

No: 29/2006/PL-UBTVQH11

Ordinance

On the amendment to and supplementation of some articles of the Ordinance on Procedures to settle administrative case

Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented in accordance with the Decree No 51/2001/QH10 dated 25 December 2001 of the National Assembly at the Session X;

This Ordinance amends and supplements some articles of the Ordinance on Procedures to settle administrative cases dated 25 December 1998.

Article 1

Amend and supplement some articles of the Ordinance on procedures to settle administrative cases:

1. Article 2 has been amended and supplemented as follows:

“Article 2

1. Individuals, agencies, organizations have the right to bring administrative cases to the court on the complaints as specified in Provisions from 1 to 16 of Article 11 of the Ordinance under the following cases:

a) they has lodge the complaint to the person, who is competent for the first complaint but the complaint could not be addressed within the set timeframe as provided by the laws on complaints and denouncements and they do not continue to submit second complaint to the person, who is competent for the second complaint;

b) they has lodge the complaint to the person, who is competent for the first complaint as provided by the laws on complaints and denouncements but they do not agree with the decision made and do not continue to lodge second complaint to the person, who is competent for the second complaint;

c) they have submit the complaint to the person, who is competent for the first complaint but the complaint could not be addressed within the set timeframe or the complaint was addressed but they do not agree with the decision made at the first complaint, in cases where the laws do not allow them to submit the second complaint;

d) they have submit the complaint to the person, who is competent for the second complaint but the complaint could not be addressed within the set timeframe as provided by the laws on complaints and denouncements or they do not agree with the decision made at the second complaint.

2. Individuals, agencies, organizations have the right to submit the complaint to the court to settle administrative cases on complaints as specified in section 17 Article 11 of the Ordinance under the following cases:

a) With respect to administrative decisions, administrative acts on land administration, the Chairman of the People's Committee of the communes, districts, cities of the province is empowered to address the first complaint but the complainant do not agree with the decisions and do not continue to file the complaint to Chairman of the People's Committee of provinces and cities under the central government (hereunder referred to as central cities);

b) With respect to administrative decisions, administrative acts on land administration, the Chairman of the People's Committee of the communes, districts, cities of the province is empowered to address the first Action but the Action makers to not agree with the first decision.

3. Individuals, agencies, organizations have the right to bring an action to the administrative court on administrative cases settlement as specified in Provision 19 Article 11 of the Ordinance if they have submit the complaint to the agency, which is responsible for listing of voters but they do not agree with the agency's decision.

4. Public servants or officers from the level of Director General or at equivalent levels downward, as stipulated in the law on public servants, have the right to bring an action to the court on administrative cases as specified in Provision 19 Article 11 of the Ordinance if they have laid the complaint to the person, who has made the disciplinary decision but they do not agree with such decision and do not continue to laid the complaint to the person who is competent for the second complaint.

5. Individuals, agencies, organizations have the right to bring an action to the court on settlement of administrative cases on complaints as regulated in Provision 20 Article 11 of the Ordinance if they have submit the complaint to the Chairman of People's Committee of province or of central city but do not agree with the decision made.

6. Individuals, agencies, organizations have the right to submit the complaint to the court on settlement of administrative cases as regulated in Provision 21 Article 11 of the Ordinance if they have made the Action to the Competition Council or Minister of Trade, but they do not agree with the decisions made.

7. Individuals, agencies, organizations have the right file the complaint to the court to settle administrative cases on Actions as specified in Provision 22 Article 11 of

the Ordinance pursuant to Vietnamese laws and international treaties to which the Socialist Republic of Vietnam is a signatory”

2. Article 4 has been amended and supplemented as follows:

“Article 4

In this Ordinance, the following phrases are understood as follows:

1. *Administrative decision* which is the decision in written form of state administrative agency or of authorized person in the state administrative agency is applied once to one or more specific objects on a specific matter in administration of administrative activities.
2. *Administrative action* is the action of state administrative agency or of the competent person in the state administrative agency, fulfilling or not fulfilling tasks or public services as provided by laws;
3. *Disciplinary decision of dismissal* is the written decision of the head of agency, organization to impose disciplines of dismissal on public servants or officers from the level of Director General or at equivalent levels downward who are under their management as regulated by the law on public servants.
4. *Concerned person* is the individual, agency, organization including petitioner, petitionee or concerned persons.
5. *Petitioner* is the individual, agency, organization who suppose that their legitimate rights or interests are violated by administrative decision, administrative action or public servants, officers suppose that their rights or interests are violated by disciplinary decision of dismissal, and therefor decide to take an administrative proceedings to the authorized court.
6. *Petitionee* is individual, agency, organization whose administrative decision, administrative action, disciplinary decision of dismissal are sued.
7. *The concerned person is* individual, agency, organization whose rights and interests are affected by the administrative action.
8. *Agency, organization* is state agency, political organization, politico-social organization, social organization, socio-professional organization, economic organization, people armed units.

