

ORDINANCE

ON THE PROCEDURES FOR THE SETTLEMENT OF ADMINISTRATIVE CASES

To ensure the timely and lawful settlement of administrative cases in order to protect the legitimate rights and interests of individuals, State agencies and organizations, and contribute to raising the effectiveness of State management;

Pursuant to Article 91 of the 1992 Constitution of the Socialist Republic of Vietnam;

In furtherance of the Resolution of the 8th session of the IXth National Assembly on legislative work to the end of its tenure;

This Ordinance prescribes procedures for the settlement of administrative cases.

Chapter I

GENERAL PROVISIONS

Article 1. Individuals, State agencies and organizations have, under law, the right to initiate administrative lawsuits to request the Court to protect their legitimate rights and interests.

Article 2. Before filing a lawsuit, the individual, State agency and/or organization must send their complaints to the State agency or person that has made an administrative decision or taken an administrative action which, in the complainant's view, contravenes the law; in case they disagree with the decision on the settlement of the complaints, they are entitled to petition the immediate higher level of the State agency that has issued the administrative decision or taken the administrative action, which, as prescribed by law, has the competence to settle the claims or they may initiate an administrative lawsuit at the competent Court.

Article 3. The person who initiates the administrative lawsuit may at the same time demand a compensation for their losses; in this case, the provisions of the civil legislation and civil proceedings legislation shall also apply to settle the claim for compensation.

In the course of settling the administrative lawsuit, the Court shall create favorable conditions for the parties to negotiate a solution to the case.

The person who initiates the lawsuit shall have the right to withdraw part or the whole content of the suit.

The sued party shall have the right to amend or annul the protested administrative decision.

Article 4.

1. Administrative decisions defined in this Ordinance are the written decisions made by Ministries, ministerial-level agencies, agencies attached to the Government, the Office of the State President, the Office of the National Assembly, local State agencies, the People's Courts and the People's Procuracies at different levels, applicable to one or more specific persons regarding a concrete matter.

2. Administrative actions defined in this Ordinance are actions of fulfillment or non-fulfillment of public duties by State officials and employees.

3. Parties defined in this Ordinance are the suer, the defendant and the person(s) with related rights and obligations.

The suer may be individual(s), State agency(ies) or organization(s) that think their legitimate rights and interests are infringed upon by the administrative decision(s) or administrative action(s) of a State agency, the Head of that State agency, State official(s) or employee(s) which prompt them to initiate an administrative lawsuit at the competent Court.

The defendant may be the State agency(ies), Head of the State agency, State official(s) or employee(s) that has made the administrative decision(s) or taken the administrative action(s) which the suer thinks is contrary to law and infringe upon their legitimate rights and interests which prompt them to initiate the administrative lawsuit at the competent Court.

The person(s) with related rights and obligations may be individual(s), State agency(ies) or organization(s) that has(have) their rights and obligations involved in the settlement of the administrative lawsuit initiated by the suer against the defendant.

Article 5. The suer must make a petition in accordance with the provisions in Article 30 of this Ordinance; provide copies of the administrative decision and the written reply of the State agency or person that has made such administrative decision or taken administrative action regarding the settlement of the petitions which the complainant deems contrary to law; provide other evidences for the protection of their rights and interests.

The defendant has the obligation to provide the Court with copies of the legal documents and regulations as well as other papers which have served as basis for making such administrative decision or taking such administrative action.

The person(s) with related rights and obligations shall have the right to participate in the proceedings either on the suer's side or the defendant's side or independently and be obliged to give evidences for the protection of his/her/their rights and interests.

If necessary, the Court may check or collect evidences or request the parties, the concerned individuals, State agencies or organizations to provide documents and evidences so as to ensure a correct settlement of the administrative lawsuit. The requested parties, individuals, State agencies or organizations shall have to provide fully and in time the requested documents and evidences to the Court. If they are unable to do so, they must reply in writing and clearly state the reasons.

Article 6. The parties are equal in their rights and obligations in the process of the settlement of the administrative case.

The parties may authorize in writing their counsels or other persons to participate on their behalf in the proceedings. They may themselves or assign the counsels or other persons to protect their legitimate rights and interests.

Article 7. The trial of administrative cases shall be conducted publicly, except where it is necessary to keep State secrets or secrets of the parties at their legitimate request.

For administrative cases with clear contents and adequate evidences acknowledged by parties whose participation at the court sessions is not required, the Court may conduct the trial without the presence of the parties and other persons involved in the proceedings.

The spoken and written language used in the settlement of administrative cases is Vietnamese. Participants in the proceedings may use the spoken and written language of their own nationalities.

Article 8. If a judgement or ruling of the Court which has taken legal effect is found to be incorrect, the Prime Minister shall have the right to ask the President of the Supreme People's Court and the Chairman of the Supreme People's Procuracy to revise and settle the case within their competence and then report to the Prime Minister within 30 days.

Article 9. The judgement or ruling of the Court on an administrative case which has taken legal effect must be honored by the State agencies, organizations and people.

The individual, State agency or organization subjected to the Court's judgement or ruling on an administrative case must strictly execute it.

The State agency authorized to enforce the Court's judgement or ruling on an administrative case must strictly perform the task and take responsibility before law for its performance.

Article 10. The People's Procuracy shall supervise the law observance in the course of settling the administrative case in accordance with the Law on Organization of the People's Procuracy and this Ordinance.

Chapter II

THE COURT'S JURISDICTION

Article 11. The Court has competence to try the following administrative cases:

1. Protests against decisions to impose fines against administrative violations or to apply measures for the compulsory dismantlement of the illegally-built dwelling houses, projects or firmly-structured objects;
2. Protests against the decisions to apply administrative measures in the form of re-education at communes, wards or townships, putting into re-education schools, educational establishments, medical establishments or administrative custody;
3. Protests against decisions on dismissal, except those concerning the People's Army and decisions on dismissal in accordance with the provisions of the Labor Code;
4. Protests against administrative decisions or administrative actions concerning the grant and withdrawal of permits and licenses in the fields of capital construction, production, business and land management.
5. Protests against decisions on forcible requisition, forcible purchase and confiscation of assets.
6. Protests against decisions on tax collection and tax arrears collection;
7. Protests against the collection of charges and fees;
8. Protests against other kinds of administrative decisions and administrative actions as prescribed by law.

