



The Legal Framework on Time Limits for Pre-Trial Preparation in Commercial Cases in Vietnam: Current Situation and Reform Directions

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ABSTRACT: Procedural deadlines serve as an essential safeguard to balance efficiency and fairness in judicial adjudication. In Vietnam, the legal framework governing time limits for pre-trial preparation in commercial cases is primarily set out in Article 203 of the Civil Procedure Code 2015. However, ambiguities regarding the commencement and expiration of the preparation period, coupled with unclear criteria for extensions, have led to inconsistent judicial practice and widespread delays. This article examines the statutory framework, analyses practical challenges through case law and judicial practice, and provides comparative insights from France, Japan, and Russia. It argues that the current regime remains overly rigid, lacking sufficient flexibility to address the complexity of commercial disputes, while also leaving significant gaps that undermine legal certainty. The paper concludes by proposing legislative reform to extend preparation periods, clarify the grounds for extension, and strengthen judicial accountability and oversight mechanisms. These reforms aim to enhance both the timeliness and fairness of commercial adjudication in Vietnam.

KEYWORDS: Pre-trial preparation; Commercial disputes; Procedural deadlines; Judicial efficiency; Vietnam.

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Introduction

Procedural time limits constitute a cornerstone of civil justice, ensuring that cases are resolved within a reasonable period while safeguarding litigants' rights to a fair trial. In commercial disputes, where legal certainty and business continuity are paramount, delayed proceedings impose significant economic and social costs. Excessive prolongation of pre-trial preparation undermines enterprises' confidence in judicial institutions, discourages investment, and disrupts the stability of commercial relations. Conversely, overly rigid deadlines may constrain fact-finding, impede thorough consideration of evidence, and jeopardise fairness (Hà Viết Toàn, 2022).

In Vietnam, the legal framework on trial preparation time limits for commercial cases is primarily codified in the Civil Procedure Code (Civil Procedure Code, 2015). While the Code sets out statutory deadlines, numerous interpretive and practical issues have emerged. Courts struggle with determining the precise commencement and expiration of the preparation period, particularly in cases involving counterclaims or supplementary claims (Tạ Huyền Trang, 2019; Đoàn Thị Mai, 2023). Provisions on extensions remain vague, lacking clear definitions of "complex cases" or "objective obstacles." As a result, inconsistent application and unjustified delays remain widespread, often stretching proceedings beyond statutory limits without accountability (Trần Thăng Long, 2022).

Against this backdrop, this article undertakes a doctrinal and comparative analysis of Vietnam's current regime. It highlights the interpretive ambiguities and enforcement deficiencies in practice, examines comparative experiences from selected jurisdictions such as France (Republic of France, n.d.), Japan (Port, 2002) and Russia (Russian Federation, 2002), and proposes reform directions. The overarching objective is to strike a more effective balance between efficiency and fairness in the adjudication of commercial disputes, thereby strengthening judicial credibility and protecting the legitimate rights and interests of the parties (Ngô Văn Hiệp, 2022).

Research Aim

This study aims to provide a comprehensive analysis of the framework on time limits for pre-trial preparation in commercial cases in Vietnam, to enhance the credibility of the judiciary and foster a more favourable environment for commercial activities and economic development.

Research Questions

1. How does the current legal framework on time limits for pre - trial preparation in commercial cases under the Vietnamese Civil Procedure Code 2015 ensure or fail to ensure efficiency and fairness in adjudication?
2. What practical challenges arise in determining the commencement, expiration, and extension of trial preparation periods in Vietnamese courts, and how do these challenges affect the consistency of judicial practice?
3. What lessons can Vietnam draw from comparative approaches in other jurisdictions, and what

reforms are needed to improve the clarity, flexibility, and enforceability of time-limit regulations in commercial adjudication?

Results and Discussion

Article 203 of the Civil Procedure Code 2015 establishes a two-month preparation period for the pre-trial of commercial cases, extendable once for up to one month in cases deemed complex or where objective obstacles exist (Civil Procedure Code, 2015). Within this period, judges are required to issue one of four possible decisions: (i) recognition of the parties' settlement, (ii) suspension of proceedings, (iii) termination of proceedings, or (iv) a decision to bring the case to trial. Following such decisions, the trial must be held within one month, or two months in exceptional circumstances.