3. Article 5 has been amended and supplemented as follows:

“Article 5

1. Petitioner is obliged to provide a copy of administrative decision or disciplinary decision of dismissal, a copy of Action settlement decision (if any), to provide other evidences to defend their legitimate rights and interests.
2. Petitionee is obliged to provide the court with documents related to Action settlement (if any) and the copy of the documents in the administrative files, disciplinary files which are the basis for the administrative decision, disciplinary decision of dismissal or administrative action.
3. The person concerned, who has the right to take part in the legal proceeding with petitioner or petitionee or independently, is obliged to provide evidences to defend their legal rights and interests.
4. The court only verify, collect the evidences in the cases provided in this Ordinance.
5. Individual, agency, organization has the responsibility to provide, under their tasks and rights, adequately and timely to the concerned person and court the evidences that they are keeping as requested by the concerned person, the court; in the case of being unable to provide such evidence, an written notification shall be forwarded to the concerned person, the court, in which list out the reason of the inability to provide with such evidence.

4. Article 11 has been amended and supplemented as follows:

Article 11

The following actions are under court's authority:

1. Action against the decision of punishment for administrative violation;
2. Action against the decision of preventive measures and ensure the treatment of administrative violation;
3. Action against administrative decision, administrative action on the application of enforceable measures to implement the decision of punishment for administrative violation;
4. Action against administrative decision, administrative action on the application or implementation of administrative action under forms of education works at communes, wards, towns; enrollment to the educational schools; diseases treatment unit; administrative surveillance;
5. Action against administrative decision, administrative action for the application of enforcement measures to tear down house, building, other solid architectural buildings;

6. Action against administrative decision, administrative action for the issuance, withdrawal permission of basic construction, production, business, certificate of business registration and professional certificate or action against other administrative decision, administrative action related to the business, financial activities of the dealer;
7. Action against administrative decision, administrative action related to international or domestic trade in goods;
8. Action against administrative decision, administrative action with respect to international and domestic financial transaction, services and services provision;
9. Action against administrative decision, administrative action on the acquisition, compulsory purchase, confiscation of assets;
10. Action against administrative decision, administrative action on the imposition of taxes, taxes collection and taxes recollection;
11. Action against administrative decision, administrative action on the fees application, fees collection; charges; land using fees;
12. Action against administrative decision, administrative action in state management in intellectual property rights and technology transfer;
13. Action against administrative decision, administrative action on state management on investment.
14. Action against administrative decisions and/or acts by customs authorities and officers;
15. Action against administrative decisions and/or acts with regard to residency administration;
16. Action against administrative decisions and/or acts with regard to denial to public notary and authentication;
17. Action against administrative decisions and/or acts with regard to land administration such as transfer; hiring, expropriation; nationalization; permission on changes in land-using purposes; compensation; support; site clearance, re-settlement; grant or retrieve certificate of land usage; extension of land-using terms;
18. Action against the list of constituencies for selection of National Assembly deputies and that for selection of People's Committee members;

19. Action against the decision forcing the dismissal of public servants positioned Director – General and the equivalent levels downwards;

20. Action against decisions by Chairman of People’s Committees of provinces and central cities with regard to the settlement of Actions/claims to decisions by Managing Board, Awarding and Punishment Commission by Lawyer Panel;

21. Action against decisions with regard to rulings in competition cases;

22. Other actions in accordance with the provisions of Vietnamese law and international treaties to which Vietnam is the signatory.

5. Article 12 is subject to amendments and supplements as follows:

Article 12

1. Court at levels of commune, district, town and province (hereinafter called communal court) is empowered to undertake first instance hearing in cases as follows:
 - a) Action against administrative decisions and acts by state agency at the suburban level downwards which is located in the same territory with the Court and by public servants of the said state agency;
 - b) Action against decision forcing the dismissal of the Head of agency at the suburban level downwards in the same territory with the Court and of cadres under the supervision of the said agency;
 - c) Action against the list of constituencies for selection of National Assembly members and that for the selection of the People’s Committee made by the list-making agency which is in the same territory with the court;
2. Court at municipal level (hereinafter called as municipal court) is empowered to deal with preliminary proceedings in cases as follows:
 - a) Action against administrative decisions and acts by Ministries, equivalent Ministerial agencies, government agencies, President’s Office and National Assembly’s Office, People’s Supreme Court, People’s Supreme Procuracy and that by Head of the said agencies and the Action maker is either individual whose residence and/or working place or organizations located in the same territory with the Court;
 - b) Action against administrative decisions and/or acts by relevant body under the supervision of one of the state agencies as stipulated in the above a) and to administrative and act by public servants from such relevant body and the petitioner is either individual whose residence and/or working place or organizations located in the same territory with the Court;

