



WORLD BANK GROUP

Business Ready (B-Ready)

Methodological Workshop

Dispute Resolution

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**Raman Maroz, Private Sector Development Specialist
Development Economics Global Indicators Group (DECIG)**

Outline

Dispute Resolution

1. Motivation

2. Indicators:

- a. Pillar I – Regulatory framework for dispute resolution
- b. Pillar II – Public services for dispute resolution
- c. Pillar III – Ease of resolving a commercial dispute in practice

3. Data Sources

4. Parameters

5. Preliminary Topic Scoring

6. Expert Screening and Selection

1. Motivation – why does Dispute Resolution matter?

- Efficient dispute resolution is fundamental to private sector growth
 - ✓ Effective judiciaries are associated with facilitated entrepreneurial activity and higher levels of domestic and foreign investment
 - ✓ When a court system is efficient, businesses are likely to have greater access to finance and borrow more
 - ✓ Enhancing the effectiveness of the judiciary may strengthen competition and foster innovation

- Lack of trust in the dispute resolution system risks to undermine private sector development
 - ✓ Where there is low confidence in the court system, firms are less willing to expand their businesses and look for alternative trade partners
 - ✓ Limited enforceability of contracts is associated with the suboptimal distribution of resources, use of inefficient technologies, liquidity issues, greater macroeconomic volatility and unemployment

2. Indicators – Outline



Regulatory framework

Regulatory framework for dispute resolution

1. Court litigation+^
2. Alternative dispute resolution (ADR)



Public services

Public services for dispute resolution

1. Institutional framework
2. Digitalization*
3. Transparency^
4. ADR-related services*^



Efficiency

Ease of resolving a commercial dispute in practice

1. Reliability of dispute resolution
2. Time and cost to resolve a dispute
3. Recognition and enforcement

The * symbol denotes components that will cover the **adoption of digital technologies**. The + symbol denotes components that will cover **environmental sustainability**. The ^ symbol denotes components that will cover **gender**.

a. Pillar I – Regulatory framework for dispute resolution

1.1	Court litigation
1.1.1	Time standards
1.1.2	Procedural certainty
1.1.3	Judicial integrity
1.1.4	Foreign judgments
1.1.5	Gender equality and environmental sustainability
1.2	Alternative dispute resolution (ADR)
1.2.1	Acceptance of arbitration
1.2.2	Key elements of arbitration
1.2.3	Investor-state arbitration
1.2.4	Recognition and enforcement of arbitral awards
1.2.5	Mediation

a. Pillar I – Regulatory framework for dispute resolution

What does it cover and why is it important?

Category 1.1 – Court litigation

- The category assesses the extent to which the applicable regulatory framework incorporates good practices aimed at promoting efficient and quality court processes.
- Efficient and quality court litigation is premised on clear and up-to-date laws and regulations.



Category 1.2 – Alternative dispute resolution (ADR)

- The category measures whether the regulatory framework enshrines select good practices that support efficiency and reliability of ADR mechanisms.
- To make ADR mechanisms attractive to the private sector, laws and regulations should be clear and provide for necessary safeguards.



a. Pillar I – Regulatory framework for dispute resolution

Preliminary Scoring

		No. of indicators	FFP*	SBP*	Total Points	Rescaled Points
1.1	Court litigation	16	14	16	30	50
1.1.1	Time standards	2	2	2	4	6.7
1.1.2	Procedural certainty	5	5	5	10	16.7
1.1.3	Judicial integrity	4	4	4	8	13.3
1.1.4	Foreign judgments	2	2	2	4	6.7
1.1.5	Gender equality and environmental sustainability	3	1	3	4	6.7
1.2	Alternative dispute resolution (ADR)	15	15	15	30	50
1.2.1	Acceptance of arbitration	3	3	3	6	10
1.2.2	Key elements of arbitration	4	4	4	8	13.3
1.2.3	Investor-state arbitration	2	2	2	4	6.7
1.2.4	Recognition and enforcement of arbitral awards	2	2	2	4	6.7
1.2.5	Mediation	4	4	4	8	13.3
Total		31	29	31	60	100

