



Received: 10-12-2025  
Accepted: 20-01-2026

## International Journal of Advanced Multidisciplinary Research and Studies

ISSN: 2583-049X

### The Necessity of Ensuring Consistency Among Legal Provisions on the Handling of Contractual Breaches in Response to Vietnamese Development Requirements in the New Era

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#### Abstract

In the context of Vietnam entering a phase of comprehensive development across all sectors, contractual relationships have become increasingly diverse and complex, requiring the legal framework governing the handling of contractual breaches to be constructed consistently and effectively in order to best protect the lawful rights and interests of the contracting parties. However, legislative practice and law enforcement reveal that provisions on the handling of contractual breaches

remain inconsistent between general laws and specialized laws, leading to conflicts, overlaps, and difficulties in legal application. Against this background, this article analyzes and clarifies the necessity of ensuring consistency among legal provisions on the handling of contractual breaches, thereby enhancing legal effectiveness, contributing to the establishment of a solid legal foundation, and meeting national development requirements in the new era.

**Keywords:** Handling of Contractual Breaches, Ensuring Consistency, Necessity, National Development Requirements, New Era

#### 1. Introduction

In the context of rapid socio-economic development and deepening international integration, contractual relations play an increasingly central role in regulating civil, commercial, and economic activities in Vietnam. Contracts function not only as legal instruments for allocating rights and obligations among parties, but also as a foundation for legal certainty, market stability, and sustainable economic growth. As Vietnam enters a new stage of national development in the new era, the demand for a coherent, predictable, and effective legal framework governing contractual relations has become increasingly urgent. Among the core components of contract law, legal provisions on the handling of contractual breaches are of particular importance, as they directly affect the enforcement of contractual commitments and the protection of lawful rights and interests of the parties. However, the current legal framework in Vietnam continues to reveal inconsistencies between the Civil Code as the general law and various specialized laws, including divergent approaches to penalty clauses, compensation for damages, and conditions for contract termination. These inconsistencies have generated uncertainty in legal interpretation and practical difficulties in dispute resolution.

Such fragmentation not only undermines the predictability and effectiveness of contract law but also adversely affects the investment climate and confidence in the legal system. Ensuring consistency among legal provisions on the handling of contractual breaches, therefore, constitutes a fundamental requirement for strengthening the rule-of-law framework, enhancing legal certainty, and supporting Vietnam's socio-economic development in the new era. This article examines the necessity of such consistency, intending to contribute to the improvement of Vietnam's contract law system and achieve national development objectives.

#### 2. Materials and methods

This study is conducted through data collection, combined with doctrinal legal research and comparative analysis. Primary legal sources, including the Civil Code and specialized legislation, are analyzed alongside judicial practice and scholarly opinions to evaluate the degree of consistency in the regulation of contractual breach remedies and to propose directions for

legal improvement in Vietnam.

### 3. Results and discussion

#### 3.1 Overview of Ensuring Consistency Among Legal Provisions on the Handling of Contractual Breaches

From a general perspective, “ensuring” means “making certain that something can be carried out or maintained,” while “consistency” is understood as “forming a unified whole or ensuring compatibility without contradiction.”<sup>[1]</sup> Accordingly, ensuring consistency in general may be understood as activities aimed at enabling elements, components, or operations within a system to function harmoniously, synchronously, and without contradiction, thereby maintaining coherence within that system.

From a legal perspective, there are currently two prevailing viewpoints regarding the notion of ensuring consistency among legal provisions<sup>[2]</sup>. The first viewpoint holds that ensuring consistency requires the construction and application of synchronized legal provisions, whereby legal norms should be consolidated within a single legal instrument. Under this approach, the parallel existence of general laws and specialized laws is viewed as the primary cause of fragmentation, overlap, and contradiction in practice. By contrast, the second viewpoint maintains that ensuring consistency does not equate to eliminating all differences among legal provisions, but rather requires that such provisions do not contradict, conflict with, or negate one another in substance. Accordingly, general laws and specialized laws may regulate the same issue differently, provided that such differences are complementary in nature. In this relationship, specialized laws serve to concretize the general provisions of general laws in accordance with the particular characteristics of specific sectors, without contravening the fundamental principles established by general laws. Although multiple legal instruments coexist, specialized legal provisions must operate strictly within the framework and limits permitted by general laws.

