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Legal Framework for the Summary Court Procedure in Resolving Disputes over Capital Mobilisation Contracts for Investment in the Construction of Off-Plan Housing under the Laws of Canada, Japan and Vietnam: A Comparative Law Perspective

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Abstract: The resolution by courts of disputes over capital mobilisation contracts for investment in the construction of housing to be formed in the future (off-plan housing) requires the combined application of civil procedure law and the related substantive law on land, housing and real estate business. On the basis of a functional comparison with Canada, represented principally by the simplified procedure, summary judgment and fast track rules of Ontario and British Columbia, and with Japan, represented by the summary court procedure, small claims litigation and the statutory trial period procedure introduced by the 2022 reform of the Code of Civil Procedure, the article analyses and assesses current Vietnamese law on the summary procedure under Chapter XVIII of the Civil Procedure Code 2015 as applied to these disputes. The analysis is organised around five procedural elements, namely the persons entitled to initiate proceedings, the composition of the trial bench, the documents and evidence attached to the statement of claim, including electronic evidence, the preparatory meeting on evidence and conciliation, and the adversarial procedure at the first-instance hearing, including hearings held online. The article finds that the Vietnamese summary procedure rests on cumulative entry conditions that capital mobilisation disputes rarely satisfy, does not allow the parties to choose the summary track by agreement, and provides no mechanism for compelling disclosure by the developer or for preserving procedural acts upon conversion to the ordinary procedure. It proposes specific amendments to Articles 63, 65, 95, 96, 197, 206, 211, 244, 317, 318 and 320 of the Civil Procedure Code, to Resolution No. 33/2021/QH15 and to Joint Circular No. 05/2021, each supported by the corresponding Canadian and Japanese provisions.

Keywords: summary procedure; simplified procedure; summary judgment; statutory trial period procedure; capital mobilisation contract; off-plan housing; housing to be formed in the future; comparative civil procedure; Canada; Japan; Vietnam.

1. Introduction

Disputes over contracts on capital mobilisation for investment in the construction of housing to be formed in the future are among the most frequent civil disputes generated by the development of the real estate market. Because the subject matter of such disputes directly concerns property rights of considerable value, the progress of investment projects and the lawful rights and interests of numerous participants, the parties usually bring the matter before a court in accordance with the law once negotiation or conciliation has failed.[1] In this type of dispute, the claimant is typically a purchaser or capital contributor who has paid a substantial part of the price before the housing exists, whereas the defendant is a developer whose ability to perform depends on the legal status of the project, the progress of construction and the lawful use of the funds received.

In the context of judicial reform, the speed and cost at which a court resolves a dispute have become central measures of access to justice. Both Canada and Japan have built, within their general civil procedure, dedicated tracks that allow suitable cases to be resolved in a simpler, faster and proportionate manner, and both have combined these tracks with electronic filing and remote hearings so as to shorten proceedings, reduce litigation costs and widen access to justice.[2] Comparative scholarship nevertheless warns that procedural simplification and digitalisation must not erode the guarantees of a fair hearing, in particular the equality of

[1]Nguyen Thi Ha, "Resolving Disputes Arising from Apartment Business Activities at Court", in Ho Chi Minh City University of Law, *Proceedings of the Scientific Conference: Legal Framework for the Business of Apartment Buildings and Commercial and Service Real Estate* (Ho Chi Minh City, 2020), p. 289 (in Vietnamese).

[2]Bui Tien Dat, Nguyen Bich Thao and Tran Thi Trinh, "Online Courts and the Right to a Fair Trial: International Experience and Prospects in Vietnam", *Legislative Studies Journal*, No. 20 (444), October 2021 (in Vietnamese).

arms, the right to adduce and challenge evidence and the right to be heard.[3] For disputes over capital mobilisation contracts for off-plan housing, the question has particular significance because most contracts, payment records, project documents and correspondence are created, stored and transmitted electronically, while the disputed obligations frequently concern sums of money that can be established from documents.

In Vietnam, the summary procedure applicable to disputes over capital mobilisation contracts for investment in the construction of housing to be formed in the future is governed by the combined application of the Civil Procedure Code 2015, as most recently amended in 2025, the Civil Code 2015, the Law on Housing 2023, the Law on Real Estate Business 2023, the Law on Electronic Transactions 2023 and related instruments. These provisions provide an important legal basis for the resolution of civil disputes in general and of disputes arising from capital mobilisation contracts for off-plan housing in particular. However, the narrow and cumulative conditions for applying the summary procedure under Article 317 of the Civil Procedure Code, together with the growing use of online hearings, raise legal issues concerning the persons entitled to initiate proceedings, the composition of the trial bench, the submission and assessment of documents and electronic evidence, the organisation of conciliation, the conduct of the hearing, the authentication of participants and the protection of the procedural rights of the parties.[4] In capital mobilisation disputes specifically, the verification of the legal status of the project, the examination of investment files, the valuation of assets, the inspection of the state of construction and the assessment of electronic data continue to raise practical legal difficulties that frequently prevent a case from satisfying the statutory conditions of the summary procedure.

In recent years, the People's Courts have resolved a large number of real estate disputes, including disputes over capital mobilisation contracts for off-plan housing. The quality of adjudication has gradually improved, and the digitisation of case files, the use of electronic documents and the organisation of online hearings have produced initial results. Practice nevertheless reveals certain bottlenecks relating to the legal basis, the technological infrastructure and the digital procedural skills of participants.[5]

Against this background, the article addresses three research questions. First, how do Canadian and Japanese law organise summary or simplified court procedures capable of resolving disputes over contracts for off-plan housing? Second, to what extent do the current Vietnamese provisions on the summary procedure allow these disputes to be resolved quickly while safeguarding the rights of the parties, and where do the legal gaps lie? Third, which specific provisions of Vietnamese law should be amended or supplemented, and in which direction, by reference to the Canadian and Japanese experience? To answer these questions, the article employs legal analysis to identify the content of the relevant provisions, the functional comparative method to compare institutions that perform the same function in different legal systems, and the case-study method to examine typical judgments and incidents. Canada was chosen because its provinces, and Ontario in particular, have developed a mature system of proportionate procedures in a common law setting with a large pre-construction condominium market, whereas Japan was chosen because its civil law tradition is close to that of Vietnam and its 2022 reform introduced both full digitalisation and a new time-limited trial procedure. The analysis is organised around five procedural elements examined in parallel for each jurisdiction: the persons entitled to initiate proceedings, the composition of the trial bench, the documents and evidence attached to the statement of claim, the preparatory meeting on evidence and conciliation, and the adversarial procedure at the first-instance hearing.

2. The Summary Procedure for Resolving Disputes over Capital Mobilisation Contracts for Off-Plan Housing by Courts in Canada and Japan

2.1. Under Canadian law

Canada has no single code of civil procedure. The Constitution Act, 1867 confers on the provinces legislative authority over property and civil rights and over the administration of justice in the province, including procedure in civil matters in provincial courts. The summary procedure applicable to disputes over contracts for pre-construction housing, which is the Canadian functional equivalent of the Vietnamese capital mobilisation contract for off-plan housing, is therefore found in provincial rules, of which the Rules of Civil Procedure of Ontario and the Supreme Court Civil Rules of British Columbia are the most developed. In Ontario, three summary mechanisms coexist. The simplified procedure under Rule 76 is mandatory for actions

[3]Burkhard Hess, "Digitalization of Civil Procedure and AI: The European Perspective", *Pazmany Law Review*, Vol. 12, No. 1 (2025), pp. 213–220; Yu. A. Kondyurina, "The Impact of the Digitalization of the Procedural Form on the Civil Process", *Law Enforcement Review*, Vol. 9, No. 2 (2025), pp. 140–147.
[4]Le Thi Hang, "Application of Online Methods in Resolving Disputes on E-Commerce Platforms: International Experience and Lessons for Vietnam", *People's Court Journal*, No. 1 (2024), pp. 44–55 (in Vietnamese).
[5]Nguyen Huu Chinh, "The Effectiveness of Organising Online Court Hearings", *People's Court Journal* (online), https://tapchitoaan.vn/hieu-qua-cua-hoat-dong-to-chuc-phien-toa-truc-tuyen8926.html (in Vietnamese).

claiming exclusively money, real property or personal property of $200,000 or less (all amounts for Canada being in Canadian dollars), exclusive of interest and costs; summary judgment under Rule 20 is available in any action where there is no genuine issue requiring a trial; and the Small Claims Court has, since 1 October 2025, jurisdiction over claims of up to $50,000. In British Columbia, the corresponding instruments are summary judgment under Rule 9-6, summary trial under Rule 9-7 and fast track litigation under Rule 15-1. These mechanisms do not create a procedure detached from ordinary civil procedure; they are proportionate tracks within it, applied on the basis of the general principle that the rules be construed to secure the just, most expeditious and least expensive determination of every proceeding and that orders be proportionate to the importance and complexity of the issues and the amount involved.[6] The Supreme Court of Canada has described this orientation as a required culture shift that moves the emphasis away from the conventional trial towards proportionate procedures tailored to the needs of the particular case.[7] The Ontario Civil Rules Review went further in its Final Policy Report of 31 October 2025, released on 15 December 2025, by proposing a Summary Track for claims above the Small Claims Court ceiling and below $500,000 that would end in a paper-based summary hearing preceded by mandatory mediation; however, the joint statement of the Attorney General of Ontario and former Chief Justice Morawetz of 28 May 2026 announced a sequenced implementation, and no replacement rules had been enacted at the time of writing, so that Rules 20 and 76 remain in force.[8]

The substantive framework against which these procedures operate is equally provincial. In Ontario, the Condominium Act, 1998 requires the declarant to deliver a disclosure statement, grants the purchaser a ten-day right to rescind the agreement of purchase and sale after receipt of the agreement and the disclosure statement, allows rescission for material changes subject to statutory exclusions, and requires deposits to be held in trust; the Ontario New Home Warranties Plan Act, administered by Tarion, protects condominium deposits up to $20,000 and compensates delayed occupancy or closing up to $7,500. A ten-day cooling-off period for new freehold homes, made by Ontario Regulation 290/26 under section 53.2 of the New Home Construction Licensing Act, 2017, will apply from 1 January 2027. In British Columbia, the Real Estate Development Marketing Act prohibits marketing without a filed disclosure statement, requires deposits to be held in trust, grants a seven-day right of rescission and renders an agreement unenforceable against the purchaser where the developer breaches the disclosure requirements.[9] Because these statutes define the rights at stake with considerable precision, many disputes turn on documents and are well suited to summary determination.

