Nam.aspx?fbclid=IwAR1wTsvb5SI_61pjUiNMLqyP3XoWsNlZAi_GgZCsp1D44t0a8RI5eF4pgAM (in Vietnamese only).

² Civil Procedural Code No. 92/2015/QH13 issued by the National Assembly of Vietnam on 25 November 2015.

³ Pursuant to Article 423 of the Civil Procedural Code, a court judgement and decision qualified for recognition and enforcement in Vietnam must relate to civil matters, marriage and family, business, trade, labour, decisions on assets, or criminal and administrative decisions.

⁴ Table No.1 under Official Letter No. 33/TANDTC-HTQT issued by the Supreme People’s Court on 17 March 2021 regarding judicial assistance and submission of documents abroad.

related petitions, and four of them were approved by the Vietnamese courts, amounting to around 57% of the total commerce-related petitions. The recognised and enforced court judgements and decisions came from Korea (*five cases*), Germany (*two cases*), Russia (*one case*), Poland (*one case*), Singapore (*one case*), Taiwan (*one case*) and the Czech Republic (*one case*). The following chart shows the specific statistics on the Database about recognition and enforcement of foreign court judgements and decisions for each year.⁵



The above statistics show a fluctuation in the recognition and enforcement of foreign court judgements and decisions over time. In recent years, the total number of petitions for recognition and enforcement has increased, but the percentages of successful petitions remain relatively low at a mere 33%, 57% and 33%, respectively, in 2017, 2018 and 2019. In total, there were nine petitions that were suspended and five that were rejected. Some of the reasons to reject petitions given by Vietnamese courts include (i) the party against whom recognition and enforcement of the judgement/decision is sought having been absent from the trial due to the failure of the foreign court to duly summon him/her or serve documents to him/her (*one case*); (ii) the recognition and enforcement of the foreign court judgments and decisions being contrary to the basic principles of the law of Vietnam (*two cases*); (iii) the Vietnamese court finding no grounds to apply the reciprocity principle (*one case*); and (iv) the foreign court judgement and decision having been ineffective or revoked (*one case*).

2. Foreign Arbitral Awards

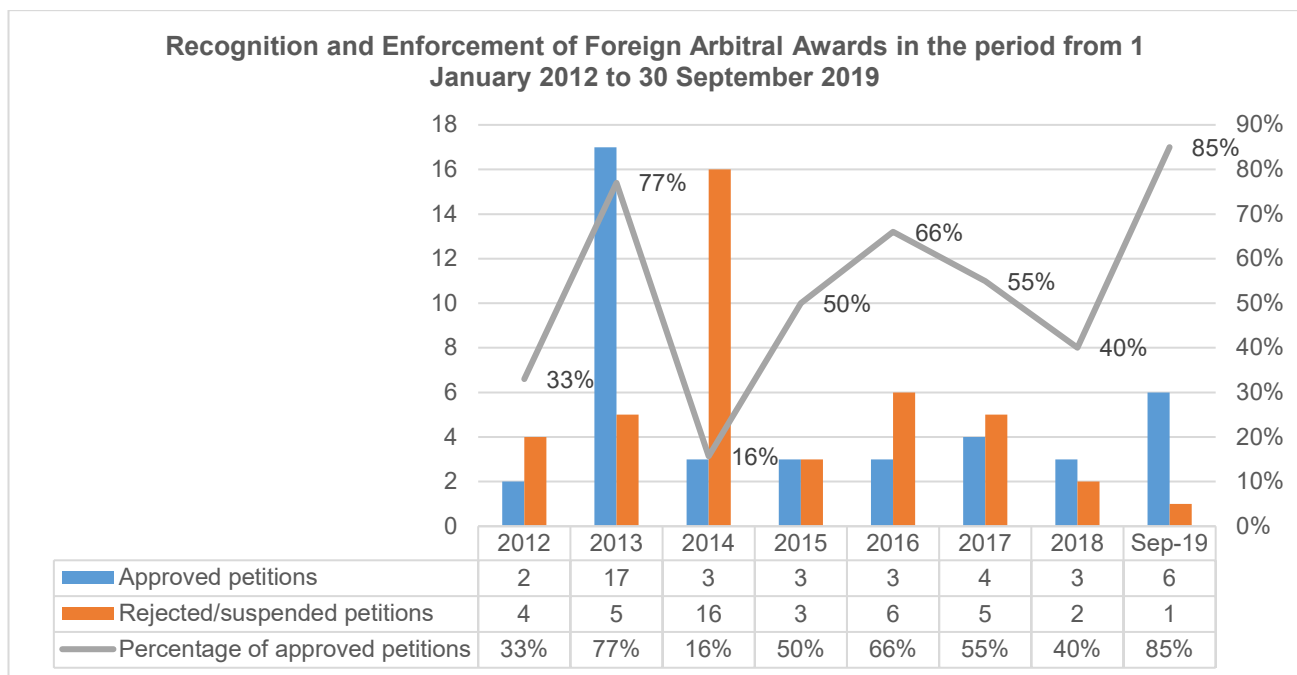
A foreign arbitral award will be recognised and enforced in Vietnam (i) if it comes from a foreign country with which Vietnam has entered into an international treaty on the recognition and enforcement of foreign arbitral awards or (ii), if there is no such international treaty, on the basis of the reciprocity principle.⁶ In this regard, as