*Scoring will consider the perspectives of entrepreneurs (firm flexibility points) and broader public interests (social benefits points).

b. Pillar II – Public services for dispute resolution

2.1	Institutional framework
2.1.1	Streamlined courts
2.1.2	Special complaint mechanisms
2.2	Digitalization
2.2.1	Electronic filing and service
2.2.2	Digital proceedings
2.3	Transparency
2.3.1	Openness of courts
2.3.2	Production of key statistics
2.4	ADR-related services
2.4.1	Arbitration
2.4.2	Mediation

b. Pillar II – Public services for dispute resolution

What does it cover and why is it important?

Category 2.1 – Institutional framework

- The category assesses whether economies provide for a robust institutional framework for court litigation.
- Laws and regulations may remain exclusively on paper unless they are put into effect through strong and reliable institutions.



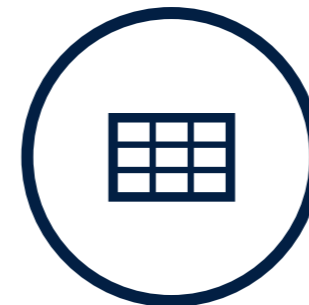
Category 2.2 – Digitalization

- The category measures the degree of digitalization in court systems.
- A key lesson from the pandemic is that digitalization may have a substantial effect on access to justice and streamlining of proceedings.



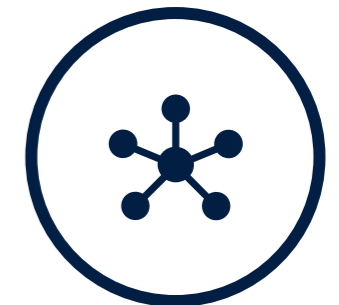
Category 2.3 – Transparency

- The category evaluates the extent of transparency across the judiciaries.
- Transparency is fundamental for building trust in the court system.



Category 2.4 – ADR-related services

- The category captures the provision of key services in ADR.
- Well-developed ADR mechanisms, such as arbitration and mediation, provide businesses with extra flexibility and, on many occasions, may be better suited to their specific needs.



b. Pillar II – Public services for dispute resolution

Preliminary Scoring

		No. of indicators	FFP*	SBP*	Total Points	Rescaled Points
2.1	Institutional framework	6	6	6	12	20
2.1.1	Streamlined courts	3	3	3	6	10
2.1.2	Special complaint mechanisms	3	3	3	6	10
2.2	Digitalization	7	7	7	14	23.3
2.2.1	Electronic filing and service	3	3	3	6	10
2.2.2	Digital proceedings	4	4	4	8	13.3
2.3	Transparency	8	8	8	16	26.7
2.3.1	Openness of courts	5	5	5	10	16.7
2.3.2	Production of key statistics	3	3	3	6	10
2.4	ADR-related services	9	9	9	18	30
2.4.1	Arbitration	4	4	4	8	13.3
2.4.2	Mediation	5	5	5	10	16.7
Total		30	30	30	60	100

*Scoring will consider the perspectives of entrepreneurs (firm flexibility points) and broader public interests (social benefits points).

c. Pillar III – Ease of resolving a commercial dispute in practice

3.1	Reliability of dispute resolution
3.1.1	Reliability of courts
3.1.2	Reliability of ADR
3.2	Time and cost to resolve a dispute
3.2.1	Time and cost for court litigation
3.2.2	Time and cost for arbitration
3.3	Recognition and enforcement
3.3.1	Foreign decisions
3.3.2	Final domestic judgments

c. Pillar III – Ease of resolving a commercial dispute in practice

What does it cover and why is it important?

Category 3.1 – Reliability of dispute resolution

- The category captures the reliability of courts and ADR mechanisms, as reported directly by firms.
- To turn to the dispute resolution system, businesses should know that it is reliable and provides for good prospects that their cases would be handled with due care.



