

## THESIS INFORMATION PAGE

Project title: **Efficient breach of contract**

Major: Economic Law

Code: 62.38.01.07

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### 1. THESIS SUMMARY

#### Objectives of the study

Overall objective is to find the reasons for recognition of efficient breach of contract and on that basis to research and propose legal changes, especially in the provisions of Vietnamese contract law. South to have a basis for effective recognition of breach of contract.

From that general research goal, the thesis sets out the following specific research objectives:

(1). Clearly identify what an efficient breach of contract is, the circumstances of the efficient breach and the economic benefits that this breach brings to the parties and to society.

(2). Analyze issues related to the liability of the violating party to the aggrieved party when an efficient breach occurs; determine the type of damages entitled to claim to ensure the efficient breach of contract.

(3). Clarifying the controversies between the consensus and opposing views on effective breach of contract, especially stemming from the ethical element in the contractual relationship, thereby expressing the author's view on efficient breach of contract

(4) Provide proposals and legal solutions to the provisions of Vietnamese contract law to have an efficient breach of contract.

#### Research subjects

Research object of the thesis : (i) the breach of contract brings economic efficiency to the parties and total social benefits; (ii) viewpoints, economic theories, doctrines of contract law; (iii) the provisions of the contract law of Vietnam and some countries in the

world related to the determination of the content of the breach of contract, the forms of liability of the breaching party to the breached party . breach and the sanctions applied in the event of a breach of contract.

### **Research scope**

In terms of content, the thesis defines the scope of research to only mention the following issues: Overview of effective contract breach, including concepts and cases of contract breach considered effective effect, the formula for effectiveness in breach of contract. Issues of forced performance of obligations, compensation for damage, etc. are also analyzed from the perspective of applicable sanctions and contractual liability when the violator effectively commits an act of violation. In addition, the ethical scope of the breach is also considered to have a basis for admitting these effective breach. Regarding space, the thesis uses regulations as well as the history of formation, traditional elements of the law of some representative countries of the Common Law system (including the UK and the US) and Civil Law (including France). , Germany and Russia) for analysis.

### **Research Methods:**

To solve the research problems, the thesis uses the following methods: analytical method, synthesis method, comparative jurisprudence method, historical method.

## **2. NEW RESULTS OF THE THESIS**

Compared with other published studies in Vietnam, the thesis can be considered as one of the first few studies on efficient breach of contract.

Compared with other published studies on efficient breach of contract in the world, the thesis is highly comprehensive because the studies so far have only mainly focused on a certain issue of efficient breach of contract. Not only stopping at the analysis of concepts and cases of efficient breach of contract, the thesis also analyzes the relationship between efficient breach of contract with the problem of compensation for damage, disgorgement, the requirement for the correct performance of obligations, and also the ethical issue of the breach. And another distinctive point of the thesis is that the thesis analyzes and compares the provisions of the contract law of some countries in the world with the provisions of the contract law of Vietnam on the above issues from which to have a personal assessment of whether Vietnamese contract law should effectively recognize breach of contract and the necessary adjustments of Vietnamese contract law to recognize efficient breach of contract.



### 3. APPLICATIONS / POSSIBILITY OF APPLICATION IN PRACTICE OR ISSUES THAT NEED CONTINUED RESEARCH

From the research results, the thesis draws the following basic conclusions :

- Vietnamese law should recognize breach of contract but it is effective because:

+ From an economic point of view, an effective breach of contract is a breach of contract that does not harm the economic interests of the parties, and even in some cases has the potential to help increase benefits or minimize certain material losses for the parties and for society. These are violations that bring economic benefits to the parties, help distribute products to places of higher value and optimize social benefits.

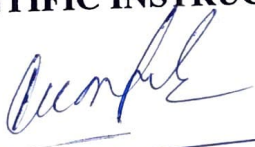
+ From an ethical point of view, an effective breach is an exception to the moral principle of keeping the promise in the *Pacta sun servanda* . Because the parties cannot anticipate all the situations that will occur during the performance of the contract, and the choice that brings economic efficiency, minimizing loss is a moral choice.

- In an efficient breach of contract, what keeps the aggrieved party's position of benefit is not reduced compared to when the contract is enforced and the total social benefit increases is compensation for damage, especially compensation for benefits expected by the aggrieved party.

- On the contrary, requiring the violating party to properly perform its obligations in all cases or disgorgement are obstacles to efficient breach of contract

- In order to have a basis for admitting an effective breach, the thesis makes some specific recommendations on compensation for damage, forcing the correct performance of obligations and disgorgement

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