In the authors’ view, the first viewpoint is not truly compatible with the current reality of contractual relations. In practice, contractual relationships are becoming increasingly diverse and complex, necessitating sector-specific and specialized legal provisions to ensure effective regulation. Concentrating all legal provisions within a single legal instrument would not only reduce legal flexibility but also make it difficult to respond promptly to regulatory needs in areas such as commerce, construction, real estate business, insurance, or investment. Compared to the first approach, the second viewpoint reflects a more flexible and adaptive approach, allowing the legal system to maintain overall consistency while respecting and accurately reflecting the specific characteristics of each regulatory field. This approach helps to harmonize the relationship between general laws and specialized laws and has been adopted by several countries, including Vietnam.

Nevertheless, this approach still reveals certain limitations. In particular, the legal system has yet to establish clear legal criteria for determining what constitutes “non-contradiction” or “non-negation” between general and specialized legal provisions. In practice, distinguishing between reasonable legislative differentiation and substantive normative conflict is not always clear or objective. As a result, assessments of legal compatibility often depend heavily on the subjective

interpretation and application by competent authorities. Consequently, during the application of law—especially in the resolution of contractual disputes—divergent interpretations and rulings may arise in cases with similar legal nature, increasing the risk of unequal treatment among legal subjects and adversely affecting the lawful rights and interests of organizations and individuals.

From the foregoing analysis, it can be seen that ensuring consistency among legal provisions on the handling of contractual breaches should be approached as a systemic requirement encompassing three fundamental aspects: ensuring compatibility and coherence between general laws and specialized laws; ensuring synchronization in the design of contractual remedies; and ensuring effective law enforcement in practice to protect the lawful rights and interests of the parties to contractual relationships.

First, ensuring harmony and the absence of contradiction between general laws and specialized laws constitutes the foundation of legal consistency. Within the structure of the Vietnamese legal system, the Civil Code plays a central role in establishing general principles governing contractual relations. Specialized laws may prescribe specific provisions on the handling of contractual breaches to accommodate sector-specific characteristics, but such differentiation must remain within the framework of the fundamental principles set forth by the general law. Harmony does not merely mean avoiding direct substantive conflicts; it also entails consistency in legislative reasoning and regulatory logic. Where specialized laws alter the nature or negate the general structure established by the Civil Code, the consistency of contract law is undermined.

Second, consistency also requires synchronization in the recognition and operation of measures for handling contractual breaches. Contractual remedies do not exist in isolation but form an interconnected system. Accordingly, synchronization must be reflected in clearly defining the legal nature, conditions of application, and legal consequences of each remedy in relation to others. Where the same remedial measure is regulated differently across legal instruments, divergent interpretations and applications may arise, thereby reducing legal stability and predictability for contracting parties.

Finally, the effectiveness of law enforcement in practice serves as a direct indicator of the degree to which consistency among legal provisions on the handling of contractual breaches is ensured. Consistency must not only exist at the legislative level but also be reflected in the interpretation and application of law by competent authorities<sup>[3]</sup>. Where legal provisions lack coherence, the same contractual breach may result in different legal consequences, adversely affecting the lawful rights and interests of the parties and eroding trust in the legal system. Therefore, ensuring consistency is closely linked to the predictability of legal consequences and the stable, equitable application of law in practice.

On this basis, ensuring consistency among legal provisions on the handling of contractual breaches may be understood as *the process of developing, refining, and applying law as a coherent whole—free from contradiction and overlap in principles and legal substance—to ensure that contractual breaches are addressed in a consistent, effective manner while balancing the interests of the parties involved.*

### 3.2 The Necessity of Ensuring Consistency among Legal Provisions on the Handling of Contractual Breaches in Response to Vietnam's Development Requirements in the New Era

*Firstly, ensuring consistency among legal provisions on the handling of contractual breaches is essential to overcoming existing legislative shortcomings and to effectively implementing the development goals and policy orientations of the Party and the State of Vietnam in the new era.*

Throughout the process of national construction and development, the Party and the State of Vietnam have consistently identified the improvement of Vietnam's legal system as a central task, to ensure the supremacy of law in social governance in Vietnam [4]. However, Resolution No. 66-NQ/TW has pointed out that legislative development and law enforcement in Vietnam still suffer from significant limitations, particularly the lack of consistency, overlap, conflict, or ambiguity among legal provisions. These shortcomings create serious difficulties in the application of Vietnamese law, weaken the effectiveness and efficiency of legal regulation, and directly affect the implementation of development policies and orientations of the Party and the State of Vietnam. These limitations are clearly reflected in Vietnam's legal framework governing the handling of contractual breaches, where inconsistencies between general laws and specialized laws remain prevalent.