The statutory framework requires clarification of both the commencement date and expiration date of the preparation period. According to Article 203 (Civil Procedure Code, 2015), the preparation period begins from the date the court accepts the case. However, in practice, determining this commencement date is complicated by procedural issues such as counterclaims, independent claims, or supplementary claims, all of which can significantly alter the scope of adjudication. This ambiguity underscores the importance of legislative guidance to ensure transparency, consistency, and predictability in trial preparation (Tạ Huyền Trang, 2019).

Practical Challenges

Commencement of the Period

Under Article 203 of the Civil Procedure Code, the preparation period is calculated from the date the court accepts the case (Civil Procedure Code, 2015). This period is calculated from the date the court "accepts" the case, which in practice depends on procedural steps: if the plaintiff is not exempted, the acceptance date is the day the court receives the advance court fee receipt; if exempted, it is the day the court receives the statement of claim together with supporting documents and evidence (Hà Viết Toàn, 2022). In line with the general rules for procedural time calculation, counting does not begin on the acceptance date itself. Still, on the following working day, and if the final day falls on a weekend or public holiday, the deadline is extended to the next working day (National Assembly, 2015). Practical difficulties arise, however, when defendants submit counterclaims or when independent or supplementary claims are introduced. These additional claims broaden the scope of legal relationships to be adjudicated, raising the question of whether the time limit should be recalculated. Resolution No. 05/2012/NQ-HĐTP of the Supreme People's Court, though no longer in force since 2023, once clarified that the preparation period should only commence after the completion of all procedural requirements for such claims, a principle still regarded as logically and practically sound. In the absence of explicit legislative guidance in the Civil Procedure Code 2015, inconsistent judicial practice persists, thereby underscoring the need for a new resolution to codify this principle (Đoàn Thị Mai, 2023).

Evidence of this issue can be seen in a case where, on April 25, 2024, Mr Nguyen A filed a lawsuit against Ms Le C before the People's Court of District X regarding a "Contract for the Sale of Goods" involving agricultural products for export with a contract value of VND 1 billion. The Court formally accepted the case on May 5, 2024, pursuant to Notice No. 05/2024/TB-Acceptance, and within the statutory preparation period, conducted procedural activities such as taking testimonies and collecting evidence. On May 20, 2024, the plaintiff submitted a supplementary claim seeking an additional payment of VND 200 million, which the Court accepted on May 30, 2024, under Notice No. 234/2024/TB-Court, thereby increasing the total claim to VND 1.2 billion. Following two unsuccessful mediation sessions on June 5 and June 16, the Court brought the case to trial on July 26, 2024. This factual scenario gave rise to two opposing interpretations of the time limit for first-instance trial preparation: one view holds that the statutory period should be recalculated from the date the supplementary claim was accepted, meaning the case remained within the lawful timeframe as of July 26; the other view maintains that the Civil Procedure Code provides no basis for recalculation, so the time limit should have been counted from May 5, rendering the July 26 trial a violation of procedural deadlines (Trần Thăng Long, 2022).

In evaluating these divergent perspectives, it is arguable that the first view, which supports recalculating the time limit for trial preparation from the date the court accepts the supplemental claim, reflects an effort to preserve fairness in adversarial proceedings. The rationale is that when the scope or value of the dispute changes, additional procedural steps, such as renewed evidence-gathering, conciliation attempts, and procedural adjustments, may be necessary to safeguard the litigants' legitimate rights and interests. Nevertheless, this interpretation encounters significant limitations: the Civil Procedure Code 2015 contains no provision expressly authorising such recalculation. Article 203 (Civil Procedure Code, 2015) stipulates a fixed two-month preparation period, extendable by only one month, calculated strictly from the date of initial acceptance, without exceptions for amendments or supplements to the claim. From a doctrinal standpoint, the second view therefore appears more consistent with the principle of procedural certainty and the legislative intent of ensuring stability and predictability in adjudication. Yet, the absence of explicit regulation creates a lacuna that may lead to inconsistent judicial practice and potential procedural disputes. To address this, legislative reform is warranted, specifically an amendment to the CPC that provides clear rules on how preparation periods should be treated in cases involving supplemental claims. Such clarification would not only enhance legal transparency but also better protect the procedural rights of disputing parties.