First, the persons entitled to initiate proceedings. Ontario law does not contain a single provision listing who may sue; standing follows the substantive right asserted. In disputes over pre-construction housing, the plaintiff may be the purchaser under the agreement of purchase and sale, the developer or declarant claiming damages for a failure to close, an assignee of the agreement where the contract permits assignment, or the successor of a party. In the first place, where the claim is exclusively for money or property within the monetary limit, the plaintiff must bring the action under Rule 76, and other plaintiffs may opt into the simplified procedure unless the defendant objects; where the dispute turns on the interpretation of the contract alone, the purchaser or developer may proceed by application for the determination of rights that depend on the interpretation of a contract, which is heard summarily on affidavit evidence. In the second place, where a project is cancelled and many purchasers are affected, the claims may be aggregated through a representative plaintiff under the Class Proceedings Act, 1992, and the defendant may then seek summary judgment on common issues. In British Columbia, the purchaser's statutory rights of rescission and unenforceability under the Real Estate Development Marketing Act constitute a direct cause of action, and a case qualifies for fast track litigation where the claim is $100,000 or less, the trial can be completed within three days, the parties consent or the court

[6]*Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, s. 92(13)–(14), reprinted in R.S.C. 1985, App. II, No. 5; *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 (Ontario), rr. 20 and 76.02(1); *Courts of Justice Act*, R.S.O. 1990, c. C.43, s. 23(1); *Small Claims Court Jurisdiction and Appeal Limit*, O. Reg. 626/00, as amended with effect from 1 October 2025; Ministry of the Attorney General of Ontario, "Civil claims: simplified procedure" (updated 1 October 2025), https://www.ontario.ca/page/civil-claims-simplified-procedure; *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, r. 1.04(1) and (1.1); *Supreme Court Civil Rules*, B.C. Reg. 168/2009, rr. 9-6, 9-7 and 15-1.

[7]*Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, para. 2.

[8]Civil Rules Review, *Final Policy Report* (Superior Court of Justice of Ontario, 31 October 2025, released 15 December 2025), https://www.ontariocourts.ca/scj/files/pubs/2025-12-15-final-policy-proposal.pdf; "Attorney General Downey and Former Chief Justice Morawetz Joint Statement on Civil Rules Review" (28 May 2026), https://www.ontariocourts.ca/scj/news/.

[9]*Condominium Act, 1998*, S.O. 1998, c. 19, ss. 72, 73, 74 and 81; *Ontario New Home Warranties Plan Act*, R.S.O. 1990, c. O.31; Tarion Warranty Corporation, "Deposit protection" and "Delayed closing" (2026), https://www.tarion.com; Home Construction Regulatory Authority, "HCRA Directives and Advisories" (modified 3 September 2026), https://www.hcraontario.ca; *Real Estate Development Marketing Act*, S.B.C. 2004, c. 41, ss. 14, 15, 18, 19, 21 and 23.

so orders. Proceedings in Ontario may be commenced electronically through the Civil Claims Online Portal, without any change in the substantive conditions of standing.[10]

Second, the composition of the trial bench. Summary procedures in Canada are conducted by a single judge of the superior court, and no lay element is involved. In the first place, the simplified procedure excludes jury notices, save for defamation, malicious arrest, malicious prosecution and false imprisonment, so that a pre-construction housing dispute under Rule 76 is always tried by a judge alone; the British Columbia fast track equally proceeds without a jury. In the second place, on a motion for summary judgment, the enhanced powers to weigh the evidence, evaluate the credibility of a deponent and draw reasonable inferences are reserved to a judge, rather than an associate judge, which confirms that the simplification concerns the procedure and not the judicial quality of the decision-maker.[11] Where the dispute is complex, for example because it involves a cancelled project, multiple purchasers or contested evidence of the developer's financing, the court will refuse summary judgment or the case will proceed under the ordinary procedure, but the bench remains a single judge.

Third, the documents and evidence attached to the statement of claim. The statement of claim must contain a concise statement of the material facts on which the party relies, and the evidentiary burden is discharged through early disclosure rather than through documents filed with the claim. In the first place, in a simplified procedure action, each party's affidavit of documents must include a list of the persons who may be called as witnesses, written discovery and cross-examination on affidavits are excluded, and oral discovery is limited to three hours per party. In the second place, on a motion for summary judgment, the evidence is presented by affidavit, and the responding party may not rest on the allegations or denials in its pleadings but must set out specific facts showing that there is a genuine issue requiring a trial. In disputes over pre-construction housing, the evidence typically consists of the agreement of purchase and sale with its amendments and the Tarion addendum, the disclosure statement and its receipt, deposit receipts and trust account records, notices of material change or termination, and emails between the parties. Electronic records are admissible under the Ontario Evidence Act, which provides that the best evidence rule is satisfied on proof of the integrity of the electronic record and that such integrity may be proved by evidence of the integrity of the electronic records system in which the data were recorded or stored.[12]

Fourth, the preparatory meeting on evidence and conciliation at first instance. Canadian procedure does not provide for a single preparatory meeting equivalent to the Vietnamese session on evidence and conciliation, but it achieves the same functions through a sequence of mandatory steps. In the first place, in Toronto, Ottawa and the County of Essex, actions are subject to mandatory mediation, which must take place within 180 days after the first defence is filed; in a simplified procedure action, the parties must also agree on a trial management plan at least 30 days before the pre-trial conference, at which the judge narrows the issues and explores settlement. In the second place, offers to settle carry cost consequences that encourage early agreement, and hearings and conferences may be attended in person, by telephone or by video, the method being specified in advance subject to objection. On a motion for summary judgment, the Supreme Court of Canada requires the judge first to determine, on the evidence in the record alone, whether there is a genuine issue requiring a trial, and only then to consider whether the enhanced fact-finding powers can avoid a trial; the motion thus performs the filtering function that the Vietnamese preparatory meeting is intended to serve.[13]

Fifth, the adversarial procedure at the first-instance hearing. In the first place, every simplified procedure trial follows a summary trial model in which evidence-in-chief is given mainly by affidavit, while cross-examination and re-examination take place orally before the judge; the trial may not exceed five days, and no party may recover costs exceeding $50,000 or disbursements exceeding $25,000, which makes the financial exposure of a purchaser predictable. In the second place, on a motion for summary judgment, the court shall grant judgment if it is satisfied that there is no genuine issue requiring a trial; this is the case when the process allows the judge to make the necessary findings of fact, apply the law to the facts and reach a fair and just determination in a proportionate, more expeditious and less expensive manner, and the judge may order a mini-trial in which oral evidence is presented on specific issues. Where summary judgment is refused, the court may give directions specifying the facts that are not in dispute so that the trial proceeds expeditiously. In British Columbia, the court may grant judgment on a summary trial unless it is unable to find the facts necessary to

[10] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 14.05(3)(d) and 76.02; *Class Proceedings Act, 1992*, S.O. 1992, c. 6; *Supreme Court Civil Rules*, B.C. Reg. 168/2009, r. 15-1(1); *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 4.05 and 4.05.1.

[11] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 20.04(2.1) and 76.02.1; Supreme Court of British Columbia, "Fast Track Litigation" (2023), https://supremecourtbc.ca/civil-law/before-trial/fast-track-basics.

[12] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 20.02(2), 25.06(1), 76.03 and 76.04; *Evidence Act*, R.S.O. 1990, c. E.23, s. 34.1(4), (5) and (5.1).

[13] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 24.1.09(1), 50 and 76.10(2); *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, para. 66; *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 1.08 and 49.

decide the issues or considers that it would be unjust to decide them summarily, and fast track trials attract fixed costs of $8,000 to $11,000 depending on their length.[14] The cases in Box 1 show that the central questions in pre-construction disputes, namely the validity of rescission, the effect of exclusion clauses on a cancelled project, the forfeiture of deposits and the assessment of damages for a failure to close, are routinely resolved by summary judgment.

Box 1. Typical Canadian cases: summary judgment in disputes over pre-construction housing agreements

Ritchie v. Castlepoint Greybrook Sterling Inc., 2020 ONSC 3840, affirmed 2021 ONCA 214. After the developer cancelled a pre-construction condominium project, purchasers brought a proposed class action. The Superior Court granted summary judgment dismissing the claim because the exclusion clause in the agreements limited recovery to the return of deposits with interest, and the Court of Appeal upheld that result.