For instance, while the Civil Code of Vietnam allows contracting parties to freely agree on penalty amounts without imposing a statutory ceiling, the Commercial Law of Vietnam limits contractual penalties to no more than 8% of the value of the breached contractual obligation. Similarly, the Construction Law of Vietnam prescribes a maximum penalty of 12% of the value of the breached portion of the contract, reflecting the specific characteristics and higher risk level of construction activities in Vietnam. Moreover, inconsistencies also arise in the regime governing compensation for damages, particularly between the fault-based approach of the Civil Code of Vietnam and the more objective approach adopted by the Commercial Law of Vietnam. These differences have become increasingly evident in Vietnamese judicial practice, particularly in disputes where the boundary between civil and commercial relations is unclear, resulting in divergent legal outcomes for the same contractual breach. Such inconsistencies underscore the urgent need to harmonize legal provisions on the handling of the contractual violations within Vietnam's legal system.

*Secondly, ensuring consistency among legal provisions on the handling of contractual breaches makes a significant contribution to the objective of building a prosperous, democratic, equitable, and civilized Vietnam.*

The objective of building a Vietnam that is "prosperous, strong, democratic, equitable, and civilized" constitutes a consistent and long-term orientation in Vietnam's national development strategy [5]. To achieve this objective, Vietnamese law must truly function as an effective instrument of social governance, ensuring fairness, transparency, and the protection of lawful rights and interests of all legal subjects in Vietnam. In this context, contract law occupies a particularly important position within Vietnam's legal system, as it directly regulates civil, commercial, and economic relations that form the foundation of Vietnam's national economy. Ensuring consistency among legal provisions on contractual breach

remedies under Vietnamese law helps to clearly define the rights and obligations of contracting parties in Vietnam and to establish equality in contract formation and performance. When legal provisions are constructed and applied coherently and consistently, individuals and enterprises in Vietnam can participate in economic activities with greater confidence, thereby promoting production, business development, and social progress. In line with the spirit of Resolution No. 66-NQ/TW, the improvement and unification of Vietnam's legal system is not merely a matter of legislative technique, but also aims to better serve the people and the business community in Vietnam by creating a stable, transparent, and predictable legal environment for sustainable national development in the new era.

*Thirdly, ensuring consistency among legal provisions on the handling of contractual breaches is indispensable for meeting the requirements of international integration and aligning Vietnam's legal system with modern legal standards in the new era.*

In the context of increasingly deep international integration, Vietnam has been actively participating in global economic and commercial relations. The growing number of contracts involving foreign elements in Vietnam has generated an urgent need to improve and unify Vietnam's legal framework governing the handling of contractual breaches. A fragmented and inconsistent legal system not only creates difficulties for domestic legal subjects in Vietnam but also undermines the credibility and attractiveness of Vietnam's legal environment in the eyes of foreign investors and international partners. Through Resolution No. 59-NQ/TW and Resolution No. 66-NQ/TW, the Party of Vietnam has emphasised the objective of establishing a modern Vietnamese legal system that aligns with advanced international standards and practices. In this regard, ensuring consistency among legal provisions on contractual breach remedies plays a crucial role in enhancing the compatibility of Vietnamese law with international legal frameworks. Clear, coherent, and consistent regulations facilitate foreign parties' understanding of and compliance with Vietnamese law, while also providing a solid legal basis for dispute resolution in Vietnam and for the protection of lawful rights and interests of all parties involved. Accordingly, this contributes to strengthening confidence in Vietnam's legal system, promoting international integration, and affirming Vietnam's position in the new era.

### 4. Conclusion

To conclude, this study confirms that ensuring consistency among legal provisions on the handling of contractual breaches is a fundamental requirement for improving Vietnam's contract law system in the new era. While the coexistence of general laws and specialized laws is necessary to regulate increasingly complex contractual relations, inconsistencies in penalty clauses, compensation for damages, and contract termination have undermined legal certainty and predictability in practice.

The analysis demonstrates that consistency does not require uniformity, but rather the absence of substantive contradictions and the preservation of harmony between general laws and specialized laws within a coherent legal framework. Such consistency strengthens the protection of lawful rights and interests of contracting parties, enhances fairness and transparency in contractual relations, and contributes to a stable and reliable legal environment.

Moreover, ensuring consistency in regulating contractual breaches supports Vietnam's socio-economic development and enhances the country's legal credibility in the context of international integration [6]. Accordingly, consistency must be pursued comprehensively in legislative design, legal interpretation, and law enforcement, so that Vietnam's contract law can function effectively and predictably in the new era.

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