Article 12.

1. The People's Court of the district, provincial capital or city under the province (district People's Court) shall handle according to the first-instance procedures the administrative protests against the administrative decisions made by State agencies of the district or lower level in the same territory, and the administrative decisions as well as administrative actions of officials and employees of those State agencies.

2. The People's Court of the central province or city directly under the Central Government (provincial People's Court) shall handle according to the first-instance procedures the administrative protests against:

a/ Administrative decisions made by Ministries, ministerial-level agencies, agencies attached to the Government, the Office of the State President, the Office of the National Assembly, the Supreme People's Court, the Supreme People's Procuracy, and administrative decisions and administrative actions of the Heads of those agencies, which are located in the territory where the suer resides, works or has its head office;

b/ Administrative decisions made by the provincial State agencies in the same territory and administrative decisions and administrative actions of officials and employees of those State agencies;

c/ Administrative decisions made by specialized units of the State agencies prescribed in Point a, Item 2 of this Article and administrative decisions and administrative actions of officials and employees of those units, which are located in the territory where the suer resides, works or has its head office.

In case of necessity, the provincial People's Court may handle the administrative cases which come under the jurisdiction of the district People's Court regarding the protests against an administrative decision of the district People's Committee or the President of the district People's Committee, which involves many people and is complicated or in which the judges of that district People's Court must either refuse to conduct the legal proceedings or be replaced.

3. The Supreme People's Court shall handle according to the first-instance and last-instance procedures the administrative cases which come under the jurisdiction of the provincial People's Court regarding the protests against the administrative decisions made by the State agencies prescribed in Point a, Item 2 of this Article and administrative decisions and administrative actions of the Heads of those agencies, which involve many provinces and are complicated or in which it is difficult to determine which provincial Court shall have the competence to settle; protests against administrative decisions of the provincial People's Committee or President of the

provincial People's Committee, which involve many people and are complicated or in which all the judges of that provincial Court must either refuse to conduct the legal proceedings or be replaced.

Article 13. In case they disagree with the decision on the settlement of the petitions by the State agency or the person that has made the administrative decision or taken the administrative action, the concerned individuals, State agencies or organizations can either petition the immediate higher-level of the agency or person that has issued the administrative decision or taken the administrative action, or initiate an administrative lawsuit at the competent Court. If, a petition is sent simultaneously to the immediate higher-level agency and an administrative lawsuit is initiated, the competence shall be determined as follows:

a/ If only one individual simultaneously initiates an administrative lawsuit at a competent Court and petitions the immediate higher level of the State agency or person that has issued the administrative decision or taken the administrative action, the settlement of the lawsuit shall come under the jurisdiction of the Court. The agency which has registered the file shall have to forward it to the competent Court.

b/ If the suing party is composed of many persons, some of whom initiate the administrative lawsuit at the competent Court, while others petition the immediate higher level of the State agency or of the person that has issued the administrative decision or taken the administrative action, the settlement of the lawsuit shall come under the jurisdiction of that immediate higher-level agency. The Court, which has registered the file, shall have to forward it to the competent agency right after it discovered that the settlement of the lawsuit is beyond its jurisdiction.

2. The Court which has registered the administrative lawsuit shall have to forward the file to the competent Court right after it discovered that the settlement of the lawsuit is beyond its jurisdiction. Any dispute on the competence for the settlement of administrative cases between Courts shall be settled by the immediate higher-level Court.

Chapter III

PROCEEDING PANEL

Article 14. The proceeding panel includes Judges, People's Assessors, Prosecutors and Court Clerks.

Article 15.

1. The first-instance Trial Panel is composed of one Judge and two Assessors.
2. The first- and last-instance Trial Panel of the Administrative Court of the Supreme People's Court is composed of three Judges and two Assessors.
3. The appeal Trial Panel is composed of three Judges.
4. The supervisory trial and re-trial Panel of the Administrative Court of the Supreme People's Court is composed of three Judges.
5. The Committee of Judges and the Council of Judges of the Supreme People's Court and the Committee of Judges of the provincial People's Court, when conducting the supervisory trial or re-trial, must have at least 2/3 (two thirds) of its members participating in the proceedings.
6. The Trial Panel stipulated in Items 1, 2, 3 and 4 of this Article shall make decisions by majority vote. The decisions of the Committee of Judges and the Council of Judges of the Supreme People's Court and of the Committee of Judges of the provincial People's Court must receive more than half of the votes of its members.

Article 16.

1. The Judge and the Assessor shall have to either refuse to conduct the proceedings or be replaced, if:
 - a/ He/she is concurrently one of the parties, the party's representative or the protector of the party's rights and interests, the party's relative, or a witness;
 - b/ He/she is involved in making the protested administrative decision;
 - c/ He/she has already taken part in the trial of the same case as the Judge or Assessor, except for members of the Committee of Judges and the Council of Judges of the Supreme People's Court and members of the Committee of Judges of the provincial Court, who are entitled to participate in more than one trials of the same case according to the supervisory trial and re-trial procedures.
 - d/ He/she has already participated in the proceedings of the same lawsuit as the Prosecutor or the Court Clerk, the expert witness or the interpreter.
 - e/ The Judge and the Assessor of the same Trial Panel are relatives.
 - f/ He/she has relative(s) having participated in the proceedings of the same lawsuit at

another level;

g/ There are grounds to believe that they may be not impartial in the trial;

2. The Prosecutor, the Court Clerk shall have to refuse to participate in the proceedings or be replaced, if:

a/ He/she has participated in the proceedings of the same lawsuit at another level.

b/ There are grounds as stipulated in Points a, e, g, Item 1 of this Article.