Chen v. Brookfield Residential (Ontario) Limited, 2022 ONCA 887. The purchaser's notice of rescission for material change was held invalid because changes to unfinished amenities are excluded from the statutory definition of a material change; the purchaser's conduct was an anticipatory breach, and summary judgment allowing the builder to retain the deposit and claim damages was affirmed.

VanderMolen Homes Inc. v. Mani, 2025 ONCA 45, and *Eyelet Investment Corp. v. Zhou*, 2025 ONSC 4434, affirmed 2026 ONCA 453. In the first case, purchasers who had affirmed the agreement by paying a second deposit and then refused to close were held liable for damages of $142,757.89 on summary judgment; in the second, the vendor's damages claim on a pre-construction house was dismissed on summary judgment for failure to mitigate, the Court of Appeal noting that both parties had agreed to summary determination.

Canada also offers an online, summary model for condominium disputes after construction. The Civil Resolution Tribunal of British Columbia, which resolves small claims of up to $5,000 and strata property claims through an online process, illustrates the volume that a dedicated summary forum can absorb (Table 1). Its jurisdiction does not extend to the pre-sale contract itself, which remains within the courts, but the data show the institutional capacity of a document-based process for housing-related disputes.[15]

Table 1: New applications to the Civil Resolution Tribunal of British Columbia, fiscal years 2019/20–2024/25

Fiscal year	Small claims	Strata property claims	All claim types
2019/20	4,926	793	5,880
2020/21	4,238	958	5,502
2021/22	4,175	862	5,309
2022/23	4,733	890	7,260
2023/24	5,510	954	7,815
2024/25	5,737	977	8,806

Source: compiled by the author from the Civil Resolution Tribunal Annual Reports 2021–2022 and 2024–2025. In 2024/25 the median time to resolution was 198 days for small claims and 346 days for strata claims.

2.2. Under Japanese law

In Japan, the summary procedure for resolving disputes over capital mobilisation contracts for off-plan housing is built on the Code of Civil Procedure, first enacted on 26 June 1996 as Act No. 109 of 1996, and on the reforms of recent years. In the first place, Act No. 48 of 2022, promulgated on 25 May 2022, digitalised civil litigation in stages: preparatory proceedings and settlement sessions conducted entirely by web conference from 1 March 2023, oral argument by web conference from 1 March 2024, and, from 21 May 2026, online filing, electronic case records, mandatory online filing for attorneys and the new statutory trial period procedure. In the second place, Act No. 53 of 2023 extended the use of information and communication technology to related

[14] *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 76.10(5), 76.12 and 76.12.1(1); *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, rr. 20.04(2)(a), 20.04(2.2) and 20.05; *Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, para. 49; *Supreme Court Civil Rules*, B.C. Reg. 168/2009, r. 9-7(15)(a) and r. 15-1.

[15] Civil Resolution Tribunal, *Annual Report 2021–2022* and *Annual Report 2024–2025*, https://civilresolutionbc.ca; *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25; *Tribunal Small Claims Regulation*, B.C. Reg. 232/2018, s. 3.

civil procedures, including conciliation and non-contentious matters.[16] Unlike Ontario, which relies on a motion-based filter available in any action, Japan has established distinct summary tracks defined by the value of the claim or by the consent of the parties, and it has implemented digital procedure along a cautious, staged path. Three tracks are relevant: the special provisions for proceedings in summary courts, which have jurisdiction over claims not exceeding 1,400,000 yen; small claims litigation for claims for the payment of money not exceeding 600,000 yen; and the statutory trial period procedure, under which oral argument must close within six months. The substantive context is set by the Building Lots and Buildings Transaction Business Act, which prohibits advertising and contracting for uncompleted buildings before the required building confirmation, grants a cooling-off right of eight days, caps earnest money and liquidated damages at two-tenths of the price, and requires the dealer to take preservation measures, such as a bank guarantee or guarantee insurance, before receiving advance payments for an uncompleted property that exceed five per cent of the price or the amount set by Cabinet Order.[17] Because advance payments for off-plan housing are secured in this way, the typical Japanese dispute concerns delay, cancellation or the refund of a secured deposit rather than the loss of unsecured capital.

First, the persons entitled to initiate proceedings. Standing in Japan follows the general principle that the plaintiff must assert a right of its own that requires judicial protection. Since the 2022 reform renumbered the provisions, Article 134 of the Code requires the complaint to state the parties, their legal representatives, and the object and cause of the claim. In relations of capital mobilisation for off-plan housing, the plaintiff may be the purchaser or capital contributor, the developer, an assignee of the claim or a successor to the contractual rights and obligations. In the first place, access to the summary tracks depends on the nature of the claim and on the will of the parties: a plaintiff seeking small claims litigation must request it when filing and declare the number of times it has used the procedure at the same summary court in the year, the limit being ten, and a false declaration is punishable by a civil fine of up to 100,000 yen; before a summary court, an action may even be filed orally, and it suffices to state the gist of the dispute. In the second place, the statutory trial period procedure is available only on the joint application of both parties, or on the application of one party with the consent of the other, and the court must then order it unless doing so would harm fairness between the parties or impede a proper hearing; actions concerning consumer contracts and individual labour disputes are excluded. An individual purchaser suing a developer under a consumer contract therefore cannot be placed on this track, whereas a corporate investor contributing capital to a housing project can. Online filing is open to everyone and is mandatory for attorneys acting under a mandate, who must also register to receive electronic service; the right to sue is unchanged in substance.[18]

Second, the composition of the trial bench. Japanese law does not create a special bench for cases handled through summary tracks or online. A district court handles cases through a single judge, and a panel of three judges hears a case when the panel itself so decides or when the law so requires; a summary court always handles cases through a single judge. In disputes over capital mobilisation contracts for off-plan housing, where the value is high, many contributors are involved or technical documents of the construction project must be examined, the district court may decide to hear the case as a three-judge panel. In summary courts, judicial commissioners selected from among citizens may assist the court in attempting settlement and may express opinions at the hearing, so that a lay element is introduced into settlement without being introduced into adjudication.[19] The use of web conferences to conduct hearings, exchange documents or perform certain procedural acts does not alter the independence of the judges, the composition of the court or its jurisdiction.

Third, the documents and evidence attached to the complaint. The complaint must identify the claim and its cause, and the Rules of Civil Procedure require it to state the facts supporting the claim together with the important indirect facts and evidence, and to be accompanied by copies of the important documentary evidence.

[16]Ministry of Justice of Japan, "Schedule for the Enforcement of the Act Partially Amending the Code of Civil Procedure (Act No. 48 of 2022)", https://www.moj.go.jp/MINJI/minji07_00316.html; Supreme Court of Japan, "Digitalisation of Civil Litigation", https://www.courts.go.jp/saiban/minjidejitaruka/; Naoya Yokota, "Japan's Civil Court Digitalization, May 21, 2026: mints Mandate and the Problem of the 7% Pro-Se Litigant", Institute for Social Vision Design, 21 May 2026, https://isvd.or.jp/en/columns/civil-court-digitalization-2026-may-21-justice-divide.

[17]Courts Act (Act No. 59 of 1947), art. 33(1)(i); Code of Civil Procedure (Act No. 109 of 1996, as amended by Act No. 48 of 2022), arts. 270–280, 368–381 and 381-2–381-8; Etsuko Sugiyama, "Simplified Civil Procedure in Japan", *Erasmus Law Review*, Vol. 8, No. 4 (2015), pp. 201–209; Building Lots and Buildings Transaction Business Act (Act No. 176 of 1952), arts. 33, 36, 37-2, 38, 39 and 41(1).

[18]Code of Civil Procedure, arts. 134, 271, 272, 368(1)–(3) and 381; Rules of Civil Procedure (Supreme Court Rules No. 5 of 1996), art. 223; Code of Civil Procedure, art. 381-2(1)–(3); Code of Civil Procedure, arts. 109-2, 132-10 and 132-11.

[19]Courts Act (Act No. 59 of 1947), arts. 26(1)–(2) and 35; Code of Civil Procedure, art. 279(1).

In disputes over off-plan housing, the plaintiff will usually submit the sale or capital mobilisation contract, the written explanation of important matters delivered by the dealer, receipts for the earnest money and advance payments, the preservation certificate issued under the guarantee, bank records, emails and the developer's notices of construction progress or delay. In the first place, the summary tracks restrict evidence in proportion to their speed: in small claims litigation only evidence that can be examined immediately may be taken, witnesses may be heard without oath and by telephone, and in the statutory trial period procedure the parties must submit their allegations and evidence within five months of the first hearing. In the second place, since 21 May 2026 electronic records have been examined as evidence under specific provisions, and where a party fails to comply with an order to produce a document, the court may find the opponent's allegations concerning that document to be true, which gives the purchaser a practical tool against a developer who controls the project records.[20]

Fourth, the preparatory meeting on evidence and conciliation at first instance. In Japan, the functions of the Vietnamese session on evidence and conciliation are performed by the preparatory procedures, which allow the court to clarify the claim and its grounds, the disputed facts and the evidence to be examined before the hearing. Three forms exist: preparatory oral argument, preparatory proceedings and preparatory proceedings by documents. Since 1 March 2023, preparatory proceedings may be conducted entirely by web conference or telephone without the former requirement that a party reside far from the court. In the first place, the court may attempt a settlement at any stage of the litigation, settlement sessions may be held remotely, and a settlement entered in the electronic record has the same effect as a final and binding judgment. In the second place, summary courts have specific conciliation tools: a settlement may be sought before any action is filed, and where a claim for money is not disputed, the court may issue a ruling in lieu of settlement that allows deferred or instalment payment for a period not exceeding five years. The court may also refer a pending action to civil conciliation, a conciliation agreement having the same effect as a judicial settlement, and may issue an order in lieu of conciliation.[21] In disputes over off-plan housing, these tools serve to narrow the dispute, determine the payment obligation, confirm the progress of the project and fix the terms of any refund or compensation. Whether conducted in person or online, conciliation must remain voluntary, ensure equality between the parties and preserve the court's control over the content of the agreement.