Expiration of the Period

Another contentious issue concerns the determination of the expiration of the preparation period. One interpretation holds that the period concludes when the judge issues one of the four decisions set out in Article 203(3) of the Civil Procedure Code (2015). Another interpretation holds that the period ends only when the trial formally opens. The former view is more persuasive, as the post-decision phase is primarily administrative, such as issuing summonses and logistical arrangements and thus should not

be considered part of the preparation stage (Hà Viết Toàn, 2022), (Đoàn Thị Mai, 2023). Clarifying this distinction is crucial for legal certainty and procedural consistency.

Extension Mechanism

The Civil Procedure Code 2015 permits an extension of up to one month in cases deemed complex or subject to objective obstacles. Still, it provides no statutory definition or criteria for identifying such circumstances (Civil Procedure Code, 2015). In practice, many commercial cases far exceed statutory limits, with the preparation stages lasting several months or even years, undermining both efficiency and legal certainty (Ngô Văn Hiệp, 2022). Comparative experiences reveal diverse approaches to balancing certainty and flexibility in trial preparation. In France, judges enjoy broad discretion to set deadlines based on case complexity and urgency, ensuring procedural adaptability (Republic of France, n.d.). In Japan, courts may extend or shorten deadlines but must respect certain immutable periods to safeguard stability (Port, 2002). Russia, meanwhile, prescribes short statutory limits but provides judges with flexibility to accommodate case-specific circumstances (Russian Federation, 2002).

These models illustrate the fundamental trade-off between two imperatives: legal certainty through fixed deadlines and judicial flexibility to adapt to the complexity of disputes. Vietnam's current framework tends toward rigidity, lacking sufficient guidance to reconcile efficiency with fairness (Tạ Huyền Trang, 2019; Hà Viết Toàn, 2022; Đoàn Thị Mai, 2023). As such, reform is necessary to introduce clearer criteria for extensions, better definitions of complexity, and mechanisms to ensure consistency across courts (Ngô Văn Hiệp, 2022; Trần Thắng Long, 2022).

This issue can be seen in the dispute over a service contract between Company D Ltd. and Company D1 Ltd., where the Notice of Acceptance of the Case No. 194/2023/TLST-Commercial dated October 17, 2023, was followed only by the Decision to Bring the Case to Trial No. 9896/2024/QĐXXST-Commercial on June 20, 2024 (*Bản án số 168/2024/KDTM-ST ngày 26/7/2024 về việc "Tranh chấp hợp đồng dịch vụ"* [Judgment No. 168/2024/KDTM-ST dated July 26, 2024 on "Service contract dispute"], 2024). Thus, the first-instance proceedings in this case extended for more than six months. An even more significant delay occurred in the dispute between Commercial Bank V and Electronics Company NH Ltd., in which the Notice of Acceptance No. 66/2022/TLST-Commercial was issued on November 2, 2022, but the Decision to Bring the Case to Trial No. 89/2024/QĐXXST-Commercial was not rendered until September 16, 2024 nearly two years later (*Bản án số 89/2024/KDTM-ST ngày 16/9/2024 về việc "Tranh chấp hợp đồng dịch vụ"* [Judgment No. 89/2024/KDTM-ST dated September 16, 2024 on "Service contract dispute"], 2024). Although the trial preparation periods in both cases clearly exceeded the statutory limit, the Procuracy in its opinions on both judgments concluded that the courts had complied with procedural law (Trương Thị Diễm My, 2020). This demonstrates that first-instance proceedings can be repeatedly extended or suspended, resulting in prolonged trial preparation periods. Consequently, while under the Civil Procedure Code, the duration of trial preparation in commercial cases is expected to last from three to five months (including extensions), in practice, such cases are often significantly

prolonged and rarely resolved within the statutory time frame (Ngô Văn Hiệp, 2022).