Article 17.

1. Before a court session, the replacement of the Judge, the Assessor or the Court Clerk shall be decided by the Chief Judge of the Court; the replacement of the Prosecutor shall be decided by the Head of the People's Procuracy; if the Prosecutor to be replaced is the Head of the People's Procuracy, the replacement shall be decided by the Head of the immediate higher-level People's Procuracy.

2. At the court session, the replacement of the Judge, the Assessor or the Court Clerk shall be decided by the Trial Panel after hearing opinions of the person to be replaced.

If at the court session there is a request for the replacement of the Prosecutor which is deemed legitimate by the Trial Panel, the Trial Panel shall make a decision to delay the court session.

Within 3 days from the date the court session is postponed, the Chief Judge of the People's Court, the Head of the People's Procuracy shall have to appoint another Prosecutor as replacement.

Article 18. In the process of settling an administrative case, the People's Procuracy may take part in the proceedings at any stage it deems necessary.

With regard to administrative decisions or administrative actions related to the legitimate rights and obligations of the minors, the physically or mentally handicapped, if nobody initiates the lawsuit, the Procuracy shall have the right to institute the administrative lawsuit and have the responsibility to provide evidences.

Chapter IV

PARTICIPANTS IN THE PROCEEDINGS

Article 19.

1. Participants in the administrative proceedings include the parties, their mandated representatives, the protectors of the parties' legitimate rights and interests, the witness, the expert witness and the interpreter.
2. If the party is an individual, he/she may him/herself or mandate in writing another person to exercise his/her proceeding rights and obligations in the process of settling the administrative case.
3. If the party is a legal person, it shall exercise its proceeding rights and obligations through a representative by law or by mandate.

Article 20.

1. The suer shall have the right to withdraw part or the whole of the petition. The defendant shall have the right to amend or annul the protested administrative decision or remedy the sued administrative action, reject the demand of the suer or make suggestions concerning the latter's protests. The person(s) with related rights and obligations may have their separate protests or take part in the proceedings on the side of one of the parties.
2. The parties shall have the rights:
 - a/ To present documents and evidences; to read, copy and check documents and evidences provided by the other party;
 - b/ To request the Court to take temporarily urgent measures;
 - c/ To attend the court session;
 - d/ To request the replacement of the Judge, the Assessor, the Prosecutor, the Court Clerk, the expert witness or the interpreter, if there are grounds prescribed in Articles 16 and 27 of this Ordinance;
 - e/ To reach mutual agreement on the settlement of the administrative case if such an agreement is not contrary to law;
 - f/ To debate at the court session;
 - g/ To protest against the Court's judgement or ruling;
 - h/ To request the competent person to protest against the Court's judgement or ruling

according to supervisory trial or re-trial procedures.

3. The parties have the obligations:

a/ To provide fully and in time the relevant documents and evidences at the Court's request;

b/ To appear at the summons of the Court;

c/ To strictly observe the rules of the court session.

Article 21.

1. A party of full 18 years of age or over shall have the right to exercise his/her rights and perform his/her obligations in the administrative proceedings on his/her own.

2. A party that is a minor, a physically or mentally handicapped person shall exercise his/her proceeding rights and perform his/her obligation through a representative.

Article 22.

1. The party may mandate anyone as his/her representative to participate in the proceedings, except for the following people, who are not allowed to take part in the proceedings as the mandated representative of the party:

a/ People who do not bear Vietnamese citizenship, do not reside in Vietnam, except otherwise prescribed by law for cases involving a party with foreign citizenship, party without any citizenship or party that is a Vietnamese residing abroad;

b/ People who are under full 18 years of age;

c/ People affected by mental diseases;

d/ People having been criminally prosecuted or sentenced, but not yet been written off their sentences;

e/ Officers of the Court or the Procuracy;

f/ Expert witness, the interpreter or the witness;

g/ Relatives of the Judge, the Assessor, the Court Clerk or the Prosecutor who are participating in the settlement of the case.

2. The mandatory shall only exercise the proceeding rights and perform the

obligations of the party within the scope of the mandate.

3. The mandate of the participation in the proceedings must be made in writing and legally certified.

Article 23.

1. The parties may themselves or ask the counsels or other persons to protect their legitimate rights and interests.

2. One person may protect the legitimate rights and interests for many parties in the same case, provided that such rights and interests are not contradictory.

3. The protector of the party's legitimate rights and interests shall have the right:

a/ To participate in the proceedings from the time the lawsuit is instituted;

b/ To request the replacement of the Judge, the Assessor, the Prosecutor, the Court Clerk, the expert witness or the interpreter, as provided for in Articles 16 and 27 of this Ordinance;

c/ To provide documents, evidences; to make proposals, read the file, copy necessary details from the file and attend the court session.

4. The protector of the party's legitimate rights and interests shall have to use his/her proceeding rights as prescribed by law to help bring to light the truth of the case.

Article 24.

1. A person who knows the details related to the administrative case may on his/her own or be summoned by the Court or the Procuracy to act as a witness.

2. The witness shall have to appear at the summons of the Court or the Procuracy; to honestly declare what he/she knows and take responsibility for his/her statement.

3. The person who requests the Court to summon the witness shall have to pay in advance the expenses therefor. The suit loser shall have to bear the expenses for the witness if the witnessing is useful for the settlement of the case. In case the witnessing is of no use for the settlement of the case, the person who has requested the summons of the witness shall have to bear all these expenses.

Article 25.

1. In case of necessity, the Court and/or the Procuracy may themselves or at the

request of the parties call for expertise. The expert witness must appear at the summons of the Court and/or the Procuracy.