- c) Action against administrative decisions and/or acts by state agency at municipal level which is located in the same territory with the Court and by public servants/cadres of the said agency;
- d) Action against decisions enforcing the dismissal of the Head of the agency which is in the same territory with the Court applicable to public servants/cadres under the supervision of the said agency, except for Actions as stipulated at provision 1 of this article;
- đ) Action against decisions by Chairman of Municipal People's Committee in the same territory as the Court handling the Action by decision by Managing Board, Awarding Commission, and punishment by Lawyer Panel;
- e) Action against decision handling competition cases in which the Action maker is either individual whose residence and/or working place or organization located in the same territory with the Court;
- f) Action against administrative decisions and/or acts which are under the authorization of communal court as stipulated in Provision 1 of this Article but taken up by the municipal court.

6. Article 13 is subject to amendments and supplements as follows:

Article 13

1. In cases where action against administrative decision and act, decision enforcing the dismissal of cadre, public servant are not satisfactorily handled in the first time or handled without the consent of the Action-maker, thus submitting it to relevant authorities for the 2nd ruling and making it administrative lawsuits at relevant courts, the ruling power shall then be differentiated as follows:
 - a) In cases where only one individual who is both petitioners to administrative lawsuit to the relevant court and to personnel authorized for the 2nd time, the ruling power shall then be granted to the Court itself. Agency who had undertaken the action must forwarded all the related documents to the relevant court;
 - b) In cases where individuals who are both petitioner to administrative lawsuit to the relevant court and to persons authorized for the 2nd time or in which, there are people bring an administrative action to authorized court, others submit complaint to authorized person to handle the complaint in the 2nd time, the settlement will be under the authorization of the authorized people of the 2nd complaint settlement. Right upon its discovery that the case is not within its jurisdiction, the Court which has handled that administrative case must transfer the relevant cases' documents for the competent authority who has jurisdiction over that dispute for the second settlement of the dispute..

c) In cases under part b of this provision, if the prescription for second-time settlement of the dispute under relevant laws and regulations on complaints and denunciation has passed but the dispute has not been resolved or has been resolved but the complainant does not agree with the decision in the second-time settlement, it is possible to initiate an administrative case under general procedures, unless otherwise stipulated by laws and regulations.

2. If a court which has solved an administrative case finds that the case is not within its jurisdiction, it shall make a decision to transfer the case to the relevant Court and eliminate the former settlement. The decision must be transferred to the persons in question and the Procuracy at the same level.

The persons in question can lodge complaint; the Procuracy at the same level can have opinion on this decision within three working days from the date of receipt of this decision. Within three working days, from the date of receipt of the complaint or petition, the presiding judge who made the decision to transfer the administrative case must solve the complaint or petition.

3. Disputes on jurisdiction over administrative cases among courts at district level in the same province or city directly controlled by central government shall be solved by the presiding judge at the provincial level.

Disputes on jurisdiction over administrative cases among courts at district level in the different provinces or cities directly controlled by central government or among courts at provincial level shall be solved by the presiding judge of the People's Supreme Court.

7. Article 14 shall be amended and supplemented as follows:

“Article 14

1. Agencies carrying out administrative procedures include:

- a) People's courts;
- b) People's procuracies;

2. Persons carrying out administrative procedures include:

- a) Courts' Presiding judges, judges, People's Jurors, Courts' secretaries.
- b) Heads of Procuracies, Members of Procuracies.”

8. Article 15 shall be amended and supplemented as follows:

“**Article 15**

1. A jury for first instant settlement includes one judge and two people's jurors. In special cases a jury for first instance settlement may include two judges and three people's jurors

2. A jury for appeal settlement includes three judges.

3. A jury for final settlement or re-appeal settlement of provincial courts is the judge jury of the provincial courts. When the judge jury of the provincial courts carries out final settlement or re-appeal settlement and its decision is legally valid only if at least two thirds of its members participate in the settlement.

4. The jury for final settlement or re-appeal settlement of the Administrative Court under the People's Supreme Court includes three judges.

5. The jury for final settlement or re-appeal settlement of the People's Supreme Court is the Judge Jury of the People's Supreme Court. When the Judge Jury of the People's Supreme Court carries out final settlement or re-appeal settlement and its decision is legally valid only if at least two thirds of its members participate in the settlement.”

