



# Enforcing contracts

- Enforcing contracts is easiest in Luxembourg, where resolving the standardized commercial dispute measured by *Doing Business* takes 321 days and 26 procedures and costs 9.7% of the value of the claim.
- *Doing Business* recorded 14 reforms making it easier to enforce contracts between June 2012 and June 2013—and 66 over the past 5 years.
- Côte d'Ivoire improved the most in the ease of enforcing contracts in 2012/13 after creating a specialized commercial court.
- Among regions, Sub-Saharan Africa made the most reforms in enforcing contracts over the past 5 years.
- Since 2009 Poland has made the greatest progress toward the frontier in regulatory practice in enforcing contracts.
- Introducing e-filing was a common feature of reforms making it easier to enforce contracts in the past 5 years, considerably streamlining court procedures.

For more information on good practices and research related to enforcing contracts, visit <http://www.doingbusiness.org/data/exploretopics/enforcing-contracts>. For more on the methodology, see the section on enforcing contracts in the data notes.

Efficient contract enforcement is essential for a business-friendly environment. It reduces informality, improves access to credit and increases trade. A study of 27 economies found that the informal sector's share in overall economic activity decreases with better contract enforcement quality, measured by a country-wide measure of rule of law, as well as by the firm's perception of the fairness of courts.<sup>1</sup> A study in Eastern Europe found that in economies with slower courts, firms tend to have less bank financing for new investments.<sup>2</sup> And recent research on East Asia and the Pacific found that simplifying contract enforcement was associated with higher international trade.<sup>3</sup>

*Doing Business* measures the time, cost and procedures involved in resolving a standardized commercial lawsuit between 2 domestic businesses through the local first-instance court. The dispute involves the breach of a sales contract worth twice the income per capita of the economy. The case study assumes that a seller delivers custom-made goods to a buyer who refuses delivery of the goods, alleging that they are of inadequate quality. To enforce the sales agreement, the seller files a claim with a local court, which hears arguments on the merits of the case. Before reaching a decision in favor of the seller, the judge appoints an expert who provides an opinion on the quality of the goods in dispute. This distinguishes the case from simple debt enforcement. The time, cost and procedures are measured throughout the 3 main phases of court proceedings: filing and service of process, trial and judgment, and enforcement.

The efficiency of courts continues to vary greatly around the world. Contract enforcement can take less than 10 months in New Zealand and Norway but almost

4 years in Bangladesh. The trial and judgment phase, which mainly involves exchanging briefs, appearing in court and obtaining a judgment—as well as corresponding waiting periods—is the most time-consuming one. On average it accounts for 64% of the time to resolve the standardized case measured by the enforcing contracts indicators.

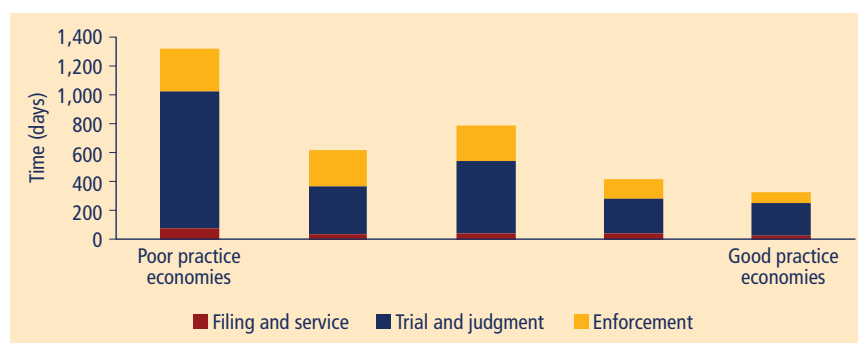
There are also wide variations in the cost of contract enforcement, ranging from 21% of the value of the claim in OECD high-income economies to 51.6% in Sub-Saharan Africa. The largest expense is attorney fees to try cases and enforce judgments. On average such fees account for two-thirds of total costs.

Among the 189 economies covered by *Doing Business*, Luxembourg has the top ranking on the ease of enforcing contracts. But contract enforcement is fastest in Singapore, where it takes just 150 days to resolve the standardized case measured by *Doing Business*. On average the enforcement phase—the period from when the time to file an appeal has elapsed until the plaintiff has recovered the value of the claim—accounts for 29.6% of the time for contract enforcement globally, but only 21.9% in the 5 top-ranked economies (figure 18.1).