2. The expert witness shall have the right to study all documents of the case related to the subjects of the expertise.

The expert witness shall have to objectively and honestly expertise the subjects requested therefore.

3. The person who requests the expertise or the Court and/or the Procuracy which themselves call for expertise shall have to pay the expenses therefore in advance. Such expenses shall have to be borne by the suit loser, if the expertise is useful for the settlement of the case. In case the expertise is useless for the settlement of the case, the person who has requested the expertise or the Court and/or the Procuracy which themselves have called for the expertise shall have to bear the expertise cost.

Article 26.

1. In case the participant(s) in the proceedings cannot use Vietnamese, the Court shall have to appoint an interpreter.

2. The interpreter must appear at the summons of the Court and interpret honestly.

3. The suit loser shall have to bear all expenses on the interpretation.

Article 27. The expert witness and the interpreter shall have to either refuse to participate in the proceedings or be replaced if there are grounds stipulated at Points a, e and g, Item 1, Article 16 of this Ordinance. The replacement of the expert witness or the interpreter prior to a court session is decided by the Chief Judge of the Court; and at a court session by the Trial Panel after hearing opinions of the person to be replaced.

Article 28.

1. If the party is an individual who has died but his/her rights and obligations are inherited, the heir shall be entitled to participate in the proceedings.

2. If the party is a legal person which is merged, split or dissolved, the individual or legal person that inherits such party's rights and obligations shall exercise the proceeding rights and perform the obligations thereof.

3. The inheritance of the proceeding rights and obligations may be recognized by the

Court at any time in the process of settling the administrative case.

Chapter V

COURT FEE

Article 29.

1. The suer shall have to deposit the court fee for the first-instance trial, except for cases exempted from such deposit. In case the administrative lawsuit is initiated by a Procuracy, such Procuracy shall not have to deposit the court fee for the first-instance trial.
2. The person who protests against the Court's judgement according to the appellate procedures shall have to deposit the court fee therefor, except for cases exempted from such deposit.
3. The parties shall have to pay the court fee, depending on the extent of their legal offenses in the legal relationship handled by the Court except for case of court fee exemption.
4. The Government shall coordinate with the Supreme People's Court to determine the court fee.

Chapter VI

INITIATION AND REGISTRATION OF LAWSUITS

Article 30.

1. The suer shall have to send a petition to the Court competent to settle the administrative lawsuit within 30 days from the date when he/she receives a written reply from the person or the State agency that has made the administrative decision or taken the administrative action regarding the settlement of the complaint.
2. In case of a failure to initiate the lawsuit within the time limit prescribed in Item 1 of this Article due to objective obstacles the duration of the objective difficulties shall not be included in the statute of limitations for the lawsuit initiation.

3. The petition must include the following main contents:

a/ The date of its making;

b/ The name of the Court requested to settle the administrative case.

c/ The names and addresses of the suer and the defendant;

d/ The contents of the administrative decision or the brief description of the administrative action;

e/ The contents of the written reply of the person or the State agency on the settlement of the protests against the administrative decision or administrative action which is considered unlawful by the suer.

f/ The suer's pledge of not petitioning to the immediate higher level of the State agency or the person that has made the administrative decision or taken the administrative action.

g/ The claims requested to be settled by the Court.

4. The petition must be signed by the suer or his/her representative. It must be attached with documents evidencing his/her claims.

Article 31. The Court shall return the petition in the following cases:

1. The suer is not eligible to file a lawsuit.

2. The statute of limitations for the lawsuit initiation has expired without plausible reasons;

3. There is not yet a reply on the settlement of the complaints from the person or the State agency that has made the administrative decision or taken the administrative action;

4. There have been a decision on the settlement of the complaints in accordance with the prescriptions of law;

5. The case has been settled by the Court's judgement or ruling that has taken legal effect;

6. The initiated lawsuit is beyond the Court's jurisdiction.

Article 32.

1. If the Court deems that the administrative case comes under its jurisdiction, it shall notify the suer thereof so that the latter can deposit the court fee. Within 7 days from the date when the petition is sent, the suer must deposit the court fee, except for cases exempted from such deposit.
2. The Court shall register the lawsuit on the date when the suer produces the receipt of the court fee deposit. Where the suer is exempt from court fee deposit, the Court shall register the lawsuit on the date when the petition is received.

Article 33.

1. After the Court registers the case, the party may request in writing the Court to take temporarily urgent measures to protect his/her interests or to ensure the execution of the Court's judgement; the party shall take responsibility before law for his/her request and shall have to compensate if he/she is at fault in causing damage.
2. In the course of settling the case, the Court may on its own or at the written request of the Procuracy make a decision on the application of temporarily urgent measures and shall take responsibility for such decision. If any damage is caused by the unlawful application of the temporarily urgent measures, compensation must be made.

The temporarily urgent measures may be taken at any stage of the process of settling the case.

3. Any request for the application of the temporarily urgent measures must be considered by the Court within 3 days from the date it receives the request; if there are enough legal grounds and it deems necessary to accept the request, the Court shall immediately make a decision on the application of the temporarily urgent measures.
4. The validity duration of the decision on the application of the temporarily urgent measures must be stated clearly therein but must not exceed the time limit for the settlement of the case as prescribed by law.

Article 34. The temporarily urgent measures include:

1. Temporarily suspending the implementation of the protested administrative decision.
2. Forbidding or forcing the parties, other organizations or individuals to take certain actions if they are deemed necessary for the settlement of the administrative case or

for assuring the enforcement of the judgement.

Article 35.

1. The temporarily urgent measures may be changed or canceled.
2. The change or cancellation of the temporarily urgent measures prior to a court session shall be decided by the Judge who is assigned to settle the case, and at a court session shall be decided by the Trial Panel.

Article 36.

1. The decision on the application of the temporarily urgent measures shall be enforced immediately despite any complaint or protest.
2. The parties shall have the right to complain, and the Procuracy shall have the right to protest to the Chief Judge of the Court handling the administrative case against the decision on the application of the temporarily urgent measures.