Category 3.2 – Time and cost to resolve a dispute

- The category measures the time and cost required to resolve a standardized dispute through court litigation and arbitration.
- Considerations of efficiency play a critical role in dispute resolution. “Justice delayed is justice denied”. Excessively costly proceedings may impair access to justice.



Category 3.3 – Recognition and enforcement

- The category records the time and cost associated with recognition and enforcement of foreign decisions, as well as compulsory enforcement of final decisions.
- Oftentimes, dispute resolution does not end with the issuance of a verdict. Proceedings related to recognition and enforcement should also be conducted effectively.



c. Pillar III – Ease of resolving a commercial dispute in practice

Preliminary Scoring

No. of indicators Rescaled Points*

3.1	Reliability of dispute resolution	3	33.3
3.1.1	Reliability of courts	1	16.7
3.1.2	Reliability of ADR	2	16.7
3.2	Time and cost to resolve a dispute	4	33.3
3.2.1	Time and cost for court litigation	2	16.7
3.2.2	Time and cost for arbitration	2	16.7
3.3	Recognition and enforcement	6	33.3
3.3.1	Foreign decisions	4	16.7
3.3.2	Final domestic judgments	2	16.7
Total		13	100

*Scoring on Pillar III will consider the perspectives of entrepreneurs (firm flexibility points) only. For each indicator, scoring is calculated using the distance-to-frontier approach. Each category in Pillar III has the same weight. Within each category, each subcategory also has the same weight.

3. Data Sources

Data collection sources:

Pillars I and II

- **Private sector experts:** lawyers practicing commercial litigation, ADR, international dispute resolution, and environmental law, as well as handling enforcement proceedings.

Pillar III

- The data on the category of Reliability of dispute resolution are collected through **Enterprise Surveys**.
- The data sources for the categories of Time and cost to resolve a dispute and Recognition and enforcement are the same as for Pillars I and II.

Data validation sources:

- **Public sector experts:** judges, court clerks, enforcement agents, employees of ADR public institutions, officials of ministries of justice.

4. Parameters for Expert Consultations

General Parameters

Business location (across all Pillars)

Largest city

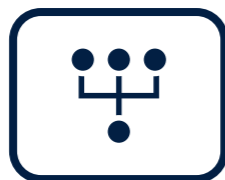


Depending on a geographic location, the regulatory framework, public services provision, and efficiency of dispute resolution may change within an economy.

Specific Parameters

Level of court (Pillar II)

First instance courts



Provision of public services is subject to variation based on level of court (first instance, appeal, supreme, etc.)

Claim value (Pillar III)

20x GNI per capita



The time and cost characteristics of dispute resolution can vary substantially depending on the claim value.

5. Preliminary Topic Scoring

Pillar	Title	No. of indicators	FFP	SBP	Total Points	Rescaled Points	Weight
I	Regulatory framework: Regulatory framework for dispute resolution	31	29	31	60	100	0.33
II	Public services: Public services for dispute resolution	30	30	30	60	100	0.33
III	Efficiency: Ease of resolving a commercial dispute in practice	13	100	n.a.	100	100	0.33

6. Expert Screening and Selection

Relevant expert professions:

- Lawyers/attorneys, arbitrators, and mediators.

Relevant areas of specialization:

- Commercial litigation, commercial arbitration, commercial mediation, international dispute resolution, environmental law, and enforcement proceedings in commercial cases.

Assessment of experts' knowledge and experience related to commercial dispute resolution and associated regulations, services, and processes:

- Knowledge of and experience with preparing documents on behalf of firms to initiate commercial litigation, arbitration, or mediation; representing firms before courts, arbitration tribunals, and mediators; participating in international commercial dispute resolution; handling environmental cases; conducting proceedings to recognize and enforce foreign judgments and arbitral awards; and undertaking compulsory proceedings to enforce final commercial judgments.



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Thank you

Q&A

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