9. Article 16 shall be amended and supplemented as follows:

“Article 16

1. Persons carrying out procedures must refuse procedural actions or be changed in the following circumstances:

- a) They're persons in question, representatives or relatives of the person in question;
- b) They have participated in the dispute as a protector of legitimate rights and benefits of the person in question, witnesses, appraisers or interpreters in the dispute;
- c) They have participated in making administrative decisions or are relating to complained administrative acts;
- d) They have participated in making administrative decisions solving claims on administrative decisions or administrative acts;
- e) They have participated in making administrative decisions to fire officials, civil servants or have participated in making decisions solving claims on decisions to fire officials, civil servants;
- f) They have participated in making decisions by Chairmen of People's Committees of Provinces or cities directly under control of the central government to solve claims on decisions by the board of chairmen, reward and discipline council of Lawyers' Bar;
- g) They have participated in making decisions solving claims on decision for competition cases' settlement;
- h) They have participated in making list of constituents who vote in the election of members of the National Assembly or making list of constituents who vote in the election of members Peoples' Councils;
- i) There are clear facts showing that they cannot be impartial in doing their tasks.

2. The Judges, People's Jurors must refuse procedural actions or be changed in the following circumstances

- a) Falling under one of the circumstances in provision 1 of this Article;
- b) They are in the same settlement jury or are relatives;
- c) They have participated in the first instance settlement, settlement of appeal, final settlement or re-appeal settlement of that case, except for the members of the Judge Jury of the People's supreme Court or Judge Council of Provincial Courts;
- d) They are persons who have carried out procedural actions in that case as procurator or secretary of the Court.

3. Procurator, secretary of the Court must refuse procedural actions or be changed in the following circumstances:

- a) Falling under one of the circumstances in provision 1 of this Article;
- b) They are persons who have carried out procedural actions in that case as judge, people's juror, procurator, secretary of the Court.

10. Article 17 shall be amended and supplemented as follows:

“Article 17

1. Before opening the court, any change to judges, people's jurors, secretary of the Court shall be decided by the presiding judge; if the decision to change presiding judge shall be made by the presiding judge of the directly superior court.

Before opening the court, any change to procurator shall be made by the Chief of the Procuracy at the same level; the decision to change Chief of the Procuracy shall be made by the Chief of the directly superior Procuracy.

2. At the court, any change to judges, people's jurors, secretary of the Court, procurator shall be decided by the jury after listen to the opinion of persons who are suppose to be changed. The jury discuss in the verdict room and make decision on a majority basis.

If it's necessary to change judges, people's jurors, secretary of the court, procurator, the jury shall make decision to postpone the court. The re-appointment of judges, people's jurors, secretary of the court shall be decided by the presiding judge; if the person who is changed is the presiding judge, the appointment shall be made by presiding judge of the directly superior court. The re-appointment of procurator shall be made by the Chief of Procuracy at the same level, if the changed procutor is the Chief of the Procuracy, the decision shall be made by the Chief of the directly superior Procuracy.

3. Within three days from the date of the postponement of the court, the presiding judge, chief of Procuracy shall make the re-appointment.”

11. Article 17 shall be amended and supplemented as follows:

“Article 18

The Procuracy at the same level shall participate in the court solving administrative cases.

For administrative decisions, acts relating to legitimate rights, benefits of juveniles or persons who do not have administrative civil capacity, if there is no complainant, Procuracies may start administrative cases and have responsibility to provide evidence.”

12. Article 19 shall be amended and supplemented as follows:

“Article 19

1. Persons participating to administrative procedural actions include the persons in question, legal representatives of persons in questions, the protectors of legitimate rights and benefits of the persons in question, witnesses, appraisers, interpreters.

2. If the persons in question are individuals, they can implement their procedural rights, obligations, by themselves or by delegation, during the settlement of administrative cases.

3. If the persons in question are agencies or organizations, they shall implement their procedural rights, obligations through their legal representatives.”

13. Article 27 shall be amended and supplemented as follows:

“Article 27

The appraisers, interpreters must refuse to participate in procedural actions or be changed if they're falling under one of the circumstances in provision 1, Article 16 of this Ordinance. Any change to the appraisers, interpreters before opening the court shall be decided by the presiding judge; during the court shall be decided by the jury after listening to the opinion of the persons supposed to be changed.”

14. Article 30 shall be amended and supplemented as follows:

1. Prescription is the period in which the complainant can lodge complaint requiring Court to handle administrative cases to protect the complainant's allegedly breached rights and benefits; if the prescription is passed, the complaint shall be deprived of the rights to lodge complain, unless otherwise stipulated by laws and regulations.