Within 3 days from the date of the receipt of the complaint or protest, the Chief Judge of the Court handling the case shall have to consider and reply.

Chapter VII

TRIAL PREPARATION

Article 37.

1. Within 7 days from the date of the registration of the case, the Court must notify the defendant and the person(s) with related rights and obligations of the contents of the petition.

Within 15 days from the date of the receipt of the notice, the defendant and the person with related rights and obligations must send to the Court their written opinions on the petition as well as other documents related to the settlement of the case; upon the expiry of this time limit, if the Court has not received the written opinions, it shall continue settling the case in accordance with the common procedures.

2. Within 60 days from the date of the registration of the lawsuit, the Judge assigned to be the Chairman of the court session shall have to make one of the following decisions:

- a/ To open the case for trial;
- b/ To temporarily suspend the settlement of the case;
- c/ To suspend the settlement of the case;

With regard to complicated cases, the above-said time limit shall not exceed 90 days.

3. Within 20 days from the date the decision to open the case for trial is made, the Court shall have to open a court session; in case of plausible reason(s), this time limit shall not exceed 30 days.
4. Right after the decision on the trial of the case is made, the Court must send the file of the case to the Procuracy of the same level for consideration within 15 days if the Procuracy shall participate in the first-instance court session.

Article 38.

1. During the trial preparation period, if it deems necessary, the Court may itself or mandate another Court to conduct the examination and collection of evidences to clarify the details of the case. The mandated Court shall have to immediately perform the mandate and inform the mandating Court of the results.
2. The examination and collection of evidences include:
 - a/ Requesting the parties to provide or add evidences or to report on the necessary matters;
 - b/ Requesting the concerned State agency(ies), organization(s) or individual(s) to provide evidences meaningful for the settlement of the case;
 - c/ Requesting the witness to report on necessary matters;
 - d/ Conducting the on-spot examination;
 - e/ Calling for expertise and taking some other necessary measures.

Article 39. A decision to open the case for trial must include the following contents:

1. The date and the place for the opening of the court session.
2. Whether the trial shall be conducted publicly or behind closed door, with or without the presence of the parties and other participants in the proceedings;

3. The names of the parties and of other participants in the proceedings;
4. The contents of the lawsuit;
5. The full names of the Judge(s), the Assessor(s), the Court Clerk; the full name of the Prosecutor(s) if the Procuracy participates in the court session.

Article 40.

1. The Court shall decide to temporarily suspend the settlement of the case in the following circumstances:

a/ The party is an individual who has died or a legal person which was already dissolved but there is not yet any individual or legal person to inherit its proceeding rights and obligations;

b/ Upon the expiry of the time limit for the trial preparation, one of the parties cannot appear for a plausible reason(s), except for cases where the trial may be conducted in the absence of the parties;

c/ It is necessary to wait for the results of the settlement of a relevant criminal, civil, economic, labor or administrative case.

2. The Court shall continue settling the case if the reason for the temporary suspension no longer exists.

3. The decision on the temporary suspension of the settlement of the case may be complained or protested against.

Article 41.

1. The Court shall decide to suspend the settlement of the lawsuit in the following cases:

a/ The party is an individual who has died and his/her rights and obligations are not inherited; or a legal person which was dissolved without any individual or legal person to inherit its rights and obligations;

b/ The suer withdraws his/her petition;

c/ The suer has been lawfully summoned for the second time but still does not appear without any plausible reason;

d/ The time limit for initiating the lawsuit has expired before the date of its

registration by the Court;

e/ The case has been settled by a judgement or ruling issued by the Court or the other competent agency which has taken legal effect;

f/ The case is beyond the Court's jurisdiction.

2. The decision on the suspension of the settlement of the case may be complained or protested against, except for cases stipulated in Point b, Item 1 of this Article.

Article 42. When there is a decision stipulated in Articles 39, 40 and 41 of this Ordinance, the Court shall have to immediately send it to the Procuracy of the same level, the parties and the protector(s) of the parties' legitimate rights and interests.

Chapter VIII

FIRST-INSTANCE COURT SESSION

Article 43.

1. The first-instance trial court session shall be conducted in the presence of the parties or their representatives. The first-instance court session may also be conducted in the absence of one of the parties at its request which is accepted by the Court, or in cases where the defendant has been summoned for the second time but still fails to appear.

2. For a complicated case with obvious contents and adequate evidences acknowledged by the parties whose participation in the court session is not required, the Court shall open the first-instance session without the presence of the proceeding participants.

3. The Procuracy shall have to take part in the first-instance court session or give its written opinions in cases where it initiates the lawsuit and where one of the parties is a minor, a physically or mentally handicapped person or where the protests are against the application of such administrative measures as: re-education at the commune, ward or township, putting into a re-education school, educational establishment, medical establishment or under administrative custody. For other cases, the Procuracy may take part in the proceedings at any stage if it deems necessary.

Article 44.

1. When opening the first-instance court session with the presence of the proceeding participants, the Chairman of the court session shall read out the decision to open the case for trial, check the presence and identity cards of the persons summoned to the Court and explain to them their rights and obligations at the court session. In case the summoned person is absent, the Trial Panel shall decide to postpone or continue the hearing.

The Chairman of the court session shall introduce members of the Trial Panel, the Prosecutor, the Court Clerk, the expert witness, the interpreter and the witness and explain to the proceeding participants their rights to request the replacement of members of the Trial Panel, the Prosecutor, the Court Clerk, the expert witness or the interpreter; if a request is made, the Trial Panel shall consider and decide.

The Chairman of the court session shall explain to the expert witness and the interpreter their rights and obligations. The latter shall have to pledge to fulfill their duties.