## WHO REFORMED IN ENFORCING CONTRACTS IN 2012/13?

Between June 2012 and June 2013 *Doing Business* recorded 14 reforms making it easier to enforce contracts (table 18.1). During that time Côte d'Ivoire improved the most in the ease of enforcing contracts. After the postelectoral crisis of 2011, resolving a commercial dispute in Abidjan took 770 days. Civil courts

**FIGURE 18.1** The enforcement phase takes proportionally less time in the 5 top-ranked economies



*Note:* Poor practice economies are the 5 lowest-ranked economies on the ease of enforcing contracts. The second column represents the 5 economies ranked from 140 to 144 on the ease of enforcing contracts. The third column represents the 5 economies ranked from 93 to 97. The fourth column represents the 5 economies ranked from 45 to 49. Good practice economies are the 5 top-ranked economies. The filing and service phase is the period from when the plaintiff brings a lawsuit until process is served on the defendant. This includes seeking compliance with the contract outside of court, mandatory mediation if applicable, meeting with a lawyer, drafting the statement of claim, filing it with the court and serving it on the defendant. The trial and judgment phase is the period from when process is served on the defendant until the time to file an appeal has elapsed. This includes exchanging written briefs between the parties, 1 or more hearings, appointing an expert, writing the judgment and the appeal time. The enforcement phase is the period from when the time to file an appeal has elapsed until the plaintiff has recovered the value of the claim. This includes locating and seizing the defendant's movable assets, organizing and advertising the public sale, holding the sale and recovering the value of the claim.

*Source:* *Doing Business* database.

in Abidjan were backlogged, and commercial cases were stuck among civil cases. In 2012, to provide more suitable responses to business disputes, a stand-alone commercial court was created in Abidjan. In addition, professional judges were appointed to work with newly recruited lay judges. Today it takes 585 days to resolve a commercial dispute in Abidjan (figure 18.2).

Other economies also reformed in enforcing contracts in 2012/13. New Zealand implemented an electronic case management system that monitors and manages cases on court dockets from the filing of claims until judgments are issued, which should lead to lower costs and shorter resolution times. Palau made its courts more efficient by introducing e-filing. The system allows litigants to file complaints

electronically—increasing transparency, expediting the filing and service of process and preventing the loss, destruction or concealment of court records.

Making execution proceedings more efficient has also been a common feature of reforms in enforcing contracts. Three economies implemented such changes in 2012/13. In 2012 the Czech Republic established that for most cases, courts are no longer responsible for ordering execution proceedings and nominating executors, instead delegating execution proceedings to entrusted executors and making the process cheaper and faster. That same year Mauritius liberalized the enforcement officer profession, allowing winning parties to choose between private and court bailiffs to conduct enforcement proceedings.

China, Colombia, Mexico and Romania amended procedural rules for commercial cases, mainly to reduce backlogs, simplify and expedite court proceedings and limit obstructive tactics by the parties. New legislation adopted by China in August 2012 imposes more stringent rules on service of process and requires judgments to be made publicly available online.

Since June 2012 Italy has reduced attorney fees the most among all the economies measured. Judges were given an official fee schedule to determine attorney fees when agreements are not reached between attorneys and clients, which contributed to the adjustment of the market price for legal services and cut attorney fees by 6.8 percentage points, to 15% of the value of the claim.

**TABLE 18.1** Who made enforcing contracts easier in 2012/13—and what did they do?

Feature	Economies	Some highlights
Increased procedural efficiency at main trial court	China; Colombia; Estonia; Italy; Mexico; New Zealand; Romania	China made enforcing contracts easier by amending its Code of Civil Procedure to streamline and expedite court proceedings.
Made enforcement of judgment more efficient	Croatia; Czech Republic; Mauritius	The Czech Republic established that for most cases, courts are no longer responsible for ordering execution proceedings and nominating executors, instead delegating execution proceedings to entrusted executors.
Introduced or expanded specialized commercial court	Côte d'Ivoire; Togo	Côte d'Ivoire created a specialized commercial court.
Introduced electronic filing	Palau; Uzbekistan	Palau made enforcing contracts easier by introducing an e-filing system.

*Source:* *Doing Business* database.

## WHAT HAVE WE LEARNED FROM 5 YEARS OF DATA?

In the past 5 years *Doing Business* recorded 66 reforms that made it easier to enforce contracts (figure 18.3). Sub-Saharan Africa had the most reforms, with 22. Some economies in the region overhauled the organization of their courts or systems of judicial case management for commercial dispute resolution, but the main trend has been to introduce specialized commercial courts. Three other regions—East Asia and the Pacific, South Asia and the Middle East and North Africa—shortened litigation times.