2. Unless otherwise stipulated by laws and regulations, prescriptions shall be:

a) 30 days for cases in part a, b, c of provision 1, Article 2 of this Ordinance, counting from the date ending the period for settlement of the first-time claims but the claims remain unsolved or from the date of receipt of settlement decision for the first-time claims but the complainants do not agree with that decision;

b) 30 days for cases in part d of provision 1, Article 2 of this Ordinance, counting from the date ending the period for settlement of the second-time claims but the claims remain unsolved or from the date of receipt of settlement decision for the second-time claims but the complainants do not agree with that decision;

c) 45 days for cases in provision 2, Article 2 of this Ordinance, counting from the date of receipt of the settlement decisions for the first-time claims but the complainants do not agree with that decision;

d) At most 5 days before the election for cases in provision 3, Article 2 of this Ordinance if the complainants do not agree with decision by the agency making the list of constituents;

đ) 30 days for cases in provision 4, Article 2 of this Ordinance counting from the date of receipt of the settlement decisions for the first-time claims but the complainants do not agree with that decision;

e) 30 days for cases in provision 5, Article 2 of this Ordinance counting from the date of receipt of the settlement decisions by Chairman of the People's committees of provinces, cities directly under control of the central government but the complainants do not agree with that decision;

g) 30 days for cases in provision 6, Article 2 of this Ordinance counting from the date of receipt of the settlement decisions by the competition council or the Trade Minister but the complainants do not agree with that decision;

h) in accordance with Viet Nam's laws and regulations and international treaties to which Viet Nam is a member for cases in provision 7, Article 2 of this Ordinance; if Viet Nam's laws and regulations and international treaties to which Viet Nam is a member do not provide for prescriptions, the prescription shall be thirty days counting from the date ending the period for settlement of the first-time or second-time claims or from the date of receipt of settlement decision for the first-time or second-time claims

3. For remote areas and hinter lands with transport difficulties, the prescriptions for part a, b and d of provision 2 of this Article shall be 45 days.

4. In cases of suffering from illness, natural disasters, enemy-inflicted destruction or going away on business or for study purpose or other objective obstacles, the complainants cannot lodge complaint during the prescription provided for in provision 2 and 3 of this Article, the period in which the above events occur shall not be counted in the prescription.

5. The complainants shall make their complaints during the prescriptions provided for in provision 2, 3 and 4 of this Article. A complaint must have the following contents:

- a) Date, month and year of making complaint;
- b) The court requested to handle the administrative cases;
- c) Name, address of complainant and defendant;
- d) Content of the administrative decision or decision to fire officials, civil servants or summary of the administrative action;
- d) Content of the settlement decision (if any);
- e) requests for settlements of Court.

6. If the complainant is individual, the complainant must sign in writing or sign by pressing finger-print; If the complainant is an agency or organization, the complainant must sign and append its seal at the end of the complaint; If the complaint is to protect legitimate rights, benefits of juveniles or persons who do not have administrative civil capacity, the complaint must be signed in writing or by pressing finger-print by their fathers, mothers or guardians;

In case Procuracy introduce the instance The Head of Procuracy or Deputy Head of Procuracy authorized by the Head of Procuracy to sign and seal. Together with petition, complaint documents must have documents; evidences proving for the requirement of the petitioner, the petition are appropriate and legitimate.

15. Article 31 to be amended and supplemented as follows:

Article 31

1. The Court give back the petition in the following cases:
 - a) The petitioner have no right to take legal proceedings;
 - b) The suing term has expired without proper reasons
 - c) Conditions are not adequate to take legal proceedings of the administrative case as stipulated in Article 2 of this ordinance;
 - d) The case was settled by judgment or legitimate decision of the Court;
 - e) The case is not under the authority of the Court
2. When giving back the petition, the Court shall enclose documents clearly indicating the reasons of giving back the petition
3. Within 3 working days from the date of receiving petition and attached documents, evidences given back by the Court, the petitioner have the right to take action against the decision of the tribunal president, who gives back the petition.
Within 3 working days from the date of receiving complaint regarding the giving back of the petition, the tribunal president shall make one of the following decisions:
 - a) Giving back of the petition;

- b) Receiving the petition and enclosed documents, evidences to proceed the handling of the case in the Court.

16. Article 33 to be amended and supplemented as follows:

“Article 33

1. After the Court has handled the case, the interested party has the right to make written request to the Court to bring the decision of applying temporarily urgent measures to ensure the pressing interest of the interested party, and to ensure the implementation of the judgment; the interested party must bear the legal responsibilities for his request, and if he/she has to compensate for the loss or damage caused.
2. In the process of handling the case, the Court may by itself or on the request by paper from Procuracy to make decision of applying temporarily urgent measures and has to bear the responsibilities about this decision; and has to compensate if such application causes loss or damage .
The application of temporarily urgent measures can be implemented in any periods of the process of case handling.
3. The request of applying temporarily urgent measures shall be considered by the Court within 3 days from the date of receipt; if there is enough legal foundation and rationale to accept the request, the Court may make the decision to apply temporarily urgent measures.
4. In the decision of applying temporarily urgent measures must be clearly indicated the validity time of the decision, but no to exceed the time for handling the case according to the legal conditions and terms.
5. In the case of urgency, the witnesses must be protected immediately, to prevent the negative consequences to be happened, individuals, agencies, organizations have the right to written request to the authorized Court to make decision to apply temporarily urgent measures indicated in Article 34 of this ordinance concurrently with the submission of the petition to this Court.
The application of temporarily urgent measures in this case is implemented according to the correspondent conditions and terms of civil procedural law.

