

### **Contract enforcement**

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The ability to enforce contracts and resolve disputes is fundamental for markets to function properly. Good contract enforcement practices enhance the predictability of commercial relationships and reduce uncertainty by assuring firms and individuals that their contractual rights will be upheld efficiently by local courts. In some countries, even though there are comprehensive laws in place to govern the settlement of contractual disputes, courts are highly inefficient, costly to use, or plagued with corruption. Therefore, besides the existence of contract law, equally important are the legal institutions that support its effective implementation. These legal institutions comprise the organization of courts, an independent and competent judiciary, the legal profession, the enforcement services, and the process of law making itself.

When procedures for enforcing commercial transactions are bureaucratic and cumbersome or when contractual disputes cannot be resolved in a timely and cost effective manner, economies become less efficient. Weak contract enforcement systems slow down trade, investment and economic growth more generally. They also represent a strong obstacle for innovation and entrepreneurship. For instance, under these conditions, firms will rely more heavily on long-term, personalized relationships with their suppliers or consumers to avoid risks. This will reduce potentially the capacity of new innovative firms to enter the market. Banks will also be more conservative and reduce their financing for new investments. Weak enforcement systems are particularly negative for entrepreneurship, since new business ventures without a record in the market will find it harder to obtain finance from banks and to obtain credit from their suppliers, in addition to the uncertainty involved in securing their own revenues (Ardagna and Lusardi, 2008).

In recent years some countries created specialized commercial courts, while others overhauled the organization of their courts or their system of judicial case management for commercial dispute resolution. The use of ICT can also contribute significantly to improving the enforcement of contracts, allowing litigants to file complaints electronically in commercial cases. This can speed up the filing and service process while enhancing transparency and limiting opportunities for corruption in the judiciary. The use of computerized systems for case management has proved to be an effective tool for reducing procedural delays at court and for monitoring the performance of judges and court officers. Besides formal systems of contract enforcement through the judiciary system, alternative dispute resolution systems can contribute to a more timely enforcement of contract with lower costs. This includes arbitration, mediation and conciliation hearings by industry bodies, specialized agencies or third party evaluators, conducted at the national or international level.

Finally, measuring conditions for contract enforcement is equally important. The World Bank's Doing Business rankings contain a ranking on contract enforcement that focuses on how public institutions function in the case of commercial disputes. This indicator measures the time, cost and procedural complexity of resolving a commercial lawsuit between two domestic businesses. The data are collected through a study of the codes of civil procedure and other court regulations as well as surveys completed by local litigation lawyers and by judges. The Doing Business report also monitors countries' initiatives and best practices to improve the enforcement of contracts.

### References

- Ardagna, S., Lusardi, A. (2008) "Explaining international differences in entrepreneurship: the role of individual characteristics and regulatory constraints", NBER Working Paper Series No. 14012, <a href="http://www.nber.org/papers/w14012">http://www.nber.org/papers/w14012</a> [1]
- OECD Policy Framework for Investment Toolkit: "Contract enforcement and dispute resolution" <a href="http://www.oecd.org/investment/toolkit/policyareas/investmentpolicy/cont...">http://www.oecd.org/investment/toolkit/policyareas/investmentpolicy/cont...</a> [2]



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 World Bank (2013), "Doing Business 2013: Smarter Regulations for Small and Medium-Size Enterprises", Washington, DC: World Bank Group. http://www.doingbusiness.org/~/media/GIAWB/Doing%20Business/Documents/An... [3]

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