Commercial Justice

at the Intersection of Rule of Law, Investment, and Prosperity

Key takeaways from TED side event, co-organised with HiiL and IDLO | The Hague, HiiL HQ | 6 May 2026

Commercial justice refers to the rules, institutions, and dispute-resolution mechanisms that allow businesses, workers, and communities to resolve economic disputes fairly, quickly, and predictably. It includes courts, mediation, arbitration, small-claims procedures, contract enforcement, and remedies against unfair or arbitrary business-related decisions. In practice, commercial justice helps ensure that economic activity is based on trust, accountability, and the rule of law.

Why commercial justice matters?

Commercial Justice: Rule of Law · Economic Governance · Democratic Accountability

Dispute or unfair practice → Accessible remedy → Trust restored → Business continuity → Inclusive growth

Which obstaces ?

1. Broken informal contracts
2. Justice gap for SMEs
3. Extreme delays in formal courts
4. Regulatory complexity

Panel 1 – Putting People at the Centre of Commercial Justice

Speakers:

- Mascha Matthews - HiiL
- Adam-Shirwa Jama - IDLO

Main takeway:

Justice solutions must start from the real problems experienced by SMEs, informal actors, women entrepreneurs – not only from formal institutions.

90% of businesses globally are SMEs

Around **60%** of employment is linked to SMEs

Tunisia: **58%** of surveyed SMEs faced a legal problem in the previous two years

Only around **20%** reached a partial or full resolution

4 in 10 business legal problems were contract-related

Around **50%** of surveyed Tunisian firms operated informally

Kenya / IDLO

- Court-annexed mediation and other Alternative Dispute Resolution (ADR) as practical pathways
- 94 mediation stations established
- 96% settlement rate
- nearly 90% backlog reduction
- approx. 152 bilion Kenyan shillings released back in the economy
- example: a 32-year-old case settled in 34 days of mediation

Accessible mediation can turn decades of delay into weeks of resolution

Tunisia / HiiL

- 2,000 SMEs surveyed
- informality, verbal contracts and contract disputes as central challenges
- HiiL's approach: leveraging data, innovation labs, justice startups and policy ecosystem engagement
- example of practical tools: multilingual contract generation, AI contract review, low-cost legal tools, and simplified procedure

Solutions must be fast, low-cost, easy to use, and embedded in the justice ecosystem

For a small business, a legal problem is not only a legal problem.
It can threaten income, family stability, community resilience and trust in the State.

Panel 2 – Why does it matter and how does it support trade, investment, and economic objectives ?

Speakers:

- Maria Del Mar Roca Roquena - EU Delegation Morocco / EEAS
- Maaike de Langen - OECD
- Anouk Franck - Oxfam Novib

Main takeway:

- Successful reform requires a fundamental shift in the mindsets and behaviors of all actors in the judicial chain.
- Ineffective justice services burden the global economy.
- Ensuring equitable and inclusive investments requires intentional human rights due diligence.

Investment follows confidence
Marocco / EU Delegation

- Investment follows confidence, not only figures
- Legal certainty means consistent rules, honoured commitments, and predictable remedies
- **95%** of enterprises in Marocco are SMEs; delays in debt recovery hit them first
- From 2026, EU support in Morocco will focus on commercial and administrative justice
- Alternative dispute resolutions, arbitration and mediation should make reform practical for investors and SMEs
- Reform must reach the full chain: courts, clerks, enforcement, experts and civil society

> ***A reform that does not change behavior, does not change outcomes.***

Economic cost of justice inefficiency
OECD perspective

Unresolved commercial justice problems are estimated to cost between
0.5% and 3% of GDP

Thailand estimate
5.6% of GDP

Canada estimate
2.3% of GDP

- Slow, costly disputes mean lost income, disrupted supply chains and lost customers
- Justice systems should be built around SME needs, not only institutional routines
- Use SME data, plain-language guidance, alternative dispute resolutions, online dispute resolutions, and one-stop access points

Feedback loop for better outcomes

Measure SME justice problems → Design Services → Test assumptions → Adapt reforms → Improve outcomes

Fair investment needs rights, voice and remedy
Oxfam Novib perspective

- Commercial justice should not be viewed only through an economic lens
- Human rights due diligence must include meaningful stakeholder involvement from the start
- Grieveance mechanisms should be close to workers and producers, quick, trusted and accessible
- Civil society has a critical role in supporting rights-holders and ensuring accountability
- Avoiding reinforcing inequality when using private sector-led development approaches

Rights-based investment chain

Investment → Stakeholder voice → Due diligence → Grievance mechanism → Remedy → Shared benefit

What the discussion added

1. Legal empowerment and education are essential: SMEs need to know their rights and available remedies
2. Informal actors must be included in reform design
3. Mediation and negotiated solutions are often preferred to imposed outcomes

Potential priorities for Team Europe

- Measure the justice needs of SMEs, informal actors, workers, and communities
- Invest in accessible pathways: mediation, ADR, small claims, hybrid access and legal help
- Build reforms across the entire justice chain
- Link investment, Global Gateway and private-sector engagement

Commercial justice is people-centered rule of law in action:
it protects livelihoods, strengthens trust, and renders economic development fairer and more resilient.