17. Article 37 to be amended and supplemented as follows:

“Article 37

1. Within 5 working days from the date of handling the case in the Court, the Court shall deliver written notification to the petitionee, the beneficiary, the obligers related to the handling of the case and the Procuracy of the same level about the handling of the case by the Court.
2. The written notification must bear the following information:
 - a) Day, month, year of the written notification;
 - b) Name, address of the Court handling the case;

- c) Name, address of the petitioner;
 - d) Specific issues that the petitioner requests the Court to handle;
 - e) The list of documents, evidences of the petitioner accompanying the petition
 - f) The expiration period by which the recipient of written notification must have written answer to submit to the Court regarding the request of the petitioner and the accompanying documents, evidences (if any);
 - g) The legal consequences of the recipient of the written notification in case of not submitting his/her view regarding the request of the petitioner.
3. Within 15 days from the date of receiving the written notification, the recipient must submit written response to the Court his/her views regarding the request of the petitioner and the accompanying documents, evidences (if any);
- In the case of necessity for deadline extension, the recipient shall submit the application to the Court clearly indicating the reason; if the application for extension is relevant the Court must extend the time-limit, but not exceed 10 days.
4. The recipient has the right to request the Court to unveil the contents, note taking documents, to copy the petition, introduction of instance paper and accompanying evidences.
5. Within 2 months from the date of handling the case, the Judge assigned to be preside the hearing must make one of the following decisions:
- a) Bring the case to court
 - b) Temporarily suspend the resolving of the case
 - c) Suspend the case's settlement

With regards to complicated cases or due to objective obstacles, the above-mentioned time-limit must not exceed 3 months.

- 6. Within 20 days from the date of having the decision to bring the case to resolution the Court must to have the hearing; in the case of relevant reasons this time-limit must not exceed 30 days.
- 7. Decision to bring the case to court must be sent to interested parties, the Procuracy of the same level immediately after having the decision.

In parallel sending the decision to bring the case to resolution the Court must send the case file to the Procuracy of the same level for research. Within 15 days from the date of receiving files of the case, the Procuracy must conduct the research and give it back to the Court.

18. Article 41 to be amended and supplemented as follow:

“Article 41

1. The Court decide to suspend the resolution of the administrative case in the following cases:
 - a) The interested party is a deceased person whose rights, obligations are not inheritable; agencies, organizations being dissolved or bankrupt and have no individual, agency, organization inheriting the procedural rights and obligations;
 - b) The petitioner withdraw the petition, the Procuracy withdraw the introduction of instance decision
 - c) The petitioner has been legitimately summoned at 2nd time but still absent.
2. Decision to suspend the resolution of the administrative case can be appealed or rejected, except for the circumstances indicated in Item b Provision 1 of this Article.
3. The Court makes the decision to suspend the resolution of the administrative case, removes the case from the handling book and gives back the petition together with accompanying documents, evidences to the petitioner, if the case belongs to the circumstance of giving back the petition stipulated in Article 31 of this Ordinance.

***19. Article 43 to be amended and supplemented as follow:
Article 43***

1. Procurator of the Procuracy of the same level shall participate in the first instance hearing; if he/she is absent, the hearing must be suspended.
2. The petitioner must be present at the hearing according to summoning paper of the Court, if he/her is absent at the first time with proper reason, the hearing must be postponed.

If the petitioner to be summoned legitimately is still absent in the second time, it can be considered as renouncing the petition and the Court will make decision of suspending the resolution of the case. In cases where the Court makes the decision to suspend the resolution of the case, the petitioner has the right to repetition if the prescription is still valid.

3. The defendant shall be present at the hearing according to the summoning paper of the Court, if he/her is absent at the first time with relevant reason the hearing must be suspended.
If the petitionee to be summoned legitimately in the second time is still absent, the Court will proceeds the hearing without him/her.
4. The related beneficiary, the obligatory shall be present at the hearing according to the summoning paper of the Court, if he/her is absent in the first time with relevant reason the hearing must be suspended.
If the beneficiary, the obligor to be summoned legitimately in the second time is still absent then the Court still proceeds the hearing without him/her.
If the related beneficiary, the obligor having the independent request has been summoned in the second time is still absent, it will be considered as

renouncing his/her independent request and the Court will decide to suspend the resolution of the case regarding the independent request of the related beneficiary, the obligor if both the petitioner and the petitionee agree. In cases where the Court decides to suspend the resolution of the case regarding the independent request of the related beneficiary, the obligor has the right to repetition this independent request, if the prescription is still valid.