Fifth, the adversarial procedure at the first-instance hearing. Japanese law maintains the principles of public trial, orality and immediacy: judgments are pronounced publicly, a judgment may be rendered only after oral argument, and it may be rendered only by the judges who took part in that argument. Oral argument may be held by video and audio transmission after hearing the parties, and summary courts may examine witnesses and parties in the same manner. In the first place, small claims litigation is completed in a single hearing date unless there are special circumstances, the judgment is rendered immediately after the close of oral argument, the court may grant deferred or instalment payment for up to three years, no appeal lies against the judgment, and the only remedy is an objection to the same summary court within two weeks; the defendant may also request transfer to the ordinary procedure before arguing at the first hearing. In the second place, under the statutory trial period procedure, the first hearing must be held within two weeks of the order, oral argument must close within six months of that hearing, and judgment must be rendered within one month of the close of argument; the case is transferred to the ordinary procedure if either party so requests or if the court finds the procedure unsuitable, no appeal lies against the judgment, and an objection filed within two weeks returns the case to its state before the close of oral argument under the ordinary procedure.[22] The online and summary tracks in Japan are therefore not a substitute for adversarial argument but technical and procedural means that allow the court to organise proceedings more efficiently while preserving the core standards of adjudication. The judicial statistics in Table 2 and Figure 1 show that the small claims track has remained stable and fast, while the ordinary first-instance docket of district courts has grown since 2023.

[20]Rules of Civil Procedure, arts. 53(1) and 55(2); Building Lots and Buildings Transaction Business Act, arts. 35 and 41; Code of Civil Procedure, arts. 220, 224, 231-2, 231-3, 371, 372 and 381-3(3).

[21]Code of Civil Procedure, arts. 164–167, 168–174 (in particular art. 170(3)) and 175–178; Monami Nohara, "Digital Reformation of Japanese Civil Procedures and its Future Prospects", Working Paper, Stanford Law School Gould Negotiation and Mediation Program (August 2023); Code of Civil Procedure, arts. 89, 267, 275 and 275-2; Civil Conciliation Act (Act No. 222 of 1951), arts. 16, 17 and 20(1).

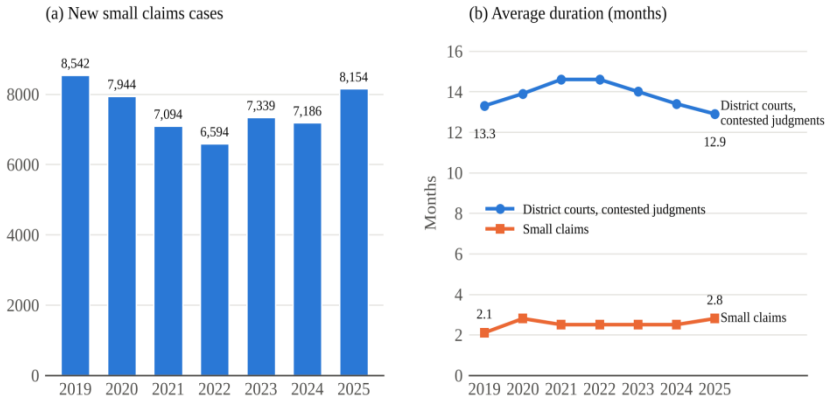
[22]Constitution of Japan, art. 82; Code of Civil Procedure, arts. 87(1), 87-2, 249(1) and 277-2; Code of Civil Procedure, arts. 370(1), 373, 374(1), 375(1), 377 and 378(1); Code of Civil Procedure, arts. 381-3(1)–(2), 381-4(1), 381-5, 381-6, 381-7 and 381-8(1); Atsumi & Sakai, *Newsletter IAIL_001* (August 2026), https://www.aplawjapan.com.

Table 2: New civil cases and average duration in Japanese courts, 2019–2025

Year	District courts: new ordinary first-instance cases	Summary courts: new ordinary cases	Small claims: new cases	District courts: average duration, all cases (months)	District courts: average duration, contested judgments (months)	Small claims: average duration (months)
2019	134,935	344,101	8,542	9.5	13.3	2.1
2020	133,430	309,365	7,944	9.9	13.9	2.8
2021	130,862	322,673	7,094	10.5	14.6	2.5
2022	126,666	326,444	6,594	10.5	14.6	2.5
2023	135,674	376,558	7,339	9.8	14.0	2.5
2024	141,530	421,616	7,186	9.2	13.4	2.5
2025	146,931	436,667	8,154	8.9	12.9	2.8

Source: compiled by the author from the Supreme Court of Japan, Annual Report of Judicial Statistics (Civil and Administrative Cases) for 2024 and 2025, and Data Book 2026. District court figures for duration include personal status cases. In 2025, neither party was represented by a lawyer in 9 per cent of the 143,859 cases concluded in district courts.

Figure 1: New small claims cases and average duration of civil proceedings in Japan, 2019–2025



Source: compiled by the author from Table 2.

Box 2. A typical Japanese case: delayed delivery of off-plan condominium units (HARUMI FLAG)
Purchasers of units in HARUMI FLAG, the condominium development on the site of the former Tokyo 2020 athletes' village, sued the sellers for damages caused by the postponement of the delivery date originally fixed for 27 March 2023. The Tokyo District Court, by judgment of 15 December 2022 (Reiwa 3 (Wa) No. 33428), dismissed the action as inadmissible on the ground that it was a claim for future performance. The Tokyo High Court, by judgment of 23 August 2023 (Reiwa 5 (Ne) No. 641), reversed and remanded the case, holding that the damages claimed were present claims or admissible future claims. The case shows that even a document-based claim arising from an off-plan contract may raise threshold questions of admissibility that exceed what summary tracks are designed to handle, and that the consumer exclusion of the statutory trial period procedure leaves such purchaser claims within the ordinary procedure.[23]

[23]Tokyo District Court, judgment of 15 December 2022, Reiwa 3 (Wa) No. 33428, https://www.courts.go.jp/hanrei/91791/detail4/index.html; Tokyo High Court, judgment of 23 August 2023, Reiwa 5 (Ne) No. 641, https://www.courts.go.jp/hanrei/92731/detail4/index.html.

Table 3: Comparison of summary-type court procedures applicable to disputes over off-plan housing contracts

Element	Canada (Ontario and British Columbia)	Japan	Vietnam
Legal basis	Ontario Rules of Civil Procedure, rr. 20 and 76; British Columbia Supreme Court Civil Rules, rr. 9-6, 9-7 and 15-1	Code of Civil Procedure, arts. 270–280, 368–381 and 381-2–381-8	Civil Procedure Code 2015, arts. 65 and 316–324
Entry criterion	Value (Rule 76: $200,000; fast track: $100,000), opt-in by the plaintiff, or absence of a genuine issue requiring a trial (Rule 20)	Value (1,400,000 yen; small claims: 600,000 yen) or joint application of the parties; consumer contracts excluded from the statutory trial period procedure	Cumulative conditions of art. 317(1): simple facts, admission of obligation, complete evidence, clear addresses, no foreign element; consumer cases below 100 million dong under art. 317(5)
Bench	Single judge; no jury	Single judge; three-judge panel possible in district courts; judicial commissioners assist settlement	Single judge without people's assessors
Evidence	Early disclosure with witness list; oral discovery limited to 3 hours; affidavits	Copies of important documents with the complaint; immediate evidence only in small claims; document production order with adverse finding	Evidence must be complete; court must not need to collect evidence
Conciliation	Mandatory mediation within 180 days (in designated areas); pre-trial conference; offers to settle	Settlement at any stage; ruling in lieu of settlement with instalments up to 5 years; referral to civil conciliation	No pre-trial conciliation; conciliation at the opening of the summary hearing
Time limits	Trial not exceeding 5 days; costs capped at $50,000	Small claims: one hearing date; statutory trial period: argument closes within 6 months, judgment within 1 month	Preparation 1 month; hearing within 10 days of the decision to bring the case to trial
Review	Ordinary appeal	No appeal in small claims and statutory trial period; objection within 2 weeks	Appeal within 7 days; appellate summary procedure

Source: compiled by the author from the provisions cited in Sections 2.1, 2.2 and 3.1.