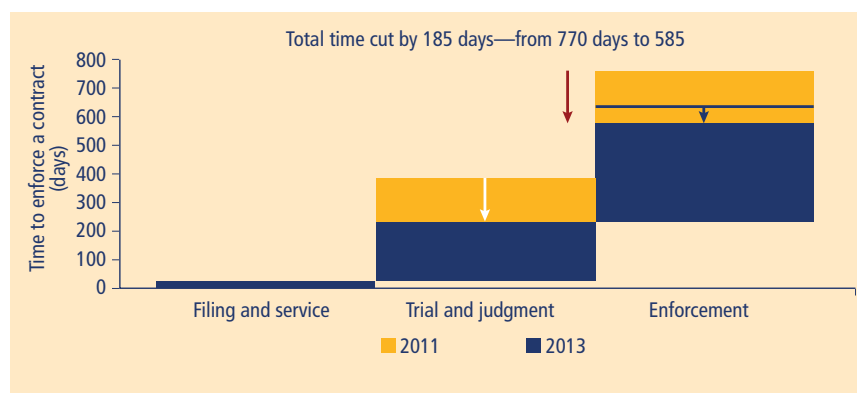
Over the years the most significant improvements in enforcing contracts have been made by economies that have introduced commercial courts, implemented case management systems or made e-filing readily available.

Since 2009 Poland has made the most progress toward the frontier in regulatory practice in enforcing contracts (figure 18.4). Poland has benefited from implementing a case management system, introducing an electronic court in Lublin, deregulating the bailiff profession, increasing the number of judges and amending the Civil Procedure Code.

The introduction of specialized courts tends to lead to greater specialization of judges—resulting in faster resolution times, cheaper contract enforcement, shorter court backlogs and increased efficiency.<sup>4</sup> Of the 189 economies covered by *Doing Business*, 90 have dedicated standalone courts for enforcing contracts, specialized commercial sections in existing courts or specialized judges in general civil courts. In the 10 Sub-Saharan economies that have introduced commercial courts or sections since 2003—Burkina Faso, Cameroon, Côte d'Ivoire, Ghana, Mauritania, Mozambique, Nigeria, Rwanda and Togo—the average time to resolve the standardized case measured by *Doing Business* has reduced by 2.5 months.

Other economies have made courts more efficient by introducing comprehensive case management systems that control the movement of cases through courts or the total workload of courts. Case management is often performed by judges but can also be done by court administrators, especially if fully automated. Benefits associated with efficient case management systems include better record-keeping and better assessments of judges' performance and workloads. Sophisticated systems, such as that of the Republic of Korea (described in this report's case study on the country's e-court system), can also include detailed statistics that allow for more efficient distribution of tasks among court officials. Such information facilitates reallocation of resources in courts and raises judiciary productivity.

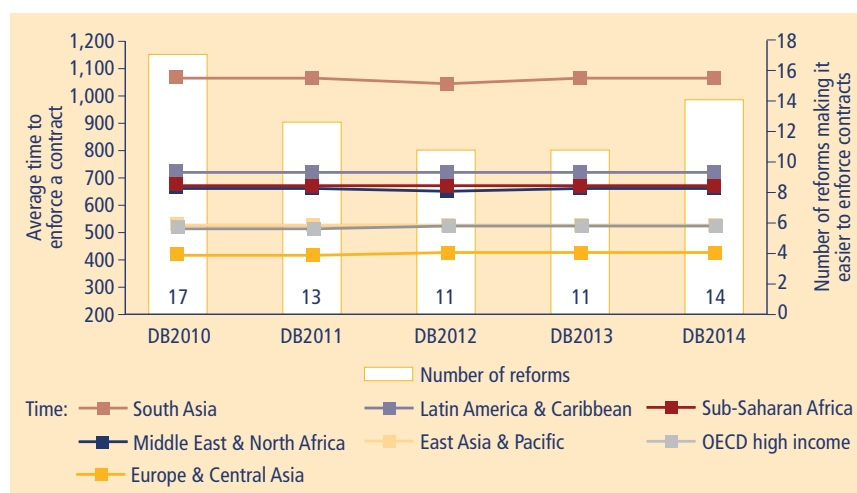
FIGURE 18.2 Côte d'Ivoire introduced a commercial court and cut the time to enforce contracts



Note: The white arrow indicates the decrease in the time for trial and judgment. The blue arrow indicates the decrease in the enforcement time. The red arrow indicates the decrease in the total time.