5. The Court will continue the legal proceedings under the following circumstances:
 - a) The petitioner, the petitionee or the related beneficiary, the obligor is absent at the hearing, have the proposal to the Court to proceed the resolution without his/her presence;
 - b) The petitioner, the petitionee or the related beneficiary, the obligor is absent at the hearing having the legitimate legal representative at the hearing;
 - c) The petitioner, the petitionee or the related beneficiary, the obligor is legitimately summoned for the first time without relevant reason;
 - d) The circumstances indicated in the provision 3 and 4 of this Article.
6. The defender of the legitimate rights, interests of the interested party must participate the hearing according to summoning paper of the Court, if he/her is absent in the first time with relevant reason, the hearing must be suspended. The defender of the legitimate rights, interests of the interested party to be legitimately summoned in the first time is absent with relevant reason or is legitimately summoned in the second time and is still absent the Court must proceed the hearing; in this case, the interested party have to defend his/her legitimate rights, interests by himself/herself.
7. The witness has the obligation to participate in the hearing according to the summoning paper of the Court in order to clarify the circumstances of the case. In case where the witness is absent but has had direct testimony with the Court or has sent the testimony to the Court, the chairman of the hearing will announce this testimony.

In case where the witness is absent, the Jury has the right to suspend the hearing or still proceed the hearing; in the case the witness is absent at the hearing without legitimate reason and this absence hinders the resolution he/she can be forced to the Court according to the decision of the Jury.

8. The surveyor has the responsibility to participate the hearing according to summoning paper of the Court in order to clarify the issues related to the survey and the survey's results.
In the case the surveyor is absent the Jury has the right to suspend the hearing or still proceed the hearing.
9. The interpreter has the right to participate the hearing according to the summoning paper of the Court.

In the case the interpreter is absent without any replacing person the Jury suspends the hearing, except for the case interested party still request to proceed the hearing.

20. Article 45 to be amended and supplemented as follows:

“Article 45

The Jury suspends the hearing in the following cases:

1. The cases stipulated in Article 43 of this Ordinance;
2. The member of the Jury, Procurator, Court Secretary, Surveyor, Interpreter has been changed without any immediate replacing person;
3. Need to verify, collect complementary documents, evidences.

21. Article 58 to be amended and supplemented as follows:

“Article 58

1. Prior to the hearing or at the appealing court, the appellant has the right to change, complement the appeal. The Procuracy makes the decision to appeal has the right to change, complement the appeal, but cannot exceed the initial scope of appealing if the deadline of the appealing expires.
2. Before the beginning of the hearing or at the rehearing, the appellant has the right to withdraw the appeal. The Procuracy making the decision on appealing or the direct senior Procuracy has the right to withdraw the appeal. The Appellate Court suspends the resolution of the Action regarding the parts of the case that the appellant has withdrawn or the Procuracy has withdrawn.
3. The change, complementation, withdrawal of the appeal before the opening of the hearing must be made in written text and sent to the Appellate level Court. The Appellate level Court must announce to the Procuracy and the interested parties about the change, complementation, and withdrawal of the Action. The change, complementation, withdrawal of the Action at the hearing must be taken note in the Court’s minutes.

22. Article 63 has been amended and supplemented as follow:

“Article 63

1. Comptroller of the Procuracy at the same level has to join in the appeal court; if absence is the court must be suspended.

The Court has to send documents of the case to Procuracy to study. Within 10 days, since the day document arrive, Procuracy have to survey and send back the administrative case to the Court.

2. Concerned person, interested person, beneficiaries relating to right and obligation to trial are summoned to join the court; if somebody is absent the court continue to trial.

3. The court summon the surveyor, the interpreter, witness if the concerned person requests and if it is necessary for handling appeal; if someone is absent, the Court decide to conduct trial or suspend depending on each case.

4. For cases in the first instance hearing without the presence of the person taking part in the legal proceedings or such person has no requirement to attend the appeal court, the appeal court will carry out without their presence.

23. Article 68 has been amended and supplemented as follow:

“Article 68

1. The President of People’s Supreme Court, the Director of People’s Supreme Procuracy have the right to appeal according to appeal or final proceedings for the legitimate judgment, the decision of court at different level, except the appeal or final decision of Judge Panel people 's Suspreme Court.

2. The President of Province Court, Director of Province Procuracy have the right to appeal according to appeal or final proceedings for the legitimate judgment, the decision of court at communal level.