3. Current Vietnamese Law on the Summary Procedure for Resolving Disputes over Capital Mobilisation Contracts for Off-Plan Housing by Courts and Recommendations for Improvement

3.1. Current Vietnamese law on the summary procedure for resolving disputes over capital mobilisation contracts for off-plan housing and the legal issues arising

Current Vietnamese law on the summary procedure for resolving disputes over capital mobilisation contracts for off-plan housing rests on the combination of the Civil Procedure Code 2015, most recently consolidated on 12 February 2026 after amendments that include the Law on Consumer Protection 2023 and Law No. 85/2025/QH15, with the instruments on online hearings and digital procedure, namely Resolution No. 33/2021/QH15 of the National Assembly, Joint Circular No. 05/2021/TTLT-TANDTC-VKSNDTC-BCA-BQP-BTP and Resolution No. 01/2026/NQ-HDTP of the Council of Judges of the Supreme People's Court, which has applied to procedural acts performed electronically since 1 March 2026. The Law on the Organisation of

People's Courts 2024 provides that courts try cases in person or online, the conditions and procedure for online hearings being left to the law, and since 1 July 2025 first-instance civil cases have mostly been heard by the 355 regional people's courts that replaced the district courts.[24] The substantive framework comprises the Civil Code 2015, which governs void transactions and their consequences, the Law on Housing 2023, which prohibits signing capital mobilisation documents or mobilising capital before the statutory conditions are met and the misuse of mobilised funds, and the Law on Real Estate Business 2023, which prohibits collecting money from the sale of future housing in breach of the law, permits a deposit not exceeding five per cent of the price only once the housing is eligible for business, limits the first payment to thirty per cent of the contract value, including the deposit, and requires a bank guarantee.[25] Because the disputed asset has not yet been formed when the contract is concluded and the transaction often takes the form of "reservation", "deposit", "capital contribution", "investment cooperation", "business cooperation" or "booking" agreements,[26] the application of the summary procedure, whether in person or online, raises the following legal issues.

First, the persons entitled to initiate proceedings. Article 186 of the Civil Procedure Code provides that agencies, organisations and individuals may, by themselves or through lawful representatives, initiate an action at a competent court to request the protection of their lawful rights and interests. In disputes over capital mobilisation contracts for off-plan housing, the plaintiff is usually a capital contributor, a depositor, a person who paid a reservation fee, a purchaser, a developer, a real estate business, an assignee of the right to claim or a successor to the contractual rights and obligations.[27] Article 189 requires the petition to state the date, the court, the names and addresses of the plaintiff, the defendant and persons with related rights and obligations, the rights and interests infringed, the claims, any witnesses and the list of attached documents, and Article 190(1) allows the petition to be sent online through the court's electronic portal. In the first place, the summary procedure adds requirements that concern the parties rather than the claim: all parties must have a clear address of residence or head office, and no party may reside abroad and no disputed property may be located abroad, unless the parties have agreed to the summary procedure or have produced evidence of lawful ownership and agreed on the treatment of the property. Capital mobilisation disputes that involve many contributors, some of them overseas Vietnamese, or developers whose registered office no longer corresponds to their actual location, therefore fall outside the summary track at the outset. In the second place, the Law on Consumer Protection 2023 inserted Article 317(5), under which a civil case for the protection of consumers with a transaction value below 100 million dong is resolved under the summary procedure without having to meet the conditions of Article 317(1).[28] This rule may apply to a purchaser who claims the refund of a reservation or booking fee, but the law does not specify whether the "transaction value" is the amount of the reservation agreement or the expected price of the housing unit, and the parties cannot otherwise choose the summary track by agreement in a purely domestic case.

Second, the composition of the trial bench. Article 63 of the Civil Procedure Code provides that the first-instance trial panel consists of one judge and two people's assessors, and that in special cases it may consist of two judges and three people's assessors, except as provided in Article 65; Article 65 provides that first-instance and appellate trials under the summary procedure are conducted by a single judge. These provisions are the direct legal basis for determining the bench in capital mobilisation disputes. However, current law does not explain what constitutes a "special case", nor does it set criteria for a five-member panel in complex housing and real estate cases. The Supreme People's Procuracy has observed that disputes over capital mobilisation, capital contribution and investment cooperation contracts are complex because they involve civil, land, housing, construction and real estate business law over several periods, and the practice of procuratorial supervision

[24]Civil Procedure Code No. 92/2015/QH13 (consolidated by Consolidated Text No. 21/VBHN-VPQH of 12 February 2026), Chapter XVIII (arts. 316–324); Law No. 85/2025/QH15 of 25 June 2025 amending the Civil Procedure Code and related laws (in force from 1 July 2025); Resolution No. 33/2021/QH15 of 12 November 2021 on online court hearings; Joint Circular No. 05/2021/TTLT-TANDTC-VKSNDTC-BCA-BQP-BTP of 15 December 2021; Resolution No. 01/2026/NQ-HDTP of 15 January 2026 of the Council of Judges of the Supreme People's Court (in force from 1 March 2026); Law on the Organisation of People's Courts No. 34/2024/QH15 (as amended by Law No. 81/2025/QH15), arts. 136 and 148.

[25]Civil Code No. 91/2015/QH13, arts. 117, 122, 123 and 131; Law on Housing No. 27/2023/QH15, art. 3(6), and Decree No. 95/2024/ND-CP; Law on Real Estate Business No. 29/2023/QH15, arts. 8(5), 23(5), 24, 25 and 26, and Decree No. 96/2024/ND-CP, both decrees as amended by Decree No. 54/2026/ND-CP.

[26]Phung Thi Phuong Thao, *Law on Capital Mobilisation in Real Estate Business in Vietnam*, Doctoral Thesis in Law, Hanoi Law University (2025) (in Vietnamese).

[27]Pham Huu Nghia, *Capital Mobilisation Activities in Real Estate Business under Vietnamese Law*, Doctoral Thesis in Law, Graduate Academy of Social Sciences (2025) (in Vietnamese).

[28]Civil Procedure Code, arts. 186, 189, 190(1) and 317(1)(b)–(c); Law on Consumer Protection No. 19/2023/QH15, arts. 70(2) and 78.

shows that judgments are still annulled or amended, sometimes after becoming legally effective, mainly because of incorrect assessment of evidence and application of law.[29] Conversely, the summary procedure contains no value ceiling, so that a case involving several billion dong may be decided by a single judge without assessors if the conditions of Article 317(1) are met, whereas Ontario and Japan define their summary tracks primarily by reference to value. The absence of guidance from the Supreme People's Court on both thresholds makes the choice of bench insufficiently consistent, particularly in disputes with many parties, many contracts, many mobilised sums and many project documents.

Third, the documents and evidence attached to the petition. Article 91 requires a party who requests the court to protect its rights to collect, provide and submit documents and evidence proving that the request is well-founded and lawful, while reversing the burden for consumers, so that the trader must prove that it was not at fault. Article 94 lists the sources of evidence, including readable, audible and visible documents, electronic data, exhibits, statements of the parties and witnesses, expert conclusions, on-site appraisal records, valuation results and documents recording events made by competent persons; Article 95(3) recognises electronic data messages in the form of electronic data interchange, electronic documents, emails, telegrams, telexes, faxes and similar forms under the law on electronic transactions; and Article 96 requires the submission of documents to be recorded in minutes stating their name, form, content, number of copies and pages, time of receipt and the signatures of the person submitting and the person receiving them, with the court's seal. In these disputes, the documents typically include reservation, deposit, capital contribution, investment cooperation and business cooperation agreements, contracts for the sale of off-plan housing, payment records, bank statements, receipts, emails, messages, advertising materials, the legal file of the project and documents of state agencies on land, housing, construction, planning and eligibility for sale or capital mobilisation. In the first place, the summary procedure requires that the evidence be complete and that the court need not collect any further evidence. Yet the decisive question in most capital mobilisation disputes is whether the project was eligible, under Article 24 of the Law on Real Estate Business 2023, for the sale of future housing or for capital mobilisation at the time the money was collected, and the answer lies in documents held by the developer, the provincial housing authority or the guaranteeing bank. Current law does not state whether the court's retrieval of such official information counts as the collection of evidence that excludes the summary track, nor does it provide a mechanism compelling the developer to produce the project documents within the summary timetable.[30] In the second place, at an online hearing, Article 13(2)(c) of Joint Circular No. 05/2021 allows participants to send electronic copies of documents to the trial panel, which are received and recorded by court staff at the central point. Practice shows, however, that the delivery of documents at remote points, the storage of electronic files at the central point and the supporting role of information technology staff have not been standardised into a specific sequence, an omission that matters because these disputes depend heavily on electronic evidence, payment records and transaction data.

Fourth, the preparatory meeting on evidence and conciliation at first instance. Under the ordinary procedure, Article 208 requires the judge to hold, within the preparation period, a session to check the submission, access and disclosure of evidence and to conduct conciliation, except in cases that cannot be conciliated or in which conciliation cannot be conducted. In capital mobilisation disputes, this session is particularly important because the court must clarify the legal status of the project, the conditions for capital mobilisation and for the business of future housing, the sums received, their use, the progress of construction, the obligation to deliver the housing, the obligation to refund and liability for damages. In the first place, the summary procedure contains no equivalent session: Article 205(1) excludes cases handled under the summary procedure from pre-trial conciliation, and conciliation takes place only at the summary hearing, immediately after its opening (Article 320(3)), within a preparation period of one month from the acceptance of the case and a hearing that must open within ten days of the decision to bring the case to trial (Article 318(1)), the parties being entitled to complain about the decision to apply the summary procedure within three working days (Article 319). Moreover, Article 206(2) excludes from conciliation cases arising from civil transactions that violate legal prohibitions, which covers capital mobilisation in breach of Article 3(6) of the Law on Housing 2023 or Article 8(5) of the Law on Real Estate Business 2023; the law does not clarify whether the parties may nonetheless agree on the modalities of restitution and compensation that follow from the invalidity under Article 131 of the Civil Code. In the second place, some cases require verification of planning approvals, construction permits, eligibility for sale, inspection conclusions or documents of state agencies on land, housing and

[29]Bui Ai Gion, "Practice of Adjudicating Disputes over Real Estate Business Contracts at Court: Difficulties and Proposals", in Ho Chi Minh City University of Law, *Proceedings of the Scientific Conference: Legal Framework for the Business of Apartment Buildings and Commercial and Service Real Estate* (2020) (in Vietnamese).