The Chairman of the court session shall explain to the witnesses their rights and obligations. The witnesses shall have to give the pledge or make truthful declaration. Where the witnesses may be affected by other person's declarations, the Chairman of the court session shall separate the witnesses from those persons before hearing the declarations of the witnesses.

The Chairman of the court session shall ask the parties or their representatives, the Prosecutor, the protector(s) of the parties? legitimate rights and interests whether they want to provide more evidences or to request the summons of other witnesses; if a request is made, the Trial Panel shall consider and decide.

2. With regard to the first-instance court session which does not require the presence of the proceeding participants, after hearing a summary of the case presented by the Chairman of the court session, the Trial Panel shall consider the documents in the case dossier and, after hearing the opinions or reading out the written opinions of the Procuracy on the settlement of the case (if any), the Trial Panel shall discuss and decide the judgement.

Article 45. The Trial Panel shall postpone the court session in the following cases:

1. The Prosecutor is absent or the Procuracy has not given its written opinions, and it is required that the Procuracy must participate in the court session or give its written opinions.

2. The suer, the defendant and the person(s) with related rights and obligations have their respective requests or their representatives are absent for the first time for plausible reasons, and it is a first-instance court session to be conducted with the presence of the proceeding participants.

3. The members of the Trial Panel, the Prosecutor, the Court Clerk, the expert witness or the interpreter is to be replaced but there is yet no substitute.

Article 46.

1. The Trial Panel shall examine all details of the case by hearing the opinions of the suer, the defendant, the person(s) with related rights and obligations or of the parties' representatives, the protector(s) of the parties' legitimate rights and interests, the witness and the expert witness; and then compare these opinions with the collected documents and evidences.

2. The questioning shall be made by the Trial Panel first, then by the Prosecutor and the protector(s) of the parties' legitimate rights and interests. The participants in the proceedings shall have the right to propose to the Trial Panel the matters that need further questioning.

Article 47. When the Trial Panel has finished the questioning, the parties, the protector(s) of the parties' legitimate rights and interests shall take part in the debate; the Prosecutor participating in the court session shall present his/her opinions on the settlement of the case.

Article 48. At the court session, if there is any circumstance defined in Article 40 of this Ordinance, the Trial Panel shall make a decision to temporarily suspend the settlement of the case; and if there is any circumstance defined in Article 41 of this Ordinance, it shall make a decision to suspend the settlement of the case.

Article 49.

1. Any decision made by the Trial Panel must be discussed by its members and approved by majority vote. When the verdict is rendered, opinions at the debate and the Trial Panel's ruling must be recorded in writing.

2. The judgement must include the following main contents:

a/ The date and the place of the court session;

b/ The full names of the members of the Trial Panel, the Prosecutor and the Court

Clerk;

c/ The names and addresses of the parties or their representatives;

d/ The parties' claims;

e/ The details already proved, the evidences and legal bases for the settlement of the lawsuit;

f/ The Court's decisions;

g/ The court fee and its payer;

h/ The parties' right to protest against the Court's judgement.

3. The Chairman of the Court session shall read out the full text of the judgement and explain to the parties their right to protest against the Court's judgement and their obligation to execute it.

Article 50.

1. The Court shall make decisions to settle issues arising in the process of settling the administrative case.

2. Before opening the court session, the Judge(s) assigned to take charge of the case shall have the right to make decisions; at the court session, the decisions shall be made by the Trial Panel.

3. The decision(s) shall include the following:

a/ The name of the Court settling the case;

b/ The date of the decision;

c/ The names and addresses of the parties and other participants in the proceedings;

d/ The parties' protests or the reasons for making such decision(s);

e/ The legal bases for making the decision;

f/ The concrete rulings;

g/ The parties' right to protest against the Court's judgement.

Article 51. The Court is not allowed to amend or supplement the already announced judgement or ruling, except for cases of obvious mistakes on data or spellings, but must inform the parties, the Procuracy, the individual(s) or organization(s) with related rights and obligations thereof.

Article 52.

1. All developments at the court session must be recorded in the minutes of the court session. The Chairman of the court session shall check the minutes then together with the Clerk of the court session sign the minutes.

2. Within 3 days from the date of announcing the judgement, the parties, the parties' representatives or the protector(s) of the parties' legitimate rights and interests shall be entitled to read the minutes of the court session and request amendment or supplement thereto. The Chairman, the Clerk of the court session and the requester shall sign for the certification of the amendments or supplements. If the request for the amendment or supplement to the minutes of the court session is not accepted, the requester shall have the right to record his/her opinions in writing to be included in the file of the case.

Article 53. Right after the court session ends, the parties shall be provided by the Court with excerpts of the judgement or ruling. Within 7 days from the date of the announcement of the judgement or ruling, the Court must supply copies of the judgement or ruling to the parties at their request and to the Procuracy of the same level.

Article 54. Person who violates the order of the court session, shall, depending on each case, be subject either to a warning by the Chairman of the court session or to a fine or be forced to leave the court room or arrested.

The People's Police has the task of protecting the court session and execute the Chairman's order to force the violator of the court order to leave the court room or to arrest him/her.

Chapter IX

APPELLATE PROCEDURES

Article 55.

1. The parties or their representatives have the right to complain against and the

Procuracy at the same level or higher level has the right to protest against the judgement, the decision on the temporary suspension or suspension of the settlement of the case, issued by the first-instance Court so as to request the immediate higher-level Court to conduct the appellate trial, except for cases stipulated in Item 2, Article 41 of this Ordinance.

2. The complainant must make a written complaint; the Procuracy must make a protest in writing. In the complaint or protest, the following must be stated clearly:

a/ The contents of the complained or protested part of the judgement or ruling of the first-instance Court;

b/ The reasons for the complaint or protest;

c/ The claim of the complainant or protester.

Article 56.