24. Article 69 has been amended and supplemented as follows:

“Article 69

1. Appeal term according to proceeding of reconsidering is one year, since the judgment, decision of the court takes effect.

2. Appeal term according to appeal proceedings is one year; since authorized person knows the rationale to appeal according to appeal proceeding in Provision 2 of Article 67 of the Ordinance.

3. The appeal shall be sent to Court making the decision, judgment. Such Court will reconsider or conduct first instance hearing for concerned person and interested person, who have related right and obligation to the content of appeal. In case the President of Pople ‘s Supreme Curt or President of Province Court appeal, the court will reconsider and send appeal with case document for procuracy to study within 15 days, since the day receive appeal and case’s document.

4. Appellant in the first instance or final instance hearing will have the right to change, supplement appeal decision, if the appeal deadline stipulated for in Provision 1 and 2 of this article does not expire.

5. Prior to the opening of the hearing or at the hearing, appellant has the right to withdraw appeal. The withdrawal before the opening of the hearing shall be made in written form and be sent in accordance with the stipulation of Provision 3 of this Article.

The withdrawal of appeal must be recorded in the minutes of the court. Council of reconsideration or appeal will make the decision on suspension of reconsider or appeal in case the appellant to withdraw all appeal.

6. Authorized person to appeal legitimate judgment, decision of the court have the right to consider, decision the appeal according to proceedings of reconsider or appeal.

7. Appellant has the right to delay or temporary suspend the implement of judgment, decision having legal effect until the decision to reconsider or appeal is made."

25. Article 70 has been amended and supplemented as follows:

“Article 70

1. Council reconsider or appeal have only the right to consider the content of case which is relevant to appeal decision.

2. Judge Committee of Court at provincial level will reconsider or appeal on judgments, decisions which come into effect of province court which are appealed.

3. Administrative Court under People’s Supreme Court will reconsider or appeal legitimate judgment, decision of court at provincial level.

4. Judge Council of People’s Supreme Procuracy will reconsider or reappeal the legitimate judgment, decisions of appeal courts, administrative court people’s supreme procuracy.

5. Legitimate judgments, decisions on the same administrative case under the competence of municipal court which are stipulated in provision 2,3 and 4 of this article, authorized court at higher level will reconsider or reappeal the case all.

6. Within 1 month, from the date of receiving appeal and the case’s documents, the court must to open the 1st instance or final instance hearing.

26. Article 71 has been amended and supplemented as follow:

“Article 71

1. In the 1st or final instance hearing, concerned and interested people will not be summoned, except when the court recognizes the need to listen to their views before making decision.

Representative of procuracy at the same level have to take part in the 1st or final instance hearing.

2. In the hearing, a member of reconsider or appeal council will present the content of the case, content of appeal. In case the court summons people concerned, such people will present their ideas about the appeal decision.

3. Members of the reconsider or appeal council will discuss and present their ideas to handle the case.

4. Council will reconsider or appeal to vote on resolving the case. Decision to reconsider or appeal of judge council of court at level province, of judge council of People's Supreme Procuracy have been adopted by more than a half of member of judge committee, judge council.

Judge committee of court at provincial level or judge council of People's Supreme Procuracy will vote on a basis of adopting or not adopting the appeal and other ideas. If no case is adopted by more than a half of member of judge committee of court at provincial level, of Judge Council of People's Supreme Procuracy court to suspend. Within 30 days from the date of its decision to postpone the hearing, Judge Committee, Judge Council has to re-open the hearing with the participation of all members.

27. Article 72 has been amended and supplemented as follows:

"Article 72

Council of reconsider or appeal has rights:

1. Reject the appeal and to follow the legitimate judgment, decision.
2. To follow legitimate judgment, decision of the court at lower level, which have been abrogated and revised.
3. To abrogate legitimate judgment, decision to conduct inferior or appeal hearing.
4. To abrogate legal effect judgment, decision and suspend court as in cases stipulated in Article 41 of this Ordinance.

28. Article 73 has been amended and supplemented as follows:

"Article 73

Provisions of this Ordinance are applied to handling administrative case, in which people concerned are individuals, agencies, foreign organizations, except international treaties to which Socialist republic of Viet Nam is a signatory otherwise stipulated.

29. To replace the term "Trial Secretary" in the Article 39, 44, 49 and 52 of the Ordinance on procedures to settle administrative case as " Court Secretary"

Article 2:

This Ordinance takes effect since 01 June 2006

Article 3:

Government, People's Supreme Court, People's Supreme Procuracy within their task and rights shall bear the responsibility of instructing the implementation of this Ordinance.

Ha Noi, 5 April 2006

On behalf of Standing Committee of National Assembly

Chairman

Nguyen Van An