[30]Civil Procedure Code, arts. 91(1), 93, 94, 95(3) and 96; Law on Electronic Transactions No. 20/2023/QH15; Civil Procedure Code, art. 317(1)(a); Law on Real Estate Business 2023, art. 24.

construction. Where documents decisive for the validity of the contract have not been collected, the court must apply the ground for suspension under Article 214(1)(d) rather than temporarily suspending the hearing under Article 259, since confusing the two may affect the lawfulness of the procedure. Practice also records the mobilisation of capital through contribution, investment cooperation or business cooperation agreements before the project is legally eligible, and, although the Law on Real Estate Business 2023 now regulates deposits for future real estate, "reservation" and "booking" practices continue without specific regulation, increasing legal risk and disputes (Box 3).

Box 3. Typical Vietnamese cases and incidents concerning capital mobilisation for off-plan housing

Judgment No. 127/2022/DS-ST of 28 September 2022 of the People's Court of Thu Dau Mot City, Binh Duong Province (Ha Thi H v. Joint Stock Company for Investment and Trade A). The court characterised a "reservation and investment cooperation contract" as an unlawful form of capital mobilisation and declared it void for violating a legal prohibition under the housing legislation then in force; the same prohibition is now contained in Article 3(6) of the Law on Housing 2023.[31]

Nhat Nam Real Estate Company. The Hanoi People's Procuracy indicted eleven defendants in November 2025 for fraud and money laundering; between 2020 and 2023 the company signed more than 43,300 investment cooperation contracts with 13,980 identified victims, mobilised more than 9,100 billion dong and appropriated about 4,968 billion dong.

DHGROUP Real Estate Investment and Trading Joint Stock Company (Ha Tinh Province). In December 2024, its general director and deputy general director were prosecuted for fraud after signing more than 600 capital contribution and loan contracts and raising more than 100 billion dong, which, according to the investigation, was not invested.

Ascent Plaza project, 375 No Trang Long Street, Ho Chi Minh City. From 2018 the developer collected about 25 per cent of the price under deposit agreements, with delivery promised for the fourth quarter of 2021; by 2022 no sale contract had been signed and no unit delivered, and the developer offered termination with interest of 5 per cent per year.

Inspection Conclusion No. 785/KL-TTCP of 22 March 2023 of the Government Inspectorate on Binh Duong Province (2011–2019) identified commercial housing projects behind schedule and signs of violations of land law in urban development projects.[32]

Fifth, the adversarial procedure at the first-instance hearing. Article 222 requires the first-instance hearing to be conducted at the time and place stated in the decision to bring the case to trial; Article 223 provides that the hearing is held at the court's head office or elsewhere provided that its solemnity and the courtroom layout under Article 224 are ensured; and Article 225 enshrines the principle of direct and oral trial, under which the court must directly establish the facts by hearing the parties, questioning and listening to answers, examining documents and evidence, conducting the debate and hearing the opinion of the procuracy. Article 1(2) of Resolution No. 33/2021/QH15 defines an online hearing as a hearing organised in a courtroom using electronic devices connected through a network, allowing parties and other participants to take part from a place outside the courtroom decided by the court while fully following images and sounds and performing procedural acts orally, continuously, publicly and simultaneously. An online hearing therefore does not negate the principle of direct trial but organises the hearing through simultaneous connection between points.[33]

[31]People's Court of Thu Dau Mot City, Binh Duong Province, Judgment No. 127/2022/DS-ST of 28 September 2022 on a dispute over a reservation and investment cooperation contract, https://thuvienphapluat.vn/banan/ban-an/ban-an-ve-tranh-chap-hop-dong-giu-cho-va-hop-tac-dau-tu-so-1272022dsst-267482.

[32]VnExpress, "Chairwoman of Nhat Nam Real Estate Indicted for Money Laundering and Defrauding Tens of Thousands of Customers" (4 November 2025), https://vnexpress.net/chu-tich-bat-dong-san-nhat-nam-bi-truy-to-rua-tien-lua-hang-chuc-nghin-khach-hang-4959932.html (in Vietnamese); VOH, "Husband and Wife Heading DHGROUP Prosecuted for Appropriating More than VND 100 Billion" (26 December 2024), https://voh.com.vn/phap-luat/vo-chong-tong-giam-doc-dhgroup-bi-khoi-to-vi-lua-dao-chiem-doat-hon-100-ty-dong-572478.html (in Vietnamese); Tuoi Tre, "Buyers of Ascent Plaza Apartments Hang Banners Demanding Their Rights" (21 April 2022), https://tuoitre.vn/nguoi-mua-can-ho-du-an-ascent-plaza-treo-bang-ron-doi-quyen-loi-20220421181915076.htm (in Vietnamese); Nhan Dan, "Binh Duong Implements Tasks under the Conclusion of the Government Inspectorate" (15 September 2023), https://nhandan.vn/post-772806.html (in Vietnamese).

[33]Civil Procedure Code, arts. 222–225; Resolution No. 33/2021/QH15, art. 1(1)–(2); Nguyen V. H. and Nguyen T. D. H., "Procedure for Conducting Online Hearings in Civil Cases", *State Management Review*, No. 325 (2023), pp. 71–76 (in Vietnamese).

The conditions for online hearings in civil cases nevertheless remain inconsistent. In the first place, Article 317(1) of the Civil Procedure Code allows the summary procedure when the case has simple facts, a clear legal relationship, an admission of obligation by the party concerned, complete evidence and no need for the court to collect further evidence, while Article 1(1) of Resolution No. 33/2021/QH15 allows online hearings for cases with simple facts and nature and clear evidence. The criteria for online trial are thus nearly identical to the conditions of the summary procedure, yet Article 3 of Joint Circular No. 05/2021 applies online hearings to both ordinary and summary cases, which creates uncertainty in practice. Data from Ho Chi Minh City show that, between 1 January 2022 and 14 March 2023, the two levels of courts in the city held 512 online hearings, of which only 3 concerned civil cases (Table 4); national figures show both a rising caseload and the volume of online trials (Table 5 and Figure 2). Online hearings in civil disputes, and especially in capital mobilisation disputes that rarely meet the criteria of "simple facts", "clear evidence" and "no need to collect further evidence", therefore remain rare.[34]

Table 4: Online hearings held by the two levels of courts of Ho Chi Minh City, 1 January 2022–14 March 2023

Type of case	Number of online hearings	Share (per cent)
Criminal cases	190	37.1
Administrative cases	11	2.1
Civil cases	3	0.6
Marriage and family cases	4	0.8
Labour cases	3	0.6
Administrative handling measures	301	58.8
Total	512	100.0

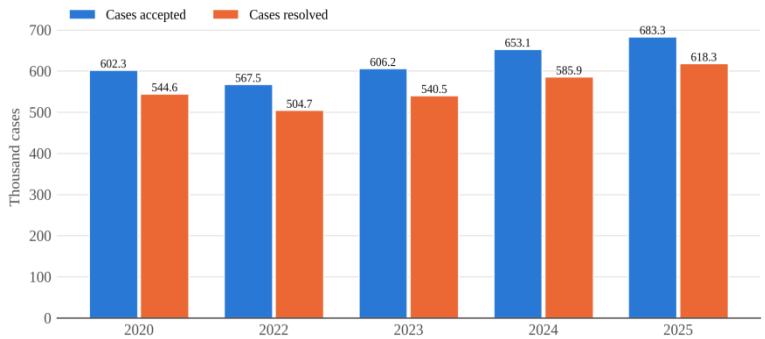
Source: Nguyen Hai An (2024), shares calculated by the author.

Table 5: Cases accepted and resolved by the People's Courts of Vietnam and online trials, 2020–2025

Year	Cases accepted	Cases resolved	Resolution rate (per cent)	Online trials held
2020	602,252	544,604	90.4	–
2022	567,521	504,681	88.9	about 4,000
2023	606,209	540,490	89.2	–
2024	653,082	585,932	89.7	20,302
2025	683,341	618,341	90.5	16,383

Source: compiled by the author from the reports of the Chief Justice of the Supreme People's Court to the National Assembly as published in Lawyers of Vietnam (2020), People's Court Journal (2022, 2026) and Nhan Dan (13 December 2024); the 2023 figures are derived from the year-on-year increases reported for 2024. Figures for 2021 were not published in comparable form. Figures refer to the annual reporting periods of the courts.

Figure 2: Cases accepted and resolved by the People's Courts of Vietnam, 2020–2025



Source: compiled by the author from Table 5.

[34]Nguyen Hai An, "Applying Civil Procedure Law to Online Trials at Court", *Vietnam Journal of Legal Sciences*, No. 07 (179) (2024) (in Vietnamese).

