

Số 29/2006/PL-UBTVQH11

The Socialist Republic of Viet Nam
Independence – Freedom – Happiness

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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

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:

At

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

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 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:

Art 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;

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:

A12

1. Court at levels of commune, district, town and province (hereinafter called

- 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;
-) 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:

Art 13

1. In cases where action against administrative decision and act, decision enforcing the dismissal of cadre, public servant ~~are~~ satisfactorily handled in the first time or handled without the consent of the Action-maker, thus submitting it to relevant authorities for the nd 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~~ both petitioner to administrative lawsuit to the relevant court and to personnel authorized for ~~the time~~ ^{the 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 time~~ ^{the 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 time~~ ^{the time}, the settlement will be under the authorization of the authorized people of ~~the court~~ ^{the court}. 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 instance settlement included 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 refer 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)

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

- a) Falling under one of the circumstances provision 1 of this Article;
- b) They are in the same settlement jury or are relatives;
- c)

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 question, 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 past, 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;
- e) 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;
- f) 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, 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.

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 administrative action;
-) 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 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 take legal proceedings;
 - b)

- 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 responsibility 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

- c) Name, address of the petitioner;
- d) Specific issues that the petitioner requests the Court to handle;
- e) The list of documents, evidences~~to~~ the petitioner accompanying the petition
- f) The expiration period by which the recipient of written notification must have

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 ~~and~~nd 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.

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, 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 with out his/her presence;
 - b) The petitioner, the petitionee or the related beneficiary, the obligor is absent at

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

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

“Article 45

The Jury suspends the ~~hear~~ing 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 ~~app~~ellate 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 ~~resolu~~tion 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

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 the 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 168 of the Ordinance

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 169 of the Ordinance

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

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~~ 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~~ed~~ 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. ~~AE0~~ ~~hsbadh~~ ~~dupsh~~
~~AE0~~

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 ~~Bracy~~ will reconsider or reappeal the legitimate judgment, decisions of appeal ~~to~~ 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 thest instance or final instance hearing.

26. ~~AE1~~ ~~hsbadh~~ ~~dupsh~~
~~AE1~~

1. In the st 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 inst thest instance hearing.

A12:

This Ordinance takes effect since 01 June 2006

A13:

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

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