1. The time limit for submitting a complaint is 10 days from the date the judgement is announced or the decision is made by the Court; if the party is absent from the court session, this time limit shall be calculated from the date the copy of the judgement or ruling is sent to them, or their relatives or is posted at the office of the People's Committee of the commune, ward or township where he/she resides or where the party's head office is located, if it is a legal person.

2. The time limit is 10 days for a protest by the Procuracy of the same level and 20 days for a protest by a Procuracy of the higher level from the date the Court declares the judgement or makes the decision. If the Prosecutor does not participate in the court session, the time limit for the protest shall be calculated from the date the Procuracy of the same level receives the copy of the Court's judgement or ruling.

3. Where a complaint or protest could not be made within the time limit prescribed in Items 1 and 2 of this Article due to objective impediments, the period of the objective impediments shall not be included in the time limit for the complaint or protest.

4. The complaint or protest shall be sent to the first-instance Court which has handled the case. Within 7 days from the date of the receipt of the complaint or the protest or from the date the complainant produces the receipt of his/her deposit of the appellate trial fee, if he/she must pay it, the first-instance Court must send the complaint or protest together with the file of the case to the Appellate Court.

Article 57.

1. When sending the complaint or protest together with the entire file of the case to the Appellate Court, the first-instance Court must inform the Procuracy of the same level, the parties and the person(s) with related rights and obligations of such complaint. The Procuracy shall have to send the copy of the protest to the parties and the person(s) with his/her rights and obligations related to the protest.

2. The parties and the person(s) with rights and obligations related to the complaint or protest must send to the Appellate Court their opinions thereon within 7 days from the date of the receipt of the notice.

Article 58.

1. Prior to or at the appellate court session, the complainant or the protesting Procuracy shall have the right to withdraw partly or wholly the contents of the complaint or protest.

2. The Court shall make a decision on the suspension of the appeal trial of the case if the complainant withdraws the entire complaint or the Procuracy withdraws the entire protest.

Article 59.

1. Prior to or at the appellate court session, the complainant or the protesting Procuracy, the person(s) with his/her rights and obligations related to the complaint or protest, the protector(s) of the parties' legitimate rights and obligations shall have the right to add new evidences.

2. The Appellate Court shall itself or at the request of the parties examine or mandate another Court to examine the newly-added evidences.

Article 60.

1. The Appellate Court shall consider the contents of the complaint or protest and the complained or protested parts of the judgement or ruling.

2. Within 60 days from the date of the receipt of the full file from the first-instance Court, the Appellate Court shall have to open an appellate court session; if the case involves many complicated details, such time limit shall not exceed 90 days.

Article 61. The appeal Trial Panel shall not have to open a court session or summon the parties in the following cases:

1. Considering an overdue complaint or protest;
2. Considering a complaint or protest against the court fee;
3. Considering a complaint or protest against the decisions of the first-instance trial Court.

Article 62. Prior to the appeal trial, the Court has the right to take the temporarily urgent measures, temporarily suspend or suspend the settlement of the case in accordance with the provisions of this Ordinance.

Article 63.

1. The Procuracy of the same level shall have to participate in the appeal trial court session or give its written opinions with regard to cases stipulated in Item 3, Article 43 of this Ordinance, if it makes a protest; for other cases, the Procuracy shall take part in the appellate court session when it deems necessary. If the Procuracy participates in the court session, the Court shall forward the file of the case to the Procuracy for consideration within 10 days.
2. The complainant, the person(s) with his/her rights and obligations related to the complaint or protest shall be summoned to the court session.
3. The Court shall summon the expert witness, the interpreter or the witness only when it is requested by the parties or it is necessary for the settlement of the complaint or protest.
4. In cases where the Prosecutor who is obliged to take part in the court session or is so requested is absent or where the Procuracy has not given its written opinions yet, the Trial Panel shall postpone the court session. If the persons stipulated in Items 2 and 3 of this Article are absent, the Court may still proceed with the trial.
5. With regard to cases which do not require the presence of the proceeding participants in the first-instance court session or at the appellate court session, the Appellate Court may proceed with the appeal trial without their presence.

Article 64.

1. The appellate court session shall be conducted in accordance with the procedures applicable to the first-instance court session. Before considering the complaint or protest, a member of the Trial Panel shall have to present the contents of the case, the judgement or ruling of the first-instance trial and of the complaint or protest.

2. The Appellate Court has the competence:

a/ To reject the complaint or protest and retain the judgement or ruling of the first-instance trial;

b/ To amend part or the whole of the contents of the judgement or ruling of the first-instance trial;

c/ To cancel the first-instance judgement or ruling and forward the dossier of the case to the first-instance trial Court for its re-trial in case of a serious violation of the proceeding procedures or of the incomplete examination and collection of evidences that cannot be added by the Appellate Court;

d/ To temporarily suspend the settlement of the case when there is a circumstance stipulated in Article 40 of this Ordinance;

e/ To cancel the first-instance judgement or ruling and suspend the settlement of the case if there is a circumstance stipulated in Article 41 of this Ordinance.

3. The judgement or ruling of the first-instance trial shall be amended partly or wholly if:

a/ Its contents contravene the law and do not conform with the dossier of the case.

b/ There are new evidences that the first-instance judgement or ruling is contrary to law and to the objective truth of the case.

Article 65.

1. In addition to the contents prescribed in Articles 49 and 50 of this Ordinance, the appellate judgement or ruling must clearly state the complained or protested parts of the judgement or ruling of the first-instance trial, the contents of the complaint or protest and the final decision of the Appellate Court.

2. Copies of the appellate judgement or ruling must be sent to the parties and the person(s) with his/her rights and obligations related to the complaint or protest within 15 days from the date of the announcement of such judgement or ruling.

Article 66.

1. When reviewing the complained or protested first-instance judgement or ruling, the Appellate Court shall not have to open a court session or summon the parties, except

for cases where it needs to hear their opinions before making decisions.

2. The Appellate Court shall have to issue a decision on the settlement of the complaint or protest within 15 days from the date of the receipt of such complaint or protest.