In the second place, the partial withdrawal of claims at the hearing raises a specific issue. Under Article 244(2), if a party voluntarily withdraws part or all of its claims, the trial panel accepts the withdrawal and discontinues the trial of the withdrawn part. In capital mobilisation disputes, however, the claims for a declaration of invalidity, the refund of contributed capital, damages and the handling of the consequences of an invalid transaction under Article 131 of the Civil Code are closely linked. If a party withdraws a claim that bears directly on the consequences of an invalid contract, discontinuing only that part may prevent the case from being resolved comprehensively and complicate enforcement, and there is no uniform guidance on whether the panel may accept a withdrawal when the claims are inseparable.

In the third place, the participants in online hearings raise further issues. Article 4 of Joint Circular No. 05/2021 limits an online hearing to no more than three connection points, and Article 10 sets out who participates at the central and remote points, whereas Article 46(2) of the Civil Procedure Code lists the persons conducting the proceedings as the chief judge, judges, people's assessors, court examiners and court clerks, together with the head of the procuracy, procurators and inspectors. The Code does not regulate any "other person conducting proceedings" at a remote point. Appellate Judgment No. 603/2022/DS-PT of 26 September 2022 of the People's Court of Ho Chi Minh City shows that a judge of the People's Court of Cu Chi District was present at the remote point in that district court, whereas the current rules treat the remote point primarily as the place where parties, their representatives or other participants take part; information technology staff are also present at the connection points to resolve technical problems, but their procedural role has not been regulated by law. As to information security, Article 4(1)(b) of the Joint Circular requires courtrooms to be equipped with lighting, transmission lines, network devices, sound, image display, decoders, video-conferencing software, cameras, data storage devices, document cameras and uninterruptible power supply; Article 5(1) requires the safety and security of information and data; and Article 11(4) prohibits participants from photographing, recording, filming, distributing documents or disclosing login information for the online hearing system. These rules remain insufficiently specific on the security of transmission, responses to cyberattacks, the storage of electronic data, the authentication of participants and sanctions for the unlawful dissemination of hearing data, although the files of capital mobilisation disputes usually contain personal data of many customers, financial records and bank data that are now protected under the Law on Personal Data Protection 2025.[35]

3.2. Recommendations for improvement with reference to the experience of Canada and Japan

Drawing on the summary judgment, simplified procedure and fast track rules of Ontario and British Columbia, and on the Japanese summary tracks and the staged digitalisation introduced by Act No. 48 of 2022, the summary procedure for disputes over capital mobilisation contracts for off-plan housing in Vietnam should be improved by amending specific provisions of the Civil Procedure Code and of the instruments on online hearings. The aim is to make the summary track accessible to suitable disputes and compatible with the electronic court, while fully maintaining the principles of civil procedure, the right of access to justice and the adversarial rights of the parties under current Vietnamese law. The proposals below supplement existing provisions and do not restate rules already in force.

First, regarding the persons entitled to initiate proceedings and access to the summary procedure

In the first place, a new clause 6 should be added to Article 317 of the Civil Procedure Code allowing a case to be resolved under the summary procedure, even where the obligated party has not admitted its obligation, if the evidence is complete within the meaning of Article 317(1)(a) and both parties so request in writing after the dispute has arisen, or one party so requests and the other consents in writing; the court should be bound to grant the request unless it would impair equality between the parties or the proper resolution of the case. This solution follows Article 381-2(1)–(3) of the Japanese Code of Civil Procedure, under which the court must order the statutory trial period procedure upon a joint application or an application with consent, and the opt-in mechanisms of Rule 76.02 of the Ontario Rules and Rule 15-1 of the British Columbia Rules, which admit a case to the simplified or fast track by the parties' choice. To protect individual purchasers, the same clause should provide that a term of a capital mobilisation contract or of a contract for the sale of off-plan housing, agreed before the dispute arose, by which the purchaser waives the ordinary procedure has no effect, in line with the exclusion of consumer contracts in the proviso to Article 381-2(1) of the Japanese Code.

In the second place, Article 317(1)(b) should be supplemented so that a party who has registered an electronic address for receiving procedural documents through the court's electronic system is deemed to have a clear address for the purposes of the summary procedure, and Article 317(1)(c) should specify that the

[35]Civil Procedure Code, art. 46(2); Joint Circular No. 05/2021, arts. 4 and 10; People's Court of Ho Chi Minh City, Appellate Judgment No. 603/2022/DS-PT of 26 September 2022; Joint Circular No. 05/2021, arts. 4(1)(b), 5(1) and 11(4); Law on Personal Data Protection No. 91/2025/QH15 (in force from 1 January 2026).

agreement of an overseas party to the summary procedure may be given electronically through the same system. Articles 109-2 and 132-11(2) of the Japanese Code, which establish service through the court's electronic system and require attorneys to register for electronic service, show that a verified electronic address can perform the notification function traditionally performed by a physical address. The implementing rules of Resolution No. 01/2026/NQ-HDTP should connect this registration with electronic identification accounts, digital signatures or personal identification data from the National Population Database, so that the plaintiff, the authorised representative and the defence counsel are accurately identified from the moment the petition is filed, as the Civil Claims Online Portal does under Rule 4.05.1 of the Ontario Rules and the court's electronic system does under Article 132-10 of the Japanese Code.

In the third place, the Council of Judges of the Supreme People's Court should adopt a resolution guiding Article 317(5) of the Civil Procedure Code and Article 70(2) of the Law on Consumer Protection 2023, specifying that, in disputes over reservation, booking or deposit agreements for off-plan housing, the "transaction value" is the amount paid or payable under the disputed agreement rather than the expected price of the housing unit. Rule 76.02(1) of the Ontario Rules measures the threshold by the amount claimed, exclusive of interest and costs, and Article 368(1) of the Japanese Code measures it by the claim for payment of money; both criteria are objective and allow the parties to predict the applicable procedure at the time of filing.

Second, regarding the composition of the trial bench

In the first place, Article 65 of the Civil Procedure Code should be supplemented with a clause providing that, where the value of the disputed claim exceeds a ceiling fixed by the Code and adjustable by the Standing Committee of the National Assembly, a case may be heard by a single judge under the summary procedure only with the written consent of the parties under the proposed Article 317(6), failing which the composition under Article 63 applies. This brings Vietnamese law into line with Rule 76.02(1) of the Ontario Rules, which fixes the simplified procedure threshold at $200,000, Rule 15-1 of the British Columbia Rules, which fixes the fast track threshold at $100,000, and Article 33(1)(i) of the Japanese Courts Act and Article 368(1) of the Japanese Code, which reserve the single-judge summary courts and small claims litigation to claims not exceeding 1,400,000 yen and 600,000 yen respectively.

In the second place, the Council of Judges should adopt a resolution guiding the "special case" in Article 63 by setting criteria for a panel of two judges and three people's assessors in capital mobilisation disputes, such as a large number of contributors or contracts, the need to assess the legal status of the project at successive stages, or an aggregate mobilised amount above a defined level. Article 26(2) of the Japanese Courts Act, under which a district court case is heard by a panel of three judges when the panel so decides, demonstrates that the choice of a collegial bench can be based on the complexity of the case rather than on its category. Since people's assessors do not sit in summary cases, Article 320(3) of the Civil Procedure Code should also allow the judge to invite a court mediator appointed under the Law on Mediation and Dialogue at Court 2020 to assist in the conciliation held at the opening of the summary hearing, following the role of judicial commissioners under Article 279(1) of the Japanese Code. In addition, because Article 197(1) of the Civil Procedure Code already requires the assignment of judges to be impartial, objective and random, a clause should be added to Article 197 providing that, in courts operating the electronic court platform under Article 148 of the Law on the Organisation of People's Courts 2024, the assignment is generated electronically and its log forms part of the electronic case file, so that compliance with the random principle becomes verifiable.

Third, regarding the documents and evidence attached to the petition

In the first place, a new Article 318a should be inserted into Chapter XVIII of the Civil Procedure Code imposing a disclosure duty on the developer in summary cases concerning capital mobilisation for off-plan housing: within the time limit for submitting its written opinion under Article 199, the developer must submit the documents proving the eligibility of the project for sale or capital mobilisation under Article 24 of the Law on Real Estate Business 2023, the bank guarantee under Article 26 of that Law and the record of sums received from the plaintiff; if it fails to do so without a legitimate reason, the court may consider the plaintiff's allegations concerning those documents to be proved. The rule is modelled on Article 224 of the Japanese Code, which allows the court to find the opponent's allegations true when a party disobeys an order to produce a document, and on Rules 76.03 and 20.02(2) of the Ontario Rules, which require early disclosure of documents and witnesses and prevent a responding party from resting on bare denials.

In the second place, Article 317(1)(a) of the Civil Procedure Code should be supplemented with a sentence stating that the court's retrieval of information from public electronic databases, including the housing and real estate market information system, the national enterprise registration portal and the land information system, and written confirmation from the bank issuing the guarantee, does not constitute the collection of evidence that excludes the summary procedure. Article 371 of the Japanese Code, which admits in small claims

litigation any evidence that can be examined immediately, and Rule 20.04(2.2) of the Ontario Rules, which allows a targeted mini-trial within a summary judgment motion, show that the relevant criterion for a summary track is whether evidence can be examined without delaying the timetable, not whether the court consults a document.