Recommendations for Legal Reform

The legal framework governing the time limits for resolving commercial cases in Vietnam is relatively comprehensive. Nevertheless, delays in adjudicating such cases in the courts remain widespread, often without justification. These delays reveal significant shortcomings in the implementation process. Prolonged proceedings not only undermine the lawful rights and interests of the parties but also impose substantial costs in terms of time, effort, and financial resources. Moreover, frequent appeals and protests of court decisions lead to repeated hearings, further prolonging proceedings and adversely affecting enterprises' business operations.

To enhance the effectiveness of pre-trial preparation and adjudication of commercial cases in the future, the following measures should be adopted:

First, it is necessary to improve judges' professional competence and accountability in handling commercial cases. Such cases are often complex, requiring judges not only specialised legal knowledge but also expertise in relevant business fields, along with adjudicative skills and practical experience. However, at the district level, judges are required to hear cases across multiple domains, and their experience in adjudicating commercial disputes remains limited, leading to uncertainty in practice. In some instances, a few judges deliberately prolong the resolution of cases due to concerns about professional performance evaluation or reappointment. Therefore, the State should ensure appropriate remuneration policies and strengthen training programs on commercial law and related disciplines for the judiciary. Additionally, the number of judges at district-level courts should be increased to alleviate caseload pressures and ensure the quality and timeliness of adjudication. At the same time, each judge must be held to high standards of professional responsibility and judicial ethics to resolve commercial disputes in strict compliance with the law.

Second, certain provisions of the *2015 Civil Procedure Code* concerning the time limits for resolving commercial cases should be reviewed and amended. Currently, the preparation period for trial in commercial cases is limited to two months from the date of acceptance. Given the complexity of such cases, which often involve extensive fact-finding and the collection of evidence from multiple sources, this period is inadequate. In addition, the service of procedural documents and other investigative steps is time-consuming. The shortage of judges specialised in commercial matters at district-level courts, combined with a heavy caseload, frequently results in case backlogs. Accordingly, it is recommended to amend Point (b), Clause 1, Article 203 of the *2015 Civil Procedure Code* to extend the preparation period for trial in commercial cases to three months.

Furthermore, the provisions on extending the trial preparation period remain vague in complex cases, force majeure events, or objective obstacles. Terms such as "cases of a complex nature," "objective obstacles," and "legitimate reasons" were previously defined under Clause 3, Article 14 of Resolution

No. 05/2012/NQ-HĐTP of the Council of Judges of the Supreme People's Court dated 03 December 2012. However, this resolution has expired without replacement, creating a significant legal gap that judges may exploit to deliberately prolong proceedings.

Third, it is crucial to strengthen mechanisms for monitoring and supervising compliance with statutory time limits in commercial cases, and to impose stricter sanctions for violations. Currently, oversight is mainly conducted through reporting, summaries, and periodic reviews. Nonetheless, commercial cases continue to be delayed without legitimate grounds, in contravention of procedural time limits prescribed by law. Disciplinary measures against judges violating case resolution deadlines remain insufficiently emphasised. In practice, litigants and their legal representatives often submit petitions urging timely adjudication, but the courts' responses and corrective actions are frequently delayed. In some instances, complaints and petitions filed in superior courts remain unresolved for years, exacerbating the problem. To address this situation, effective monitoring of case progress must be prioritised, and judges who breach statutory deadlines should be subject to strict disciplinary measures.

Conclusion

The statutory framework on time limits for pre-trial preparation in commercial cases in Vietnam provides a necessary procedural foundation but suffers from both rigidity and ambiguity. The lack of clarity regarding commencement, expiration and permissible extensions has resulted in inconsistent application, judicial discretion without clear guidance, and prolonged delays that undermine business confidence and legal certainty.

To address these shortcomings, legislative reform is urgently needed. First, the preparation period for commercial cases should be extended to reflect the complexity of such disputes more accurately. Second, explicit criteria must be introduced to define complex cases, objective obstacles, and legitimate grounds for extensions, thereby reducing arbitrary application. Third, judicial accountability should be strengthened through enhanced monitoring and supervision, and stricter disciplinary measures for violations of statutory deadlines.

By adopting these reforms, Vietnam can build a more transparent, efficient, and fair adjudicative framework for commercial cases, ensuring both the timely resolution of disputes and the protection of parties' legitimate rights. Ultimately, such improvements will enhance the credibility of the judiciary and foster a more favourable environment for commercial activities and economic development.

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