Source: *Doing Business* database.

FIGURE 18.3 Contract enforcement remains fastest in Europe and Central Asia



Note: To ensure accurate comparisons, the figure shows data for the same 183 economies for all years, from DB2010 (2009) to DB2014 (2013). The economies added to the *Doing Business* sample after 2009 and so excluded here are Barbados, Libya, Malta, Myanmar, San Marino and South Sudan. This figure uses regional classifications for 2013.

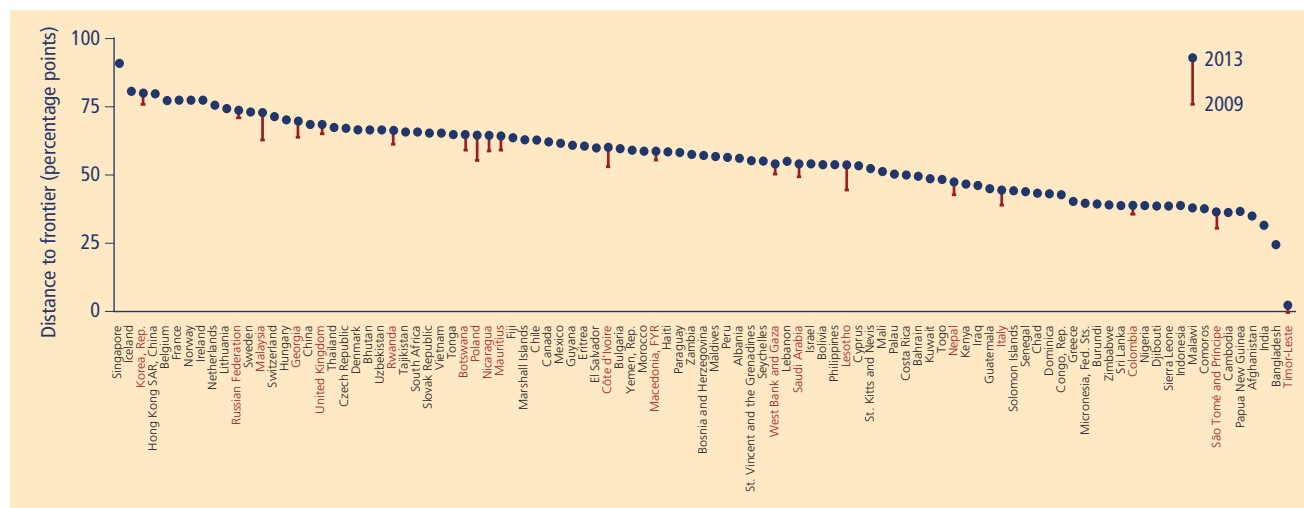
Source: *Doing Business* database.

Some economies have paired the introduction of electronic case management with the implementation of e-filing, allowing for the electronic transmission of initial complaints and supporting documents to courts. Advanced e-filing systems usually also allow court users to pay fees online and deliver service of process electronically, resulting in speedier trials, lower storage costs, better access to courts and more reliable and efficient

service of process. In Malaysia, which introduced an electronic case management system and e-filing between 2009 and 2011, court backlogs were reduced by more than 50% and the time to enforce contracts by almost 30% by 2012.

Of the 10 top performers in enforcing contracts, 7 have introduced e-filing or specialized commercial courts—and 3 have both.

FIGURE 18.4 Poland has made the greatest progress toward the frontier in regulatory practice in enforcing contracts in the past 5 years



Note: The distance to frontier scores shown in the figure indicate how far each economy is from the best performance achieved by any economy on the enforcing contracts indicators since DB2004 (2003). The scores are normalized to range between 0 and 100, with 100 representing the frontier. The data refer to the 183 economies included in DB2010 (though for practical reasons the figure does not show all 183). Barbados, Libya, Malta, Myanmar, San Marino and South Sudan were added in subsequent years. The vertical bars show the improvement in the 20 economies advancing the most toward the frontier in enforcing contracts between 2009 and 2013.

Source: Doing Business database.

## NOTES

This topic note was written by Erica Bosio and Julien Vilquin.

1. Dabla-Norris and Inchauste Comboni 2008.
2. Safavian and Sharma 2007.
3. Duval and Utoktham 2009.
4. Djankov and others 2003.