In the third place, Articles 95(3) and 96 of the Civil Procedure Code should be supplemented with a clause requiring electronic data to be submitted together with information that allows their integrity to be verified, such as their origin, time of creation, digital signature or system log, and allowing the court's electronic system to record the receipt automatically in place of paper minutes; a further clause should establish a rebuttable presumption that electronic data generated by a bank, a payment intermediary or a public authority's system, or signed with a digital signature under the Law on Electronic Transactions 2023, are intact unless the opposing party proves otherwise. Section 34.1(4)–(5.1) of the Ontario Evidence Act, which links the admissibility of electronic records to the integrity of the system that created them, and Articles 231-2 and 231-3 of the Japanese Code on the examination of electronic records provide the comparative basis. Correspondingly, Article 13(2)(c) of Joint Circular No. 05/2021 should require documents transmitted from a remote point to be uploaded directly to the electronic case file with an automatic time stamp, which would establish a uniform sequence for their delivery and storage at the central point and support a single electronic case file throughout the proceedings.

Fourth, regarding the preparatory meeting on evidence and conciliation at first instance

In the first place, Article 318 of the Civil Procedure Code should be supplemented with a clause allowing the judge, within the one-month preparation period, to hold a combined session on the disclosure of evidence and conciliation, in person or online, where a party so requests or where the case concerns the refund of mobilised capital, as an exception to Article 205(1). Articles 208 to 211 would apply to that session, conducted through an electronic platform able to identify participants, manage electronic evidence, record sound and images and store the data, with all documents submitted by the parties digitised and disclosed on the system. Article 170(3) of the Japanese Code, which since 1 March 2023 has allowed preparatory proceedings to be conducted entirely by web conference, Article 89 of that Code, which allows settlement at any stage, and Rule 76.10(2) of the Ontario Rules, which requires a trial management plan before the pre-trial conference, demonstrate that early, remote case preparation shortens proceedings without reducing the parties' guarantees.

In the second place, Article 320(3) of the Civil Procedure Code should be supplemented so that, where the defendant does not dispute the sum to be refunded but requests time, or where the parties agree on the refund but not on its schedule, the judge may issue a decision recognising the agreement with instalment payments over a period not exceeding a maximum fixed by the Code, combined with acceleration of the whole debt upon default. Article 275-2 of the Japanese Code allows a summary court to rule in lieu of settlement with deferred or instalment payment for up to five years, and Article 375 allows instalments for up to three years in small claims; because purchasers of off-plan housing have already advanced their funds to the developer, the Vietnamese maximum should be considerably shorter.

In the third place, the Council of Judges should guide Article 206(2) of the Civil Procedure Code by clarifying that the prohibition on conciliating cases arising from transactions that violate legal prohibitions does not prevent the court from recognising the parties' agreement on the modalities of restitution and compensation under Article 131 of the Civil Code, provided that the agreement does not validate the void transaction; Rule 49 of the Ontario Rules and Article 17 of the Japanese Civil Conciliation Act show that the settlement of monetary consequences is compatible with judicial control. To align the Code with Resolution No. 01/2026/NQ-HDTP, Article 211 of the Civil Procedure Code and Article 31 of the Law on Mediation and Dialogue at Court 2020 should expressly recognise minutes of successful conciliation drawn up electronically and authenticated by digital signature as having the same legal value as paper minutes, as Article 267 of the Japanese Code does for an electronic record of settlement, while conciliation remains voluntary, equal and respectful of the parties' right of disposition under Article 205.[36]

Fifth, regarding the adversarial procedure at the first-instance hearing

In the first place, Articles 317(3)–(4) and 320(4) of the Civil Procedure Code should be supplemented with a provision that, when a case is converted from the summary to the ordinary procedure, the documents and evidence already submitted, the minutes of conciliation and the procedural acts already performed remain valid and the ordinary preparation period is reduced accordingly; for cases admitted to the summary track by agreement under the proposed Article 317(6), either party should be able to request conversion before the

[36]Ly Van Toan, *Law on Conciliation of Business and Commercial Disputes at Court*, Doctoral Thesis in Law, University of Economics and Law, Vietnam National University Ho Chi Minh City (2024) (in Vietnamese).

hearing opens, the court being bound to grant it. Article 381-4(1) of the Japanese Code, which requires transfer to the ordinary procedure upon the request of either party, Article 381-8(1), under which an objection returns the case to its state before the close of oral argument so that prior proceedings are preserved, and Rule 20.05 of the Ontario Rules, which allows the court refusing summary judgment to specify the facts not in dispute for an expedited trial, offer the model.

In the second place, to implement Article 136(4) of the Law on the Organisation of People's Courts 2024, which requires the procedure for online hearings to be set by law, the Civil Procedure Code should include, in Chapter XVIII, a provision allowing the summary hearing to be held wholly or partly online by decision of the court after hearing the parties, subject to a right to object within a fixed period, and Article 1(1) of Resolution No. 33/2021/QH15 should be amended so that the "simple case" criterion no longer determines the online form, the decisive criteria being the technical capacity of the participants and the protection of their procedural rights. Rule 1.08 of the Ontario Rules, which requires the method of attendance to be specified in advance subject to objection, and Articles 87-2 and 277-2 of the Japanese Code, which allow oral argument and examinations by video and audio transmission after hearing the parties, illustrate this approach. The online system must allow the parties to access the electronic file fully, to see and hear the entire hearing and to display, compare and examine electronic evidence directly, publicly and continuously, so that the adversarial principle is genuinely implemented in the digital environment in line with the Supreme People's Court's objective of an electronic court by 2027.[37]

In the third place, Article 244(2) of the Civil Procedure Code should be supplemented to provide that, where the withdrawn part of the claims concerns consequences of an invalid transaction that the court must resolve under Article 131 of the Civil Code, or where the defendant has already submitted its opinion on that part, the trial panel must hear the other party and may refuse to discontinue that part if the claims are inseparable. Article 261(2) of the Japanese Code, under which the withdrawal of an action after the defendant has argued on the merits takes effect only with the defendant's consent, shows that the plaintiff's right of disposition can be reconciled with the defendant's interest in a comprehensive resolution.

In the fourth place, Article 10 of Joint Circular No. 05/2021 should define the status of persons present at remote points: a judge or court clerk at a remote point acts only to verify identity and maintain order on behalf of the presiding judge, and information technology staff are technical assistants bound by confidentiality who are not persons conducting proceedings within Article 46(2) of the Civil Procedure Code. Articles 5 and 11(4) of the Joint Circular should be supplemented with rules on encrypted transmission, the handling of cyber incidents, the storage of electronic data, the authentication of participants and sanctions for unlawful dissemination, consistent with the Law on Personal Data Protection 2025, and access to purchasers' financial data in the electronic file should be restricted on the model of Article 92 of the Japanese Code, which allows the court to limit the inspection of case records containing secrets of private life or trade secrets, and Article 133, which since 20 February 2023 has allowed the concealment of a party's address and name.

4. Conclusion

The summary procedure for resolving disputes over capital mobilisation contracts for off-plan housing by courts comprises the procedural acts from the filing and acceptance of the petition, the preparation for trial, the disclosure of evidence and conciliation to the first-instance hearing, increasingly performed in the electronic environment. In addition to the general principles of civil procedure, it has features linked to the nature of real estate disputes, in particular as regards the identification of the parties, electronic evidence, assets to be formed in the future and the organisation of online hearings.

The Canadian and Japanese experience shows that the efficiency of summary justice does not depend on abandoning the fundamental principles of civil procedure but on the design of entry criteria, disclosure duties, conciliation tools and conversion rules. Ontario and British Columbia combine value-based simplified and fast tracks with a summary judgment filter available in any action, early disclosure, capped costs and mandatory mediation, and they routinely resolve disputes over pre-construction housing agreements without a full trial. Japan combines value-based summary courts and small claims litigation with a consent-based statutory trial period procedure that excludes consumer contracts, document production orders backed by adverse findings, instalment rulings and a staged digitalisation completed on 21 May 2026. Both systems preserve the right to access evidence, the right to adversarial argument, the right to a fair trial and the protection of personal data in the digital environment.

[37]Directive No. 04/2025/CT-CA of 31 December 2025 of the Chief Justice of the Supreme People's Court on key tasks of digital transformation and the building of the electronic court; Nguyen Minh Quoc Viet, *Resolving Business and Commercial Cases at First-Instance Courts in Adaptation to the New Normal after the Pandemic*, Doctoral Thesis in Economic Law, Tra Vinh University (2025) (in Vietnamese).

In Vietnam, the policy of building an electronic court and developing online adjudication has been established in the process of judicial reform and national digital transformation. The People's Courts have progressively introduced electronic procedural acts, now governed by Resolution No. 01/2026/NQ-HDTP, an online services and case file system operating since 22 October 2018, a pilot of online dialogue in Ho Chi Minh City from 1 January 2021, the first pilot online hearing in Hai Phong on 7 August 2021 and the target of an electronic court by 2027. The summary procedure for capital mobilisation disputes nevertheless requires further legislative improvement: access to the summary track by agreement, an objective value criterion, a disclosure duty for developers, clear rules on electronic evidence, a preparatory session with instalment settlements, the preservation of procedural acts upon conversion, the decoupling of the online form from the "simple case" criterion, the regulation of participants at remote points and the protection of data should be provided for in a complete, consistent and practicable manner, together with the necessary technical infrastructure, judicial databases and coordination among the agencies concerned.

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