3. When considering the complained or protested decisions of the first-instance Court, the Appellate Court shall be entitled to the powers stipulated in Article 64 of this Ordinance.

Chapter X

SUPERVISORY TRIAL AND RE-TRIAL PROCEDURES

Article 67.

1. The Court's judgement or ruling which has taken legal effect shall be protested against according to the supervisory trial procedures when there is one of the following grounds:

a/ There is a serious violation of the proceeding procedures;

b/ The conclusion of the judgement or ruling does not conform to the objective facts of the case;

c/ There is a serious violation in the application of law;

2. The Court's judgement or ruling which has taken legal effect shall be protested against according to the re-trial procedures when there is one of the following grounds:

a/ A new important detail of the case is detected, which the parties could not know when the case is settled.

b/ It is confirmed that the declaration of the witness, the conclusion of the expert witness or the interpretation of the interpreter is obviously untruthful or contains false evidences;

c/ The Judge, the Assessor, the Prosecutor or the Court Clerk has deliberately falsified the dossier of the case;

d/ The judgement or ruling of the Court or the decision of the State agency on which

the Court has based itself to settle the case has been annulled.

Article 68.

1. The President of the Supreme People's Court, the Chairman of the Supreme People's Procuracy shall have the right to protest against the judgement or ruling of Courts of different levels which has taken legal effect according to the supervisory trial or re-trial procedures.
2. The Vice-President of the Supreme People's Court and the Vice-Chairman of the Supreme People's Procuracy shall have the right to protest against the judgement or ruling of the local Courts which has taken legal effect according to the supervisory trial or re-trial procedures.
3. The Chief Judge of the provincial Court, the Head of the provincial People's Procuracy shall have the right to protest against the judgement or ruling of the district Courts which has taken legal effect in accordance with the supervisory trial or re-trial procedures.

Article 69.

1. The time limit for the protest is six months for the supervisory trial procedures and one year for the re-trial procedures, from the date when the Court's judgement or ruling takes effect.
2. The protest must be sent to the Court which has issued the protested judgement or ruling, the Court which shall conduct the supervisory trial or re-trial, the parties and the person(s) with his/her rights and obligations related to the protest's contents. The Court shall also have to send the protest together with the dossier of the case to the Procuracy of the same level for consideration within 15 days.
3. The grounds for the protest must be clearly stated. Before opening the court session or at the court session, the protester shall have the right to withdraw the protest.
4. The protester shall have the right to postpone or temporarily suspend the execution of the judgement or ruling which has taken legal effect but which is protested against.

Article 70.

1. The supervisory trial and re-trial Panel shall only have the right to review the parts of the case related to the protested ruling.
2. The Committee of Judges of the provincial Court shall conduct the supervisory trial

or re-trial of the cases in which the judgements or rulings of the district Court which have taken legal effect are protested against.

3. The Administrative Court of the Supreme People's Court shall conduct the supervisory trial or re-trial of the cases in which the judgements or rulings of the provincial Court which have taken legal effect are protested against.

4. The Committee of Judges of the Supreme People's Court shall conduct the supervisory trial or re-trial of the cases in which the judgements or rulings of the Appellate Court or the Administrative Court of the Supreme People's Court which have taken legal effect are protested against.

5. The Council of Judges of the Supreme People's Court shall conduct the supervisory trial and re-trial of the cases in which the decisions of the Committee of Judges of the Supreme People's Court are protested against.

6. Within one month from the date of the receipt of the dossier of the case, the Court shall have to open a supervisory trial or re-trial court session.

Article 71.

1. The parties and the person(s) with his/her rights and obligations related to the protest shall not be summoned to the supervisory trial or re-trial court session, except in cases where the Court needs to hear their opinions before making decision.

2. At the court session, a member of the Trial Panel shall present the contents of the lawsuit and the protest. In cases where the proceeding participants are summoned to the Court, they shall have the right to express their opinions before the Prosecutor gives his/her opinions on the settlement of the case. The Trial Panel shall discuss and make decision.

Article 72. The supervisory trial and re-trial Panel shall have the right:

1. To reject the protest and retain the judgement or ruling which has taken legal effect;

2. To partly or wholly amend the judgement or ruling which has taken legal effect but is protested against;

3. To cancel the judgement or ruling which has taken legal effect and conduct a new first-instance trial or appeal trial;

4. To cancel the judgement or ruling which has taken legal effect and suspend the

settlement of the case in accordance with provisions in Article 41 of this Ordinance.

Chapter XI

IMPLEMENTATION PROVISIONS

Article 73. The provisions of this Ordinance shall also apply to the settlement of the administrative cases involving parties that are foreign individuals or legal persons, except otherwise prescribed by the international treaties which the Socialist Republic of Vietnam has signed or acceded to.

Article 74.

1. The Government shall exercise unified State management over the enforcement of administrative judgements throughout the country.
2. Individuals, State agencies and organizations obliged to execute the Court's judgements or rulings shall have to strictly execute them. The Head of the immediate higher-level State agency has the responsibility to monitor and supervise the execution of administrative judgements; in case of necessity, he/she shall have the right to force the execution of the Court's judgements or rulings on administrative lawsuits. Anyone who is irresponsible and/or deliberately delays the execution of Court's judgements or rulings on administrative lawsuits shall, depending on the nature and the extent of his/her violation, be subject to discipline or examined for penal liability.
3. Decisions on property and property rights in the Court's judgements or rulings in administrative cases shall be executed in accordance with the Ordinance on the Enforcement of Civil Judgements.

Article 75. This Ordinance takes effect from July 1st, 1996.

The earlier stipulations which are contrary to this Ordinance are now annulled.

Article 76. The Government, the Supreme People's Court, the Supreme People's Procuracy shall, within the scope of their functions have to implement this Ordinance.

The Chairman of the National Assembly
NONG DUC MANH