⁵ As some cases went through both first-instance and appellate trials, the statistics correspond to the year in which the final decisions of the courts on recognition and enforcement of foreign court judgements and decisions were rendered.

⁶ Article 424 of the Civil Procedure Code.

Vietnam has been a signatory to the New York Convention⁷ since 1995⁸ and there are 168 countries that are party to the New York Convention at present,⁹ foreign arbitral awards originating in most countries throughout the world can be recognised and enforced in Vietnam.

Per the Database, from 1 January 2012 to 30 September 2019, 83 petitions for recognition and enforcement of foreign arbitral awards were submitted to Vietnamese courts, and 41 of them were approved, accounting for around 49% of the total submitted petitions. Although information about the seat of arbitration is not indicated, the Database shows that the recognised and enforced awards came from Germany (14 cases), Singapore (seven cases), the United Kingdom (seven cases), Hong Kong (two cases), Korea (two cases), the International Cotton Association (two cases), the Permanent Court of Arbitration (one case), Japan (one case), the United States of America (one case), Russia (one case), China (one case), Bulgaria (one case) and Ukraine (one case). Specific statistics in the Database on the recognition and enforcement of foreign arbitral awards for each year are shown in the chart below:



Like foreign court judgements and decisions, the percentage of successfully recognised and enforced foreign arbitral awards is fluctuating and varies from year to year. Nevertheless, 2019 showed an impressive increase in the percentage of successful petitions at 85% of the total lodged. During the statistical period, there were 12 petitions that were suspended and 30 that were rejected. Common reasons to reject the recognition and enforcement of foreign arbitral awards include (i) the party against whom recognition and enforcement of the award is sought not having been duly notified in a timely manner about the appointment of an arbitrator and the procedures to resolve the dispute before a foreign arbitral tribunal (27 cases); (ii) the recognition and enforcement of the foreign arbitral awards being contrary to the basic principles of the law of Vietnam (10 cases); and (iii) there having been a lack of authority for the parties to enter into the arbitration agreement or

⁷ The Convention on Recognition and Enforcement of Foreign Arbitral Awards 1958.

⁸ https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards/status2

Decision No. 453/QD-CTN issued by the president of Vietnam on 28 July 1995.

⁹ https://uncitral.un.org/en/texts/arbitration/conventions/foreign_arbitral_awards/status2.

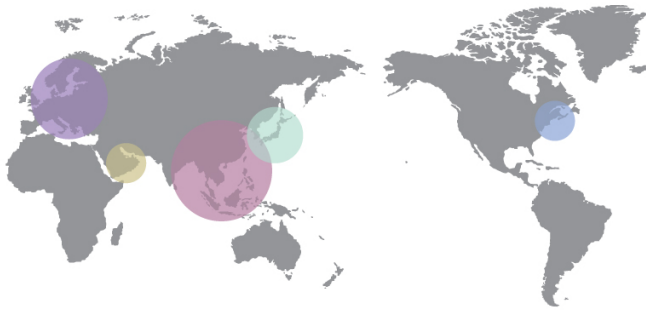
signing formalities not having been complied with (*six cases*). Please note that the interpretation of “being contrary to the basic principles of the law of Vietnam” as set out above in item (ii) is not clear under the law or in practice.

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